



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **17TH DAY OF AUGUST, 2005** AT 9:30 A.M.

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

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

Item 931 was pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS		Disposition:
908	Request of Freedom Child to address Council regarding issues with the Police (Communication)	PLACED ON FILE
909	Request of Paul Phillips to address Council regarding dogs and Medical Doctors (Communication)	PLACED ON FILE
910	Request of Teresa E.A. Teater to address Council regarding tax increase on alcohol (Communication)	PLACED ON FILE
911	Request of Robert Tybie to address Council regarding art project with the City (Communication)	PLACED ON FILE
912	Request of Blue Aeolian to address Council regarding Police Bureau budget (Communication)	PLACED ON FILE
TIME CERTAINS		
913	TIME CERTAIN: 9:30 AM – Reappoint Charles Rosenthal to a three-year term as a citizen member of the Board of Trustees of the Fire and Police Disability and Retirement Fund (Previous Agenda 779; introduced by Mayor Potter) (Y-5)	36332

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<p>914 TIME CERTAIN: 9:45 AM - Grant a ten-year property tax exemption to Trammell Crow Residential for the Alexan South Waterfront housing on the block bounded by SW Moody and Bond Avenues and SW Gaines and Lane Streets (Ordinance introduced by Mayor Potter)</p>	<p align="center">PASSED TO SECOND READING AUGUST 24, 2005 AT 9:30 AM</p>
<p align="center">CONSENT AGENDA – NO DISCUSSION</p> <p align="center">Mayor Tom Potter</p> <p align="center">Office of Management and Finance – Bureau of General Services</p> <p>*915 Authorize contract and provide for payment for the Justice Center elevator modernization project (Ordinance) (Y-5)</p>	<p align="center">179489</p>
<p>*916 Amend contract with Emmons Architects for completion of architectural and engineering services for the design and construction of Fire Station 27 (Ordinance; amend Contract No. 34320) (Y-5)</p>	<p align="center">179490</p>
<p>*917 Amend contract with Carleton Hart Architecture and provide for payment for architectural and engineering services for the remodel of Fire Stations 8, 19 and 20 (Ordinance; amend Contract No. 34305) (Y-5)</p>	<p align="center">179491</p>
<p align="center">Office of Management and Finance – Risk</p> <p>*918 Pay claim of Heather Bissel and Christopher Babcox (Ordinance) (Y-5)</p>	<p align="center">179492</p>
<p align="center">Police Bureau</p> <p>*919 Authorize an Intergovernmental Agreement between the Oregon Liquor Control Commission and the Police Bureau to provide the Commission with access to the Portland Police Data System (Ordinance) (Y-5)</p>	<p align="center">179493</p>
<p>*920 Authorize an agreement with Oregon High Intensity Drug Trafficking Area Program and Oregon State Police for a \$84,952 drug trafficking interdiction grant (Ordinance) (Y-5)</p>	<p align="center">179494</p>
<p>*921 Apply for a \$20,000 Oregon Department of Transportation Multi-Agency Traffic Team enforcement grant (Ordinance) (Y-5)</p>	<p align="center">179495</p>
<p>*922 Accept a \$1,030,701 Justice Assistance Grant from the Bureau of Justice Assistance, Office of Justice Programs to reduce crime and improve public safety (Ordinance) (Y-5)</p>	<p align="center">179496</p>
<p>*923 Accept a \$26,500 marijuana eradication grant from the Oregon Department of Justice (Ordinance) (Y-5)</p>	<p align="center">179497</p>

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*924	Authorize Intergovernmental Agreement with TriMet and the City of Gresham for the Police Bureau to manage the TriMet Transit Police (Ordinance) (Y-5)	179498
*925	Authorize an Intergovernmental Agreement between TriMet and the City for the Police Bureau to continue to manage TriMet Transit Police (Ordinance) (Y-5)	179499
*926	Authorize Intergovernmental Agreement with TriMet and City of Milwaukie for the Police Bureau to manage TriMet Transit Police (Ordinance) (Y-5)	179500
*927	Authorize Intergovernmental Agreement with TriMet and Washington County for the Police Bureau to manage TriMet Transit Police (Ordinance) (Y-5)	179501
*928	Authorize Intergovernmental Agreement with TriMet and City of Tigard for the Police Bureau to manage TriMet Transit Police (Ordinance) (Y-5)	179502
*929	Authorize Intergovernmental Agreement with TriMet and City of Beaverton for the Police Bureau to manage TriMet Transit Police (Ordinance) (Y-5)	179503
*930	Authorize Intergovernmental Agreement with TriMet and Multnomah County for the Police Bureau to manage TriMet Transit Police (Ordinance) (Y-5)	179504
Commissioner Sam Adams		
Bureau of Environmental Services		
*931	Accept grant from the Lower Columbia River Estuary Partnership for pre-condition monitoring at Harborton for up to \$15,102 (Ordinance)	REFERRED TO COMMISSIONER OF PUBLIC UTILITIES
932	Authorize contract with the lowest responsible bidder for the California Wastewater Pump Station Improvements Project No. 7151 (Ordinance)	PASSED TO SECOND READING AUGUST 24, 2005 AT 9:30 AM
933	Authorize the Bureau of Environmental Services to accept a \$200,000 U.S. Environmental Protection Agency Brownfield Cleanup Funding Grant for a Portland Development Commission-owned site at 8735 N Lombard (Ordinance)	PASSED TO SECOND READING AUGUST 24, 2005 AT 9:30 AM
934	Authorize the Bureau of Environmental Services to accept a \$200,000 U.S. Environmental Protection Agency Brownfield Assessment Funding Grant for environmental site assessments on suspected hazardous waste sites (Ordinance)	PASSED TO SECOND READING AUGUST 24, 2005 AT 9:30 AM

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935	Authorize the Bureau of Environmental Services to accept a \$200,000 U.S. Environmental Protection Agency Brownfield Assessment Funding Grant to perform environmental site assessments on sites with suspected Petroleum contamination (Ordinance)	PASSED TO SECOND READING AUGUST 24, 2005 AT 9:30 AM
936	Authorize contract with Brown and Caldwell for professional engineering services for the Columbia Boulevard Wastewater Treatment Plant Facilities Plan Update Project No. 7847 (Second Reading Agenda 873) (Y-5)	179505
937	Authorize a contract with Brown and Caldwell for professional engineering services for the Portsmouth Force Main Project No. 6902 and provide for payment (Second Reading Agenda 874) (Y-5)	179506
938	Authorize a contract and provide for payment for the construction of the Hollywood Sewer Relief and Reconstruction Project No. 7817 (Second Reading Agenda 875) (Y-5)	179507
939	Authorize a contract and provide for payment for the construction of SE Tolman and 69th Ave Sanitary Sewer Extension Project No. 7642 (Second Reading Agenda 876) (Y-5)	179508
940	Authorize a contract and provide for payment for the construction of the South Airport Sanitary Sewer Project No. 6788 Phase I (Second Reading Agenda 877) (Y-5)	179509
941	Authorize application to the Environmental Protection Agency for a grant in the amount of \$1,445,700 for innovative wet weather projects (Second Reading Agenda 878) (Y-5)	179510
Office of Transportation		
*942	Authorize indemnification to the extent allowed under the Oregon Constitution and the Oregon Tort Claims Act for the East Columbia to Lombard Connector Project (Ordinance) (Y-5)	179511
*943	Accept a temporary construction easement for the East Columbia to Lombard Connector project and authorize payment (Ordinance) (Y-5)	179512
944	Authorize an Intergovernmental Agreement with the Oregon Department of Transportation to receive \$1,000,000 grant from the Transportation Enhancement Program for construction of the 92nd Ave, SE Powell Blvd - SE Holgate Street Improvement Project (Ordinance)	PASSED TO SECOND READING AUGUST 24, 2005 AT 9:30 AM

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945	Amend contract to the 2001 Oregon Transportation Investment Act with the Oregon Department of Transportation for the East Columbia Boulevard to Lombard Street Connector Project (Ordinance; amend Contract No. 52077)	PASSED TO SECOND READING AUGUST 24, 2005 AT 9:30 AM
Commissioner Dan Saltzman		
Office of Sustainable Development		
*946	Approve an agreement not to exceed \$10,600 with the Tri-County Metropolitan Transportation District of Oregon to continue an experimental bus pass program for the Office of Sustainable Development for FY 2005-2006 (Ordinance) (Y-5)	179513
Parks and Recreation		
*947	Authorize Intergovernmental Agreement with Oregon Department of Transportation for Waud Bluff Trail (Ordinance) (Y-5)	179514
948	Authorize an agreement with Self Enhancement, Inc. to provide payment for a year round middle school program (Ordinance)	PASSED TO SECOND READING AUGUST 24, 2005 AT 9:30 AM
949	Lease certain space in Multnomah Center to eight tenant groups from July 1, 2005 through June 30, 2006 (Ordinance)	PASSED TO SECOND READING AUGUST 24, 2005 AT 9:30 AM
Commissioner Erik Sten		
Bureau of Housing and Community Development		
*950	Authorize Intergovernmental Agreement with the Oregon Bureau of Labor and Industry for \$20,184 for the Civil Rights Enforcement Services Program and provide for payment (Ordinance) (Y-5)	179515
*951	Authorize agreement with Our House of Portland for \$180,000 to provide assistance in the construction of its residential care facility and provide for payment (Ordinance) (Y-5)	179516
City Auditor Gary Blackmer		
952	Approve Council Minutes for January 8, 2004 through December 29, 2004 (Report) (Y-5)	APPROVED
REGULAR AGENDA		

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Mayor Tom Potter

- 953** Authorize revenue bonds and amendment of lines of credit to finance urban renewal projects (Ordinance)

**PASSED TO
SECOND READING
AUGUST 24, 2005
AT 9:30 AM**

Commissioner Sam Adams

Office of Transportation

- 954** Authorize agreement with Union Pacific Railroad Company to provide pipeline improvements for construction of the East Columbia to Lombard Connector Project (Ordinance)

**PASSED TO
SECOND READING
AUGUST 24, 2005
AT 9:30 AM**

- 955** Authorize agreement with Union Pacific Railroad Company to provide wireline improvements for construction of the East Columbia to Lombard Connector Project (Ordinance)

**PASSED TO
SECOND READING
AUGUST 24, 2005
AT 9:30 AM**

Commissioner Randy Leonard

- 956** Refer Charter Amendments to voters at the November 8, 2005 Special Election to make changes to the Fire and Police Disability, Retirement and Death Benefit Plan to reduce disability costs (Resolution)
(Y-2; N-3, Adams, Saltzman and Potter)

FAILED TO PASS

At 12:13 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,
OREGON WAS HELD THIS **17TH DAY OF AUGUST, 2005** AT 6:00 P.M.

THOSE PRESENT WERE: Mayor Potter, Presiding; Commissioners Adams and
Leonard, 3.

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

		Disposition:
957	TIME CERTAIN: 6:00 PM - Amend Zoning Code to clarify, simplify and streamline Environmental Zones and authorize the transfer of in-lieu fees for site enhancement to a watershed revegetation fund (Ordinance introduced by Mayor Potter; amend Code Chapter 33.430) Motion to accept amendments in the table of contents for Chapter 33.430, and in section 33.430.407, change the word “repeat” to “recurring”. In subsection 33.430.430.B.2, include a mailed notice to the Neighborhood Association when Neighborhood Association representatives do not have e-mail. In subsection 33.430.430.B.2, include the Neighborhood Coalition Office in the mailing. In subsection 33.430.430.B.1, retain the paper mailing of the notice. In subsection 33.430.430.E, retain the response to comments and include new language that the response will be in writing or in a manner suitable to the objection (comment). In subsection 33.430.080.D.10.b. add an exemption to the slope restriction for stairs. In subsection 33.430.180 add a sunset clause to expire the subsection in two years. The reason for the sunset clause is to ensure that staff will return to Council to report on a 2-year monitoring effort for the new stormwater outfall development standards: Moved by Commissioner Adams and seconded by Commissioner Leonard. (Y-3)	PASSED TO SECOND READING AS AMENDED AUGUST 24, 2005 AT 9:30 AM
958	Amend fee schedule for Land Use Services to add fees for new Environmental Violation Review and Plan check processes (Ordinance introduced by Commissioner Leonard)	PASSED TO SECOND READING AUGUST 24, 2005 AT 9:30 AM

At 7:39 p.m., Council recessed.

August 18, 2005

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,
OREGON WAS HELD THIS **18TH DAY OF AUGUST, 2005** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Potter, Presiding; Commissioners Adams and
Leonard, 3.

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

	Disposition:
<p>959 TIME CERTAIN: 2:00 PM – Appeal of Arnold Creek Neighborhood Association against Hearings Officer’s decision to approve the application of Jerry Palmer, Casa Terra LLC, applicant and Esther Pushee and Charlie Ford, owner to divide a 2.83 acre site to create ten single dwelling residential lots at 3105 SW Arnold Street (Hearing; LU 05-11305 LDS)</p> <p>Motion to uphold the Hearings Officer’s decision and direct the staff to implement a Good Neighbor Agreement to include maximizing on-street parking, match existing Comus Street cross section and provide hardscape path on Arnold Street: Moved by Commissioner Leonard and seconded by Commissioner Adams. (Y-3)</p> <p>NOTE: On August 19, 2005, the Appeal of Arnold Creek Neighborhood Association was withdrawn.</p>	<p>APPEAL WITHDRAWN</p>

At 2:21 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.

August 17, 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.

AUGUST 17, 2005 9:30 AM

Potter: Good morning, everybody. Welcome to the Portland city council. There's something we do every week on wednesday mornings. And that is we ask a question to our community, is how are the children? And the reason we ask that is because we know that if our children are well, if they're healthy, if they're getting a good education, if they're being cared for by nurturing adults, that they will succeed in life. So we open up with that question, and we invite experts in to talk about it. Today we have two experts. Juan, please come up, juan. And tyrell. They're with the peninsula wrestling club, and we're very, very pleased. Could you introduce to brought you here this morning?

*****: Coach roy pittman.

Potter: Roy, could you stand up? Roy is a community hero. Roy has been running this wrestling program in north Portland for over 30 years. He's turned out a number of national champions, but mostly and more importantly he's made young people -- has given them a path to follow that can help them through life and to succeed. So with that, why don't we begin with juan. Juan, if you could introduce yourself and tell us a little bit about yourself.

Juan Ayala: Well, my name is juan. And first of all, good morning. And, well, I was born in california and moved here when I was 9. I graduated from benson high school this past year.

Potter: Congratulations.

Ayala: Thank you. And i've been involved with the community, and I also volunteer with the Portland police cadet program. So i've been doing that. And I would just here -- I want to talk to you guys about how it's helped me out, and I believe we need more programs like it. It has helped me out to become a leader instead of a follower. Instead of following my friends around, I have did my own choices instead of what everybody else was doing in the crowd. And I really believe there should be more programs like it and go all the way through the summer so that way kids are involved all summer, and they'll have -- how can I say this? -- time to get a different path, you know. That way they stay on the same path and same thinking mode. And that's about it.

Potter: Thank you for being here, juan. We appreciate you saying that.

Ayala: Thank you for having me here.

Potter: Tyrell.

Tyrell Fortune: I'm tyrell. I've been wrestling. I'm in the peninsula wrestling program. I've been wrestling for about six years, seven years. And I think the wrestling program for me has done a lot. It has changed the way that, me as a person, like as before I was wrestling I really didn't know where I was going in life. Like I didn't have a -- a way, but it has helped me mature into becoming a more better person. Like it's a program where we take young men and help them be more involved and help them get better, to be better men. And I just think that getting more kids involved during the summer, like juan said, it helps them stay doing more positive things than negative, and I think wrestling for me, myself, has helped me change a lot of a lot of my decisions, helped me make good decisions in life. Helps me see other ways and different things to do. Like most kids -- like I have a guide now, like coach pittman helps me, makes a lot of my decisions on what I do. Most kids, I think they need a guide in life, just don't know how to find one or interact

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with other kids or adults that will. So that's what I think needs to, like, help kids get more involved.

Potter: How old are you, tyrell?

Fortune: Just turned 15.

Potter: 6'2", 220 pounds?

Fortune: Yes.

Potter: What happened in fargo, in fact, this summer?

Fortune: Won freestyle in greco national championships.

Potter: Did you hear that, folks? [applause]

Fortune: Thank you.

Potter: You also attend meetings with the police african american advisory meeting, don't you?

Fortune: Yes.

Potter: Where are you thinking about going to school?

Fortune: Parkrose high school.

Potter: Ok. And what about college?

Fortune: I'm in the stanford program right now.

Potter: Good. Juan, where are you going to go to college?

Ayala: I'm thinking of attending p.c.c. This fall and transfer to Portland state after I get my baackelor's in mechanical engineering.

Leonard: Commissioner Sten is an old wrestler.

Saltzman: So am i.

Leonard: Well, i'll include you in the challenge that I was going to suggest. You might be slower to respond next time. We pay big money to see you two go at these guys. Or should I say them go at you? [laughter]

Potter: Thank you both for being here. And roy pittman, thank you for all that you do for the community, through your wrestling program, and through the tlctnt program. It's a great program. It needs more attention by our community, because you do change the lives of young people. Thank you both for being here.

*******:** You're welcome. [applause]

Potter: Thank you very much. [gavel pounded] city council will come to order. Please call the roll, Karla.

Adams: Here. **Leonard:** Here. **Saltzman:** Here. **Sten:** Here.

Potter: Here. [gavel pounded] we'll hear communications first. Karla, please read item 908.

Item 908.

Moore: She called and is not able to make it.

Potter: Ok. Please read the next item.

Item 909.

Potter: Good morning, mr. Philips. You have three minutes, sir.

Paul Phillips: I'm paul philips. And you should have before you this paper addressed as "death by medicine, part one." the website is mercola.com. And the -- the issue was issue 484, november 26, 2003. And their sources are by gary knoll ph.d, carolyn neo,n.d. And others. I guess there are medical doctors. Government health statistics show that the american medicine frequently causes more harm than good. The number of people having in-hospital adverse drug reactions to prescribed medicine is 2.2 million. A doctor in 2003 refers to tens of millions of unnecessary antibiotics. The number of unnecessary and surgical procedures performed annually is 7.5 million. The number of people exposed to unnecessary hospitalizations is 8.9 million. The total number of deaths shown in the following table is 783,936. And that's per year. They also have written, it is evident that the american medical system is the leading cause of death and injuries in the united states. The 2001 heart disease annual death rate is 699,697. The annual cancer death rate, 553,251.

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That figure is up to an average of 1515 people a day. The tables and figures below, adverse drug reactions, 106,000 deaths. Medical errors, 98,000. And that's documented by the institute of medicine. That's provided on another piece of paper as well. Bedsores, 115,000. Infections, 88,000. Malnutrition, 108,800. Outpatients, 199,000. Unnecessary procedures, 37,136. Surgery-related, 32,000. The total is 783,936. Dogs aren't that dangerous.

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

Item 910.

Teresa E.A. Teater: Good morning, mayor Potter, commissioners. It kind of got switched around, the drug tax stamps issue. As you know, that we attended the mouth policy action congress that you hosted with commissioner linn on june 17 this year, and we came out with nine areas of major concern regarding illegal drugs in the state. And at the end of the policy congress you had asked for a vote on if we'd all write letters to our senators to do a three-cent tax increase on every bottle of booze sold in the state, and we didn't get around to that. So i'm offering this up today. I've talked to you before about this. I've talked to clackamas county commissioners and the mayor out there. And a few other persons in west linn and -- actually about 150 people so far. And so i'm presenting this to you today as an alternative solution to fund the implementation of the nine major areas of major concern that need emergency funding. This is in 22 states in america. On your little wonderful display down there, you can see that 66 million was made in north carolina. I think it was over a five-year period. And only three stamps were found on stashes totaled, and the stamps that were sold were bought by collectors around the country. The one that you have, mayor Potter, the yellow \$100 one bought by that gentleman, he sells these stamps all over the country to collectors. He bought that one for the heck of it, so I downloaded it yesterday, so it's public property. They're not legalizing drugs with these things. This is just to state that we're going to have the criminals pay for their illegal activity, and basically it's like al capone, you know, he finally got busted for not paying his taxes on his illegally-gotten gains, and so also I found out from reading the internet that you're supposed to be deducting your ill-gotten profits on your i.r.s. Form, your 1040, so I would suggest maybe the police departments around here that are doing major busts notify the state revenue, your city revenues, so you can be snagging some of that money, and I wanted to mention that I attended chief foxworth's sounding board against this past monday, and richard brown, who sits on the board, stated that for about the 10,000th time you're not doing anything about the drug of choice of black people in north Portland, which is cocaine, you only need to get cruisers driving laps around the corners where they're doing deals and you'll drive them away. No Portland police have ever stopped there, or the gunshots attached to the area, an he said you folks that we gave elected officials should start listening to the people that have well-informed ideas and see what's going on in the neighborhoods. That's why i'm bringing this one today. I wanted to go back to -- ooh, ok. Well, the department of justice got a bunch of money this year from president bush, because he killed the youth programs, drug things in the schools. So it's on like this page back here, about the block grant money, so I put stars by it so you could find it. So you might be able to get money from d.o.j. Maybe to help you start this program. I'd like to help getting this for the city revenue, because we can't wait for two years for the legislature to come. I want you to be one of the mayors out on the pacific coast, to try to do -- not true -- to do this. Then we can california on board, maybe the Washington mayor to do an intergovernmental agreement with you, so you can get them coming across the border. Thank you.

Potter: Here's your display up here, too, teresa.

Teater: Overpowering, isn't it? Actually, it was for you to take back to your office so people could see it.

Potter: Please read the next item. Good morning, robert.

Item 911.

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Robert Tybie: Good morning, mayor, commissioners. My flame is robert tybie, doing business in the state of Oregon as the city arts collective, which is really sort of a one trick pony I created to do business with the city of Portland, by buying up a lot of empty smart park parking spaces on sundays, turning them over to the city's artists to display their art publicly. I felt by promoting these exhibitions, it might bring a few extra people downtown and at least make things more interesting down here on sundays. The reason i'm really here is to let other small startup businessmen like myself know what my experience has been with your administration, mayor Potter. My experience has been positive. All four city commissioners have offered their staff members as counselors, help myself get this thing. It worked. This september i'll enter into an agreement with the city that will permit me to have the first exhibition, the first sunday in april this coming spring. I just wanted to just publicly as possible say thank you very much.

Potter: Thank you, robert. And as one of the people who owns some of your artwork, I know you have a lot of good talent. And i'll be coming to one of those garage -- parking garage sales.

Tybie: Thank you, mayor Potter. Thank you.

Adams: Thanks for your work. It's a great idea.

Tybie: Thank you.

Potter: Karla.

Item 912.

Moore: 912. He called and he's not able to make it.

Potter: What was his name again?

Moore: Blue aeolian.

Potter: Oh, yeah. Ok. We'll then move to the consent agenda. Commissioners, do you have any items you want to pull? Does anyone from the audience wish to pull any items from the consent agenda?

Moore: We have 931 being pulled by the bureau of environmental services. They want to refer it back to your office, commissioner Adams.

Adams: Thank you, Karla.

Potter: Ok. Then we'll take a vote on the others. Karla.

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

Potter: Aye. [gavel pounded]

Item 913.

Potter: We have a 9:30 time certain to reappoint charlie rosenthal to the fpd&r board of trustees. Charlie called the mayor's office this morning, has a fever, is not able to attend this morning. If commissioners wish, gary blackmer could address the council on charlie's behalf or we can set it over to another time. What's the wish of the council?

Leonard: I'm fine with going forward and --

Sten: Let's vote him in.

Potter: Ok.

Adams: My concern was that there wasn't an application. So my concern has been met.

Potter: Ok. Karla, please call the roll.

Moore: I'll read the item. 913.

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

Sten: I appreciate charlie's work a lot. Aye.

Potter: Having worked with charlie the last six months, I know he's a -- he's an excellent member of the board, because he asks really good questions, and sometimes difficult questions, and that's what we need. So aye. [gavel pounded] we have a 9:45 time certain, 914. Staff, would you please make your presentation.

Item 914.

*******:** Ok. I was going to have a powerpoint.

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Potter: State your name for the record.

Barbara Sack, Bureau of Planning: I'm Barbara Sack from the Bureau of Planning. I'm here to present the Planning Commission's recommendation on the request for tax exemption for the Alexan South Waterfront apartment project. Can you see the --

Potter: Yes.

Sack: Since this is the first property tax exemption request under this program in over a year, I thought I would give a little background on the program. The new housing tax exemption program was first adopted in 1975 to encourage new housing production in downtown Portland as called for in the downtown plan. In the 1970's, Portland's downtown was in trouble. It had lost almost half of its housing units between 1950 and 1970. Its businesses were suffering from competition from suburban malls and air quality was poor. Providing an incentive to build new high-density housing in the downtown was seen as a strategy to address these problems. This program was successful in providing an incentive for new housing in the downtown, and in 1988, when the central city plan was adopted, the program boundary was expanded to the entire central city as part of the central city plan to encourage new housing production. Although we have recently got a lot of housing production in the downtown, we have to remember that this project -- this program will also be used to try to get new housing in South Waterfront and the Lloyd District, places where we need new housing. This program has been used by both for-profit and nonprofit developers in over 5,000 rental units and about 40 projects have been built in the central city since 1975. What is the exemption? It is a 10-year property tax exemption on the improvements for a project. The land is still taxed. The assessed value of the land and improvements continue to rise over the 10 years of the exemption, and the full assessed value is taxed in year 11. The requirements. Projects must be 10 units or more and located in the central city or an urban renewal area. This is a map of eligible areas. Projects are also required to prove that the tax exemption is necessary to the economic feasibility of the project. This is something that is determined by the Portland Development Commission and their rule is that a project will not have an internal rate of return that is over 10% during the period of the tax exemption. Developers have to submit pro formas that demonstrate this information and P.D.C. staff analyzes this. John Warner from P.D.C. is available. He's the person that worked on this tax exemption case. Recently Commissioner Leonard introduced to the City Council and had adopted an ordinance that requires financial reporting every year for the 10 years so that Planning Commission and City Council will be able to see what the rate of return is on these projects on a year-by-year basis over the 10-year period of the exemption if the project -- the project is more profitable than expected, property tax revenues would be required to be repaid or affordable -- the affordability of required affordable units would be required to be extended. We have written these conditions that were adopted in this ordinance into the conditions of approval of the ordinance for this project. The next requirement is, is that the applicant must provide public benefits in exchange for the tax exemption. For rental housing projects, 15% of the rental units must be reserved for and affordable to households at 80% area median income. For a single person household, this is about \$38,000 a year, or someone making \$18 an hour or less at a full-time job. In addition to the affordable rental units, the applicant must provide another public benefit, such as public open space, daycare center, or LEED Silver certification. The project is also required to be consistent with city plans. These include the Portland Comprehensive Plan and relevant area plans such as the central city plan. All projects are required to go through three hearings. The first is before the Portland Development Commission to determine the necessity to the financial feasibility of the project of the tax exemption. The second is a hearing before the Planning Commission, and I will present the recommendation. And lastly, the project must go through a City Council hearing on all issues. And this is the City Council hearing. The Alexan South Waterfront is a 22-story apartment complex with ground floor retail. There will be 15,000 square feet of retail space on three sides of the project, and there will be townhouses on the fourth side. This project will have a number of

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sustainable features. The applicant plans to build eco roofs on both the tower and the platform. This project takes up a full city block for the first five levels of the project and then there's a 16-story tower that rises from the north side of the project. They also plan to use sustainable products in constructing it, the project use high efficiency glazing on the windows, energy efficient appliances, and also part of the project is a development of the unimproved right-of-way of south lane street as a pedestrian street. They plan to use at least a portion of the street paved with pervious pavers to minimize stormwater runoff. This project is located in the south waterfront district of the central city between southwest gaines and lane street, moody and bond. This project is right on the Portland streetcar line, which will run south on moody and north on bond, and it is also about four blocks south of the tram, which is the star on the powerpoint. The planning commission decided that the public benefits provided by the project are the 15% of the 319 rental housing units that will be kept affordable to moderate income households. The development of southwest lane street, which will link to the greenway, have permanent public access, and also the planning commission recommended that the 15,000 square feet of ground floor retail space be considered a public benefit. This is not on the public benefits option list, however this is a new district and there's going to be very few retail sales and service uses such as restaurants, dry cleaners, convenience stores, in south waterfront for some time, and so they felt that the 15,000 square feet of ground floor retail space was a public benefit. The planning commission feels that the main public benefit of this project is that it will give us rental housing in a district that is building out with condominiums. They had some concerns that the 15% of the units that will remain affordable were all studio units. They're concerned about providing larger affordable units for married couples and families in the district. Part of the vision for south waterfront is that people working on marquam hill at ohsu and other institutions and institutional uses that will locate in the district will also be able to live there. So they were concerned that larger households, who were employed in these places, needed a place to -- you know, needed housing units. So they want us to report back in five years and let them know about how this project is doing and how the housing is building out in south waterfront and whether we're getting the mix they would like to see in the district. The planning commission also found this project consistent with city plans. Particularly the balanced communities policy of the city's housing goal. This policy says that in urban renewal areas, large redevelopment projects, we should get a mix of housing that's affordable to the whole spectrum of household incomes and reflect the distribution of household incomes found citywide. Currently in the district, we have the market building condominiums. These are mostly affordable to upper-income households. This project is a market-rate project that will provide primarily middle-income housing and some moderate-income housing in the district, so this project is helping to fill out that income distribution. Later on in the life of the district, tax increment funds will be used to fund affordable housing units, but right now those -- those monies are being used for -- to provide infrastructure. This project is also consistent with this policy, because it helps the development of mixed income housing in the district. The project is affordable to a range of household incomes, and it's also more affordable than the condominium housing. This project's also consistent with the sustainable housing policy in the comprehensive plan, which calls for locating housing within easy access of transit. This will be 319 housing units right on the Portland streetcar line and should help provide ridership for that line and also four blocks south of the aerial tram and provide ridership for that means of transportation. Overall, the project will promote the efficient use of land and infrastructure in the district. The city has spent quite a bit of money to provide infrastructure in south waterfront and this high-density housing will make good use of that infrastructure, including a city park built just north of the project. This project is also consistent with the south waterfront plan. The south waterfront plan calls for providing 10,000 new jobs and 3,000 new housing units in the district by 2019. The 319 housing units will get us within -- will provide 10% of this goal. The south waterfront plan also calls for promoting both ownership and

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rental housing options. This project provides rental housing in the district where the market is only building condominiums. This project is also consistent with the north macadam housing development strategy. The Portland development commission does housing development strategies for all its urban renewal districts, and one of the goals of these strategies is to make sure that you get a distribution of household incomes in these districts that reflects the city as a whole. We don't want these cities to be a monoculture. We want a cross-section of the city. This includes targeting the market-rate housing to as wide a market as possible. This is broadening the range of households that will be able to live in the district. The development strategy also calls for leveraging tax increment funding for moderate and middle-income housing with tax abatements. There are not enough funds generated by this urban renewal district to provide as much affordable housing subsidy as we would like. Using tax exemption helps leverage some of the housing in the middle of the spectrum. And the Portland development commission has determined that even middle-income housing in this district would require some subsidy. This project is not going to make use of any other subsidies, other than the tax exemption. They will be getting no loans from p.d.c., and also will not be using any affordable housing subsidies available from the federal government or the state, such as low-income housing tax credits. While this project is not deeply affordable, it did not deplete any of those affordable housing resources that will be needed later on to build the affordable units in the district. So finally, the planning commission's recommendation on the south waterfront project is to approve the 10-year tax exemption, subject to the approval conditions in the transmittal letter, and one of those conditions is to report back to the planning commission in five years on this project in the context of the district. They want to know how the district is building out in terms of housing and -- affordable housing and unit size. So that's my presentation. John Warner is available from p.d.c. to answer any questions about the p.d.c. recommendation. And also, Rob Hinnan of Trammell Crow would like to make a statement about the project, if that's acceptable.

Leonard: Do we have anybody from the planning commission here? Is there any members here to testify?

Sack: I don't think so.

Leonard: Ok.

Saltzman: So the planning commission's deeming of the 15,000 square foot of retail as a public benefit, is that a -- I mean, there's a menu of public benefits listed, and I don't see that listed on the menu. So do they have the discretion to deem that one of the public benefits?

Sack: Right, yeah.

Saltzman: So they can -- they go wide and far in terms of determining what's a public benefit about a project?

Sack: Right. Both the planning commission and the city council can deem other project features public benefits. They wouldn't normally I think consider ground floor commercial a public benefit in an area that has retail built out. There was quite a bit of debate about this public benefit. It was on the old public benefit list and removed, but part of the discussion was in some circumstances ground floor commercial might be a public benefit. In other circumstances it wouldn't. It's a public benefit in south waterfront, because there aren't any retail uses available yet.

Saltzman: My other question, I'd like to hear from Trammell Crow on this as well, I'm concerned about this project being consistent with our green building policies adopted by both the city council, which I believe last may we updated our policy, and the p.d.c. updated its corresponding policies in July. What's most germane is the provisions that require buildings receiving public dollars to meet the silver green building standard. And I believe it's appropriate -- I don't see anything in here that speaks to that. I didn't see that deemed as one of the public benefits decided by the planning commission. So I guess I'm -- I think this needs to be amended, this agreement, to require that this building does in fact comply with our current policies to meet the silver green building standard. I

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was prepared to offer an amendment to that effect, but i'd like to hear comments from trammell crow and --

John Warner, Portland Development Commission: Sure. I'm john warner, senior development manager with p.d.c.'s housing department. I'd like to briefly speak to that. I know the developer would like to address it as well. In negotiating the development agreement for the south waterfront central district, this project in particular was identified as one that should meet leed silver standard, but in the discussions with the developer, and I think as the council's probably aware as well, that the leed certification is handled by an independent certification group, and the evolution of their standards for certification of residential housing are evolving. So there was some concern on the part of the developer, which we thought was reasonable, that they didn't have control over their ability to deliver a leed-certified building. They certainly had the intention, and we shared the goals of achieving leed silver certification, and they have worked from the beginning with their design team to assure that the project will attain that certification. The leed scoring system requires a building to receive 32 points in order to be silver certified, and yesterday at their design meeting, reviewing the project design with their engineers and architects, they believe that at this point they have about 27 or 28 points, but with some high level of certainty, and they're within striking distance of maybe another 25 points, which would give them potentially in excess of 50 points, well in excess of what would be required to achieve leed silver certification, but points can come and go in terms of what you think you're going to get and what you get at the end of the day after you've built the building and the independent certification group comes in and verifies your eligibility for certification. The concern was that while we all felt confident they would attain that, that we couldn't necessarily bind them to obtain it, because if it wasn't within their control, their investors, lenders and equity investors would potentially balk at participation in the project, because if they didn't get it, and if on that basis the tax abatement were retroactively to be withdrawn from them, then the financial assumptions that underlay the feasibility analysis that the lenders and equity investors made would be upset and the project wouldn't perform as expected. So we tried to craft a solution that would allow us to, in all likelihood, achieve the leed silver certification the city is looking to achieve, and p.d.c. as well, but only binding them to a good faith effort to do that, so that the lenders and investors would still participate in the project. But our involvement in the design and development process and the efforts of their design team I think are virtually assuring us the outcome we're looking for here. So I guess we would just want the council to be aware of the concern that the requirement, that they don't actually have control over delivering, puts the project in jeopardy in terms of its ability to be financed, but we certainly share your goal and we feel reasonably confident that we're going to far exceed the requirements necessary to achieve that silver certification.

Saltzman: Yeah. I'm certainly encouraged by what i've heard about this building, what you've just told me, but I believe the p.d.c. policy adopted in july moves beyond good faith efforts, and reflecting the city policy we adopted earlier, which says it's a requirement, and that there was some provision that if they ultimately don't get the certification for silver there would be some adjustments of abatements or loans or subsidies. Am I mistaken in that impression or is this project somehow --

Warner: No, I don't think -- the expectation this site would be abated was expected actually in the development agreement for the south waterfront central district, which was negotiated a number of years ago. I think in situations where p.d.c. is providing loans to projects, then we have the ability, if it requires extra financing to achieve leed status, that we could provide additional funding, and provide a higher level of certainty that it can in fact be attained. In this instance, where the commission and the council is considering simply approving a tax abatement, and there's no opportunity for additional subsidies should the costs associated with achieving silver certification rise, then there really aren't more resources available to -- to accomplish that, if something were to

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run awry in terms of the points as I described them earlier. So I think we have more flexibility in situations where we're providing direct financial assistance when the only assistance for a market-rate project is the tax abatement, which itself is a relatively shallow subsidy, then I think the developer has heightened exposure to risk with regard to being able to accomplish that outcome, and again if they don't get the abatement it really upsets the financial structure of the project and makes it infeasible. I guess that would be my only suggestion in terms of thinking about a difference between this project and perhaps others that p.d.c. must be subsidizing directly with loans.

Saltzman: This sounds to me -- I guess I'll stop questioning here, but this does sound to me like something that needs to be revisited by p.d.c. in terms of its green building policies, the issue of its application to tax abatements. I realize it's -- you know, it's not fair to hang this on this one particular project, but it sounds to me -- I believe the council, when they adopt its policy and asked p.d.c. to adopt a corresponding policy, want it to be as broad as possible. If there's public dollars involved, it triggers the lead silver --

Warner: Our commission shares that desire. We need to make sure when we implement these programs we do it in a way that the other financial partners, who are taking much more risk than we in these projects, are also comfortable with the outcome of our decisions. And I think that the lead program, in that its process for residential housing is really just coming into focus, with several years of experience of this, and knowing how the certifiers actually deal with these projects, the development community and investors will probably have a lot more confidence in the program going forward. I believe we'll be able to achieve the outcome you're describing in the future, and this is a step in that direction.

Saltzman: Thank you.

Leonard: I do have a question. I was hoping a member of the planning commission would be here so I could ask this of them. You may not want to respond. I don't know. But I was one of the people that voted for the policy that has been of some discussion of late that set up the criteria for these abatements, the 80% of median income. I certainly won't speak for others, but I can tell you that I certainly didn't think that what I was voting for would be to create the availability of studio apartments for a single person who makes \$38,000 a year to rent. And in exchange we forgive \$7.5 million in taxes over a 10-year period. Was that a subject of discussion at the planning commission or the p.d.c.?

Sack: I talked to Ingrid Stevens about this, you know, because I wanted to know what they wanted the report to be in five years. And she's concerned about how housing will build out in the district, whether or not we have some larger affordable units. It's a problem. I mean, this is one project. It's a problem for the whole district, because it's now building out with housing. Will we have some affordable family-sized units. She was concerned about some of the jobs that would be available at OHSU and up on Marquam Hill wouldn't pay very high wages, and the planning commission's concerned that married couples and families be able to live in the district.

Leonard: That's exactly my concern. When I voted for that I envisioned families, single parents with children, married couples with children, having an opportunity to live in a place that we're discussing. I'm fine with that. I didn't think that the very first abatement that would come across our desk after that would be essentially exclusively for single people making up to \$38 a year. That wasn't my -- \$38,000 a year. That wasn't my intent when I voted for that.

Sack: But there will be tax increment funds available later for --

Leonard: On other projects. We're voting on this project. So I'm talking on this project and the abatement on this building.

Sack: Right, right.

Warner: I think that the concern you're raising is one that was probably central to some of the discussions that we as staff had in terms of thinking about the implications that the council's decision last September had in terms of adding an affordability requirement to this program. So I

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think barbara mentioned in her testimony that this program was enacted by state statute 30 years ago, and local jurisdictions throughout the state, including Portland, have chosen to enact it in their local city codes so it can operate within their jurisdictions. The intent of the program, as adopted by the state legislature, and really reaffirmed early this spring when the state legislature considered a bill to extend the life of this program. It was to expire in 2006 and they extended it six years to 2012, was to assure the development of higher density housing in -- in urban areas, in downtown areas. It really isn't a program that's intended to achieve affordable housing development. That's not how the statute's written.

Leonard: But --

Warner: But we have chosen to add appropriately an affordable housing requirement. Over the life of the program here in Portland, it's achieved the development of 5,000 rental housing units, and going forward any new abatements that are approved will include an affordable housing component with it.

Leonard: Understood, but isn't the question not that it -- that there are 5,000 affordable housing units, but is the question would those developments have occurred otherwise, even without an abatement? And if not, precisely on those locations could the resources dedicated to those dwellings on those locations been spent somewhere else to develop even more affordable housing? I mean, I don't think the discussion here is whether or not we're going to have density in north macadam. I think there is general agreement that if this project isn't approved, condominiums will be built on the site. So that will pay taxes. And the question, I guess, I have is are resources that are now being debated, the \$7.5 million, are they better spent at another place to provide even more affordable housing that would include families being able to rent a place versus this decision which reserves it exclusively for what I consider to be actually fairly well-off single individuals buying an apartment that causes the entire apartment to be abated, including the penthouse suites?

Sack: Could trammell crow come up and also participate in the discussion?

Sten: Mayor Potter, could I make a sort of comment as much as a question, because I think this is, as I mentioned last week, a really important discussion. I'd like to see if there's some agreement from the staff and the council members, because I think this is important to how it's discussed both at the public and everywhere else, that I think the numbers that p.d.c. has done on this project are accurate, in that that project is below the threshold for how much will allow a developer to make a return if the public is participating, and that the project won't work without cash into it if we said you've got to build the bigger units. I think that's why it's important, this isn't a debate over whether or not anybody is gaming the system. It's a question of whether or not what is the policy the council wants? From my point of view, you just laid it out, commissioner Leonard. I just want to lay it out more clearly. I'm willing to support this, because we passed this policy last fall, and I believe the council cannot get in a position of passing policies and then saying if you meet them we're going to arbitrarily not honor them, whether or not it was what somebody expected. That's just my position.

But the question really in front of us is, do we want to give people a tax break for 10 years? It's a long building to get kind of middle-priced housing or do we want to say we're not in this thing and go ahead and build expensive, and we'll then deal with whether or not we can divert those taxes to more affordable. I just want to -- sometimes these debates sound like somehow the council could magically create affordable housing without cash, and I think this developer, who I worked with quite a bit on this, has gone fairly -- fairly and as far as they can given the numbers. I just wanted to get that on the table. So I think your question's the right one. I've been meeting privately with trammell crow, said what about building condos? Maybe that should be -- I think that's the right debate, not about whether or not there's some kind of way we can get tougher and create money out of nowhere.

Leonard: I hope i'm not leaving that impression.

Sten: I'm not saying you are.

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Leonard: I don't have a quarrel with Trammell Crow or the p.d.c. Or the planning commission. That's not the question. The question -- it's just as in anything that we do when we theoretically talk about a policy, it often looks a little different when we actually apply it to a specific incident. And I have to reserve the right to be able to make a judgment based on how that policy is applied, if it's different than what I conceptualized when I voted for it. I've done it before and I'll probably do it again. I wish I could envision all the various possibilities when I vote for something, I've never been able to do that, and oftentimes found myself regretting voting for or against something as it actually played out later. This is an example of that. It's no dispersion cast toward the developer. But having said that, you know, I do think that commissioner Sten is correct, that we need to have a discussion about, you know, the policy, how it applies, but I think it's also appropriate for us to make a decision, because we're voting on it, on whether this is an appropriate use of our tax dollars or not, because they just aren't our tax dollars, they're the county tax dollars and they're the school district dollars. So we're making a decision for three entities, actually more than that, if you include all the different entities that get property taxes. So I'm just very concerned that we're -- that I can defend what we're doing. I don't feel comfortable with this particular proposal.

Robert Hinnen, President, Trammell Crow Residential: If I might respond, I'm with Trammell Crow Residential, to that specific concern. I think when -- you know, you may be aware we participated on a committee that your office requested.

Leonard: Yes. I appreciate that very much.

Hinnen: It was related to the tax abatement program and the 15% affordability requirement. I think we spent a lot of time working on that, and I think actually we identified when we conceptualized this project in January that this was an area of concern, that we had adopted this policy, but there wasn't any clarity in the policy as it related to what type of unit we were talking about. Was it an even distribution of all the units in the building or was it studio units? We asked that question of both p.d.c. and of planning, and in fact met with commissioner Sten who at the time was very interested in housing and this particular project. The conclusion at that time, as we were advised by p.d.c. staff, planning staff, and in conversations with commissioner Sten, was that, gee, we're looking to create the affordability and there isn't -- there is no requirement for there to be a diversity of unit types. Now, I'm aware, because we operate in a lot of other places, that in other places that that is a concern and issue. So we asked that question specifically. And I think it's a good question. Having been given a response that there was no requirement for that, and frankly now knowing, having worked for eight months on the project, that if we had that diversity, even with the abatement, the project doesn't work, obviously it concerns -- concerns me that we've worked for eight months under potentially an erroneous assumption as it related to what the council adopted last fall. So from our perspective, we certainly acknowledge it's an appropriate question. It is one we asked early on to try and get a reasonable answer on that, and having received that answer we then have worked for eight months sort of following that guideline. I do think realistically as a developer that's very active in both apartments and condominiums that where the market is right now realistically, even with an abatement, we're going to have trouble getting a full diversity of unit types in the affordable units with just the tax abatement. That would be my concern. I certainly have no problem with the goal, but the 15% of affordable requirement, the abatement essentially isn't enough to purchase the additional affordable. I wish it were.

Leonard: Would you be as open to just build condos on the site? I mean, would that be what you would do were this not to go forward?

Hinnen: We'd purchase the property at this point and have a large investment and have invested not only our own money, but the money of policy holders of Mass Mutual, who is our investor, Massachusetts Mutual, who is our investor here, so we do have to do something with it. So the answer is yes, it would be ultimately build as condominiums. Certainly that does go on the tax rolls.

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Leonard: Right. See, my view is, and I appreciate your candor here, that's very helpful, but my view is this is a \$15 million question not a \$7.5 million question. If we don't grant the abatement and you go ahead and build condos and pay taxes, that's probably \$7.5 million. That's \$15 million available now to the city, county and schools that was not available before. And I just feel as though we could take those resources and do more if our goal ties provide good housing stock to working-class families with that \$15 million, whatever our portion of that would be, than this abatement.

Hinnen: And I certainly understand that perspective. I think when we approached this, commissioner Leonard, we looked at it and said there's a development agreement in place that envisions this type of housing there, actually specifically references this block, the financial calculations associated with the -- the overall district include -- include a contemplation of a 10-year abatement here, and I think the master developer for the district had had trouble making an apartment community work, and particularly sought us out because this is what we're specialize in.

Leonard: I acknowledge that, and i've tried to be as clear about that in every interview and discussion i've had, that this is nothing to do with your project or what your intent was, but rather what I consider to be a probably faulty policy that I wasn't really grasping when I voted for it until this application came through.

Hinnen: Sure. And I mean ultimately it is a policy decision. We respect the fact that it's a policy decision. We've been trying to respond to the policy as we understood it in working with the p.d.c. and planning staff in developing this project. That's the reason why we've -- we've developed it as an apartment and we're seeking the abatement. It could be built as a condominium. That market is very successful for condominiums, as i'm sure you know. Certainly that would be something on the tax rolls. But we at least were under the impression, throughout this process, that the apartments were a desired part of the mix in south waterfront, and we were doing everything we could to create that. So that was our goal.

Adams: If I could ask some questions. Is there additional benefits on the federal tax level or some other place for your insurance company investing in rental versus condo?

Hinnen: Well, unfortunately the nature of an insurance company is that they tend -- they're looking for income for their policyholders. They're a long-term investor. They fortunately are not an investor for condominiums. So we've chosen an investor here, again, premised on the idea we were building an apartment and would have to find an alternative one. You know, this is an area that's very difficult -- it's difficult to finance urban market-rate apartments, because the construction costs of building urban apartments are high, and we compete with condo builders, both for land and for the construction trades. And so it's difficult to make it work. And this, out of the toolbox, which is available, is really the only thing which enables market-rate apartments to be built in the city of Portland. I think that's sort of been true over the last 25 to 30 years, that every project has needed this in order to -- for it to get built. The alternative, I think, is for the market to supply those apartments. Rents would need to rise 20% to 25% on a marketwide basis. That certainly can happen. I don't think that's a good thing if it did, but that would be the other way for the market to deliver the apartments, would be for all of the rents in the market to increase.

Adams: Thank you. Question to staff. So taking the -- a little advocacy for the -- the everyday Portlander, looking at the information that you provided us, how are we supposed to judge how much the value of the abatement is and how it relates to the overall property? I'm looking at the two pages pro forma, and i'm here to learn. I don't see the word abatement on it. And i'm just trying to figure out how I explain to the public how this really works. If we don't do it on a case-by-case basis, i'm afraid I can't explain it overall. So help me here, would you.

Warner: Sure. I believe there should be three pages that are included in the overall financial pro forma. The first one I think you're holding is the assumptions with regard to the program, in terms

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of the unit sizes and their rents and shows a summary of the development costs for the project and the financing. The second two pages of the pro forma, one of which I think you have on the back of that sheet, are two assumptions showing 10 years of operations of the project. The first one is labeled without the tax abatement, and on that one it shows in boldface about halfway down the inclusion of property taxes for the building. On the second page, it's the same --

Adams: Where is it at?

Warner: At the top of that sheet.

Adams: It says tax abatements, but in terms of the line item, where is it on the line item?

Warner: Is it the one that says with or without tax abatement?

Adams: With tax abatement.

Warner: Ok. So approximately -- under the expense category, the fourth line item down, which is boldfaced.

Adams: Mine isn't boldfaced. Management fee?

Warner: You're looking at the sheet that says with tax abatement?

Adams: Uh-huh.

Warner: So the parens, building only.

Adams: Uh-huh. Why isn't the value of those abated taxes shown?

Warner: Well, on the other sheet, that's labeled without tax abatement --

Adams: I don't have that sheet. Does other members of council have that?

Leonard: Oh, yeah, we all do.

Adams: Liar.

Warner: That other sheet, that line item, include taxes that would be paid. You can see, over the 10-year period those taxes are shown to increase over time, because the assumption is that the property's assessed value increases at 3% per annum. So that would be the total -- the sum of that line would be the total taxes abated over the period of the tax abatement.

Adams: That's very helpful. What about, how much do we give up in rent versus what the developer gets in abatement?

Warner: How much would the developer have in terms of less rent relative to what we give up in terms of the abatement?

Adams: Yeah.

Warner: I have not calculated that. I can't answer that question.

Potter: They have studio apartments --

Adams: It doesn't show, though, how much you give up in rent.

Warner: We do know that the difference in the -- the rent for the studio units that are abated, their rents are approximately \$870.

Adams: Ok, you're rent.

Warner: The studio rents for the unabated units are \$1,045. So the difference is the per unit per month difference in the revenue that the developer would derive. I haven't actually endeavored to calculate what the reduction in overall rents for that 10-year period would be. There's obviously some assumptions would be included in that in terms of how quickly rents rose over that period of time, but what we do in terms of our analysis is look on those two sheets we were just discussing, at the bottom line, in terms of the cash flow, that flows out of the project after expenses and after the debt service, the payments on the mortgage --

Adams: I think one that be -- it would be great if we could tell the public how much we are subsidizing in rent for the abatement given.

Warner: Right.

Adams: I think that's more -- I think that's closer to sort of household sort of level of discussion of these kinds of projects.

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Warner: I think we could do that. The only concern I would have was harkening back to my comments in response to commissioner Leonard's question, which was the abatement program is really intended to make the entire project financially feasible. A year ago, if this project --

Adams: I understand, but that's not my point.

Warner: Ok.

Adams: My point is being able to describe for the public that while it also makes the project work in terms of the benefit to individuals renting these things, this is the benefit and this is what the city is paying for that benefit, in addition to making the project work.

Warner: Right.

Adams: The fact that we don't do that looks like we're hiding stuff, and I don't think that's our intent.

Hinnen: Commissioner Adams, I might just try and clarify your request, because I think it's -- it's certainly something we can do. I think the -- the sheet you were handed that shows that without tax abatement, where it says 80% m.f.i. Studio mark to market on an annual basis, the second line down, that is the cost -- the difference between the market rents and the affordable rents on an annual basis.

Adams: Ok.

Hinnen: I believe the point which John is making, which I think is an appropriate point, is that in addition to that rent the other benefit that the city is providing by abating the taxes is they're decreasing the overall -- the rents on the overall project from what the market would require of probably \$2.40 a square foot to \$2 a square foot on average. So there's that additional benefit of the fact that the market could only deliver apartments at a much higher rent there, and that because of the abatement the city is able to help us deliver apartments at a much lower rate, which is affordable to many other people.

Leonard: So what is the top rent for an apartment in this project?

Hinnen: It would be set by the market at that time, but probably the penthouse unit is probably about \$3,000.

Leonard: So I mean another question we have to ask ourselves, I mean are we comfortable explaining to our citizens why we think it's necessary to subsidize somebody renting a penthouse for \$3,000 a month?

Hinnen: I guess, from my perspective, commissioner Leonard, you would be -- effectively that penthouse renter, who's paying \$3,000 a month, and, you know, there are one or two of those units, that person, by paying rent at that level, is subsidizing other renters in the building to keep their rents lower. So in some ways developers talk about the robin hood hypothesis, which is that we rent units vary -- in the top of the building for a big number, and that allows us somewhere else in the building to rent a unit for a lower number, because overall we need to reach a certain level in order for the project to happen. So yes, there may be some wealthy person who's at the top capitalizing on this, but overall the project -- his high rent is helping to pay for a lower rent on a unit that's lower in the building.

Adams: I want to make sure, and that was useful, and then I'll be done with my questions. So the benefits of this abatement are that the project happens.

Hinnen: Correct.

Adams: And the other benefit of this project is that we save, on rent for 48 units, \$74,769 in year one.

Hinnen: Correct.

Adams: And we give up \$878,833 in taxes year one?

Hinnen: Correct, although I think that the additional benefit would be that the rents -- you know, presuming a building were actually built, the rents in the rest of the building are 20% lower than

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they would be for what the costs are -- the costs would require the -- to build the building without the abatement would require rents to be 20 to --

Adams: On everything else?

Hinnen: On everything else.

Adams: Ok.

Hinnen: Frankly that's why it wouldn't get built, because the market can't support \$2.40 rents. We're stretching to -- at \$2 rents, because we want to make a project happen here and think we can do that. So there's a benefit there as well. And I guess I would comment that I think taking it from this project alone to the broader promise in Portland, the effect of having this program over the last 25 years has kept rents probably 20% to 25% lower than where they would be without this program. And I personally think that's a very good thing for Portland, because it allows a lot of people who work in downtown to live in downtown instead of having to commute a long distance from the suburbs. So I think it goes beyond just this particular project to the impact this program has had on the market. I guess my only other comment, since I work in a lot of other jurisdictions, would be Portland is -- is known for the success of this project -- of this program, and the city of Seattle, within the last year, has adopted it -- has adopted a similar program based on Portland's success. The city of Spokane has done the same thing about a year and a half ago. So there are other cities that have looked at Portland's success in creating this downtown housing stock and recognized the validity of the program and are copying it. So certainly from my perspective, I hope it's something that we continue and certainly the policy discussions that commissioner Leonard is talking about in terms of some of the diversity of the units are appropriate considerations. My only concern, commissioner Leonard, is that unfortunately this particular project can't bear that diversity of units, and we knew it couldn't in February and have tried to, you know, work consistent with the guidance we were given from that point forward.

Leonard: And I appreciate that.

Saltzman: So I would like to ask Mr. Hinnen a couple questions.

Hinnen: Sure.

Saltzman: And this issue came up last week when we adopted commissioner Leonard's policy. I raised the policy issue about -- well, the voters raised the issue, and it's resonated with me that the 15% affordability requirement should somehow reflect the distribution of the apartment sizes in the building. I think it's a good idea. We have to figure out a way to make that happen. Everybody I've talked to, after I said that last week, has said you can't do it, but I really think that we need to figure out a way to -- need to figure out a way to amend our policy to get to that diversity side, make these subsidized apartments available for families and people with children. So you're building 48 - - first of all, I wanted to ask you, did Seattle or Spokane adopt a affordability requirement that also reflects a diversity of units?

Hinnen: The Seattle program does have diversity of units. We've not actually done the program in the city of Spokane, so I don't know whether it does or not. I don't think it has any affordability requirement in Spokane. They're anxious just to get housing and less concerned about the affordability. Seattle --

Saltzman: Seattle does have some sort of --

Hinnen: At least as I understand it, commissioner Saltzman, they do have a program which -- which requires diversity of unit types. In fact, that was one of the reasons that I asked the question in January when we talked about this, is because I wanted to make sure I understood the program correctly here.

Saltzman: I think that's something, as I said last week, that we need to revisit in our policy here, that we need to make the 15% reflective of the distribution of the units. You know, maybe not the penthouses, but certainly the one-bedroom, two-bedrooms.

Leonard: Second.

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Saltzman: So there's -- that was a statement, need to change the policy.

Leonard: Oh, i'm sorry.

Saltzman: You're building 48 studios. 90 one-bedrooms and 69 two-bedrooms if i'm looking -- if my eyes are correct.

Hinnen: There's a mix of additional unit types in addition to that, but --

Saltzman: And you're getting a 6.7% rate of return over the life of the abatement.

Hinnen: That's correct.

Saltzman: There's no question you could possibly get that same rate of return and put in some one-bedroom units and some two-bedroom units into that 15% affordability and still make it work?

Hinnen: Out of respect for your concern last week, we tried to do that analysis over the -- over the last week, and I think john could speak to the results of that. We did the analysis and then john verified the result there. The short answer is no, unfortunately.

Warner: As rob was mentioning, when we were first were discussing the application of the abatement program to this project, we looked at the issue of unit diversity, and looked at it again recently, given the concerns raised last week at council and by the planning commission. If we were to make the unit mix in this project that are affordable mirror the overall mix in the project, setting aside the penthouse units, it would have created a reduction in the rate of return that would have resulted in about a \$1.6 million funding shortfall for the project. So in order to achieve that diversity of units, we'd not only have to provide the tax abatement, but about \$1.6 million of additional financing to the project from the city in the form of subordinated loan to the project. And those resources just aren't available and earmarked for the subsidization of a market rate housing project to the extent we're available, we're trying to target those monies to low-income affordable housing. So we'd be in a situation where --

Saltzman: I realize last week we were talking about mirroring the distribution of the building, but my question to you right now is there no way you could get one or two one-bedrooms, one or two two-bedroom units into this mix? Not trying to mirror the --

Hinnen: From t.c.r.'s perspective, this is a challenging environment to build an apartment in. We're stretched thin. From a revenue perspective, it does not matter at all to me what the -- what the unit mix is so long as the revenue impact remained constant. If the council were prepared to accept half as many as affordable units, then even with this particular project, we would be able to add one and two-bedroom units, but that isn't the policy. And nor have we been designing to that policy. In other words, the tradeoff is you could have less than 15% of the units, and you could have a diversity. That makes up for the gap that john described to you, but obviously that's not the current policy. So we -- we haven't suggested that. It doesn't matter to me if the council chose to reduce the number and spread it out across unit types, I certainly have no issue with that whatsoever.

Saltzman: So if we were to say, come back to us in a week with perhaps a different affordability percentage, but a greater mix, could you do that?

Hinnen: Sure, absolutely. I mean, again, what I don't want to do is leave any misconception that I can do both, both give you 15% and give you the diversity. I simply can't do it, unfortunately, in this environment.

Leonard: Well, I just want to send a message with that option, commissioner Saltzman, I wished I had two no votes, but I only have one. I mean, that's -- that's not good, to actually decrease the 15%? I mean, that's -- that is just not good. That's my opinion.

Saltzman: You wouldn't want to decrease it in order to spread the unit diversity?

Leonard: No, absolutely not. I think one of the legitimate concerns is, which I share, is not -- and a really appreciate your presentation, very refreshing and forthright and very helpful -- is if the council were to say on the block that you have that we -- notwithstanding other commitments, would want to you build condos in that block, does that matter to you financially? If you walked out

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of here today and didn't get the abatement but were told to go ahead and build condos there, would you consider that a loss?

Hinnen: There's certainly costs we've invested into making this an apartment, and apartments and condos are different. So there's a loss in that regard. You know, also working with the master developer, he was clear that he thought that a diversity of -- of unit types -- or for sale housing and rental housing was important, so I think there would be a concern for the overall district and the success of the district. For us, if you were to say build a condo, it isn't what we've pursued for eight months. We've brought in an investor who we'll have to pay to -- for their time and the use of their money who can't do condominiums. That certainly isn't something that we would like to -- like to have happen. So it certainly would be our preference to build apartments. We feel like there are a lot of condominiums being built in the city right now, and that we're concerned about the risk of that. This is one of the rare apartment buildings that's being built, tough environment to build apartments in, and that certainly would be our goal, would be to build the apartments. We perceive there to be strong demand in south waterfront for this particular product type and particularly associated with people who work at ohsu, but aren't people who are going to buy a high-end condo. So we see the demand. We think as a good investment, although a difficult one in this environment. That would certainly be our goal.

Saltzman: I would come back to what I was suggesting a minute ago. I would like to see us take a look at the reduced affordability in return for more one and two-bedroom units, affordable.

*****: That's certainly --

Saltzman: I wouldn't want to reduce the overall percentage probably beyond -- below 12%, but i'd like to see what that would get us in terms of larger units in that affordability mix.

Hinnen: By way of full disclosure, the cost for building each square foot of the building is roughly the same, and the gap gets bigger as you go to one and two-bedroom units. So ruining that affordability, it doesn't buy you a whole lot, unfortunately. But it might buy you some units.

Saltzman: Right. I understand that.

Hinnen: Buts not a lot.

Saltzman: Like commissioner Leonard said, you know, 48 units are studios, 48 studios, just doesn't get me to the type of diversity of people we want to see there. I think I do support that we need some market rate rentals in south waterfront, and indeed in the central city. And I think that is very consistent with our central city goals. I mean, we're seeing too many rentals right now being converted to condos, and we really need -- so i'd like to see this project remain rentals. I'd like to see that happen, but I guess I would like to see some one and two-bedroom units in that affordability mix, if there's a consensus on council I would ask that you come back to us next week with an option in that regard.

Adams: For me I think there's a big difference between one-bedroom and two-bedroom. I don't see a huge -- I just to go by intuition. I don't see a huge benefit for one-bedrooms. Two-bedrooms become more family-friendly, but I don't think one-bedrooms or --

Saltzman: That's a good point. Maybe just focus on the two-bedrooms.

Hinnen: I think from our perspective, commissioner Saltzman, we've worked for eight months and have a lot of money invested, so we're certainly prepared to do any analysis that the -- that the council requests us to do. I mean, realistically, we want to make a project happen. There's the -- there's the realism that if -- you know, it could -- it may have to be a condominium, if it's not something that works, but within the boundaries of what works I think we have sort of ultimate flexibility.

Leonard: I have to say, I mean the argument has been, that we've said what the rules are, and now to suggest we're going to change the rules in order that we can give the abatement is just a little hard to deal with. I mean, that seems to be going contrary to everything i've heard arguing to approve this project here today, and now i'm actually hearing out loud people say we're willing to relax the

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rules in order to give the abatement? I don't think that sends a good message. If you're looking for a consensus, and if that means unanimity, that doesn't can you me.

Saltzman: As you pointed out at the outset, we're the final decision-makers on this, and that gives us some discretion in this regard.

Leonard: Certainly does, but if I was arguing within the confines of what the policy said, and I wasn't contemplating sitting here and actually changing the policy, but it appears to be what's up for discussion.

Potter: Commissioners, any --

Sten: I'm interested in hearing possibilities. I guess at this point I have a few more longer comments, but i'll make them at the appropriate time. I'd also be interested in public testimony that's here.

Potter: Ok. Commissioner Adams, any comments?

Adams: I'd like to hear the public testimony.

Potter: Thank you folks for being here this morning. Appreciate your comments. Are there other staff before we start calling on the public? Ok. Thank you. Karla, please call the people.

*****: Good morning.

Potter: Hang on just a second, please. I think we have another person coming up. Ok. Thank you folks for being here. You each have three minutes. When you testify, please state your name.

Tom O'Keefe: I do have a handout i'd like to get you, please. My name is tom o'keefe. This is deja vu for me, this issue goes on and on. It's actually got worse and got better. And the article that Karla's handing out, this is about -- from 1993, "willamette week," november 11, this is when trammell crow were getting an abatement on phase two of the south waterfront park area. In that particular, it gives some comments that I made at the time about trying to get more units available to the public. And at the time they were providing 5% of the units to low and middle-income people. And there was also a problem with the way they calculated rents, how they precalculated rents using two people households into studios. I got them to lower rents by about \$100 a month. Actually about \$75. And that bothers me today when you ask about a \$1,000 studio, that you're saving -- they're going to pay \$800. My first question is, what are the calculations they are using to precalculate rents? But to move forward, and it got passed, in the year 2000 I called south waterfront park to do a follow-up on this to see what units were available as a renter. Hey, do you have any units available that are subsidized to certain people in certain income brackets? They said what, huh? They had no idea, the rental agent, about the 10 units that were set aside. I then called p.d.c. and asked them who they have on staff that monitors follow-ups on all abatements to make sure that the units are still available several years later. They did a oh, huh, on me too. You know, there's no watchdog in place to even make sure those units. So when I called in 2000, they didn't even know there was any subsidized units to be available. So that disturbs me in the first place. To me, you can say this a few things, and that people might not like. Now to bring it up to today, the 15%, I always fought for 15%. The federal government always required a 10%. City used to be 5%, but on low and middle-income brackets. You took it up to 15%, that's great, but you took it up to the -- to the -- to the moderate income bracket, 80% at the very highest level. So savings are negligible. One-person income at that 80% bracket is \$38,000. They already prequalify to rent these units without any subsidy. I have great concerns about that. Also my other concern is -- is since you've gone up to the moderate level, and you used to be at the middle level, now to me this is income profiling and borders on income segregation. And I have big concerns about this. And degentrification and other things that I think can be attached to this. And I have concerns, too, especially when the monies that are giving out, the abatement, the \$7.5 million, i'm glad to say that people -- years ago they didn't want to mention that 45% of that money goes to the county and the schools. I like your opening program, mayor Potter, about the schools and helping kids. If you pass this abatement, you are withholding over a million dollars from the Portland public schools. I've

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asked p.d.c. to provide me all the abatements for the last 20 years, so I can find out how much the city has taken from the schools and the county and from -- and from city services. That number is can't come to me --

Potter: Your three minutes are up, sir. Could you please close your comments are now?

O'Keefe: My comments are, is over the last 15 years the city has given out probably over \$100 million in abatements, probably about \$40 million would have gone to the schools and the counties.

And so as continue to give these abatements out, on the one hand you want to help the kids out, but an hour later you're taking money from them.

Ed Maresh: My name is ed maresh. I live on north yale in Portland, Oregon. I appreciate the opportunity to express my thoughts. I grew up in the valley. After the war I came to Portland, and because I thought it was a nice city to raise a family. And I fell in love with Portland, and i've never regretted it, but things have changed unfortunately, and we're in a different situation now. We're having more crime than we used to. We're having various problems with meth labs and so forth. And it goes on and on. Our schools are hurting. And we don't have the money for police protection that we need. The jails are being emptied, so the criminals are back out doing their thing again, and we're suffering. And last week there were shootings, you know, downtown here. We all know about that. And I think it's because the city can't afford the police because of these tax abatements that we've had the pearl district. And that's something that's already behind us, but it's something we're going to live with for a long time and suffer from for a long time. Our livability is going down and our taxes are going up. And it just unbearable. I'm in a great state of frustration. I really am. I love the city, but the way it's going it makes me feel like selling my house and either moving to beaverton or clark county. I just don't think that we're -- taxpayers are not being treated fairly. If someone wants to develop a big building, that's fine, let them develop it with their money. I think the priorities that the city has before them demonstrate to me that that building is not necessary. So I would like to again thank you for the opportunity to be here. And please bring Portland back to where it used to be. Thank you for your time.

Potter: Thank you, sir.

Sam Chase: My name is sam chase with community development and affordable housing now. Thank you for the opportunity to speak to you. I recently discovered a report by the federal reserve of san francisco that cited Oregon as the second worst state in the country in terms of people paying more than 50% of their income for rent. That means that people are really, in our state, and in our city, really making the choice between whether they're going to pay their rent or pay for food and medicine. We have a serious job to do in terms of addressing affordable housing at the very lowest income levels. The city has an aggressive plan to do that. We need resources and funding to do that, and we need to be putting time and energy and resources into that plan. I think that this issue begs the question that a broader strategy to drive housing as a priority is needed in our urban renewal areas, and north macadam is an example, where we've set the goals, and we have clear goals and targets for affordable housing. We haven't done anything to address those projects yet. That needs to be as much of a priority as this kind of a project, or as other important priorities, like the tram or the streetcar or the greenway, affordable housing needs to be up there. In terms of this project, I think there are some -- there are some analysis that I think is continued -- or there's a need for. One of the -- the issues that i'm not clear on is whether or not these would be able to be converted to condos in 11 years. It's my understanding that there's no 60-year affordability on these, like all the other affordable housing projects we develop are. If the premise is correct that condos is probably the highest value in this area, then in 10 -- 10 years condos, when everything's developed, the tram, the streetcar, all the amenities, the greenway, when those are developed, the value will be higher of that property. If you have your investors in massachusetts and dallas, they're going to be saying, why aren't we taking this and converting into its highest and best use? That is a question that hasn't been asked, and I think should be asked, and we should know that these are

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going to remain as rentals and at least what affordable building we have in those would remain over a long period of time. It's important, I think, to note what income level, when we think about where we really need to be doing affordable housing, for those most in need, it's I think worth noting that even at rent levels of \$2,200 on some of these units, that is individual at 165% of median income and up to 190% of -- or an individual at 190%, a couple of 165% of median income, \$3,000 is pushing more toward \$300% of median income. So we're talking about a group of folks that have a housing choice and have choices throughout the city. I think that priority needs to be balanced. And I don't have time to get into other issues, but thank you for your time.

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

Clyde Doctor: Good morning. My name is clyde doctor. It's a pleasure to be here. My advocacy these days is to devote for low-income housing. This project doesn't have anything to do with low-income housing. I think that's the point. Even "the Oregonian" understands that. "this rental tower won't provide anything close to low-income housing." the reason i'm here, obviously, is to point out that you have choices. I've worked in government my life, and I know sometimes you're in a box, you've got a statute you have to deal with, but over time you do have choices. And in this particular case, where you're talking about a tax expenditure, it's really the same thing as -- as writing a check. As a matter of fact, I suspect if the developers had come to you during the budget process and asked you for \$7.5 million out of the general fund, they probably would not have gotten it, because you would have to have gone through that agonizing process of figuring out what services you're going to cut. So you do really have choices. You may not have a lot of flexibility today, and that's why I would second what I think was commissioner Sten's motion that maybe -- and I don't, commissioner Leonard has talked to this, too -- maybe it's time to review this policy to give yourself flexibility, but to talk about choice, just this morning something came across my email that i'll leave with your clerk here. This is a list of all the condominiums that are for sale in downtown Portland. And the reason I have this actually is my wife and I are sort of interested in moving closer in. Downtown incidentally, the realtors now include south waterfront. There are 28 units for sale. 10 of those units -- and these are not by developers. These are on the -- on real estate market, they're resale. 28 units for sale, 10 of those are south waterfront units that won't be completed for one to two years yet. Units that are being flipped. Five units in the elliot, which won't be completed for a year. So more than half of the condominiums now for sale in downtown Portland are being flipped. As a matter of fact, I think these will be double-flipped, because they'll probably be sold to other investors rather than to occupants. Well, what does that mean? Well, it means there's an environment out there of -- oh, i'm sorry, my time is up already.

Saltzman: You have 30 seconds.

Doctor: All right. I've leave this with you. My point -- major point is this. Unintentionally you have created an environment in which the free market system doesn't work. You've created an environment in which developers have to have public money for their developments to make sense. So when you start your visioning process and start reviewing p.d.c., I encourage you to think in terms of that issue -- do we want to create that kind of environment in the city? Thank you.

Ken Love: Good morning. My name is ken love. I'm a southwest resident and also the chairperson for corbett-terwilliger-lair hill association. To quote an article in the "Portland tribune" k this is the right idea for the wrong people. I've got a few years behind me, and lost touch with reality, but if I was a young person, or even a senior citizen making the high \$30,000 a year, there's no way I would be renting an apartment that's only the size of a double garage for \$850 or \$870. Occupancy is going to be a major factor I think in this project. As the commissioner Leonard had stated, and commissioner Adams, there's no -- nothing in here for the hard-working families having to earn two incomes for affordable housing. Nothing in it for senior citizens that can afford this. Today's "the Oregonian," I looked, there's over 100 apartments, one and two-

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bedrooms renting for \$400 to \$650 a month. So there's no special need for this. Now, at commissioner Adams said, it's almost a million dollars a year we're giving away in tax revenue. Right across the street to the north is a park that p.d.c. and city of Portland bought for \$7 million. There's not one dollar in the budget for the next couple years to develop that. Two blocks to the east, there's a greenway. I think many million dollars to develop that. Not \$1 in the budget for the next couple years to start development on this. This project is not -- does not meet the future vision needs of the citizens, the families, in Portland. I would like the city to start adopting a policy of not only as a city that works, but it's a city where everyone pays their share. Thank you.

Robin Boyce: Hi. My name is robin boyce, the executive director of the housing center, nonprofit developer of affordable housing. I'd like to thank you for the opportunity to testify and acknowledge that you're making difficult choices. Clearly the choice for density is important, but the question is -- will we achieve density without rental housing? I think we've heard the answer that, yes, we would be able to achieve density on this site without it being rental housing. The question then becomes -- is it a mix of incomes we're trying to achieve? Yes, that's clearly an important priority. The question is -- could we achieve that and how are we going to achieve that? My understanding why we haven't been able to build affordable housing is we have to built increment. This project doesn't make the affordability range sooner. If our goal is mixed incomes, does it need to be rental? If what we're trying to get is rental housing, how long will we get that rental housing for? My understanding is for 10 years, but what happens in year 11? Will we then have rental housing option there? Finally, I think it's a question of what we're doing with \$7.5 million. We've been working very actively at housing development center on some of the chronically homeless initiatives. This \$7.5 million would buy the full cost of 40 homes for chronically homeless families. It would provide a \$375 a year rent subsidy for 10 years for 165 families. I think the questions -- homeless families. I think the questions that we're asking are between difficult choices of public subsidies, so I would I would like us to be considering what is the public objective we're achieving and is this a cost-effective measure to get it? Thank you?

Potter: Thank you.

Jim Davis: Mayor Potter, i'll be speaking for our neighborhoods association, and I would like the five minutes that are normally given to us, please.

Potter: Umm --

Davis: I'll speak as fast as I can, but --

Potter: Is that ok?

Davis: I can honestly say that i've been disgustedly sick until about 5:30 this morning, so i'll move as quickly as I can.

Potter: Please state your name and you're eating into your five minutes.

Davis: Thank you. My name is jim davis, 2337 southwest sixth avenue, i'm land use chairman of the corbett-terwilliger-lair hill neighborhood association.

Potter: Mr. Davis, the five minutes applies to the presidents of the neighborhood associations, no one else. So you have three --

Davis: I'm not going to debate that with you. Tell me what I can do.

Potter: Three minutes.

Davis: Once again, the king and queen are seeking to enlarge their wealth. They want more. They want at least 16, if not \$60 million in tax abatements. Here's what that figure, that 16 to 60 million dollars will give taxpayers. 48 nonaffordable studio apartments the size of the average two-car garage with a close view of their next-door neighbors. It's not clear that these sweeping rooms will be advertised to the general public. We'll also get 48 nonaffordable affordable cells only affordable for 10 years, then they may well be incorporated into a hardly affordable affordable condos. The city has no protection from that. The taxpayer will also have the pleasure and pride in knowing that he will be able to provide profits for the most expensive apartment in the state with

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rents averaging \$2 a square foot. And the above taxpayer's excitement will be purr saved by the person who makes more than another subsidizing another. Who says this can't be fun? This the 3 1/2 years i've been chairman of the land use committee, i've found that honesty and fair play are poor against greed, but they're the only weapons that we have, say one. Mayor Potter, I too believe in process, but process must be from fact and reality. The so-called process in this matter is based upon either logic found in alice in wonder land or that of "the Oregonian editorial board members. You take your pick. As to the members -- as to the numbers that have put out on this project, they've been so highly massaged that someone should be arrested for lewd and lascivious conduct. Commissioner Saltzman, you have a scientific education, but it doesn't take an einstein to figure out that the most any of this commission could afford in this building is a small one-bedroom apartment, perhaps overlooking a vacant lot that some day may be a park if money can be found. And commissioner Sten, erik, got bless you, you championed the poor, the broken, the out of luck in the city, and i'm in awe that you were able to create 5,000 living places for these folks. You know what affordability is. A staff person of yours has said that this apartment building should have a diversity of incomes, and she'll be happy to know that there will be such a mix. There will be the sort of well off, the pretty well off, the well off thank you very much, the nicely well off, the really well off, the have super well off, the supremely well off, that's eight incomes. Gentlemen, simply put, and please bear with me, to vote for something you know is not true, such as this tax abatement, which will not produce affordable housing, is unfair, is unjust, is morally corrupt, and in a word wrong. Thank you.

Moore: That's all who signed up.

Potter: Is there anybody here who wishes to testify that did not sign up? Discussion amongst the council. This is a nonemergency and will move to a second reading. Is there any discussion at this point?

Saltzman: As I suggested earlier, I would like to look at the option of how many two-bedroom units we can get with the reduced affordability requirement, no less than 12%. And at least have that option to consider as part of the -- whether I approve this abatement package or not. And I would assume that would take a week for -- for the team to get back to us and tell us what that would look like, so I would -- I would make that a motion, that we set this over one week.

Potter: It's a second reading, so it will be set over.

Saltzman: Ok. So I guess -- ok. Then team, bring me back at least an option. I think the other members of the council will be interested in at least seeing ha what that looks like before we make a final decision about supporting this abatement or not. And i'd say, like commissioner Adams said, let's focus on two-bedroom units rather than one-bedroom. So see if we can get some of those 48 affordable studio apartments into some affordable two-bedroom apartments.

Potter: Any other comments?

Sten: I think this has been a good discussion, and looking forward to more feedback from all of the council open this. The council passed a policy which was much stricter than the old policy. It's one that i've not been positive for about for a long time. The new policy is 15%. This meets the policy.

As the housing commissioner, I feel compelled when a housing project comes in, that meets the housing policy that's in place, to support that, because otherwise we can't do business as a community. If as commissioner Leonard is saying, in kind of looking at it the first time, and I completely respect that, the policy doesn't achieve what the council wanted to set out, we should be very clear in saying that. And I think this would be a terrific one to talk with the development commission about and make a decision. Essentially what i've heard over the years, and I will be short, mayor, is that i've never heard disagreement that people would like to see rentals and condos in all income levels in all of the urban renewal districts. The reality is you can't get that given the market dynamics without some of these kinds of policies. I'm very comfortable with the idea that we'll have condos and not pay for this middle-income stuff. I don't think we'll get it otherwise, but

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if we're going to do we ought to do it. I don't want to enter into another year of study on this issue. I studied it for a long time. I'm flabbergasted the Portland business alliance is absent. I've spent my entire career listening to their advocacy for this program, and when we finally have one come in they're not here. Many of you have also been in those conversations. I think this is one where Trammell Crow has been forthright, haven't played games with the number. We ought to give them a clear signal next week as to what the policy is and then adjust the policy accordingly.

Leonard: And I would just say, and I appreciate those comments, that I think that Clyde Doctor's comments really were good in that we have really created a market, which is good, in South Waterfront, that we've envisioned doing. I think it's succeeding beyond what we imagined, and that's certainly nothing to be criticized, but effect has been to drive the cost per square foot up so much that it's probably just unrealistic to think you can have affordable apartments is the bottom line in that district. I'm ok with that. I mean, I think it's fine just to say let the market do what the market does, and as Sam Chase said, and others, take those resources -- and from my view, we're not talking about \$7.5 million, we're talking about \$15 million, by the property taxes generated by condos built there, and use those, and these other projects that you have been involved in, Commissioner Sten, which I so wholeheartedly support, and would -- would be thrilled to continue to support. But I just think that for a number of reasons this -- this -- I mean, I'm happy to wait a week, but if the effect of waiting a week is to actually decrease the amount of units, the percentage of the units available, that's -- I just think that sends a really bad message, worse than arguably us not approving this abatement.

Sten: One last comment, following up on that commissioner. You know, this ground has been sitting fallow for a long, long, long time, not paying hardly any taxes. So the opportunity to either get a tall building that has a 10-year abatement or to get something paying taxes immediately is due to all of the work. And I think there's -- I want to distinguish two different questions. One is should we have median income apartments that we play a role in in the central city, because I think this is the another one for the council to think about, and do you want to pay the top dollar to get them here? This is the most expensive place right now to build -- to build this type of unit. And so what's happening is, we have, I think, a correct policy that we want to have a mix of income everywhere, but the way it ends up playing out on this real estate is right in front of you. If Trammell Crow were to switch and build condos, I would be very aggressive in arguing that I think Mr. Chase is exactly right, that that is essentially money that the Portland Development Commission was not developing, and it really should be targeted back into some truly affordable housing, because truly affordable housing is shorted right now in the district, and as I start to see the projections go up, I'll --

Leonard: I would make that commitment to you right now, I would support that absolutely.

Sten: I guess we'll talk more next week.

Leonard: Yeah.

Potter: Further comments?

Adams: Well, it would be useful to me and maybe it's out there and I'm not aware of it to see some -- we've got our policy, and in this case we've got our -- a district. And it would be nice to see from staff the -- sort of a scenario of ideally how it plays out, where the policy meets the district. If we're going to do a tax abatement here, to get middle-income affordability, you know, and we've got -- this is how many units -- rental units out of the district goal of x, I guess I want to see a little more context to the discussion and a little -- it feels a little piecemeal to me. Even if it doesn't necessarily play out, it would be nice to see the ideal strategy from staff on how some of these various tools could get us as close to affordability as we possibly can, so that if we change our mind, an let's say this -- you know, Sam Chase's suggestion happens, how could that or could that not play out in this district?

Potter: I'd like to ask the other commissioners when was this was passed, why wasn't a 60-year affordability put with these, too, as opposed to the length of the tax abatement.

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Sten: The compromise that was reached, and again I want to keep framing, mayor, that I think we're trying to do something good, but not necessary, and as a result what you have is kind of a middle ground sort of proposal. I was unwilling, given my knowledge of our likely housing resources over the next -- in the next 10 years, let's say for argument's sake, support putting any cash into these type of buildings. I just don't think they're a high enough priority. So the compromise that was reached was we would consider tax abatements, which are still cash, i'm not arguing with that, but essentially are more about what's likely to happen on this project, but no direct cash. Clearly a tax abatement can't be transferred in the same way. And with that, the essential economic analysis was that we're not putting enough in that anybody's ever going to agree to a 60-year. When we put a loan in, we always get a 60-year, that's the council's policy, our push into this. We're making a sort of small -- smaller push than we usually do and getting less back in return. That's the heart of the policy, you know. That's why I do think it's perfectly warranted to keep debating this. I'm not convinced we have the policy exactly right. I'm just convinced that when we have one as housing commissioner, I need to implement it.

Adams: Just a small note. I don't think anyone here on council had the sheet for what the project pencils out without the tax abatement. So let's make sure our information packets are complete. It is a big deal.

Potter: Anything further? Ok. Karla, is this item set over till next wednesday?

Moore: Wednesday for a second reading.

Potter: Ok. Let's move to the next item.

Item 953.

Eric Johanson, Bond Counsel, Office of Management and Finance: Thank you, mayor, and council members. I'm eric johannsen, debt manager in the office of management finance. The ordinance before you this morning authorizes the issuance of up to \$41 million of general fund backed lines of credit to fund urban renewal projects in four of the city's urban renewal areas. Most of the capital projects in the urban renewal area draws on lines of credit, and then take those draws out later with a long-term debt issue. The four districts that we're requesting an increase in the lines of credit for all have projects in the -- in this current fiscal year that we don't have current capacities sufficient to fund at this point in time. Therefore, we're bringing forward this ordinance to allow us to have enough line of credit capacity to do the program -- the projects that are in their budget for this current fiscal year.

Potter: Questions from commissioners? Thank you. Is anyone signed up to testify on this?

Moore: I don't have a sign-up sheet.

Potter: Is there anyone here who wishes to testify on this that didn't sign up? Ok, this item will move to a second reading next week. Please read the next item.

Item 954.

Potter: Staff?

Adams: Perhaps not the degree of interest as the last couple of items, but nonetheless important.

Rob Barnard, Office of Transportation: Well, I didn't put it on the consent, because I know council doesn't like to do things unless they're truly just routine.

Adams: You can make your presentation very succinct.

Barnard: I will. Rob barnard. I work for the city of Portland, office of transportation. This project is a freight mobility project in the columbia corridor to connect columbia boulevard to killingsworth. It's been to council numerous times. We have all our agreements in place, except for these two with union pacific railroad. The drawings are at 100%, ready to go to construction soon. These two agreements allow construction of the storm sewer facilities, traffic signal, and streetlight. It's a standard agreement with union pacific. It puts our infrastructure that goes underneath their tracks on their as-builts, just a formal mechanism to document where we're putting our facilities, so if they come through with improvements they turn turn around and tear it up. They're really

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standard agreements with union pacific as part of their normal operating procedure to put those items in place. Any questions?

Potter: Could you describe this location again, where it's at?

Barnard: Yes. It is between 82nd and i-205. It connects columbia boulevard, which is also known as lombard -- excuse me -- killingsworth and columbia boulevard. It's providing a new road connection that goes underneath the railroad tracks. Currently columbia boulevard terminates into lombard at about 92nd avenue with a substandard underpass. What we're doing is building a new interchange just to the west. So you come off of columbia boulevard at 82nd, you dive down underneath the railroad tracks, come back up and connect with killingsworth at about 87th. The agreements are necessary in order to put out to the form sewers, streetlight under their tracks.

Potter: Are there any questions from the group? Commissioners, any questions? Thank you very much.

Barnard: Thank you.

Potter: Is anyone signed up to testify on this?

Moore: No one signed up.

Potter: Is there anyone here who wishes to testify that does not sign up? Ok, this moves to a second reading next week.

Moore: Yes.

Adams: Thank you for your work on this. It's a great project.

Potter: Please read the next item, Karla.

Item 955.

Potter: Related, the other half.

Barnard: There's the wire line and then there's the pipeline. One is for traffic signals and streetlights. The other is for storm sewer, but --

Potter: Ok, thank you. Any questions? Anybody signed up to testify?

Moore: No one signed up for this.

Potter: Move this to the second reading with the other one. Please read item 956.

Item 956.

Potter: Commissioner Leonard?

Leonard: Thank you. First thing i'd like to say, just as this excellent discussion we just concluded on the abatements, allowed the public to weigh in and listen to us discuss an important issue, I think it's good that we're discussing this. So I disagree with those who might think this discussion is premature. The heart and soul of this proposal is not a new idea, as some would have the community think. The issue of having disabled firefighters and police officers be put back to work in the fire and Portland bureaus, or other bureaus, that have positions for disabled officers, has been an issue that's been discussed for east 20 years, and not lightly. I'm sure, mayor Potter, when you were police chief, will recall these discussions. We discussed it then, as we discuss it now. In fact, the Portland police bureau, and the Portland fire bureau, are the only two entities in the public or private sector that i'm aware of in the united states that does not have incentives to put officers and firefighters back to work. In fact, just the opposite, have disincentives to put firefighters and officers back to work. It has to do with the mileage rate levy that funds the disability system that when an officer or firefighter are injured they go off the roles of the, you know, fund and go over to the pension fund, and there's a disincentive for the police an fire bureaus to take them back into positions that they would have to create and fund out of the general fund. So it doesn't happen. Some have said that this is an idea that is born out of the recent attention given. And that's particularly from "the Oregonian," disingenuous, because in every interview I have ever done on this -- on the subject of the pension system, going back a number of years, up to and including the most recent interviews I did, I identified returning injured firefighters and police officers, back to work, as the singular most significant factor that drives the cost of the disability fund higher than

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any other system, that when you have people who are otherwise capable of performing some kind of light duty, sitting at home receiving a disability check, with no place for them to go, that costs the system a lot of money. After being elected three years ago, I added a budget note to the fire and police bureaus, which I have also talked about quite a bit lately, that required the bureaus to identify light-duty positions in their bureaus and fill them with injured officers and firefighters. The fire bureau has done an outstanding job of putting firefighters in positions they're capable of doing, though not full duty. I also want to -- I also want to just globally respond to what I found a very interesting argument about why we shouldn't proceed with this proposal. The argument is fair to summarize as follows. If we put this proposal on the ballot -- again, the most significant part of this proposal is requiring police and fire and all other bureaus, by the way, to identify positions that could be filled by injured firefighters and police officers, and those firefighters and police officers are off those jobs, refuse those jobs, we cut off their disability benefits. That's the heart and soul of this proposal. Some have said, well, if you do that now, then when this other package comes out, presumably later in the fall, or early winter, it will take some of the oomph away from the voters to pass whatever we come up with then. That's possible. I'll admit that's possible. But what my experience has shown me actually will happen. What actually will happen is -- and I only say this -- because this is precisely what has happened on this topic -- the task force comes up with hopefully significant proposals, including funding the current system. Funding the current system, when you put it that way, is generally received by most people as a no-brainer, until you tell them it's something along the order of \$1.25 billion. That's about as much as we're spending for the sewer project that's under way. And when you tell people it's on the order of \$1.25 billion, how would you like to pay for that, mastercard, visa, or bonds? People start getting weak in the knees and turn pale, because that's a huge tax increase. You can put it any way you want, but the fact of the matter is we're going to go to the voters and ask them to increase their taxes, presuming we have a funding proposal, and most people have identified that as an issue, and we're going to ask them to fund the pension plan with this package that we're debating now as part of it. My fear is the whole thing ends up not happening, and then these common sense, but significant proposals, don't happen again.

Once again, for 20-plus years I'm aware of, these -- these ideas, of putting people back to work, saving the taxpayers money, and, oh, by the way, because we could proposal open every precinct every day, seven days a week, with this proposal, we'd have the resources to do that. I'm worried it just goes away. I hope I'm wrong. History tells me I'm not wrong, but I'll work very hard to make sure we can make to final step. I would say another thing. And this, again, comes from -- from my experience. My experience has been that success in politics most often occurs when you recognize when there's a window of opportunity to do something. I mean, we can analyze and prepare and plan, but if we go to implement a plan at the wrong time, for any one of a variety of events, then notwithstanding our best intentions, the voters don't agree with us. Right now my sense is, based on all of the totality of my experience in public life, which goes back quite a ways, is this is the right time to move forward with a proposal that would reduce the cost to the taxpayers of the disability system, put injured firefighters and police officers back to work, and provide the city with better services than we are right now. I have other things I'd like to say, but I think in the interest of time I'm going to stop and allow those that want to speak to speak or testify to do that. Thank you.

Potter: Are there people signed up to testify -- did you have people you wished to have testify first, commissioner?

Leonard: I think that we have the representatives of the fire and police union here. I don't know if there are others as well.

Saltzman: There's a member of the independent review committee here also, Judy Rice.

Leonard: Why don't we call all three of them up.

Potter: Please come forward. Thank you for being here. Commissioner Leonard, do you have a preference of testimony?

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Leonard: I don't.

Potter: Let's begin with the unions.

Robert King, Portland Police Association: Thank you, mayor, council. My name is Robert King, a detective with the police bureau, and I'm the president of the Portland Police Association. I'm here to speak briefly about really three things. One about friendship and loyalty. The other is about really our mission in life over these next months as it relates to the FPD&R process, and third my belief that we can work constructively together to solve this issue that we all face. First of all, on friendship and loyalty. I am very grateful to be able to say that Randy Leonard is my friend, and he's a friend of the police officers and the firefighters of this city at a time when we needed him most. He understood and was helpful to us with respect to our contract and in a whole host of ways, and I personally and our members will never forget that. Erik helped us, I think, really as well. He has a life of -- a history of service, both as a firefighter, as a union president, as a state legislator, and now in service to Portland as a city commissioner. I believe he's had an exemplary career of service to the public, and I believe that he has been wrongly criticized and attacked in the media, particularly in "the Oregonian" article raising issues that have absolutely nothing to do with the reform of the FPD&R process. I believe that was wrong, our members know it was wrong, and I'll say it today, and I'll say it publicly anywhere, anytime, in the future that I can. I believe it was a disservice to you, to the council, and to our effort to work cooperatively together to solve a real problem that we face. I have a great respect for you. I thank you for what you've done for us. I'm looking forward to working together with you and this council on this issue. Secondly, Jack and I, and other officers and firefighters, our mission in life, really, is to ensure that through this process unfolding in front of us over these next months that we will raise and keep the issue and keep in the public eye the legitimate and necessary safety net for injured police officers and firefighters. And my concern in reading "the Oregonian" articles that began in June, that that really doesn't seem to be the focus of the energy, the momentum or the discussion. I know that many of my friends, as well as many of our members, have been injured in the line of duty, some of them killed. A very good friend of mine, Steve Buchtel, a member of our SWAT team was shot several years ago. A partner of mine, David Howe, has been shot in the line of duty twice. One of our officers, Colleen Weibel, you'll remember was killed in the line of duty. On that occasion, an officer then, a sergeant now, Kim Keyes was shot. We've had firefighters who have suffered severe and real physical and emotional debilitating disabilities alongside their police brothers and sisters. So those physical injuries, those emotional injuries, and even injuries that turn into diseases, that later take their lives, have arisen out of their work to the citizens of this community. Their very real and very important work at keeping us safe. I know there's a firefighter who succumbed to a cancer at 42 years of age. There are several officers and detectives, sergeants, who work now in the police bureau, and some of whom who retired are suffering from cancers and from emphysema and from other occupational-related diseases and disabilities, and those are real for them and for their families. And so we want to be sure that we keep in the council's mind, as well as in the public view, the very real and the very legitimate need to take care of the people who are the weakest among us as we proceed in this discussion over these next months. And then the last piece is I really believe that police -- despite the reporting that you see in the paper and on television, that there is widespread and deep support for the work done by officers and firefighters in Portland, and that our community and our citizens believe in us in the way that we believe in and care for and support them, and that what we are committed to doing is working with you and with city staff, as well as the citizen committee members, and really anybody anywhere else, that is working on solving this in a way that's best for everybody, with attitude of being constructive and being productive and leaning into this in a way that will be good for all of us, and that we'll ultimately, I think, arrive at a ballot measure in all likelihood in May of 2006 that's right for officers and firefighters and their families for the citizens of our community and for you, our council. So just in closing, I -- I appreciate that the council has

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directed this committee to do its work. It's been under way. We've been there from the beginning. I'll tell you that I won't miss another meeting in the future. I also thank erik for -- and randy for their effort to bring these issues forward, because what it really has done, I think, is it has raised the -- the attention and the profile of this in a way that ultimately we believe will be good, and i'm going to believe, commissioner Saltzman, and take you, sir, at your word when you said in january that you do not intend to, and you will not break faith with the police officers and the firefighters of this city in this process, and so we're going to be confident that we'll be able to work together and do something good on this serious and important matter.

Potter: Thank you. Mr. Fenders.

Jack Fenders, Portland Firefighters Association: I'm jack fenders, president of Portland firefighters association. I totally concur with what robert said. We're interesting in doing this work in a constructive valid way that is fair and just for all people involved. And you have our commitment. We, too, like the p.p.a., will be there to work constructively through this.

Potter: Thank you both.

Adams: Thanks.

Judy Rice, Independent Citizen Review Committee: I'm judy rice, one of the nine members of the independent citizen review committee. The chair is out of town and I was asked to come town. At the end of january, this year, you unanimously filed and adopted resolution 36287 that created the committee and charged it with overseeing a comprehensive analysis of the fpd&r system and providing a report to you to include eight specific subject matters no later than january 1, 2006. In response, the committee adopted an ambitious timeline. I'm pleased to report we are on task and anticipate providing the report prior to the due date. The committee is compromised of subject matter experts in disability and workers' comp and/or pension and retirement and/or the fire and police disability and retirement plan. We have met regularly since our formation. You have provided us with adequate financial resources and an excellent technical staff, including babette hefley and her staff and at fpd&r, and ken rust, steve matin, and judy tuttle of office of management and finance. The city, on our behalf, has let two contracts, one in the area of disability and workers' compensation, and one dealing with the pension portion of the fpd&r system. While we await the results of this expertise, we're educating ourselves on the complex issues involved. Prior to our regularly-scheduled meeting last thursday, we received copies of commissioner Sten's proposed draft resolution and at the meeting we received copies of commissioner Leonard's and heard from commissioner Leonard and jeff kogin representing commissioner Saltzman. Following those, by consensus it was agreed that the committee wanted to continue working on the charge given them by the council. The primary reason offered by the committee members is the belief that the council and the city of Portland would be best served by a comprehensive review of the fund in accordance with the original charge. Additional concerns expressed were that a less than comprehensive approach could undermine the opportunity to adopt more substantial changes, that lacking adequate financial analysis, less an comprehensive approach could result in unintended consequences, that the rush to a november election would not allow adequate opportunity to educate the voters about a complex issue, and that the cost of a special election in november would not necessarily offset any savings over the six-month period between it and a general election in may. In conclusion, the committee is dedicating to providing you with a comprehensive review in accordance with the original charge. Thank you.

Potter: Are there questions from the commissioners to these folks? I want to thank the unions for being here this morning and stating very clearly your intention to work to develop a comprehensive set of recommendations that will provide safety -- the safety net that you speak of, robert and jack, as well as meeting the needs of the citizens in terms of the overall cost. So I want to thank you for that. And I want to thank the independent review committee for their work. We look forward to working with you after you've developed the draft recommendations and to implement those. My

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commitment as mayor is to make sure that we do implement the recommendations and take them to the voters, and do it in a way that's constructive with our unions, as well as the -- the citizens of Portland. So I want to thank you for that.

Saltzman: Could I just add a word or two about the process as I see it going from here?

Potter: Yes.

Saltzman: We have in fact scheduled an opportunity for the independent review committee to brief the council on september 20. We'll have a work session. By that time I believe both the pension consultant and the disability consultant will have finished their products, although just barely by that time. So the committee may not have had time to digest that all, but it provides the commission to touch base with the committee. I really believe that, you know, as commissioner Leonard said, asking voters to bite off everything at once is probably too ambitious, and that's why i've talked with the mayor, and I hope the whole council would look to a schedule of referring disability-related reforms, assuming the council decides there are reforms, to send to the ballot, the voter, and i'm not prejudging that, that those would go into a may primary election of 2006, or other structural changes that also may affect the governance of the police, fire disability and retirement fund would be in that may election, and then pension related reforms would be referred to the voters in the november election. Our deadlines to refer measures to the may ballot is february 22, so as judy rice just said the committee seems to be slightly ahead of schedule, looking at maybe getting a final report to us in november. That will give us november, december, and january, you know, a good part of february to really have further debate with the unions, with our public, and with the committee, and anybody who's interested to decide what, if any, measures are referred to the ballot in the may election, and we could also decide at that time what goes on the november election, although we could -- there will be a later deadline for a november referral, so we can always deal with those issues later. But I do think, as judy said, we all cosponsored the resolution on january 24 to establish this nine-person committee. We gave them a very thorough scope of work, including the issues commissioner Leonard -- I know out of his own request, we added language in here, looking at the light-duty positions. I think we clarified the resolution in that regard, to look at these issues. And I do believe that this is a process we've all bought into it and we should let this process work its way, and then make decisions in a deliberative environment.

Potter: Other comments? The -- it's my strong sense that the recommendations that were made by both commissioner Sten and commissioner Leonard be forwarded to the independent review committee for your examination for inclusion in recommendations that you may make to the full council at the appropriate time.

Rice: Certainly. And also, i'm reminded that the september 20 meeting with the council, we will have preliminary reports from the disability and the pension folks.

Adams: Thank you.

Potter: Other questions of these folks? Thank you. Are there any folks you wish to call forward, commissioner Leonard?

Leonard: No.

Potter: Are there people signed up to testify on this, Karla?

Moore: No one else signed up.

Leonard: We have somebody raising their hand.

Potter: Teresa, did you wish to testify? You have three minutes. Please state your name when you testify.

Teresa Teater: Teresa teater, Oregon city, Oregon. I've read a lot of the articles written by media on some of the officers that are on disability that are out working and things, and I think a lot of the concern i've been hearing, and from tri-met bus drivers, that also there's a disabled Portland police officer driving a max train, and i'm looking at, there's a sit-down job there, and the man's making a horrendous amount of money working for tri-met and receiving disability from the city at the same

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time, and things like that. And so, like, you've got three or four selected officers that are making a disability payment and a massive amount on another type job, like a former channel 8 reporter police officer person that appalls the citizens out here, and yet you've got the officers that really truly need these disability funds being smeared because of these guys going out and making massive amounts on the side. I receive a disability payment for severe arthritis, even though I appear to be a functional person, there's a cap to how much I can earn on the side when I hit to that cap. Then I lose all that disability and lose other benefits. And i'm just wondering if you folks have a cap, or something, to say, ok, you've reached -- you know, set a limit on what these guys can earn on the side, and say, ok, you know, if you're really that disabled, you really couldn't even be out there working. You've got insurance companies running around for corporations, catching men carrying refrigerators on their back claiming work injuries, etc. And so that they instantly lose their job or else they have to get back to work because they've been lying to receive these funds, etc. And things like that. I mean, you watch this on "dateline nbc" all the time and things like that. I'm just trying to voice some of the concerns i've heard from citizens out there, and myself, and i'm not bashing the police union or the firefighters. My next-door neighbor is a beaverton fireman, and, you know, he's not on disability. He works. But i'm just saying I appreciate the efforts of the officers, the firemen, but I hate to see all the whole -- the whole ones that are disabled get judged by a few that are out there making a horrendous amount of money on the side, and I think there ought to be a cap on what they can earn if they're truly disabled and to help offset, reduce your disability fund payment out to them, to save you some money, and then that money can go back into your schools, etc., if you can pull it out of there, whatever. Thank you very much.

Potter: Thank you. Karla, please call the roll for the vote.

Adams: No.

Leonard: I've not just arrived at making sure pension systems operate efficiently late. It's a very unfair characterization. In 1995, I carried on the senate floor pers 2. I also got consensus from the unions before I did it that they had to support it. So this characterization of me as somehow defending a system is -- well, my family thinks it's malicious. I just think it's wrong. I believe in doing the right thing. I plead guilty to being a pro advocate for workers. I've never hidden that fact either. It's what i've run for office for, beginning in 1993, and I continue to believe in that. I think there's plenty of people that advocate for other people in society. I think it's ok for me to be proud that I advocate for workers. I want them treated fairly. I believe in that very strongly. I was a firefighter for 25 years. I mean, I was on the board for 12 years. I sat with people that were dying of job-related diseases and helped their families after they died. I'm proud of that. I'm not ashamed of that. So most important stuff i've ever done, is when I served on the board. And i've said it many times. It is the most important work i've ever done to help people that are in the weakest point of their lives, that were people that were up when most of us were home in bed sleeping, defending us, and for me to help them I consider to be an honor and I still do and i'm proud of that. These changes that I proposed, which I greatly appreciate commissioner Sten first identifying, were issues that resonated me because I knew them to be the -- some of the most fundamental problems with the system ironically that should be the least controversial, because putting people back to work that are on disability should not be a subject of controversy, and in fact I hope it's not lost on anybody, the fire and police unions endorsed this proposal. I hope people recognize that that's a key to the success for what comes out of this task force. If you cannot sit down and build a consensus for what you're going to change, I will predict to you it will fail. We can't do an end run about hard-working men and women on hard-working men and women in this city and expect to succeed. The voters are too fair for that. They will not allowed to that happen. We have to have a process where everybody is included every step of the way. It's the only way i've ever succeeded in any initiative i've tried to do, is to make sure all the stakeholders were a party and were involved and committed, or I wouldn't bring it forward. Including this one today, I wouldn't have brought it forward today

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had I not gotten them to sign off on it. So I do appreciate the discussion. I think it's good for us to have these discussions. I don't think this is a bad thing. Some people have taken that that way, and I think that's unfortunate, because I think the more we do of this the more people appreciate the city, because we're talking about very tough things in a very public way. Some things a little more public than I'd care to have be, but that's -- you know, I'm a big boy and I signed up for this, and I knew the risks, but that's good. I appreciate the discussion today. I feel bad for commissioner Adams. He's been on the hot seat. I consider him a friend. I hold no hard feelings toward anyone. I felt it necessary to have this discussion more than anybody here. First I thought commissioner Sten bringing it forward was great, because we could have the discussion, for his very understandable reasons, chose not to. I felt more than anybody here, I was compelled to have this -- bring this discussion forward and then let what happened happens. But I did bring it forward and I'm happy about that, and I vote aye.

Saltzman: Well, I appreciate the discussion, too. And I also just want to take this opportunity to thank the citizen members of our independent review committee, also the police and fire union participants as well, and the staff from the police fire disability and retirement board, the city staff involved. I know it's been a long process and they're very dedicated, and I want to recognize that, and I think we'll benefit from the thoughtfulness and we'll benefit from having everybody at the table, our citizens, taxpayers, and unions, all working together, giving us the opportunity to refer changes to voters next year. So I respectfully vote no.

Sten: Well, a few comments. I only regret one thing in bringing this forward, and that was any indication that I think frankly came from a political argument, not from anything that I said, if you look closely at it, to the citizens committee that I would like to circumvent the process or in any way, shape or form, do not value their work in exactly the same way that's been said. My thought in bringing a similar package forward to what commissioner Leonard has was very simple, and to this date not one person has argued to me a single substantive reason that was wrong with any of the amendments that I brought forward. In fact, what everybody has said to me is these all make sense, and what I hear is we don't have a fiscal analysis. That means we don't know how much it would save. We know it would save money. Nobody's argued that it wouldn't save money. I've been the fire commissioner for three years, I'm deeply familiar with the issues getting people back into jobs in which they can't work with disabilities. These are changes that we could have implemented very quickly. One of the problems I believe with comprehensive reform, and I'm fully committed to continuing to work with this whole process, and I do prepare the opinion of the majority that are -- that are going to not do this today -- and so I'm prepared to keep digging in. My staff, I want to thank Rich Rogers, who spent a lot of time on this. We'll use every ounce of our knowledge and abilities to move forward in this fashion. I want to be here on that. You know, that being said, I think what happens on up down comprehensive votes is that they get up-ended with very little leverage, because all you have to do is convince somebody there's a flaw in the package and you get a no vote. I have seen it a zillion times. I'll say this bluntly, that a lot of the membership will fear reform, that they might not need to fear if they'd seen changes coming forward and felt the intent. My feeling, which I still believe is right, which if we could begin to implement basic common sense amendments, which I've yet to hear objection to the substance of, simply a political argument, right now we could create a sense of momentum, we could build support behind the much tougher questions that -- that the review is not going to spend much time on these types of amendments, because they're common sense. The tougher questions, however, are going to come at the committee, and as those -- as those questions split the committee, all of the common sense amendments and everything else will hang in the balance. And if anybody, for any reason, cannot bend the whole package, which happens more often than not, the common sense stuff won't get done. So I really don't see how beginning to show people that reform can change things, beginning to show people that -- that this is a good faith effort, showing the members what can happen, can do

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anything except build more support for the broader packages. We're now going to make a much larger bed. So that was my argument. And I really apologize if that in any way, shape or form sent a message to the committee that we didn't want to you keep working hard. I really felt the idea was we move quickly. I think it's the council's job to -- to sense when you do something politically to build momentum. I just can't see the argument. Well, in January we decided we were going to do it this way, so we should never take another look at that. Just does not make sense to me. There's been a huge amount of attention, some good, some bad, some fair, some not fair. I also want to support my friend and colleague, commissioner Leonard, on this issue, but there's been a lot of things flying. There's been a lot of media attention. I can't go down the street without citizens paying attention. When people are paying attention, you move. That's my -- that's my feeling. It's a media-driven society, and we had a moment here that we're going to let pass. Perhaps it will be just as good. Perhaps the momentum will be sustained, perhaps people will remember it just as well next May. My reading of history is that rarely happens. I think we're passing a window to get common-sense things done that would build toward the bigger package, one. And two, if the bigger package were to fail -- and I hope it won't, and I will fight for it -- would still be in place and done us a lot of good. So I just don't -- it feels to me like it's sort of a sense of, this is moving too fast, we can't move that fast, and I understand that, but I don't think it's the right political judgment, and therefore I vote no.

Potter: Or yes?

Sten: Sorry. No to not going forward. Yes. Yes to going forward.

Potter: For you that that's clarified, this is certainly a good discussion for our community. And I think that it's -- it's raised the profile on the whole issue, in addition to whatever the media has done. I think that I've respected the efforts of both commissioner Sten and commissioner Leonard. In my short time on the council, I've come to develop a great deal of respect for both of those folks, as well as the other two commissioners. I think we've done a lot of good things together for our community, and I think we'll continue to do some good things for our community. And like Robert King, I too feel that some of the accusations pointed toward commissioner Leonard were unfair. And I've expressed that to some members of the media, and I don't know if that will make a difference or not, but as far as the issue goes --

Leonard: As this morning it hasn't. [laughter]

Potter: As the issue goes, we've got a job cut out for us. I think that it's incumbent upon this council, our unions, our citizens, to make these changes and to make them work for everybody. I don't think that's an impossible task. I think that some of them will be uncomfortable, but necessary. And so as we move forward, and we will be moving forward, I want to support our committee that we have established. I look forward to the meeting with them. I want to make sure that the work they do is fair and impartial, and that it's done in the best interest of our personnel, as well as our community. So I guess unlike -- unlike a few of the commissioners, who feel like this may have been our open window and opportunity, I disagree. I think the community in May will be as receptive then as they are today to -- to ensuring that our FPD&R system continues into the future, has the proper funding mechanism and policies attached to it. So I can't say I've enjoyed the discussion every moment, but I can say that I thought that the discussion has been good for our community. And I vote no. [gavel pounded] that's the last item on our agenda. We're adjourned until 6:00 p.m. Tonight.

Moore: We need to have --

Potter: Excuse me.

Moore: That pulled item, we didn't read it. 931.

Item 931.

Potter: Is there staff here?

Saltzman: They just wanted to refer it back.

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Potter: Ok, it is referred back to commissioner Adams.

Moore: Right.

Potter: So what's the issue now?

Moore: That's all we need to do.

Potter: Ok. Thank you very much for keeping us -- taking care of us. We're adjourned until 6:00 p.m. Tonight.

At 12:13 p.m., Council recessed.

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6:00 PM

* * * [Roll call] [gavel pounded]

Potter: Please read item 957.

Item 957.

Potter: Staff, please come up.

Gil Kelley, Director, Bureau of Planning: Good evening, mayor and council. Gil Kelley, director of bureau of planning. With me of course is Paul Scarlett, the interim director of the bureau of development services.

Leonard: I think this might be Paul's maiden appearance before the council.

Paul Scarlett, Interim Director Bureau of Development Services: It is. [applause]

Leonard: Welcome. It goes downhill from there. [laughter]

Kelley: Trust me, Paul, he's right. We're here tonight to present to you the environmental code improvement project. As you are aware, one of the key objectives under the city's river renaissance is to improve, restore, protect the health of urban streams, critical habitat, and areas that contribute significantly to water quality. One of the key tools in our tool kit for achieving that objective is our environmental zoning program. It's been with us for about 15 years and has been quite successful, but like any other program, it needs occasional retuning, retooling, looking at. And tonight essentially you're presented with I think a very good piece of work on the part of an interbureau staff group, and a number of stakeholders from the community and various city agencies who really have taken the task upon themselves to make the current environmental zoning program easier to use, less burdensome for applicants and staff, by the way, and so working that through a process, I think we've come up with a very good package which keeps the integrity of the program intact, but makes it much more user friendly and much less of a barrier to sort of do the right thing. And that's been the philosophy behind this package. So this is sort of the environmental chapter, if you will, of the regulatory improvement initiative. So that's in a nutshell what it is. Staff will come up shortly and describe the components of that for you. They have a brief power point presentation. We'll be asking you to take testimony this evening, and pass it on to second reading for next week. So with that, let me turn it over to Paul.

Scarlett: Thanks, Gil. Echo many of the things, all the things that Gil has said --

Potter: Would you state your name for the record?

Scarlett: Paul Scarlett, interim director of bureau of development services, 1900 building, suite 5000. The environmental improvement project has been a long, very productive, positive project, and B.D.S. Would like to express its support for the environmental code improvement project draft. The collaboration between B.D.S., bureau of planning staff, and stakeholders throughout the project has resulted in significant zoning code improvements. In particular, new code sections have been added to provide citizens with alternatives to environmental review for road improvements, storm water outfalls, recreational trails, and remediations of violations. The code improvements will streamline the permitting process for our customers as well as reduce their cost. The current code requires a type two review for road improvements, outfalls to creeks, and public recreational trails in environmental zones. It also requires an 8,812 dollars for type 3 procedure for all violations of the environmental chapter that currently exist. This project will offer customers a cheaper and quicker plan check process for these types of projects, including a new type two review process for most violation reviews. The new code will include a tiered approach to address violations of the environmental chapter and remediation measures. The most minor violations will be subject to a \$500 plan check fee, and other violations which are not as minor, will be subject to a type two environmental review process costing \$1,975. This is significantly less than the \$8,812 fee that currently exists. The two new fees I just touched are on significantly lower than the current fee, and would provide people with of course that option. Denise Klime our administrative manager, will be

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presenting information on this proposal as part of the next ordinance, 958. Again, only the most damaging violations would continue to require the current fee of \$8,812 to correct. Recurrent violators, which is something that is part of this process, would be subject to increased fines to be assessed by the code hearings officer, depending on the nature of the violation. In summary, b.d.s. Encourage the council to approve this project and is looking forward to implementing the code -- the new code and providing customers with reduced costs and increased flexibility and permitting and alternative resolution processes. There are several staff in the audience, b.d.s. Staff, that are here to answer questions on technical or general matters. Thank you.

Kelley: At this point I would like to invite two staff up to present the details of the project to you. And those are roberta jordan and chris carsello, the principal conveniers and primary authors of the document. And with your permission, mayor, I will excuse myself around 6:30 this evening to make another engagement, but you'll be in good hands with all of the b.d.s. And planning staff.

Potter: Where are you going?

Adams: Is there food there?

Kelley: I'll send some back.

Adams: Promises, promises.

Leonard: It's probably healthy food, so sam wouldn't be interested.

Leonard: Well.

Potter: Thank you very much. [laughter]

Adams: How many candy bars did you eat?

Chris Scarzello, Bureau of Planning: Chris Scarzello, I was just mentioning to a b.d.s. person it seems like it's been forever getting here. I can't believe we're actually here. It's kind of nice.

Adams: Congratulations.

Roberta Jortner, Bureau of Planning: Thanks for having us here tonight. I'm going to go over a summary of the project and some of the highlights, and chris is going to talk about some of the issues that we've heard over time and recently, and how we are proposing to address them. We'll try to keep the presentation short so there's time for testimony and discussion. I would just like to reiterate our thanks to the collective effort of the people from the bureaus of environmental services, development services, parks and recreation, fire, and others, including a whole bunch of community stakeholders, the port, etc., many of whom are here tonight to support the project. And to answer questions and concerns. The origin of the project was about 2002. It was founded in the regulatory improvement initiative of the council as well as the healthy Portland streams project. Both some of the code improvement that's were proposed there, but even more so, some of the feedback the city received during that public review process, some of which are addressed tonight. It's responding to a council directive to deal with the environmental violations process. And also reflects a list of items that the bureau's been compiling over the years as the zoning program has been in effect. As gil and paul said, the goal is not to establish new policy or new regulations, but to clarify and simplify existing rules and make them work better by making them more equitable, more cost effective, and more efficient. The results should be to reduce both public and private cost and to benefit both residential and nonresidential partners in the community. In addition, the proposal is designed to encourage resource enhancement by removing barriers, regulatory barriers to research enhancement projects, and ensuring that violations are remedied more quickly than they currently are. For the -- particularly for the nonresidential community, we feel that the proposal offers more certainty as well, and we've heard any number of times that improving certainty in terms of project permitting is extremely important. So some highlights of the proposal are to clarify exemptions for repair and maintenance of trails, drainage facilities and to provide additional allowances for vegetative pruning for fire safety. It broadens allowances for outdoor uses such as play areas and vegetable gardens. This was a concern during the healthy Portland streams project. And it increases exemptions for certain types of recreational trails, making them less costly for

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permitting. It exempts temporary fencing as well. The project also adds new development standards which in so doing allows a number of projects to shift from the more costly environmental review process to the more streamlined simplified plan check process. And the project doesn't affect the zoning maps or any others within the Columbia South Shore plan district or the natural resource management plan areas. As Paul Scarlet suggested, the project offers new simpler review options for resource enhancement projects, trails, smaller rights of way, small storm water outfall and alterations to existing development. And as also mentioned, there's a new process for violation Charlie Sitton Mr. Scarlet went through fairly well. Again, it replaces the one size fits all process with a tiered process that caters in the review to the nature and type of the violation. It's more proportional, it's fairer, and it fixes the problem on the ground more quickly. It also is intended to discourage recurring violations, and you'll hear a little more about that rule later, but the idea is that recurring violations would be subject to additional assessment via an administrative rule, and that B.D.S. would be convening a citizen committee for each case to help participate in look at the violation and what might be done in terms of additional penalty.

Scarzello: And Denise wanted to make sure that you were clear that the new fee that's are being proposed are part of the tiered process. Right now we have the type three environmental review fee, and with this change, we're going to have two more review levels, a type two and a plan check. So she's developed fees to go with those new reviews. They're brand-new reviews, we don't have those right now.

Jortner: In addition to the code changes and the administrative rule, development service assist proposing to adopt a new policy that emphasizes the need for technical assistance to property owners to both prevent and remedy violations because in reality, a lot of times people violate the code without knowing that they have done so, sometimes they don't know they're in an environmental zone and the stakeholder committee, the planning commission, and staff feel that education outreach and technical assistance is as important as the enforcement process. The results are intended to be reviewed -- reduced view time and cost, improved equity and certainty, more efficient use of public resources, and improve conditions on sites. I think as important as the content is the process, and you may hear a bit about that tonight. We worked very closely with bureau and stakeholders. It did take some time to do that. It was a front end loaded project to define problems, define criteria for solutions, look at solutions, making sure that one solution didn't cause a problem elsewhere, and hoping we were really addressing the problem so we wouldn't have to come back to you later and say, you know, we need to fix something else. So it took a lot of work, a lot of people listened to each other. We had a trust issues up front, and a lot of times was spent trying to bridge those barriers. So I think the project is much better for that process. I will mention also that the planning commission had public hearing and three work sessions on this item, and they worked over these issues extremely carefully, and that was also very helpful to the process. So now I'm going to turn it over to Chris and talk about what issues are remaining to be resolved.

Scarzello: On this slide we're telling you that we've heard from a couple of citizens, and you have gotten testimony in -- via email, and they have a few concerns about the plan check notification process changes, and the stormwater outflow development standards, so I'm going to highlight those two issues. This slide shows you the existing process for the environmental plan check notice and the proposed process that comes out of the planning commission. And I want to note that planning commission made some changes. The original proposal was to eliminate the plan check notice all together, and when planning commission heard testimony, they decided to keep some elements of the notice process. So on the left, the things we are keeping are the posting notice on the site, there will still be a site inspection, and that's in addition to any site inspection that happens for a building permit, and the final approval of the building permit. What we're eliminating, what we're changing first is that the mailed notice of the building permit will not be a paper mailed notice, it will change to an email notification. And then we're proposing to eliminate the second notice of the intent to

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build -- to approve the building permit, and we're going to eliminate the 14-day waiting period. And the reason why we're eliminating those two elements is that there's a bit of confusion that surrounds those two items. The first is that citizens can call at any time to ask questions or to express concerns about a building permit. Having this 14-day waiting period leads them to believe that they only have 14 days to comment on a building permit, and that's not the case. Also, we don't have all waiting period for building permit or plan check approval for any other process. It's just for this environmental plan check process. So in order to get some consistency with our building permit process, we'd like to eliminate this one. We do have some proposed changes to add that will hopefully address some of the concerns that the neighborhood groups have. One of the concerns was that there are some neighborhood association that's don't have email addresses, so we would like to amend the code language that we sent you to add language that would require a paper notice be mailed when a neighborhood association doesn't have an email address. And there is an amendment letter that we gave to Karla to distribute to you. The second change is that we'd like to add neighborhood coalitions on the list of those groups that receive the email notification. At the city wide land use group meeting a couple weeks ago, one of the coalition members asked if they could be added to the mailing list, so we agreed to do that. On the storm water outfall development standards, the concern from citizens is that there's going to be an increase in the number of storm water outfalls that are proposed to be directed into our water bodies, streams and wetlands. Staff is certain that what's going to happen is a shift from the types of projects that go through environmental review to the types of projects that go through a plan check, and that's because the storm water management manual has a guiding hierarchy that steps projects through a list of options, and at the top of the list is disposal onto the ground. When that's unsafe, it directs the storm water into a stream, wetland, or a combined sewer. -- sewer. Staff is proposing to monitor the cases for two years. We've had a program set up for us to do that through the tracks permitting system, and staff is going to report back to the planning commission in two years, and we would propose revisions to the standards at that time if we are seeing an increase in the number of storm water outfall that's are directed to streams. We want to note here that larger projects are still subject to review because they would not meet disturbance area or pipe size limitation that's are part of the standards.

Jortner: I'll also mention that staff did cut with the storm water advisory committee. We visited with them on two separate occasions to go through the standards to make sure that we were -- what we were doing wouldn't do violence to the rules of the storm water manual or the environment.

Scarzello: On these last two slides these are limits -- element that's are not in the code, but planning commission also requests that city council direct the bureau of development services to monitor violations by violator where possible, to track and establish new administrative rules for repeat violations or recurring violations, and to establish a new policy calling for technical assistance to prevent and remedy violations. Planning commission also asks that the city council direct the bureau of environmental services to coordinate a discussion of streamlined permitting options for projects requiring multiple agency permits. They also request that you direct the bureau of planning to develop a plan to work with real estate agents and title companies to improve public education regarding environmental zones. One of the things we've heard over and over is that many people don't know that they live in environmental zones, and they want do the right thing, but unless they know about their zoning, they don't know they're break can the law on certain occasions. And the planning commission also asks that you direct the office of transportation and the bureau of parks and recreation to convene a multiinterest group for the purpose of developing a citywide policy regarding the use of creosote treated materials in public trails, parks, and other public places. Assists one other comment we received in email today was from dawn balk regarding the use of stairs and short trail improvement projects. And we don't have any objection to his request for that additional code language in the exemption section for trails. We're going to turn

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it over to the bureau of development services to describe the new administrative rules and fees, and then if you have any questions we'll be here to answer them.

Adams: Do you have a paper copy of your presentation for us?

Scarzello: Yes.

Potter: Are all the proposed amendments in one location?

Scarzello: Yes. Except for don baack's change is not on there, because I received it a little too late. But some of his proposed -- I think he proposed some words, which are acceptable. And we can work with katherine on that.

Potter: Ok.

Denise Kleim: Good evening. Denise kleim, administrative services manager for the bureau of development services. I'm here to talk about the other part of this proposal that's in the next ordinance, which is regarding fees. This is a key component for implementation of the environmental code improvement project, because as the staff from planning bureau stated, there's actually two new processes that are included in this proposal. The type two environmental violation review, and also the environmental violation plan check. And at this point in time fees are not set up for those two processes. So we're proposing fees that are in your packet and attached to the ordinance of -- for the environmental violation review, \$1,700, and for the environmental violation plan check, \$500. And these are significantly less than what violators are currently paying, which is \$8,812. These fees were set to help streamline the process to help remedy the violation more quickly, and to be more cost effective for the customers. I'm happy to answer any specific questions that you have.

Adams: So this allows for the progressive response that we talked about way back in the beginning?

Kleim: That's right. So there's the tiered response so that folks that have violations that are much a lower nature would fall into the type two and pay the lesser fears -- fees. If there are folks with more drastic violations, that would still be the higher fee.

Adams: So it will be a speedier response than in the past?

Kleim: That's right.

Potter: We know -- do we know how much time it will actually save?

Kleim: That would be a question for staff.

Stacey Castleberry, Bureau of Development Services: Stacey castleberry, i'm the environmental team leader for b.d.s. land use services. Currently violators are subject to our type three review process, which includes a public hearing, and on average, because of complications during the process, they can take up to a year to resolve. Especially if they're appealed to council. The type two process in ideal circumstances should take eight weeks if we get complete applications and if there's no appeal. So, yeah, it would be a considerable time savings as well as cost.

Potter: Who's going to be tracking this to begin to determine how much time is saved and in terms of also customer satisfaction?

Kleim: We'll be tracking the amount of time it takes from beginning to end of the process, keeping track of how many cases come in. The staff also tracks how much time it takes for them to process. Each and every process they do, so that's part of our implementation project.

Potter: Will you be reporting that back to council?

Kleim***:** If you'd like.

Potter: I would like that. Would you folks?

Adams: M-hmm.

Potter: Yes.

Potter: When I talked to you about the citizens advisory committee, I noticed that was on one of the slides. Could you tell us about that process?

Kleim: I'll need to defer that question also.

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Ross Caron, Section Manager, Bureau of Development Services: Ross Caron, i'm the section manager for compliance services with the bureau of development services. What was the question again, i'm sorry.

Potter: It was about the citizen advisory committee. Tell me about the process and how you select them.

Caron: Sure. The citizen advisory committee would be -- would only be apply when there's a repeat -- a recurring -- recurrent violation situation where we would have a group of citizen members that would review our recommendations that would go to the code hearings officer for these special situations. And it would be made up of a land use chair from the neighborhood association, or the district coalition where the violation occurred, then there would be one staff person from b.e.s., b.o.p., b.d.s. And the land use review section, and then one member assigned from the city land use forum administrative committee. And what would happen is after we went through the administrative rule process, we would then send notification -- we'd -- the administrative review would also be sent to the office of neighborhood involvement, and we would direct them, and we could also do within our bureau to send to the people we would want to be on the advisory committee, and then after that was processed and it became the bureau of development services administrative rules, we would then make outreach contact with each person and tell us about this new process we have, and ask for them to make -- for some of them I guess some it would depend on who the land use chair was from the neighborhood association, and then for the land use forum administrative committee, I would imagine one person from that section would -- from that organization would sit on the chair, or sit on the committee.

Potter: I just have one more question. What is the difference between repeat and recurring?

Caron: Repeat -- b.s.f. staff felt repeat was -- especially from compliance services where we're speaking with the public, repeat was more loaded and maybe more kind of blaming than recurrent would be, so it sounded better, more friendly. I think --

Potter: What do repeat violations indicate?

Caron: It would be any time -- it would be any property that has had a previous environmental violation on record under the same ownership, or any entity that has previously violated the environmental code. And will be tracking these -- we'll be tracking these if this legislation passes, within our permit system within the bureau of development services, and then if there's another violation, then where they fall into the recurrent process, then they would then be subject to this special administrative review that would deal with -- it would be outside of the proposed tiered environmental violation connection process in addition to that. That's when -- that's where the -- I apologize, mayor Potter.

Potter: I didn't understand the distinction.

Caron: That is the distinction. It's kind of a special administrative rule that comes out of the environmental code improvement project.

Potter: But the difference between repeat and recurring -- I defer to commissioner Leonard on this. I'm sure that this is part of your new softer gentler -- [laughter]

Caron: I think staff feels it would be a softer and gentler --

Potter: Ok. Thank you very much.

Leonard: My soft side.

Potter: Is there any other staff to testify? Are we hearing both items?

Moore: Taking both at the same time. Should I read the other one into the record?

Potter: Yes, please.

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

Moore: Yes, we do. Come up three at a time.

John Klum, Fire Marshal, Portland Fire & Rescue: Good evening, mayor, commissioners. Thank you for the opportunity to speak briefly on the title 33 revisions.

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Potter: Please introduce yourself.

Klum: John klum, Portland fire and rescue. City of Portland. To coin a phrase that commissioner Sten used after the significant fire we had up in forest heights area in august 2004, our goal is to be reduce the wildfires, not wildfire areas. We took that comment to heart, because we always value the livability of the city of Portland, and the greenery that it offers. But one of the keys to reducing the significance of all wildland urban interface fire is our ability to have vegetation mitigation tools in there. Especially around homes, single family, multiple family residents, we're seeing more and more development up into the west hills. The national standards indicate or recommend that 30 or 60, 90-foot setbacks for vegetation management. We recognize that's a challenge, and it could actually result in a reduction of the wild areas, which is a major concern for all the parties involved.

In -- previously the vegetation management standards have been in conflict with title 33 e zone language since the early adoption in the 1980's. And the efforts that have been taken between the collaborative efforts between planning and Portland fire and rescue to find that middle ground and to really flush out the question of prevention versus preservation has come to the forefront through their hard, diligent work on this. Portland fire and rescue would like to commend planning for their willingness to cooperate, to acknowledge fires concerns and needs, and to find the middle ground on this process. We feel that the ability in title 33 to effectively prune within 10 feet of the residence and also mitigate some of the ladder fuels a little farther out is a critical first step for our ability to save properties during catastrophic events with the wildland urban interface. This doesn't mean we don't have a lot of work ahead of us. There's still a lot of prevention efforts we need to do.

The mitigation efforts accepted by city council and fema last november created the road map for us to work towards those common goals. With the backing of -- and the rest of the wildfire mitigation team, they've had many successes with the one that I just mentioned the changes to allow some pruning close to the residential houses. This will allow our operations personnel to go through a neighborhood quickly and triage structures and add to the ones that they will make a determination of whether they can make a stand and actually save this property, which will save the citizens of Portland substantial heart ache and finances. Portland fire and rescue is still going to pursue local adoption of the residential fire resistive standards. What this will encompass, it's kind after two-stage thing, looking at noncome pestible exteriors in roofing, some of the other building standards that create an outside exterior of these residence that's will work in conjunction with the pruning and the other fuel mitigation on that. In summation, Portland fire and rescue is pleased with these initial steps allowing for these mitigation pruning and title 33. And again, we look forward to working collaboratively with planning and the rest of the wildfire mitigation committee on future successes. I have with me today richard haney, who has been the lead person from fire, fire specialist, he's our resident expert, and he's available to give you more details if you so desire.

Potter: Any questions from commissioners? Thank you very much.

Richard Haney, Fire Inspector, Portland Fire & Rescue: I'd like to thank planning for all their help, roberta jortner in particular has been wonderful to work with and we've had a lot of successes in a short amount of time, and the title 33 update is one of them.

Potter: Thank you. I'll pass that along to planning.

Dawn Hottenroth, Bureau of Environmental Services: Good evening, mayor and council, dawn, I work in watershed services unit of the bureau of environmental services. We're here to testify that we are in support of the package before you, there are a number of items in there that are real improvements that are going to help us meet our watershed health efforts as well as the revegetation efforts that we undergo and try to do in the community for watershed health. Secondly, I just wanted to share with you that we really appreciate the process. We were in very early, especially from the beginning 2 1/2 years ago, and although it was a lot of time spent, we got a lot out of it, and having the citizens and the staff from various bureaus on the committees at the same time was very helpful, because we all got to hear each others' issues face-to-face, and I thought that was a

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very good process for problem-solving and trying to understand each others' positions. And lastly, I want to share with you, there were a couple of items we didn't quite get into, but we're continuing to do some work on, and the two I want to bring to your attention are the global of triage issues, a variety of tree interests we have as far as environmental zones and citywide, because of the storm water management and watershed health benefits of trees in particular that we're starting to work on with the bureau of parks and recreation and bureau of planning in particular. We're still scoping some of that out, even after the e-zone process ended. The other one we're very interested in working on, b.e.s. is trying to take a lead on, is the in-stream projects. I'm trying to coordinate where we have lots of state or federal agency permits. Currently when you get those permits you go either to the feds and the state first or to the city first, and then you go to the other agency next. And we're going to see what we can do to true and -- try and use our relationship with some of the federal and state permitting agencies to try and see if we can get those to be a little more concurrent or much more coordinated. That's our hope that we're going to come up with some methods that will address that. So at some point in the future we may have some additional code that we would want to add to the environmental zones about the in-stream effort.

Adams: We're debriefing on the Portland river trust right now, and it would be an opportunity to -- having to do with expediting the federal permitting of projects related to cleaning up the willamette river. Right now it's been in pilot effort for two, three years. It has been limited to just public projects, so we're in discussions with federal agencies to move it to private projects as well, so we might have an opportunity to look at what you were talking about and the river trust efforts together.

Hottenroth: We actually have a streamlining agreement through our endangered species act now, more public project oriented, and it's been very helpful, because we've been able to get local planning also at the table at the same time. Again, having everybody at the table expressing their -- so whatever mechanism we can use, there are a couple of different options.

Adams: Great.

Potter: Thank you. Thanks, john.

Potter: Thank you folks for being here. Have you three minutes each. Please state your name when you testify.

Don Baack: This is -- i'm don baack, I live in hillsdale. I'm here to talk about the marvelous improvements i'm seeing in this code. It took as long for this code to get changed as it did for one of our projects to get permitted. So this will make a huge difference. Except for one issue, and that amendment for your information is on page 2 towards the bottom two-thirds in my testimony. And what I want to add, and just so I get this out of the way, is to add except where stairs where it may exceed 20%. We're talking about a grade of a trail and the long trails it makes no difference. You can put a pitch of stairs in and it won't make a difference, but in a short segment, it might be a steep slope. It's important to be able to do stairs that exceed 20%. I don't see it making any difference in the overall scene of things, but i'll go to huge efforts to avoid getting a permit which will mean lots of switchbacks otherwise. That is counter productive, because that's a lot more environmental damage and a lot more things that can happen to a trail, a lot more maintenance. So I would urge you to make that adoption. The second thing in this testimony i'm talking about I heard you to move ahead on the truly -- true evaluation of the effects of creosote treated dice, because we've got people making decision was assumptions that don't know what they're talking about, and I really feel we need some facts before we make that decision. And I would be happy to participate if and when that came about. I want to refer -- i'm going to talk extemporaneously, I heard reference to what I call a tree committee, the citizen group that was just described earlier. I'd like to urge a little modification of that. One is that the neighborhood representative be a member of the neighborhood. The land use person may or may not be the most appropriate person there because they may not be issued. They're look at that, and the neighborhood should be able to select

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somewhat. I wouldn't constrain it by the position of the neighborhood. A lot of neighborhoods don't have a land use chair. I would urge you to consider including on that one or two neighbors with similar o.s.p. A lot of these people have view sheds, and some living in the flat land would have no consideration of what a view shed means to somebody who bought a house for the view shed. A lot of the things that happened on the hill are because of view sheds, and there a lot of things we could do to make things better without adversely affecting the environment if that's looked at very carefully. I think -- is my three minutes up?

Moore: 30 more seconds.

Baack: Anyway, I just urge you to consider that, because when you have got other property owners, it doesn't need to be somebody's better, but other people have similar things they can explain to the other people that are looking at this, the implications of this, and it's very difficult now to thin trees, it's impossible to prune them without going through a huge process. I was involved with apparently the first process where that happened in hillsdale, and it was very expensive process. Thank you.

Potter: Thank you, don.

Inez Weiss: I'm inez weiss, I live at 3030 southwest nottingham. My husband and I developed 7½ acres of land in 1967 and 1968, and at that time we went before the city council because we wanted to cluster the houses. And after a great deal of expense, lots of meetings, hearings, people objecting because they said we were building apartment houses, we were given permission to develop the land and we built several houses on the property and i'm asking that this area be excluded from the consideration. I am a tree hugger, we have church and shields built -- and designed several of the houses. Robert perrin developed the roads and we put in water, sewer, cable, everything that was required of us to develop land and have buildable lots. In on to build on these lots, which are very steep, it's in the woods, we have to have basically an architect design the property. According to what's going on here, and what i'm reading into this, this is stream, which is water coming down from council crest drive in the middle of the winter when there's torrential rain. Most of the trees are scrub trees. This property was logged off before we even bought it, so right now there's vine maple. We planted some trees, but in order for a builder to go in and build on one of these lots, they're going to have to go through a very expensive process. It's going to be expensive for us, we have four lots left, and it really isn't something that has -- it's not a wetland, the -- yes, there are croce and blue jays up there, and i'm sure there are a lot of rats and some other things that are in the city, but it's really not part after wetland, it's not part of the columbia slough. This is in between fairmont boulevard and sherwood drive, and I think that a lot of these floodplain things and some of these restrictions will make it very, very difficult for us to sell the lots to keep the property and to be able to maintain it with some of these restriction that's are going on. And then if a builder comes along and wants to build a house on there, some of these things that are being asked to review, use administrative rule process, advisory committee, to build a house on one of these four remaining lots is going to be a very expensive thing, and most of them are going to walk away from it. The city council gave us permission to develop this land, and now as time goes on, it's almost going to be impossible. We've been paying taxes on these properties since 1967, and it's very expensive process. If you have any questions, i'll be glad to answer them.

Adams: You're asking for an exemption --

Weiss: Nottingham is included in this whole great big study. They're saying we're highest --

Adams: So you are asking for exemption of your property?

Weiss: Of the nottingham development, which was on record in 1967 and 1968. They gave us permission --

Adams: I understand. I just want to make sure we're talking about --

Weiss: That's correct.

Adams: Exemption of just the modifications or the exemption of --

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Weiss: Well, the environmental overlay i'm sure isn't going to go back. I'm talking about this new request and new formula that's going forward.

Adams: Ok. And if you would --

Weiss: If you would like, I can send you -- it's all a matter of public record. They made us build the road twice as wide as the architect which your -- and robert perrin had designed to a city fire truck could go up there. If you drive up there, it's the only place in the city that you can have an indy 500 race on. We have a big, wide street that really had a detrimental effect on the environment, if you really want to know. We had to cut down trees to build this huge, huge street in the middle of Portland heights in the west hills.

Adams: Thanks.

Weiss: Thank you.

Amanda Fritz: Good evening, amanda fritz, i'm testifying only for myself. This has been an excellent process and roberta, chris, and all the staff of environmental service and development services have done an outstanding job. I was a privilege to serve on the committee, the stakeholder committee, and we all learned a lot, and developed a lot more trust, and it was really a good process. My outstanding concerns, i'm glad to see the amendment on stormwater outfalls to track and report. It doesn't give me a lot of confidence considering in 1995 the exact same promise was made that in two years we would follow up with a report and report on how the public utility outfalls had done. So my question to you is, how can I as a citizen be sure, how can you as city councillors promise me this study will be done and that it will be reported and come back in 2007? I would like some assurance of that. I also appreciate the recognition that it's not fair to take away notification from one-third of the city's citizens by only notifying by email. However, that still ignores the fact that many land use chairs, whether they have email or not, would prefer to have mailed notification. And when the city has a budget of hundreds of millions of dollars, it seems a little unkind to say the least to -- a stamp to the land use chairs of the neighborhood associations to mail as a notice if that's what we would prefer. I get probably 75 emails a day. Hi two pieces of snail mail today. So in terms of being able to track and make sure I can pass out to my neighborhood, a mailed notice zigich more significant to me these days than an e-mailed notice. And many other land use chairs feel the same, and we would like to keep the development standards notification pretty much as it is in the code today. In fact, I think you should expand it and notify by mail property owners within 400 feet of a development under the development standards, because the city doesn't understand the value of education in these permits. We could -- they could be better worded so that the people who receive them understand that they don't have a discretionary decision to be made, they're just beak given information and asked to check are the trees in the right place. But if you had that notice that would go out to the adjacent property owners, they would understand that, yes, in fact they can develop on previously approved lots under the development standards without objections from the neighborhoods and they would understand that here are the criteria, here are the standards the city uses in order to do that development. So you should use it as an educational tool. The part that burns me up still is on page 107, where it's being changed that instead of requiring development services to respond in writing to objections, they don't have to respond at all. On page 107 it now says that they don't have to respond to valid citizen objections if they feel that they've made the right decision in the first place. Surely there should be some requirement for city staff to get back to citizens when they have a valid objection. They shouldn't be able to just ignore that.

Adams: I want to make sure you had enough time, could you expand a little bit on how you'd go about how the city would ascertain valid objections?

Fritz: It's the educational thing, commissioner Adams. If you look at page 107, what's been in the code for the last however many years it's been we've been doing it, somebody writes in and says the tree's in the wrong place, then the staff gets back to me and says, no, you've made a mistake, or, yes,

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you're right, the tree is on a different place other than on a site plan. It's a common courtesy if somebody takes the time to comment, they should get a response. It shouldn't matter whether they're a citizen customer or applicant customer, they should be given a response. I understand the current policy, they're supposed to be having these quick turnaround and get a response within 24 hours for these things. Why would you take out of the code something that says that we're going to get a written response if we bother to send in written comments? There's not that many of these things going on. It's not an undue burden on staff.

Adams: It sounds like what you're saying -- it sounds like what you're saying is there's a benefit to - there's benefit in terms of education for these notices, and there's a benefit to the city as a whole in terms of another set of eyes and ears to make sure that the facts as portrayed to the city are indeed accurate.

Fritz: Yeah. And then the city staff closes the loop by explaining to the citizen, you're incorrect this, is why we're going to do the permit anyway. That's another piece of education that next time the land use chair isn't going to be making that same mistake.

Adams: Thank you.

Potter: Good evening, folks. You each have three minutes. Please state your name when you testify.

Dee Ann Troutman: I'm dee ann troutman, live on maple crest drive. I am a violator. My husband and I purchased a piece of property in Portland about six months ago, and we're doing a major renovation to our property. We've put up a fence in the e zone, and moved a temporary structure to the e zone. A potting building, shed thing. I knew when we purchased there was an e zone behind us, and on part of our property. I thought I liked the idea. I only knew because I asked and researched on my own. I believe that any zoning which is so strongly inhibits the use of one's own property should be clearly stated on the deed. We decided to fence our yard because our neighbors, whose entire property is within the e zone, had two very darling goats who ate everything in our yard. She had three chickens who roamed freely, attracting comeback anes, and two cats and two does, one of which is a terrier like our dog, and they bark at each other. So up with the fence. Simple, friendly way to keep pets apart. Or so it seemed. Funny what happens to folks when they decide they don't like what you have decided to do. I had been in communication with my neighbor via email, talking at the property, she knew full well we were putting up a fence. Went so far as to give me some information about buying used fencing. Eight-foot tall chain link, mind you, all in her correspondence that I have on file. I also spoke to my other neighbors about putting up a fence and one of my next door neighbors is our neighborhood association president, and I asked the fence company if we need add permit, and I was told I did not. No one cared, no one objected. No one said it would be wrong. Until, that is, the neighborhood with the goat did not like one change we made to go 20 foot farther with the fence. It was already in the e zone, she already knew that. But that additional 20 feet kept her goats from being able to go onto her property, which was my whole idea in the first place, so they did not eat any more of my trilliums. Someone turned her in for cutting trees down without a permit, so he was hot and bothered and called everyone a nazi, but she used the same tactic on me and turned in our fence, which made me mad, and I turned her in for having too many unregistered animals, and so on and so on. So if we're trying to preserve something nice, I think you should have a different tactic. Our whole neighborhood is on pin and needles and unhappy with each other. My anger and hostilities have made me come to realize many other flaws in your plan. Many. And I really think you should take more time than making a quick decision on this. First, I was hit by a falling branch out of a 100-plus-year-old maple tree. Hi my spine fractured, two broken ribs and my lung was punctured. I do consider myself quite lucky to be alive. This was in my back yard on my property, which my deed says is mine. And if in fact this is my property on which my deed says it is, and I have to have insurance coverage to protect myself against someone suing me if they are hurt on my property, I

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think a fence is only prudent. And I believe on my insurance agent would concur. And you may say, go ahead and cut out the dangerous limbs. There's over a half an acre of huge old trees that have never been maintained and I don't have enough money to pay someone to cut all that is dead. And if you think it is your property, I'll give you the \$27,000 bill from the doctor's office for my medical expenses. But I think your insurance company would say I own that property. What I don't understand --

Potter: Ma'am, your three minutes are up. Could you please come to a conclusion?

Troutman: Well, no, I have several -- two more paragraphs of I think important things you should hear. Is it possible to continue?

Adams: Fine with me.

Potter: Ok. If you could please go as fast as possible.

Troutman: What I don't understand is that if you want this land, you have the right of condemnation and you can claim it for the good of the order by paying the owner for their loss of land. But you have simply stolen my rights. You have not upheld my rights as a property owner. My other big vision or thought about what is wrong with this whole plan is that with your rules today, could you not build the rhododendron gardens at bishop -- crystal springs, or leach garden, or the pittock mansion. Am would be violators in your current rules and regulations. What a shame. The history of this area is so rich -- I ask you how can I be a violator in my own bought and paid for yard? That's it.

Adams: If I could make sure I understand your point, is your point that these are the wrong environmental standards or is it that there shouldn't be any environmental standards at all?

Troutman: I'm a native Oregonian. I consider myself to be really interested in the environment. I would say I've got to extraordinary lengths to -- in my life to prove that. I feel that there are just so many things wrong with what you've got going on here, notification, number one. I was only privy to this information because I researched it. No one told me. It was not anywhere on my deed, there wasn't a sign up in my yard, there was nothing to notify me. That's just totally wrong. That there is rules on your own property that you don't know about and have no way of finding out unless you research it. Or violate it.

Adams: So you don't object to some amount of environmental regulations, you just think that there are elements of this that you disagree with.

Troutman: I think this is encompassing way too many private property owners. I think it's great for new development, but I think people that have owned their property for many years, I think when you live in a city and have you a 10,000-square-foot lot, I think it's your property.

Adams: Thank you.

Linda Robinson: Linda robinson, I live at 1115 northeast 135th avenue. I just want to start out by saying that as a member of the hazelwood neighborhood association and the columbia slough watershed council, we've thought for a long time and seen for many years the problems with the existing environmental code enforcement process being -- it's an all or nothing, you either have this massive \$8,000 and six month to a year process or nothing. So while we're happy to see that these changes are being made, and I served on the -- as a citizen member of the task force that worked on the compliance part, and we -- and I wanted to tell you how much I appreciated that process, of all the citizens committees and things I've served on, that's -- that probably I felt like our input was valued and it was taken into account, and we were very much as part of the process as the city staff were, and it was very positive experience for me, and I was happy to do that. They spent many months on it, and I was pleased with the process. So I wanted to sigh that. And I also wanted to say along the same line that I am a strong supporter of continuing the notification by written notification by mail to neighborhood associations and to neighborhood coalitions about these changes that were referred to earlier. A couple of things. One thing I want to address, she was talking about buying property and having no idea that there was an environmental zone on it. And

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this is something I brought up in that task force. When I sold my house in parkrose a number of years ago, we had to sign papers about -- we had to tell that we had told the prospective buyers there was an oil tank in the ground, that we were in the mid county sewer project and eventually a sewer would be coming through. So you don't understand why there can't be something in that sale process that tells people that their property has an e zone on it, and that's a part of the purchase process, the closing. If you can do it with the other things, I don't understand why you can't do it with the e zone. The other couple of things that kind of the problems -- one of the issues that came up with our group over and over, and which the citizens brought up, is this recurring, repeating offense thing. Our biggest concern was that they track all the offenses now by property, and we see certain developers or other types of trades kind of making the same mistakes over and over on different properties, and we urge them to track it by violator and not by the property or the -- in addition to the property where the violation occurred. And we urge them to come up with some kind of stiffer penalties or -- for people who did that over and over. Another issue that came up frequently was that the tree damage. We had a real hard time dealing with, you know, how much damage to trees is enough for a major violation versus minor violation. I'm hoping the city will look at trees overall, there's a lot of confusion to neighborhoods, to citizens about where to go, there's different regulations, so I urge you to work on that, make it more clear.

Potter: Thank you.

Bonnie McKnight: Mayor Potter, members of the council, bonnie mcknight, I live at 1617 northeast 140th in Portland. I'm cochair of the russell neighborhood association, and I coordinate the citywide land use group. I'm here tonight testifying for myself. I want to point out a few products of which you see before you as item 957 and what I hope you are preparing to adopt. This began as part of the early code improvement process, and was connected with a number of other environmental items in the healthy streams package in the -- by the first community advisory committee. That was done in recognition that the environment is not one thing, but made up of many parts, including how environmental processes and enforcement is handled. One of the reasons for looking for a new approach to environmental regulation was a realization that using separate and long processes for protecting the environment was neither effective for citizens nor for the environment. Another was a cost of dealing with minor violations of environmental rules and the the common result that escalating fines simply delayed any repair or remediation of the situation and rapidly became out of proportion to the problem. In early 2003, it was agreed that a new approach would be -- bring better results in fully protecting the environment. For those of us in the neighborhoods, however, the loss of a guaranteed review for every violation seemed to be a loss of involvement in the very real protections needed for our environment at the neighborhood level where it is most fragile. The bureau of planning effort led by roberta and chris has been a prototype of how to deal with a combination of issues where policy changes and review practices have different impacts on different interests. This proposal has set up a much more practical method for dealing with environmental protections. But it needs some help from you to allow it to deliver full value. As noted in other testimony, notice requirements should include the coalitions as well as neighborhood associations and not rely simply on internet use. Expertise in solving environmental approximate before they take place will ask that staff be used in some different and more up front problem serving ways. And the mention of environmental education and notice for property owners that they own environmentally protected land is essential to show the value of the environmental protection to the average property owner. Our presumption throughout this process was that most environmental violations were not intentional, but that we also needed to make sure that those that were by recurring or repeating violators were in fact handled in a way that would make it clear that the city was serious. I appreciate the special way in which an advisory committee was used to get all interests working to find a common solution. I hope you will look at this as the way land use policy should be developed and codes should be used to truly deliver the intent of the policy for

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everyone. I urge you to support this package and allow us to begin using these new and effective tools. Thank you.

Potter: Please state your name when you testify.

Bruce McIntosh: Bruce mcintosh, I own sky homes, we're a small custom home infill builder. We actually are based out of beaverton, but most of the houses we're building we're building in Portland. I'm here tonight to testify in support of streamlining the environmental permitting process. Last year we built three houses in environmental zones. We find the process survivable, but anything that we could do to shorten the time lines on permitting would be a great help in the building process. On the parcels where we do construct the environmental zones, we do have to post a notice on that. All the comments we've gotten on our properties have come off the notice, not something that was mailed to a neighborhood association. So I think the notice on the property is providing the importance of notifying the neighbors of what's being done on the property, the notice includes a site plan showing the trees on the plan, showing where the house is located on the plan, and so if there's a dispute on where a tree is located, a neighbor would have the information off the notice posted on the property to determine that. So far we've been fortunate, all the trees have been in the proper location on our plans. The other comment we wanted to make was the -- we want to be very supportive of the clarifications allowing for play areas and gardens within the environmental zone. That's very important to our buyers. We do notify our buy there's they are buying a house in an environmental zone. We go through with them what that means as we understand it, but we also recommend that they talk to city staff to get clarifications on that. But that is a constant question. A lot of these areas they're still within the conservation zone, and they're not into the preservation zone, and they want to know, can I go into that area, could I put a swing set in there, those are issues that the city does need to address. That's all my comments. Thank you very much.

Potter: Thank you for being here, sir.

Leonard: I had a couple of items I wanted to ask staff about.

Adams: Me as well.

Potter: Could staff come back up, please?

Leonard: I want to ask about -- I want to ask about the email notification, why in fact we've dropped the snail mail back-up, including for coalitions and neighborhoods, and why we wouldn't respond to objections in writing, and then as I understand it, don baak's issue we've agreed to put into the final draft.

Marisol Caron, Bureau of Development Services: I'm mari caron, i'm a team leader and senior planner within the planning and zoning section of bureau of development services. I'm here to specifically respond to the email notification and process comments. I think first I wanted to make clear that the reasons for making this proposed changes are positive. We're trying to improve access to information for the public as a whole, and improve customer service for both the public and our applicants. There are three major changes with the notification process. The first as you mentioned, and has been mentioned, the email notice versus mailed notice. It's a direction we're trying to go as a bureau in general in terms of resource conservation, using available technology, and the current process actually has mailed notification to only the neighborhood association. Most of the neighborhood associations on the office of neighborhood involvement website do have email addresses available. And we feel that it's email -- we feel email is a good way to, one, get the information to the neighborhood associations quickly, allow them to pass it on to their neighborhood association memberships, we were informed and notified not all neighborhood associations have email addresses, and in that case we've added the provision to mail notice. I think as a standard practice we prefer to look at moving towards internet, and I guess that's part of what was missing with the earlier discussion, the email notification would contain a link to the b.d.s. website, which would contain a list of all current ongoing environmental plan checks. So one, it's a

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quick link to see what's there, we haven't developed internet content yet, but at a minimum it would have a copy of the site plan. The same information that's put on the posting on site. In addition we, work on developing an information and education section in our -- in the internet. So the notice, should somebody prefer to received a mailed notice, certainly they can contact me, I would not mind to mail someone as a general practice, I think the standard process would be to email notice.

Leonard: I guess i'm asking, what -- I like the idea of including email, and I like the idea of people being able to access the information online. I'm not suggesting that I don't, but I am very sympathetic to the notion that some of us get a lot of email, and sometimes things don't stand out to us the way a letter might. So does it create -- what i'm hearing is, you're trying to transfer how you notify -- i'm assuming it doesn't cause you a problem if we add back in that you do snail mail notification in addition to email.

Caron: It would be the same as status quo.

Leonard: What you're doing now?

Caron: Right.

Leonard: How about adding coalitions to do?

Caron: We would be happy to do that.

Leonard: I'm going to ask that we change this to do that. The other issue is --

Caron: The other issue is something I wanted to comment on. Of the two issues remaining to change, eliminating the 14-day comment period, which the code labels as an objection period currently, is something we strongly stand behind. As a nondiscretionary process.

Leonard: I don't think -- I didn't understand the concern being eliminating the objective -- objection period, it's that if you receive a objection, why wouldn't you acknowledge --

Caron: We absolutely would acknowledge. We currently as actually bruce macintosh noted, the posting on site is probably our most reliable source of inquiries and comments. Neighbors walking by see it all the time. We get the majority of any comments we get via phone, some written, and we do respond to every comment we get. So the fact that the code language is changing would not affect our ability to respond.

Leonard: If you get an objection, that would you respond -- .

Caron: The way the code is written right now, we only respond in writing to objection that we receive in writing. And so this is actually just removes from the code the methods of our response. So the -- there's no other section of the code that refers to how or what method you use to respond to an applicant. It's within b.d.s. policy to return phone calls or inquiries within 24 hours to anyone -- any one developer or neighborhood.

Leonard: But if you got something in writing you would respond in write something.

Caron: That would be the most logical.

Leonard: But that wouldn't be a problem butting this language back in?

Scarzello: I think -- we could put something in that says we'll respond in the manner that suits the request from the objector. I think we want to also remove the 14 days, that's confusing, because people can comment at all times. And also I want to point out, I think -- in a land use review process, which this is not, in a land use review process, people make -- may object or send in comments in writing. We do not respond to those comments. We only respond to this one process where comments are sent in -- sent in.

Leonard: I understand.

Scarzello: So this is above and beyond the land use process.

Leonard: Understood.

*****: Commissioner Leonard asked -- also had a question about the trails language, and I have a proposal written that i'd like to read to you.

Leonard: Why don't we wait until we accept motions and, I can add them at the same time.

*****: Ok.

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Adams: This is a question to kathryn. What prevents us if anything, from requiring that the sale of land in the city of Portland, that at the time of the sale land in the city of Portland or when documents are reviewed, or however it needs to be worded, that some of the information that must be conveyed by the seller to the buyer is the zone, zoning information from -- we put all that money into getting the zone -- all the zoning information online, it's been online now for three or four years, what prevents us from making a requirement of disclosure during a sale of land?

Kathryn Beaumont, Sr. Deputy City Attorney: I don't know that I can fully answer your question on the fly. I know there are state law that's require certain types of disclosures to be made in real property transactions, and I think among those disclosures are -- suggestion to the buyers that they verify the zoning with the local zoning agencies. I guess I would need to look at whether the state scheme is so comprehensive that there is no room for us to regulate or whether there is. And that's simply not a question I can answer for you right this minute. I would be happy to look into it.

Potter: This will be moving to a second reading. If you could bring that information back to us, we'd appreciate it.

Leonard: My understanding is, and I heard the concern when it was raised, but I shouldn't say my understanding, my recollection is that when one buys a piece of property and you get title insurance, as an example, you get a plot map of where your house is, and in fact that map does show what the zoning is and any environmental zones. Am I mistaken about that?

Potter: Who said he was mistaken?

Leonard: It's actually quite the vogue today for me to be mistaken. I'm batting a thousand today.

Beaumont: I would suspect the amount of information you receive about the zoning on your property depends on how much -- what the title report shows, how much information is disclosed --

Leonard: I wasn't going to interject, but I bought a house a year ago that is in fact in an environmental zone, and it does in fact show, I have a plot map that showed when I bought the house where the environmental zone was, what the boundaries are.

Beaumont: I suspect many do. I suspect there are maps that don't show that as well.

Potter: It may not be a standard practice, and that's what we'd like to find out, if it's a requirement or not.

Leonard: And I don't touch my environmental zone. [laughter]

Adams: I don't know. Where is that -- anyway. In terms of the report to come back to council on the storm water -- .

Leonard: Linda, she would know.

Adams: I'm willing to amend this to put some teeth into that. So that the bureau managers, the bureau of planning, the bureau of management services that I think would be required to come up with such a report, you know, would forgo their cost of living increase or merit pay increase if the report is not delivered to the planning commission within six months after the two-year time line pass. I think it is frustrating --

Leonard: Aren't you b.d.s. employees glad you work for me?

Adams: That's right. He's the good cop. Because I am frustrated by the same thing. I feel like we rely -- we're going to rely a lot on the success of what is a pilot effort. We don't know. There's nothing to analyze because this is -- there's this new charted territory, and it is significant, so I would be interested in something that gets the attention of decision makers, maybe it should be the city council, I don't know, but with all the issues we have, I think having the bureau managers a special reminder would be something i'd be interested in looking at. And then there was -- to don baack, i'm happy -- this report request, you've requested that the bureau of transportation take on the issue of creosote to determine whether it's an environmental hazard or not. And i'm happy to have our bureau take that on.

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Potter: And also, don, you also made the suggestion about inviting on this -- inviting a representative to the neighborhood as opposed to a land use planning chair so that in case a neighborhood doesn't have one, they'd still be able to send a person.

*****: [inaudible]

Potter: I support commissioner Leonard's thing about the email versus snail mail. I think both should be used. It seems to me like a very small amount of time and certainly a small cost issue. And these are our customers, and I heard very clearly how great this process was and how inclusive it was, and I want to thank all of you for that. No-call all these folks, I think it's remarkable we got all of these folks to say that, and so --

Leonard: They didn't say it right away, mayor.

Potter: I'm very pleased with that, so believe me, I think that's very impressive. But some of these changes I think are just basically very minor. Just as long as they don't become recurring repeats. [laughter] you've been thinking about that one, haven't you? You've been thinking about that one.

Leonard: Do we need to make these proposals for amendments this evening and incorporate them for our final action next week?

Baumont: I think subject to staff correction, I think you may need to do a couple things. You have some amendments that you can move to add to the package tonight. I think there are two -- one or two amendments you don't specific language yet. Those will have to be brought back next week.

Leonard: Can we do them conceptually tonight and have --

Baumont: No, you need the language in front of you.

Leonard: You've changed.

Baumont: No, I think i've always insisted you have the language in front of you. If you have new language that comes back next week, that would have -- that would be a new first reading and you would have to pass it on.

Leonard: That's what I was trying to avoid. I'm happy to sit here for us to craft -- it's simply adding back the language with respect to the --

Baumont: Perhaps if you could give staff and me a couple minutes we could do the amendments on the fly and have the language in front of you tonight.

Leonard: It's just restoring the snail mail --

Adams: The second sentence in e.

Leonard: And exclude --

Adams: The third sentence.

Leonard: And adding "coalitions" to those that are notified.

Potter: Plus neighborhood association versus land --

Baumont: Ok. I think I can run with chris's help we can run through the amendments.

Adams: Let's try to get it done tonight if we can.

Baumont: All right. You have this page from staff that has three proposed amendments. The additional change that would need to be made to section 33430430-b-1 would be to change it to add back some existing language. So it would read, upon receipt of a complete application for a building permit or development permit, the director of b.d.s. will post a notice of the application on the b.d.s. website and mail a notice of the request to all recognized organizations within 400 feet of the site. And then the remainder would read as is.

Leonard: Is that the email and snail mail --

*****: Yes.

Leonard: Does that add the coalition then to it in addition to --

Baumont: The change that's on your sheet proposed in item number two, it's shaded in the bottom, would add in the coalition language as well.

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Leonard: Ok. Excellent. And then if you're done, are you ready for the other one?

Beaumont: The only other one I have is don baack's proposed amendment.

Leonard: And answering objections in the -- not the 14-day period, but objections in writing. I think the term was more not necessarily in writing, but appropriate -- if you get a phone call you just want to answer in the phone, if you get something in writing would you answer it in writing.

Beaumont: On page 107 of the proposal, we would simply keep the -- hang on.

Adams: They turned the air conditioning off after 7:00 to save money.

Leonard: If we had some important people in here they'd leave it on.

Potter: The chiefs of staff have gone home already.

Leonard: I agree.

Potter: Have left the building.

Beaumont: I apologize for the delay. I think we're clear now that the change that would be made on page 107 to subsection e would be to modify it to say if an objection is received, the director of b.d.s. will respond in writing or in a manner suitable to the objection, and you would keep the remainder of the strikeout language and then add back in the written response will address each comment or objection -- the response will specifically address each comment or objection that concerns compliance with the development standards of section 33430130 through 170. And the remainder of the section would stay as proposed by staff.

Leonard: So as you read it could that encapsulate --

Beaumont: That would go into the code. So there's that language, the language I read previously.

Leonard: And the language from mr. Baack.

Beaumont: The language from mr. Baack, staff has proposed to incorporate by adding -- by modifying its subsection 10b that appears on page 43, which identifies the trail exemption, and b would be modified to say trail widths must not exceed 30 inches, stair width must not exceed 50 inches and trail grade must not exceed 20%, comma, except for the portion of the trail containing stairs.

Leonard: Is that right, mr. Baack?

Baack: Yeah.

Leonard: Great. Thank you.

Adams: That just leaves us with the bureau managers have to forgo their raises.

Potter: Did we include changing from the land use chair to just a representative from the neighborhood?

Adams: The language?

Potter: Yes.

Beaumont: That's part of the proposed administrative rule, and that can be modified by staff.

Adams: What do we do to put some teeth in the storm water report? You probably won't propose your boss gets a raise, but is there something we do to make sure the report is actually done and made?

*****: [inaudible]

Adams: What's another idea? [laughter]

Beaumont: When this comes back for second reading, you could -- you could either amend the directive sentence now, or bring back a separate resolution next week directing --

Leonard: Or just add now, directing that we get a report on or before what date?

Adams: Why don't we just put in there that the bureau managers are held personally responsible for seeing to it that the report comes back to us?

Beaumont: Perhaps you could add a new directive e that says the bureau of planning shall report back to council on the results of storm water --

Leonard: July 1, 2007.

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Beaumont: -- by 2007 and your current e would become a new directive f.

*****: [inaudible]

Adams: That's a good idea. That will bring them back. Just that provision.

Beaumont: Here are the proposed teeth o page 73, which contains section 33.430.180, we would add in new subsection h that says this, section will expire on october 1, 2007, which means the bureau -- if the bureau wants to continue this code language, they would need to report back to you and propose an amendment to delete this sunset provision or to otherwise modify this section.

Adams: That's great. Thanks.

Potter: Good. Now do we have all of the amendments before us?

Leonard: Linda? Nothing? [laughter] you're so uncharacteristically quiet.

Beaumont: You do have all the amendments before you.

Adams: So moved.

Leonard: Second.

Potter: Please call the roll.

Adams: Aye. **Leonard:** Aye. **Potter:** Aye. [gavel pounded] any other business?

Adams: In case folks aren't here next time, I just wanted to thank the staff team that has worked long and hard on this. Back when mayor vera katz had this bureau, this was one of the things that for the code reform project was one of the things that I promised linda that we could get done pretty quickly. But I didn't put a deadline on it, so i'm trying to learn from my previous efforts. I also want to thank all the citizens that have been involved and the staff of b.d.s. This is really, really hard stuff to get through, so thank you all very much.

Beaumont: So this means both items will move to second reading on --

Potter: What's the date for the second reading, and time?

Moore: If they want to bring them back next wednesday, it will be the 24th of august, and it will be the morning session.

Leonard: I'll actually be gone.

Moore: Do you want to hold them off for another week?

Leonard: If you have a quorum it wouldn't matter.

Potter: All we need is three people.

Moore: I don't show anybody out right now. So if commissioner Saltzman and commissioner Sten review the record, they would be able to vote on it.

*****: Yes.

Moore: I show them in next week.

Potter: Ok. So 9:30 next wednesday.

Moore: In the morning session of 9:30.

Potter: Ok. It's moved for a second reading until then. We're adjourned until 2:00 p.m. tomorrow.
[gavel pounded]

At 7:39 p.m., Council recessed.

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

AUGUST 18, 2005 2:00PM

[Roll call]

Potter: Please read the first item.

Item 959.

Potter: Thank you. The city will describe the hearing and how it will be conducted.

Kathryn Beaumont, Sr. Deputy City Attorney: Good afternoon. I'm kathryn beaumont with the city attorney's office. Even though I believe this will be a very abbreviated hearing I am required by state law to read the opening announcements. First, this is an on the record hearing. This means you must limit your testimony to material and issues in the record. During this hearing you may only talk about the issues, testimony, exhibits and other evidence that were presented at the earlier hearing before the hearings officer. You can't bring up anything new. This hearing is designed only to decide if the hearings officer made the correct decision based on the evidence that was presented to him or -- presented to him. If you start to talk about new issues or try to present new evidence today you may be interrupted and reminded that you must limit your testimony to the record. In terms of the order of testimony, we may deviate slightly today but we will begin with a staff report by john cole of the bureau of development services. Following the staff report the city council will hear generally hearings from people. Appellant goes first and has 10 minutes to present. The appellant's case. Following the appellant, persons who support the appeal will go next. Each person has three minutes to speak to the council. Next is the applicant who will have 15 minutes to address the city council and rebutt the appellant's presentation. After the applicant we will hear from persons who oppose the appeal and again each person has three minutes, and finally the appellant has five minutes to rebutt the presentation of the opponents of the appeal. The council may then close the hearing, deliberate and take a vote on the appeal. If the vote is a tentative vote the council will set a future date for the adoption of findings and the final vote on the appeal. If the council takes a final vote today, that will conclude the matter before the council. I also have several guidelines for those who will be addressing city council. Again, this is an on the record hearing, and remarks must be limited to arguments based on the record compiled by the hearings officer. You may refer to evidence that was previously submitted to the hearings officer. You may not submit new evidence today unless the council grants permission to do that. If you believe a person who addressed the city council today improperly presented new evidence or presented legal argument that relies on evidence that's not in the record, you may object to that argument and finally under state law only issues that were raised before the hearings officer may be raised in this appeal to city council. That concludes my opening statements.

Potter: Thank you. Do any members of Council wish to declare a conflict of interest? No council members have a conflict of interest declared. Do any members of council have any ex parte contacts to declare or any information gathered outside the hearings to disclose? No members have ex parte contacts to delay. Do any members of council have questions or other preliminary matters that need to be addressed before we begin the hearing? If none let's begin the hearing. Staff, please come up.

John Cole, Bureau of Development Services: Thank you, mayor, commissioners. I'm john cole with the bureau of development services. This is going to be an abbreviated presentation because

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the neighborhood association and the developers have been in discussions since this particular appeal was filed and have reached an agreement. So the objectives of my presentation today is just to briefly describe the land division at issue, introduce kurt krueger from the bureau of transportation, and I will ask kurt to describe the components of what is termed a good neighbor agreement that has allowed to item to appear before you with less controversy than perhaps it might have. This is a proposal for a 10-lot subdivision with frontage on southwest comus street and the decision of a cul-de-sac. There is frontage on existing arnold street. I have a pointer here and I will show you a couple of locations within the land division that are going to be talked about, perhaps just a little bit further in the duration of the hearing. Southwest comus street up here along the eastern-northeastern edge of the proposed parcel is improved and houses have been built on both sides of comus. This edge of the proposed land division has had a partial right of way dedicated for southwest comus, but it is not improved at this particular time, nor is comus street to the west of the proposed development. I would like to also point out to you that this land division does have frontage along southwest arnold street here on the south side. The applicants were proposing 10 lots within their land division dedication and improvement of comus street here along the northern edge. Installation of this new cul-de-sac and as I had mentioned before they are proposing one lot that will not access the comus -- cul-de-sac but continue to access southwest arnold street. I am going to talk a little bit later about this tract a which is sort of a hockey-stick-shaped parcel that borders lot number 6, and would indicate to you at this particular point that the developers are proposing tract a as an open space, primarily as a mechanism to keep lot number 6 from being larger than is allowed for a single-family lots in the r-10 zoning district. This particular item did open in front of the hearings official on june 6 at a public hearing. Staff had recommended approval of this land division subject to a number of conditions that dealt primarily with infrastructure, installation, and improvements. The hearings official at the end of that particular hearing left the record open for additional comments and, ultimately, issued an approval with conditions that were substantially similar to what staff had recommended. The hearing was attended by a number of people from the surrounding neighborhood association, the arnold creek neighborhood, and they subsequently submitted an appeal of the land division based on two sections of the development code. One of them dealt with lot dimension standards and a position that the lots were incompatible with the surrounding neighborhood. And then they objected to a number of design issues of the right of way that are administered under this code section 33.641. Since that time I had mentioned kurt krueger has been holding discussions between the neighborhood association and the development team, and they have subsequently arrived at an agreement over improvements to arnold street -- excuse me -- improvements to comus street that will allow the applicants to maximize the amount of on-street parking that's available and also provide a right of way cross section that provides the same sort of curb tight sidewalk that the neighbor -- the neighbor to the east has today and with that, it will be staff's recommendation to the city council today that you vote to uphold the hearings official decision, deleting a condition b-4 that I will talk about at the end of the meeting, and direct staff to implement the good neighbor agreement, a copy of which I believe has been distributed to you. Having said that, I think I would invite kurt to come to the staff table and talk a little bit more about the good neighbor agreement and answer questions that you might have in that regard.

Kurt Krueger, Office of Transportation: Good afternoon, mayor Potter, commissioners. I will be brief with my comments. I think most of the work has been done here. I am going to mention this condition before, if it weren't for this, I have not needed to be removed from the original decision. I think we would have been able to avoid this meeting this afternoon with the work that the neighborhood and the developer have agreed upon. Essentially, most of these issues were design issues that would have been resolved at the time they came into develop street improvement plans through the office of transportation. We keep those general requirements fairly broad at the

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hearings officer level. That gives you a little bit of flexibility during the design to incorporate topography and other challenges. The neighborhood I think wanted a little bit more assurance of how that street was going to look, and viewing this, the office of transportation and the developer, felt it was appropriate to include the neighborhood in this discussion and how they are ultimately street extension was going to look. We have made some compromises, the developer has made some compromises, and the neighborhood has made some compromises and I think what we have here is a good neighborhood agreement that really addresses everybody's concerns. And I can go into those details. I don't know if that's says. We have representatives from both the neighborhood and the developer that are willing to comment on that. But I think what we have here is a win-win-win for all parties.

Potter: Very good. Anything? Ok. Thank you. So, kathryn, do we just then proceed through this with a regular hearing?

Beaumont: I think -- I don't know that you need to go through the full hearing procedure. You might want to ask the representatives of the neighborhood and representatives of the developer if they want to offer any comments to the council. If you have any questions of staff following that, you can ask staff and then you can proceed to your deliberations.

Potter: Could you folks come up, please, the appellant and the --

Leonard: Does the staff have in writing the recommendation for the motion? You had it up on our screen. But did you --

*******:** I don't have it in a large format. I will give you what I have.

Leonard: Ok.

Nancy Hand, Arnold Creek Neighborhood Association: I am nancy hand. I am chair of arnold creek neighborhood association. And I have to say, it's a much improved, I think, development that we are going to have after we went through this process of the appeal. And getting the good neighbor agreement. We didn't -- there were four issues. We did not get one, but three out of four is not bad. So we are pleased, and we would like to thank kurt and the developer for working so hard with us on this. And I do think it's going to be a lot better development because of the work that was done and the extra time that was taken.

Potter: Thank you very much.

Hand: You bet.

Potter: And this we have a good neighbor agreement and this is the agreement that you folks have signed? Is that correct?

Hand: Yes, uh-huh.

Adams: Before you leave, I just wanted to publicly thank you for your work as president of arnold creek neighborhood association. There's a lot of in-fill development going on in your neighborhood, having been to your meetings and walked around the neighborhood. And you are here during the middle of the workday, I want to acknowledge that as well.

Hand: I appreciate that.

Adams: Really appreciate your advocacy because there's I think you counted there are hundreds of --

Hand: 150.

Adams: 150 developments going on.

Hand: New lots. All \$400,000 and up. That concerns me. We paid 65 for my house. So we are getting kind of beyond the character of the neighborhood that I moved into. And we are losing our diversity in the process.

Adams: Right.

Potter: Thank you for your work.

Hand: You bet.

Potter: The developers come up?

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Tom Armstrong, Winterbrook Planning: I'm tom armstrong with winterbrook planning. I would like to reiterate comments by nancy hand and kurt

krueger on especially the effort of kurt krueger did to bring together both sides and to essentially what we saw is define with more clarity what the streets would look like in this development. And it provides more certainty for the neighborhood in terms of what will be developed in the future.

Adams: Thanks for your willingness to negotiate.

Armstrong: Sure.

Adams: And your client.

Potter: Thank you very much. Thank you. So we can skip through the rebuttal stuff?

Beaumont: I think so.

Potter: Now go to council deliberations?

Beaumont: Yes.

Potter: And make a decision. We have got three options.

Adams: Randy's ready to make a motion.

Potter: Ok.

Leonard: I would move we uphold the hearings officer's decision and direct the staff to implement a good neighbor agreement to include maximizing on street parking, matching the existing comus street cross section and providing hard scape path on arnold street.

Adams: Second.

Potter: Please call the roll.

Adams: Aye. **Leonard:** Aye. **Potter:** Aye. [gavel pounded]

Adams: Good work.

Potter: Thank you, folks, very much. Kurt, excellent job. You certainly represented the city well. And I appreciate the hard work of the neighborhood and the developers to come to an agreement. Thank you. Is there another item?

Moore: No. That's all.

Potter: Ok. [gavel pounded]

At 2:21 p.m., Council adjourned.