



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **21ST DAY OF SEPTEMBER, 2005** AT 9:30 A.M.

THOSE PRESENT AT 9:43 A.M. WERE: Mayor Potter, Presiding; Commissioners Adams, Leonard and Saltzman, 4.

Commissioner Saltzman left at 12:11 p.m.

THOSE PRESENT AT 12:14 P.M. WERE: Mayor Potter, Presiding; Commissioners Adams, Leonard and Sten, 4.

Commissioner Sten teleconferenced starting at 12:14 p.m. and disconnected at 12:48 p.m.

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

Agenda Items 1115 and 1118 were pulled for discussion and on a Y-4 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS	Disposition:
1103 Request of Paul Phillips to address Council regarding the Catholic Health Association (Communication)	PLACED ON FILE
1104 Request of Charles E. Long to address Council regarding the Portland Baroque Orchestra--royal and noble (Communication)	PLACED ON FILE
1105 Request of Richard L. Koenig to address Council to seek an apology from the Mayor (Communication)	PLACED ON FILE
TIME CERTAINS	
1106 TIME CERTAIN: 9:30 AM – Accept Staff Report and Recommendation for Michael and Suzanne Lehne Measure 37 Claim (Report introduced by Mayor Potter; Claim No. 05-121250 PR) Motion to accept the recommendation of the staff report: Moved by Commissioner Adams and seconded by Commissioner Saltzman. (Y-4)	STAFF REPORT AND RECOMMENDATION ACCEPTED; PREPARE ORDER OF COUNCIL

September 21, 2005

CONSENT AGENDA – NO DISCUSSION	
1107 Statement of cash and investments July 28, 2005 through August 24, 2005 (Report; Treasurer) (Y-4)	PLACED ON FILE
Mayor Tom Potter	
Office of Management and Finance – Human Resources	
*1108 Change the salary ranges of three Nonrepresented classifications at the request of the Bureau of Development Services (Ordinance) (Y-4)	179596
Office of Management and Finance – Purchasing	
*1109 Call for bids and authorize contract for gasoline/diesel motor fuel by cardlock system for City vehicles at an estimated cost of \$950,000 in accordance with City Code 5.33 (Ordinance) (Y-4)	179597
1110 Authorize an Interagency Agreement with Portland Development Commission for the Workforce Training and Hiring Program and Technical Assistance Program (Second Reading Agenda 1069) (Y-4)	179598
Commissioner Sam Adams	
Bureau of Environmental Services	
1111 Authorize the Director of the Bureau of Environmental Services to execute revenue generating Private Party Agreements in amounts not to exceed \$50,000 per agreement for the Watershed Revegetation Program (Second Reading Agenda 1072) (Y-4)	179599
1112 Authorize the Director of the Bureau of Environmental Services to execute revenue generating Intergovernmental Agreements in amounts not to exceed \$100,000 per agreement for the Watershed Revegetation Program (Second Reading Agenda 1073) (Y-4)	179600
Office of Transportation	
1113 Authorize contract and provide for payment for the SE Hawthorne Boulevard Transportation Improvement project between SE 20th Avenue and SE 55th Avenue (Ordinance)	PASSED TO SECOND READING SEPTEMBER 28, 2005 AT 9:30 AM

September 21, 2005

<p>1114 Authorize contract with CMTS, Inc. to supply street construction inspection and engineering technician personnel as needed and provide for payment (Ordinance)</p>	<p align="center">PASSED TO SECOND READING SEPTEMBER 28, 2005 AT 9:30 AM</p>
<p>1115 Authorize use of Eminent Domain Authority of the City to acquire certain interests in private property necessary for completion of the Burlingame Sanitary Trunk Sewer Rehabilitation Project No. 7911 (Ordinance)</p> <p>Motion to add property number 9600 to the Ordinance: Moved by Commissioner Adams and seconded by Commissioner Saltzman. (Y-4)</p>	<p align="center">PASSED TO SECOND READING AS AMENDED SEPTEMBER 28, 2005 AT 9:30 AM</p>
<p>1116 Amend Intergovernmental Agreement with the Oregon Department of Transportation for the Infrastructure Safety Improvement Program to transfer funds from SW Alice St. to SW 30th Ave. (Ordinance; amend Contract No. 52014)</p>	<p align="center">PASSED TO SECOND READING SEPTEMBER 28, 2005 AT 9:30 AM</p>
<p align="center">Commissioner Dan Saltzman</p> <p align="center">Office of Cable Communications and Franchise Management</p> <p>1117 Consent to right-of-way use agreement transfer from AT&T Wireless Services of Oregon, Inc. to New Cingular Wireless PCS, LLC (Second Reading Agenda 1038; transfer Ordinance No. 178373)</p> <p align="right">(Y-4)</p>	
<p align="center">Parks and Recreation</p> <p>*1118 Authorize commitment and expenditure of Portland Parks and Recreation funds for contribution to acquisition of Public Storage property in the South Waterfront for a neighborhood park (Ordinance)</p> <p align="right">(Y-4)</p>	<p align="center">179601</p>
<p align="center">Commissioner Erik Sten</p> <p align="center">Bureau of Housing and Community Development</p> <p>*1119 Amend the expenditure authorization, reallocate funding sources and authorize bureau director to execute contracts to further the goals of the 10-year Plan to End Homelessness and provide for payment (Ordinance; amend Ordinance No. 179346)</p> <p align="right">(Y-4)</p>	
<p>*1120 Authorize Intergovernmental Agreement with Portland Development Commission for \$30,000 to fund a contract with the National Development Council and receive funds (Ordinance)</p> <p align="right">(Y-4)</p>	<p align="center">179602</p>
<p align="center">REGULAR AGENDA</p>	

September 21, 2005

Mayor Tom Potter

1120-1 Declare the week of September 26-30, 2005 Race Equality Week
(Proclamation)

PLACED ON FILE

Office of Management and Finance – Human Resources

***1121** Establish a Voluntary Employees' Beneficiary Association plan for the non-
represented Portland Fire Chiefs' Association (Ordinance)
(Y-4)

179605

***1122** Adopt two new Human Resources Administrative Rules in regards to ethical
conduct (Ordinance)
(Y-4)

179606

Office of Management and Finance – Purchasing

1123 Authorize a 3-year price agreement with Wasco County Landfill, Inc. for the
transportation and disposal of stormwater sediment (Second Reading
Agenda 1095)
(Y-3)

179607

Commissioner Sam Adams

Office of Transportation

1124 Assess benefited property for speed bump improvements in the NW Westover
Road Speed Bump Local Improvement District (Hearing; Ordinance; C-
9983)

**PASSED TO
SECOND READING
SEPTEMBER 28, 2005
AT 9:30 AM**

***1125** Amend contract with Stacy and Witbeck, Inc. for construction of
improvements at the Portland Streetcar Maintenance Facility (Ordinance;
amend Contract No. 35163)
(Y-4)

179608

1126 Vacate a portion of N Hunt Street west of N Albina Avenue subject to certain
conditions and reservations (Second Reading Agenda 1097; VAC-
10016)
(Y-3)

179609

1127 Vacate certain portions of SW Iowa Street between SW 30th Avenue and SW
Bertha Blvd subject to certain conditions and reservations (Second
Reading Agenda 1098; VAC-10023)
(Y-3)

179610

Commissioner Randy Leonard

September 21, 2005

S-1128 Authorize City Staff to initiate information gathering process with Portland General Electric Company to determine whether to regulate the rates and terms and conditions of PGE electric utility services within the municipal boundaries of the City pursuant to ORS 221.420(2)(c) (Resolution)

Motion to accept Substitute Resolution: Moved by Mayor Potter and seconded by Commissioner Adams. (Y-4)

(Y-4)

**SUBSTITUTE
36337**

Commissioner Dan Saltzman

Office of Sustainable Development

***1129** Re-establish a joint Sustainable Development Commission with Multnomah County (Ordinance; amend Code Chapter 3.112)

**CONTINUED TO
OCTOBER 19, 2005
AT 10:00 AM**

At 12:49 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.

September 21, 2005

WEDNESDAY, 6:00 PM, SEPTEMBER 21, 2005

**DUE TO LACK OF AN AGENDA
THERE WAS NO MEETING**

September 21, 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.

SEPTEMBER 21, 2005 9:30 AM

Potter: Good morning, everybody. This is the Portland city council. And before we begin the official business, we have a tradition here at city council where I ask a question to our community, and the question is how are the children. The reason we ask that question is because when we know that our children are safe and secure and they have a good education and a roof over their head, that most likely our community is well too. So we always invite experts in. And today we have some young people, our experts, that are going to come up and talk with us. So if brandon and melissa could come forward -- brendan and melissa could come forward, please.

*****: Whoa.

Potter: Thank you for being here.

LouAnne Tabada: Thank you, mr. Mayor. I'm louanne tabada with special olympics. And then brendan and melissa are in our special olympics program.

*****: Yeah, yeah. [laughter]

Potter: Ok. So do you want them to speak?

*****: Sure.

Potter: Good. Then why don't we just start with melissa. Melissa, could you tell us your name?

Melissa Bakoczy: Melissa.

Potter: Melissa and what do you do?

Tabada: What do you do in special olympics? What sports? Right now you're doing bowling?

Bakoczy: Bowling.

Potter: Bowling. And I see that it's also track and field and basketball. Do you like basketball?

Tabada: Yeah?

Bakoczy: Yeah.

Tabada: Do you play on the same basketball team with brendan? Yeah.

Potter: And what school do you go to, melissa?

Bakoczy: Portsmouth.

Potter: That's right, middle school. We appreciate you being here. Do you have any questions of us? Is this all kind of new to you?

Bakoczy: Yeah.

Potter: Yeah. And do you see that big screen up there, up on the front?

*****: Right here, honey.

Potter: See, can you see your picture on there?

*****: There's the back of you.

*****: There you are.

Potter: There, that's melissa. Well, thank you for being here, melissa. Brendan, tell us what your name is. Brendan self, huh?

*****: Yeah.

Potter: What school do you go to?

Brendon Self: Portsmouth.

Potter: That's right, that's right. I see you've got a lot of medals. How did you win those medals?

Tabada: What sports do you do, brendan, that you won medals in?

Self: Soccer.

September 21, 2005

Potter: Soccer.

Tabada: And?

Self: Basketball.

Tabada: And one more.

Self: Baseball.

*******:** Oh, he likes baseball, too.

Potter: And baseball.

Tabada: You have medals, too, huh?

Self: Yeah.

Tabada: What else do you do in special olympics? What do we do in every competition? You want to tell them about the big ceremony and there's a dance.

Self: Yeah.

Tabada: Do you like being in special olympics?

Self: Yeah.

Tabada: What do you like?

Self: What sport do I like? I like basketball.

Tabada: You have to do it here.

Self: They can hear me. I've got a loud voice.

Potter: I think she's got this figured out.

Self: Do you think I need to get closer?

*******:** Yeah.

*******:** There.

Potter: Thank you both for coming in today. It's a privilege for us to have you in here. And stay involved with special olympics, ok?

Self: Ok.

Melissa: Ok. Thank you.

Self: Thank you:

*******:** We have a gift for you.

*******:** Brendan, do you want to help? We have a gift for each of you.

*******:** Yeah.

Potter: Thank you, melissa. Oh, wow. Thank you, brendan

*******:** You laugh.

Potter: Did he laugh too loud?

*******:** Yeah.

Potter: That's ok. We have people on city council who laugh too loud anybody. Not to mention anybody, i'm not looking at him right now. Thank you very much for coming up.

Leonard: Sam, sam.

*******:** Bye.

Potter: Bye-bye. Thank you for coming in.

*******:** Bye.

Leonard: Bye.

Potter: I think they can get used to that. The city council will come to order. [gavel pounded]
Karla, please call the roll. [roll call taken]

Adams: Apparently i'm no longer on the city council.

Potter: Did we not tell you that, sam?

Leonard: Everybody always knows where he is.

Adams: They took a vote last night.

Potter: Ok. Is everybody here that's supposed to be here?

Moore: Yes.

September 21, 2005

Potter: Ok. First we'll hear communications. Karla, please read item 1103. Mr. Philips, please state your name when you testify. You have three minutes, sir.

Item 1103.

Paul Phillips: Yes. I'm paul philips. And last week I spoke about the catholic health initiatives. And this website is for the catholic health association, chausa.org. And if you read facts about catholic health association of the united states, more than 614 catholic hospitals, which i'd mentioned before, which is 10% of the nation's 6,000 hospitals, and I didn't have time because of the 180-second limitation, an additional -- i'm reading from the page -- an additional 63 hospitals that are other than catholic, but that belong to catholic systems are also members of c.h.a., another 1% of the nation's hospitals. So there would be 10%, plus 1%, of course that is 11% of the nation's hospitals. And I want to read the bottom paragraph so that the public understands the situation that made international news in Portland about the catholic priests preying on children. 261 sponsors -- i'm reading from the page -- a term for the religious congregations, diocese, and other owners of healthcare organizations, most catholic healthcare organizations were funded by religious organizations of women, daughters of charity, sisters of mercy, that continue to oversee and help govern these services. Some systems are sponsored by more than one religious congregation and have combined their facilities into a single cosponsored system. A few systems are sponsored by a body of laypersons authorized to carry on and steward the ministry in a structured code. The sponsoring structures are becoming more common as religious congregations become smaller, prompted the term seek new ways to continue the ministry. i'd understand why they'd need sponsors. Thank you.

Potter: Thank you, sir. Please call the next person.

Item 1104.

Potter: Mr. Long, please state your name when you testify. You have three minutes.

Charles E. Long: My name is charles e. Long. This friday evening marks the opening concert of Portland baroque orchestra's 22nd season. Although smaller in size and in being recognized than the Oregon symphony, it is nationally recognized for its quality of performance. Baroque is a genre of music from 17th and 18th century europe and noted for its particularly beautiful, compelling style. The venue for friday and saturday evenings' concert this week is first baptist church in downtown Portland. Other concert locations are the auditorium at reed college and agnes flanagan chapel at lewis and clark college. Artistic director says music is fluid and speaks to the soul in ways nothing else can, with musicians who really believe in what they are doing you can create music that transcends the stage and fills the audience as it fills the musicians. It is music fit for kings, queens and cardinals. Political leaders surrounded themselves with artistic treasures. Ballet for louis xiv. Sometimes the nobles simply wanted to display their wealth, but more often wanted to recognize the arts. So let us bring you musical riches of many musicians. It uses period instruments and historical performance techniques. Intimate, performing in relatively small venues, an informal offering free concert talks and mingling with the audience during intermission. The host of national public radio's performance today said, p.b.o. Is one of the finest of its kind in the country. I love p.b.o.'s music. So would you. Thank you.

Potter: Thank you, sir.

Adams: Thanks, charles.

Item 1105.

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

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

Richard L. Koenig: My name is richard koenig. And you know i'm not going to dwell on the stated agenda item, but I want to thank the mayor for being my loyal opposition. Like the side of an a-frame, in opposition to the other, he has supported my continued efforts here, and for that I appreciate the mayor. And i'd like to move on to the substance. I'm going to bring you an update

September 21, 2005

from the attorney general's office this morning, my first call on monday was from the attorney general's office stating that the governor had authorized their investigation into the lack of implementation of the optional titling rule, which as you folks know is one of the keys to solving the problem of poverty and police relations in this community when people begin to realize that, and the odot implements the optional titling rule, that withdraws people's vehicles from the program, that they can save \$2,000, \$3,000, maybe \$4,000 a year and not be subject to the interference of peace officers who have the right, the authority, to only stop any employee, agent, or representative of any firm, corporation, or other organization when they have reasonable cause to believe that those kinds of people have committed a traffic violation. When we begin to assert our right that this body, in 2002, august of 2002, this body by unanimous voice vote declared, we don't want to declare a war on the right of the public to use streets of Portland, when the people realize that and begin to assert that right to use the streets instead of the privilege to drive, which is the \$2,000, \$3,000, \$4,000 a year plan, we're going to solve a lot of problems, and for the support, the loyal opposition i've been getting here, I want to appreciate all of you, including commissioner Leonard. Do you have any questions? I'll keep you updated as the attorney general's investigation goes along, and as soon as the local branches of the d.m.v. are providing for that option i'll let everybody know. And in the meantime, if you want to find out before I get here the next time, you can call this number. Thanks.

Potter: Is that it?

Moore: That's it.

Potter: Ok. we're going to move to the consent agenda. I understand that item 1118 has been pulled.

Moore: And 1115.

Potter: And 1115. Ok. Do the commissioners wish to pull any items? Does anyone from the audience wish to pull any items? Karla, please read the roll call.

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

Potter: Aye. [gavel pounded] we will hear the two pulled items after we've heard the time certain. Karla, please read the 9:30 time certain.

Item 1106.

Moore: 1106.

Potter: Could the staff please come forward?

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

Potter: Good morning.

Chris Dearth: My name is chris dearth, the measure 37 program manager. With me today is kathryn beaumont from the city attorney's office. We'll make a brief presentation on the staff report and then give you a chance to ask any questions that you might have.

Potter: Ok.

Dearth: We're here today to present information on a measure 37 claim presented to the city by michael and suzanne lehne. The claim location is their property at 7915 southeast 162nd avenue. The amount of compensation demanded is \$85,000 or their preferred resolution is removal of the environmental zoning from the property. The staff recommendation will be to deny this claim on the basis that the property interests by the claimant is exempt from measure 37 under subsection 3-e of the measure. Just to put this in context for you, you may not be able to see this, but this is an outline of the city, the property is in the far southeastern corner, just south of foster road in pleasant valley. And it might be helpful to run through a little bit of the relevant history here of the purchase and progress of the lehnes and the subject property. In 1978, the lehnes purchased 2.73 acres at 7915 southeast 162nd avenue. That's outlined in gray there, if you can see it. Then later in 1991 the city enacted an environmental conservation zone, which you can see overlays a portion of the lehnes' property on the western side there. And then in 2001, the lehnes purchased the adjacent

September 21, 2005

property just to the north of the subject property. And in april 12 of this year, the lehnes filed a measure 37 claim only on the southern property, outlined in red right there. And then 17 days later the lehnes sold both properties, retaining only one lot, tax lot 1000, which their house sits on. And later that day, sometime, we don't know exactly when, mr. Lehne signed a lease for tracts a and b, which is outlined on the western side there in red, and here is an approved land division, which the lehnes received before they sold the property giving you a greater detail of tracts a and b, covering both properties, not just the subject property, but also outlines their -- the property they retained, tax lot 1000 there. So to summarize the staff conclusions, the staff concludes that the claimants are indeed owners of tax lot 1000. No environmental zoning applies to this property. And since the claimants did not challenge any other land use regulations for property, this don't have a valid measure 37 claim for tax lot 1000. And in addition, relating to tracts a and b, which mr. Lehne has leased back, mr. Lehne leased those tracts from mr. Thompson on april 29. The c zoning was applied to this property on august 16, 1991. Measure 37 does not allow claims based on land use regulations that were enacted before the date of acquisition by the owner. And therefore we conclude that the challenged c zone regulations are exempt under measure 37, subsection 3-e, because they were enacted and applied to tracts a and b before mr. Lehne acquired his leasehold interest in the tracts. So to reiterate, our recommendation, based on the conclusions that we've outlined here, is that the city council reject this and deny this claim for compensation. If you have any questions, i'd be happy to entertain them now or kathryn can present the legal side of this argument for you.

Potter: Please proceed, kathryn.

Kathryn Beaumont, City Attorney's Office: Good morning. Kathryn beaumont, city attorney's office. Some of what I will discuss with you will necessarily repeat what chris had said. I want to give you a little bit of the background measure 37 principles and then apply those principles to mr. Lehne's claim. First under measure 37, an owner is entitled to either a waiver or compensation for a land use regulation that restricts the use of the owner's property and reduces its value if the regulation was adopted and applied to the property after the owner acquired it. Under these circumstances, a waiver of regulations allows the owner to use the property in a way that was allowed at the time the owner acquired his ownership interest. In other words, a waiver of regulations goes back to the regulations in place at the time the owner became the owner of the property. Second, measure 37 defines the term "owner" to mean the present owner of the property or any interest therein. This means that you can hold fee title to property or a lesser interest, such as an easement, a lease, or a partial interest in a property and still be the owner for purposes of measure 37. Applying these principles to mr. Lehne's claim, he and his wife became deed owners of 2.73-acre parcel in 1978, and were owners of this parcel at the time they filed their measure 37 claim. As chris has indicated, on april 29, shortly after they filed their measure 37 claim, they sold all but a small portion of this property to gordon thompson. They kept a .35-acre parcel on which their home sits. This parcel is referred to as tax lot 1000 and the parcel they sold to mr. Thompson is referred to as tax lot 1001. At present they're the owners of tax lot 1000 and have been owners of this property since 1978. Their measure 37 claim challenges the environmental zoning that was applied after they bought the 2.73-acre parcel in 1978 to a corner of their property. This corner, referred to as tracts a and b, was part of tax lot 1001 sold to mr. Thompson. There is no environmental zoning on the part of the property they kept, which is tax lot 1000. As a result they don't have a valid measure 37 claim with respect to tax lot 1000. Probably the principle issue and principal area of dispute in this claim relates to tracts a and b. On the same date that mr. and mrs. Lehne sold their property to mr. Thompson mr. Lehne leased tracts a and b from mr. Thompson. These tracts are in the corner of the property, as chris showed you, and do have environmental zoning. Mr. Lehne has asserted that his leasehold interest makes him an owner of tracts a and b for purposes of measure 37, and he's correct under the definition of owner in the measure, however the

September 21, 2005

act of selling tracts a and b, part of tax lot 1000 to mr. Thompson, and leasing them back, constituted a break in his ownership of these tracts. At the time he leased tracts a and b, reacquired an ownership interest, environmental zoning was already in place on these tracts. Under measure 37, an owner can't file a claim for regulations that were in place at the time the owner acquired his ownership interest in the property. As a result, mr. Lehne does not have a valid claim for the environmental zoning on tracts a and b because this zoning was in place at the time he leased his property. And then to summarize, staff has recommended that mr. Lehne's claim be denied, because there is no environmental zoning that applies to tax lot 1000. The .35-acre piece that he and his wife own. At the time that mr. Lehne leased tracts a and b and became an owner of these tracts for purposes of measure 37, environmental zoning was in place on the property. If you have any questions, i'd be happy to answer them.

Potter: Questions? Thank you, folks.

Dearth: You're welcome.

Potter: Could the claimant or claimants please come forward. You folks have a total of 15 minutes. And when you speak, please state your name.

Mike Lehne: I'm mike lehne. I'm the claimant this morning.

*******:** Your address.

Lehne: Oh, address. 7915 southeast 162nd avenue, Portland, 97236.

John Pinkstaff: My name is john pinkstaff. I am an attorney with ramis crew Corrigan, at 1727 northwest hoyt street, Portland, 97209 and our firm represents mr. and mrs. Lehne.

Potter: Ok. Please proceed.

Pinkstaff: Let me begin by saying that mike will tell you in a minute about three things. One, the property, and explain why it's developable, that there's basically no stream seeps or springs on the property, that's within this e zone. Second of all, he'll explain that the sequence of facts, which are three, one, he purchased the property in 1978. Two, he contracted to sell the property and lease it back in 2004. And three, he actually sold the property and entered into a lease agreement in 2005. And he believes that at all times he retained an interest. The interest being the term that's used in measure 37 as being any interest in the property. The third thing that mike will explain is that he's filed an updated appraisal report, which shows that the property is now worth in the range, without the regulations, would be worth between \$125,000 and \$150,000. I believe originally it was \$85,000, in his original submittal, but there's new information now, and he will submit that. Before mike makes his remarks, I would tell you that I have submitted a letter, which seeks to correct an erroneous conclusion in the staff report. I provided that letter to staff. I believe it was sent by fax last night and I have extra copies here that i'd like to have handed to the council.

Potter: Could you provide that to the council clerk?

Pinkstaff: Thank you. The letter seeks to correct an erroneous conclusion in the staff report. Staff did correctly find that a leasehold is an interest, but incorrectly found that there was a gap between the sale and a leaseback, and therefore that there was a break in the ownership. As I explained in my letter, there's two reasons why staff's conclusion is wrong. First, there was an addendum to the purchase agreement, which is attached on the last page of that letter. It is dated 2004. In that addendum, lehnes have agreed to sell, and they're agreeing to lease back the subject property at closing. I think that's very important to say they've agreed they have now the right to lease back property at closing. So even before closing in 2005, lehne had a contractual right to lease the property. And as explained in the legal analysis, a right to lease back is an interest in property, similar to an earnest money agreement, a right to lease back is an equitable interest, and therefore he still had an interest in the property. I think it's helpful to think about real property or estates as a bundle of sticks. Remember in first year in law school, property, they said think of property as a bundle of sticks. And as you sell off certain interests in the property, you're handing sticks to the buyer or the person, for instance, if you convey an easement, you're giving a stick to someone.

September 21, 2005

You're retaining the fee ownership. Likewise, if you convey a fee ownership and retain a stick in the bundle, such as a lease, you have retained an interest in the property. I think where -- with all due respect, where the staff has erred is that they've use the term "created an interest, created a leasehold interest and acquired a leasehold interest," and have placed importance on that as if this is a brand-new interest in property and somehow represents a break from the previous interest, which was the fee ownership. In other words, the seller sells the property, agrees to sell the property in 2004. At that point he's handing over some sticks to the buyer. He's also agreeing that he will leaseback the property. So he's retaining a leasehold stick, if you will, leasehold being the right to use, possess the property.

Adams: How could somebody lease it to him if they didn't have control of it?

Pinkstaff: These are interests in property. They -- they would not have the ability to --

Adams: Does the documentation show that it's not the complete bundle of sticks that was conveyed?

Pinkstaff: Yes. The exhibit shows that in 2004 there was a contractual right to lease back. that is an interest. That is the first reason why he never lost the right to lease the property.

Adams: My reading of the document shows at least two separate actions.

Pinkstaff: How so?

Adams: Well, there was a conveyance of the property and then there was a separate leaseback. Seems like all the bundles of sticks were conveyed, and then he asked for one stick back.

Pinkstaff: Ok. That's the second point. I'm glad you brought that up. At the closing it was a simultaneous closing. As explained in the letter, both the lease -- the sale and the leaseback were signed on the same day, in 2005, same day. Simultaneous. Simultaneous transactions --

Adams: Could you offer proof they were signed on the same day?

Pinkstaff: Yes. April 29, 2005.

Adams: There's no notary on the leaseback. It's a simple piece of paper. Could have been created at anytime. Can you offer me any evidence that they occurred on the same day?

*******:** Do we have a copy of the lease agreement?

*******:** With me?

Pinkstaff: Mr. Lehne can provide, and we would ask that the matter be continued if that is an important piece for you, which it obviously is, can provide you with a copy of the lease agreement. Remember, there's two steps to this. That is the second step. First step was the addendum, where they agreed to lease back at closing, at closing is important. Means at the same time as purchased. The second event is the closing. There will be a lease agreement that we will provide you that is dated april 29, 2005 --

Adams: I can write any piece of paper I want and date it on any day I want. You have not provided the city of Portland any evidence whatsoever that the leaseback occurred on the same day.

Lehne: I suppose if you want witnesses, we can bring witnesses.

Adams: Well, I would like what is the common practice in these kinds of transactions, which is a notarized, something -- a document that is notarized. You provided us basically a two-page -- excuse me -- one blank piece of paper with two lines on it, indicating the leaseback. I'm sorry, it doesn't pass the straight face test. In business, that is not a common practice of business.

Lehne: To leaseback property?

Adams: No. To establish a lease based on two lines without any sort of evidence of what day it was actually executed, no witness, no notary, no nothing.

Pinkstaff: If I may, would it be helpful to the council if mr. Lehne provided the document -- the closing documents that showed all documents that were signed at closing, to show that they were all signed in -- were they signed in escrow? They were signed in escrow with a title company. I mean, there's really no question they were all signed the same day. You know, that's not a problem to show you that.

September 21, 2005

Adams: There's no evidence that the lease was signed in escrow. That you have presented to the city.

Pinkstaff: I think he will be able to do that for you.

Lehne: I can give you the lease and give you witnesses if that's what you choose.

Adams: You said that the --

Pinkstaff: Signed documentation.

Adams: You said that the lease was signed in escrow.

Lehne: That's correct.

Adams: Ok. Which escrow company?

Lehne: Pacific title.

Adams: All right. Show us the escrow documentation. It's very odd that Pacific -- what is it called?

Lehne: Pacific title.

Adams: It's odd that Pacific title would sign off on a lease portion of a transaction without any -- any identification on that lease that they were there to witness it, there's no notary. I think that Pacific title should be very concerned about its reputation, given the fact that this lease was done with two lines on a blank piece of paper.

Lehne: I'm sorry, sir, it wasn't. It was a very lengthy, involved lease. You don't have a copy of the lease. What you have is a copy of the addendum to the earnest money agreement that gives me the right to lease that property back at closing.

Pinkstaff: I think what Mr. Lehne is emphasizing is that the two lines that you're referring to say that at closing of the sale on terms to be further outlined in the lease agreement, and that is the second event, the capital I lease, capital A agreement, which have been signed at closing, and we can provide that and will do so. I don't know, do you have any other questions in that regard?

Adams: I think that's -- Mr. Mayor, I think that's a key point here, and staff has sought for -- staff has sought for months to, you know, to acquire a full record of the proceedings of this transaction, and I guess I'm a little concerned that we're here before the city council in official meeting and staff hasn't been provided all the information in which to make a fair and accurate recommendation on your claim.

Pinkstaff: If I may, the staff report, I received it last week, late last week. The attorney that had been helping Mr. Lehne was called away on other business. I picked this up. That's the first time we saw this paragraph in the staff report. I believe the staff report is dated for today, the 21st, but it just came out, and they said there was a break in the ownership. I believe it was based on -- first of all, there was a question whether a leasehold was an interest. I believe they went to the city attorney, and the city attorney came back and said, yes, a leasehold is an interest in property. And then they said, however, there's been -- looks like there may have been a break, and that's when it showed up in the staff report. We have not had months to react to this issue. And we would request additional time to provide the information that you -- that you seek.

Potter: I would also -- why don't you go ahead and continue, because I'd like to get the staff's -- the city attorney's feedback on the bundle sticks.

Pinkstaff: Ok, yes. And I have, before this matter came before you, I briefly spoke with the city attorney. She has a copy of our letter, so -- to continue, the first reason that we believe the staff was wrong was that they -- the addendum actually created a right to a leaseback. That preceded, retaining an interest, and that preceded the closing. The second is that at the time of the closing, it was a simultaneous closing of the lease agreement, and the sale agreement, not one before the other, at the same time. These are common in 1031. For instance, transactions people sell, take back replacement property, sale-leaseback, happens all the time. There's not a gap. That's all I have.

Potter: I just have a question as a layperson.

*****: Yes.

September 21, 2005

Potter: It seems like that -- well, you describe a simultaneous event, is that one does have to happen before the other. You can't lease back something you don't own, can you?

Pinkstaff: I understand that that's the terminology, however if you think about -- that is true. You cannot lease back something that you don't -- that you don't own -- or excuse me that you own. However, if you think about the lease as being retaining a stick, retaining an interest, at no time at all, at anytime did mr. Lehne ever lack an interest, did he ever lack a stick, because he had the prior right to get the leaseback in 2004. There might be an argument that if he hadn't had -- if it had been an afterthought, hadn't had a previous agreement to lease the property back, that maybe there was a gap. It happened on a different date or something like that. But this is very fact specific. We have an agreement to lease back. You sell property to me, you retain the right to lease back, i'll bet you if somebody said, "do you still have interest in the property?" you would say, "yeah, I have a right to lease it back." that's an interest in the property. You've not let go of that. Even a theoretical gap, you still retain that right to lease the property back. That's what connects you to the property. The fact that he has the right to use it and possess it demonstrates he never lost it.

Potter: Any other questions?

Adams: So your answer to the mayor's question was, the premise of his question was correct, that you can't -- I can't lease you my property unless I own it, right?

Pinkstaff: It's a simultaneous event.

Adams: It's a simultaneous event?

Pinkstaff: As soon as I own it, then I can lease it back to you. I can't lease it back to you until I own it. I mean, they are together. I'm not selling it to you. You're not -- i'm not selling it to you until I have the assurance I can get it right back.

Potter: You might have that assurance, but you can't do it until you own it. So you can have all the assurances in the world, but until that transaction occurs, which is the first event, then you can't complete the second event.

Pinkstaff: Well, I guess I have to defer -- you know, kind of rely on my legal training and my understanding of property and real property interests and simultaneous closings to tell you that it -- maybe a similar analogy would be, two person shaking hands, one person has to put their hand out first before you can shake their hand. Was it -- you can't shake a hand that hasn't been put out there to shake. I mean, they're the same --

Potter: I think that's an excellent point. Someone has to put out their hand. That's the first event. The second event, someone else puts out their hand. I'm not sure I see your analogy sir but why don't we move on now.

Pinkerstaff: I'd like to have mr. Lehne explain the property.

Potter: Ok.

Lehne: As long as we're on that subject, the simultaneous closings have been going on for years, and they're not unusual and they're recognized by the federal government and the i.r.s. This is not something that just happened. So, you know, we can probably debate the microsecond of change, but the fact is that the federal government recognizes it, and I don't think there's any other issue in this particular instance. I had quite a bit scheduled to talk to you about with regard to the property, although I don't know how much of it's relevant at this point. The property under discussion for the measure 37 claim is our original 2.73 acres our family home. We owned the property 28 years, as you found out earlier, and there's not now, nor has there ever been, a wetland or water of any kind on the property. This is attested to by the hearings officer's finding that no stream, seeps or springs have been identified within this site. That's on page 12, the decision of the hearings officer. There's no fish, no frogs, no endangered species on the site. Small part of the southwest corner have a few trees, most of which -- most of that area under c zone is insignificant brush and blackberries. The parcel is nearly a mile from johnson creek by way of the drainage system there. The closest water of any kind is a drainage ditch over 300 feet away from my west line where the conservation zone

September 21, 2005

ends. The 300 feet is -- in the 300 feet there's an open break in the canopy, so it's not contiguous to the drainage ditch. And this area has my neighbor's home and barn and open landscaped area. The drainage ditch runs opposite their home away from me to the west and continues north and west away from my property as well. So it gets further away. So initially my land didn't meet the criteria to begin with. We applied for a map correction, which was denied, and during that process two planning staff members came out to the home and did an onsite inspection and they admitted at the time that there was minimal riparian value to the property and that there was a break in the tree line and it was over 300 feet away, and if we had time i'd show you video of their -- their visit to my home that's seven minutes long. We don't have enough time to do that, so -- the staff indicated they needed to do an reevaluation of the riparian resources and of that 300-foot break, and they also indicated in this video that -- that much of this was political and -- in terms -- and policy decisions - - in terms of where these lines are drawn. The conservation overlay zone on this property diminishes the value to near zero due to its restrictive nature in the zoning code which causes significant economic loss to us. Measure 37 was passed by a large margin of the voters for this type of property, taking without just compensation. The ownership question we've already kicked around. I repeat myself, that the federal government involves -- recognizes simultaneous closings and this is no different. We all sat around the same table, passed papers around. We might have signed the lease first. I don't know. We passed papers in a big circle and everybody signed. So it's possible the lease got signed first. Is that legal? I don't know. Simultaneous.

Adams: May I interrupt for a clarifying question? You're saying that the video shows city staff saying that the environmental zone designation is political?

Lehne: There's a reference to that in that video, that's right.

Adams: We might not have time --

*******:** Political and policy. So the --

Adams: That's a big distinction.

Lehne: Well, they said it in the same breath. If you'd like to see it, you're welcome to it. It's your call.

Adams: I'd like to see it later if we don't have time today.

Lehne: There's been a new appraisal completed on the property, so now the values we're talking about are not \$185,000 anymore, but \$125,000 to \$150,000. Those are copies of those available if - - although there's not sufficient copies at this point, but there's three of them if somebody wants a copy of it. So, let's see, I guess the summation is that the property should have never had a conservation zone on it to begin with. It doesn't affect johnson creek. It doesn't affect the trees in -- I mean the water that's going down the drainage ditch or the fish that are at the end of the mile run. With the few trees that are there and the rest of the brush and blackberries, it seems hardly worth the effort of this council and all of the planning time that's been spent on this to -- to keep this a -- a conservation zone of which I seriously doubt anybody will ever maintain a 21,000-foot tract. It will wind up to be wild blackberries and brush, worse than it is today. Questions? Excuse me, I wanted to add something.

Saltzman: This limited appraisal you gave us --

Lehne: That's right.

Saltzman: -- was done by?

Lehne: Me.

Saltzman: It's an updated appraisal of your own property?

Lehne: That's correct. I am a qualified licensed appraiser, 30 years.

Saltzman: Right, but don't -- aren't there some standards of etiquette that would prohibit somebody from appraising their own property?

Lehne: This is a limited report for informational purposes. And i'm perfectly within the legal bounds of the real estate community to do that, sir.

September 21, 2005

Potter: I can see why the price of housing is going up so fast, then.

Lehne: Yes, sir. Exactly right.

Potter: Ok. Please proceed, sir.

Lehne: The final comment I was going to make, that at no time had my wife and I had any intent of relinquishing all of our interest in that property, knowing full well that measure 37 was -- was passed and was about to -- was going to take effect, and that was one of the requirements. So we purposely set this up so we were not going to ever have less -- were not going to have -- we purposely set this up so that we would always have some interest in that property in accordance with measure 37, but had to move on with what our plans were.

Potter: And was this, then, your way -- did you seek legal advice on this beforehand.

Lehne: Yes.

Potter: Was this your way to try to subvert the measure 37?

Lehne: It's not subversion at all, sir.

Potter: What was it?

Lehne: It's retaining an interest so I could file a measure 37 claim. It's unjust taking of my property to begin with.

Potter: Did you have anything else, sir?

Lehne: No. any questions?

Potter: Any commissioners wish to speak in i'd like to call back up the city attorney's office, please. Thank you very much.

Adams: Thank you.

Lehne: We're quite happy to provide the evidence that you're looking for.

Potter: Ok.

Lehne: In terms of --

Potter: And we would also like a copy of the video, if possible.

Lehne: Ok.

Kathryn Beaumont, Office of the City Attorney: Mayor Potter, I understand there's one person who signed up to testify. Do you want to hear that testimony first?

Potter: Yes, let's go ahead, as long as they're here.

Moore: We have dean grudzinski.

Potter: Sir, please state your name when you testify. You have three minutes.

*******:** State my name and what?

Potter: State your name and you have three minutes.

Dean Grudzinski: My name is dean grudzinski. And I just wanted to bring something to the council's attention on the c zones, how -- i've always wondered how they came into existence, and I was involved in the healthy streams initiative, because I have property that -- that is affected by the c zones and p zones.

Potter: Sir, is this specific to this particular issue or is this just a general question?

Grudzinski: Just a general question.

Potter: Ok. But this doesn't really pertain to this property, nor to this hearing?

*******:** Umm --

Potter: So if you wish --

Grudzinski: I have a comment about this hearing, though -- or about this situation. What -- what - what failed to come up in this conversation was that the term "condition of sale" should have been inserted in this conversation, because if the seller -- the seller will only sell if he can retain a lease on it. And you were talking about the handshake. Ok, now, he should have stated that the only condition that he would sell is if he can retain a lease. And so that lease was part of the agreement to sell.

September 21, 2005

Adams: We're just asking for some sort of evidence of that, which has not been provided to our satisfaction to date.

Grudzinski: Yes, but the seller would not be a willing seller unless --

Adams: We just want evidence of that.

Potter: Are you an attorney, sir?

Grudzinski: No, i'm not.

Potter: Ok. We're going to ask our attorneys for their legal opinion on that.

Grudzinski: Ok. What I wanted to comment on was how -- how -- how the city of Portland came across setting up these minimums and -- minimums and maximum widths. And if the city would do some research, these c zones were basically pulled out of the sky. There's no -- there's no -- what i'm trying to say there's no scientific data to support the enforcement of these zones, and the city has been called on a couple of times to supply this information. And the city has none. And that's been proven by fish and environmental, that the city has misused information. Basically -- basically the city took information from metro's goal five plan and just duplicated that, although --

Potter: Sir, we're here to hear this particular appeal. If you wish, you could put your request in writing to me and i'll make sure it gets to the proper person to respond to you.

Grudzinski: You have not returned my calls or letters or my requests.

Potter: You write a letter to me, i'll make sure it's responded to.

Grudzinski: Ok. Thank you. Thank you.

Potter: Now could the staff please come back?

Beaumont: Mayor Potter, before I address your questions, I do want to point out one thing. The addendum to the purchase agreement that's attached to mr. Pinkstaff's letter actually doesn't refer to the property that's the subject of the claim. The property identified in this addendum to the purchase agreement is 3.16 acres at 7845 southeast 162nd avenue. That's the property to the north and not the property included in the claim. The claim property is located at 7915 southeast 162nd avenue. So I don't understand what relevance this addendum to the purchase agreement has to this particular claim. Mr. Pinkstaff did give me a copy of this letter at the beginning of the hearing. I have had a chance to read through it once. I'm not prepared to address it specifically. I don't see anything in this letter that would suggest to me any revision to the staff's conclusion. It appears to me that what happened was mr. Lehne held all the bundle of sticks until april 29, 2005. He gave all those sticks to mr. Thompson. Mr. Thompson gave him back one, which is the leasehold interest. If mr. Lehne had intended to retain a continuous ownership interest in tracts a and b there are ways to have structured the transaction where he could have done that. He could have sold all the property to mr. Thompson and retained ownership of tracts a and b just as he retained ownership of the lot that his house sits on. Or he could have retained a percentage ownership interest in the whole property that was sold to mr. Thompson, which would have given him a continuous and uninterrupted property interest. The fact that the federal government recognizes simultaneous sales and leasebacks for tax purposes really is not particularly relevant, or is not necessarily relevant to measure 37. Measure 37 is its own animal. This is somewhat uncharted territory, but it does indicate that if an owner is entitled to a waiver it's a waiver back to the date they first acquired their ownership interest, and it's our position that mr. lahne gave up his ownership interest and reacquired an ownership interest through the leasehold and that the waiver date would be april 29, 2005, a time when the environmental zoning regulations were on place on the property.

Potter: So talk to us about the bundle theory. Did your professor tell you the same thing?

Beaumont: Yes. It's an analogy used a lot in old case law. They describe property ownership as a bundle of sticks. And it's used -- it's a reference used quite a bit in taking law to describe -- it's used in taking cases to describe when the government requires you to give up a piece of your property, they are taking or inpairing some of your bundle of sticks. It's a visual representation of something that's a little more difficult to picture. Let's see, i've been handed an addendum to the purchase

September 21, 2005

agreement for the property that was the subject of the claim. Its terms are not the same as the addendum that's attached to the letter. This addendum says nothing about any leaseback or agreement to lease back the property. It simply says -- it extends the transaction closing date and says all other terms and conditions remain the same. So it does not appear to be the same as the addendum -- the incorrect addendum that was attached to mr. Pinkstaff's letter.

Potter: We don't have that particular document.

Beaumont: I was just handed this copy.

Potter: I saw the transaction. Could we get a copy of that? Do you have copies available, sir?

*******:** There's two of them. One for each property. You have the one for the north property rather than the south property.

Beaumont: If you have any other questions, we're prepared to answer them. Chris, do you have anything?

Dearth: Well, the only other point I would make is before he sold the property mr. Lehne applied for a land division, he requested 31 lots, as you saw on the land division map -- 21, i'm sorry, excuse me. He could have requested 22. He requested 21 and was granted the 21 that he asked for.

Potter: Ok, thank you.

Adams: For those of you that might be seeing a city council about measure 37 hearing for the first time, this city council has approved ballot measure 37 claims before. And we hear each one based on the merits and based on the criteria within the ballot measure 37 law.

Potter: Does the --

Lehne: Mr. Mayor, if I may?

Potter: Yes. So the addendum filed by the attorney is not the correct addendum?

Lehne: There's two parcels of property, sir. One to the north and one [inaudible] to the south. They gave you the wrong one attached to the letter. This is the correct one.

Potter: Yes. Would you please make copies.

Lehne: Staff's indication that we only applied for 21 lots is incorrect. We applied for 22, which we're entitled to, but we couldn't do it with the requirement for a road and the conservation zone. The cross road, the dead end road.

Potter: Does the city attorney wish to respond to the -- have you seen this latest one? I'm ready to vote. Are you folks? Are you ready to vote? As soon as we get the document, then we'll go ahead and vote on the matter. Is a copy being made?

Adams: Copies are being made.

Moore: They're being made.

Adams: Thank you.

Potter: Does the city attorney wish to comment on this?

Beaumont: The terms of this document are -- looks like these terms are the same as the document that was attached to the letter for the northern property. It simply makes a change in the offer, saying that the buyer agrees to lease back the property on terms to be further outlined in a lease agreement. It seems to me it -- at most it creates some kind of change to the offer or to the contract and creates another enforceable contract term. I don't know that it gives mr. Lehne any separate or different interest in the property, because at the time this was executed he held all interest there was to have in the property, which is full title and full ownership. So I don't think it changes the terms of our analysis.

Potter: And does your recommendation still stand?

Beaumont: Yes.

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

Saltzman: Do we have a motion?

September 21, 2005

Potter: Oh, we need a motion, don't we? Excuse me. Is there a motion to accept the recommendation of the staff report?

Adams: So moved.

Saltzman: Second.

Potter: Karla, please call the roll.

Adams: Aye.

Leonard: Aye.

Saltzman: Aye.

Potter: Aye. [gavel pounded] we're going to move to the regular agenda. And actually we're going to hear the pulled item first. 1118 i'll turn it over to commissioner Saltzman.

Item 1118.

Saltzman: Thank you, mr. Mayor. This item has been requested to be pulled from the consent council. It's an agenda item that would purchase a to park in the south waterfront area, and this was mandated in the southwest -- or in the south waterfront development agreement, that the city council adopted in the summer of 2003, and Portlanders value open spaces and sparks in the city, and it would require a development charge that goes into a fund that helps us acquire new parks, and they have to be acquired within a certain geographic area from which those system development charges are derived. Parks will utilize \$1.8 million toward the purchase price for these two blocks of park property, and the rest of the money will be coming from the p.d.c. Through tax increment money. And I believe that this is a -- a good project, it's a new park that -- one of my priorities as parks commissioner is to make sure we're acquiring land for new parks in every situation we can, even if we can't afford to operate them right now, we need to acquire the land. My other priority is to tackle our deferred maintenance backlog. I don't know whether the person who pulled it comes up. We have two people from parks and p.d.c. Respectively that can make a quick presentation. I know we have chet orloff, one of the citizens on our parks board who would also like to testify. Why don't we go with janet and larry first.

Moore: I need to read the item.

Saltzman: Oh, sorry.

Moore: Item 1118.

Potter: Thank you folks for being here. Please state your name when you speak.

Janet Bebb: I'm janet bebb, strategic projects manager for Portland parks. I'm here standing in for riley whitcomb, our sdc manager and the person who put this ordinance before you. He's on vacation today and I will cover the territory for him.

Larry Brown: My name is larry brown, the manager of the urban renewal district - north macadam urban renewal district for the Portland development commission.

Bebb: I'll start off with a brief background on this and keep my marks brief so that there's plenty of time for testimony and discussion from council. We began planning for parks in this district as early as 1997 and 1998. It involved active participation from a citizens committee. This citizen committee kept with us in various forms through 2003 when we had the adoptive plan. The neighborhood park concept was one that was of utmost importance to the citizens, and as you know we have a prominent willamette greenway trail that runs through this district. That is viewed as an excellent connector to the river, a natural resource area, and has, shall we say, through movement and connections as its main attribute. A neighborhood park was viewed by the citizen committee and by bureau of planning and parks as something that creates identity and a gathering place for the new population of this district. So our planning looked at the projected 10,000 jobs and 5,000 housing units and said, if we were to create parks space at the same level of service as we do in other parts of the city what would it be? That was the inspiration for really saying we need a neighborhood park. Our first work said it needed to be three acres. Due to the tremendous pressure on property owners and the price of property here, we said we can do it in two acres. And so

September 21, 2005

throughout that planning period, the location of this park, central to the district was drawn on a couple of maps in a couple of locations. the public storage site became the opportunity site. It met the criteria set forth by the citizens in our planning effort. So that's something about the planning background. And the importance to the district. The other point is, just a general point I wanted to make, of how do we fund new parks? And until rather recently our funding sources included general fund for acquisition. It included any grants that we might be successful in securing, and any partnerships. And again, any major bond measures that we had approved. That's still true. Those are the mechanisms to acquire parks in much of the city. But more recently we have two other opportunities. One is the urban renewal district where parks are viewed as essential infrastructure for the livability of our city. And secondly, since 1998 we've had the opportunity to use s.d.c., system development charge funds as a mechanism to allow us to keep up with growth. I want to emphasize that s.d.c. Funds are only allowable for us to spend on areas in growth. Within the s.d.c. Program, we have received revenues from housing, new housing development, since 1998, and the methodology approved by council.

Potter: Excuse me, but could someone please turn off their cellphone? Continue.

Bebbs: The methodology establishes that revenues received need to be divided into two aspects. One is for citywide issues on our various park components, including natural area, trail acquisition, etc. So monies received from south waterfront will feed -- a certain proportion will feed a citywide area. The other is the central city northwest subarea. That money needs to be targeted toward neighborhood parks. If you're following me on this, the citywide portion can't be spent on the neighborhood portion. It needs to be used for natural areas, regionalwide resources, such as trails. I wanted to stress this, because we are looking at taking 1 million from the central city northwest subarea to go toward the purchase of this park and then \$800,000 directly from the revenues anticipated to be derived from the central district within south waterfront for the purpose of the park. So I wanted to emphasize that so that you understand a bit about the program and the appropriateness of what we're proposing today. As commissioner Saltzman, we are very cognizant of the importance of securing funds. When we reviewed this topic with the -- with o.m.f., p.d.c. Projects were -- we were advised to proceed with them conditionally, because of the economic and development advantage that our parks give our redevelopment areas. That is to say that when this park -- when funds are available to actually develop it, and we know what it's going to cost to maintain it, we anticipate this to be within probably three or four years, we will come to council in the budget process to allocate funds for this. So I wanted to clarify that. I'll turn it over to Larry now to talk about the acquisition.

Larry Brown, Portland Parks, Manager Urban Renewal District: Thank you, Janet. I should say first that we're actually very excited, and I think the park bureau is as well, that we finally have title to a substantial amount of land for a neighborhood park development and open space for the many residents that will be living there in the future, as well as to serve the -- the Lair Hill and Corbett Terwilliger neighborhood as well, where we've recently received a grant from the federal government to provide a pedestrian connection and bridge to that neighborhood, which will help give them access both to the waterfront and this new park. The acquisition of this park space is really the first of acquisitions that we've been able to do under the urban renewal program in the area, and was in fact our first priority for the use of both the tax increment funds that we hope to have available, as well as other city funds. So this is really the beginning of more work that we hope to do and more expansion of the open space. But this is a very difficult acquisition. We had hoped to obviously acquire this through a voluntary process that was necessary to pursue a condemnation in this case. We did settle at a purchase price with the landowner of \$7 million, which was more than either the park bureau or ourselves had hoped to spend on this property. We have additional obligations, too, which for relocation of the existing tenants there, the business, the cellphone tower, and environmental cleanup before we can proceed with park design and

September 21, 2005

construction. So the \$7 million that we're currently talking about really is a part of the total obligation that we're assuming and our environmental cleanup costs and relocation will be adding to that amount. So the partnership we have with the city and park bureau in helping to fund this first major acquisition for parks and open space is -- is very important to us. Thank you. Any questions?

Saltzman: Could we also have chet orloff, chair of the parks board, just say a few words? I know he has to leave shortly.

Chet Orloff, President, Parks Board: Good morning, members of the council. I'm chet orloff, the president of the parks board. I'm not going to tax you with the details of very technical and complex details of the s.d.c.'s and the way this -- these parks are going to be purchased and developed, and then most importantly operated and managed in the future. All I can do is commit to you that the parks board will oversee the parks bureau in developing plans and oversight on that process. What i'm here to do, to commit to you today, as the new chair of the parks board is two things. One, that in the future, when the bureau and the city develop the budget and the priorities that -- that direct that budget for the parks bureau, for the city's parks, that it will be done in a much more public process, as the mayor, I think, has -- has asked, not commanded us to do, and i'm fully committed to doing that, which will change the -- the way the city park board operates. You'll be hearing more about that. I'll be meeting with each of you to tell you important about that in the future. This will also, secondly, involve us in a much more public process in terms of meetings, park board meetings, and budget preparatory and advisory meetings in the future. With s.d.c.'s, with levies, with general fund appropriations, this city, as we know, has a relatively complex way in which it provides funding for its parks. I think we'd all be foolish if we thought it would be much more simply -- done much more simply had future burke that is certainly is a goal. I would add a third element to my charge as the new parks board chair, i'm going to be looking into and exploring with park board members, with yourselves and others around the country, new mechanisms for funding the city's parks. Right now I think we're laboring under a way of funding that simply is unworkable in the long term. I think we need to revise that process and I look forward to reporting to you on my progress over the next year. Thank you very much.

Adams: Thank you.

*******:** And my compliments for your work. I appreciate what you're doing.

Adams: Could I ask a question of this panel?

Potter: Yes.

Adams: I think an obvious question is, in terms of the source of the money to acquire the park land, why tax increment is not being used.

Brown: Commissioner, tax increment is being used for the acquisition. We're only looking to --

Adams: For the 1.8.

Brown: -- 1.8 of that total.

Adams: Why isn't tax increment being used for the 1.8?

Brown: For all of it?

Adams: Yeah.

Brown: We have an agreement with the park bureau where we'd be partnering on this acquisition. We currently do not have a large stream of funds coming from the tax increment district. As you know, we're currently borrowing from the city and encouraging -- incurring some substantial debts in order to move ahead with projects like this, but recognizing that this district will still not have substantial resources for some time, the earlier agreements that we have with the city is for a partnership and the initial acquisition -- in the initial acquisition of this park.

Adams: I think these are the obvious questions, I want to air them out. why wouldn't this be a loan instead of a grant? Since you're going to have tax increment coming on later.

September 21, 2005

Brown: Agreement made with the city was it would be a direct contribution, not a loan. That agreement has been -- is in our history right now. We could go back -- I don't know if it's productive to go back and say what should we have done at that time, but at the moment we don't have sufficient funds to complete the acquisition, the environmental cleanup, and the early work on this park improvement.

Bebbs: Maybe I could add something to that.

Adams: Sure.

Bebbs: This is a topic we discussed for many, many years, and we have joined together with p.d.c. In saying that tax increment funds are appropriate to support the open space network along with the roads and the other infrastructure items in the district. This district, from where I view it, has a heavy burden of infrastructure based on the growth. We were convinced, and I know that zari was convinced that the goal for open space could not be met solely by tax increment, and that the use of s.d.c. Funds, insofar as it's a mechanism targeting for growth and development, was an appropriate one to supplement, and our feeling was strong that the clear majority of funds needed to come from tax increment, but that some contribution from s.d.c.'s were appropriate. We also instituted the open space fund, which is sort of an innovative funding source. Developers can buy additional height and density by paying more dollars into an open space fund, and that fund will also be dedicated to the open space. So we've got a couple mechanisms going, tied to growth, and as a supplement to tax increment based on the statements that the infrastructure needs in this area are too great for tax increment to bear the whole burden of open space.

Adams: So a couple of other quick questions that have come across in emails from constituents. I just want to get them out there. One is, does this take -- there's a concern that a portion of the 1.8 takes away from other park needs in the s.d.c.-defined area. We have, you know, o'bryant square, which continues to be a park disaster. We've got a lack of parks in northwest Portland. I'd like to hear your response to that.

Bebbs: It does in that the million identified from the subarea, central city and northwest, will diminish the funds in that subarea. Subsequently the south waterfront area will build up the funds, both in the subarea and in the district. So in one sense this is a timing issue. Whether it pays back exactly the million or not I can't speak to, but if north macadam area becomes the financial engine that we project it will be, it will pay into those funds. I would mention on o'bryant specifically, that's in another urban renewal area, and so we are able to draw on urban renewal funds, and right now that is the source that we're planning to use for renovation along with the levy funds. So you're right, it does diminish the subarea funds that are targeted for neighborhood parks. Please note that they're not available for use in any of the neighborhoods that are not growth areas. So they're not -- we cannot use that pot of money unless we show that there's strong growth in the area. That's set out in the methodology. There's restrictions on where we can use it.

Adams: Sure. But northwest, I mean council approved a tower on 24th. There's significant additional units going in on the north side of northwest flats.

Bebbs: Right.

Adams: Maybe it hasn't shown up yet on the books, but driving around the neighborhood it hopefully will show up.

Bebbs: And we're interested in pursuing park acquisition in the northwest area. We are slightly hampered because if an area is deficient in parks, we are not allowed to use s.d.c. funds. Let me just say that again, the s.d.c. methodology tells us that money derived from new housing starts needs to be used for growth only. If we've identified an area as deficient in parks, the methodology actually forbids us --

Adams: Why would it do that?

September 21, 2005

Bebbs: Because the new developer -- the methodology suggests that developers are responsible for their impacts. They're not responsible for deficits that the city has already in place. So it's a bit counterintuitive.

Adams: A bit.

Bebbs: But I'm sorry, that's how it is. So what we do is, we do target those s.d.c. funds in areas where we show growth and we're watching growth very carefully. When we can show growth, we're there.

Adams: Growth is defined I think as new housing.

Bebbs: Correct.

Adams: So I just want to clarify, because you got me confused on that last point.

Bebbs: I'm sorry.

Adams: And jump in, commissioner Saltzman, if I'm making things worse in terms of clarity. The new units that are going into the northwest flats area, not the pearl district, not old town/chinatown, they will chip in for parks s.d.c.'s.

Bebbs: Right.

Adams: That money will be spent in the central city northwest s.d.c. area, correct?

Bebbs: Right.

Adams: The money specifically from the units in the northwest flats area, the alphabet area, is not - is not prohibited, double negative -- is not prohibited from being spent in the alphabet district area, true or false?

Bebbs: If that area has been mapped as a deficient area, we need to use other funding sources. If we can show both growth and as the primary objective that we're trying to fulfill, then we're allowed to use the funds in that area.

Adams: But if you have new growth in a part of an s.d.c. Area that is already deficient, common sense would dictate it's going to become more deficient.

Bebbs: It would. I may need to refer you to the method done on this and to Riley Whitcomb, the specialist. It's a conundrum we face. When looking at park needs, we try and make the case that it's a growth area.

Adams: And if commissioner Saltzman, the commissioner in charge of parks, maybe if you could look into this, because it seems to me when you have growth in a park deficient area, you're making it more deficient. And if our bureaucracy, if our language, if our policy doesn't address that real world on the ground reality, then I would suggest we need to look at the policy.

Bebbs: Right. I would just suggest that the -- from a homebuilders association or a home -- a developer's perspective, they do not feel the burden of making up deficiencies that are pre-existing in the system. Themselves the burden of contributing towards growth. So that's their perspective.

Adams: Do you understand my point, though?

Bebbs: I do, uh-huh.

Adams: Then just the last obvious question. You touched on it a little bit, but the operating and maintenance costs, during the budgeting process, we say we need to stop making this problem worse, the \$880 million deficit that the city faces in the general funds operations. Can you respond to the concern that this makes it worse for parks?

Bebbs: I think it does. And the answer that I have based on o.m.f.'s direction to us, we're charged with keeping up with growth, providing public facilities that not only keep up with growth, but in this case enhance economic development. And so their direction to us was to proceed on urban renewal parks and to bring them forward on a case-by-case basis.

Brown: Commissioner, I'd like to also point out that the park bureau and p.d.c. are also leading an effort with the property owners in the area to look at alternatives to fulfill city obligation for o&m in the parks being developed, particularly the greenway development itself. So there are a lot of people with those strong interests in making sure that we have a quality maintenance and

September 21, 2005

preservation of the park investments that we're making, and those conversations and that planning work with the private development community and the property owners is under way at this time.

Adams: So to translate, it is your goal that the o&m costs be covered to the extent that we can negotiate them in the public/private development agreements with the developers?

Brown: That would be a specific way of dealing with it, but certainly we're exploring ways that we can in fact bring them into the equation of how we deal with additional park o&m obligations in the future, because we recognize the burden that it does place on the general fund.

Adams: Would it be fair to summarize your response to my summation as yes?

Brown: Yes.

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

Adams: Thank you. I appreciate your willingness to answer my questions.

Saltzman: So the s.d.c. methodology is set forth by state statute, isn't it?

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

Saltzman: We don't have a lot of latitude on these issues.

Adams: We need to change that.

Saltzman: With respect to the o&m costs, it's my belief we do face these problems of finding the o&m costs to pay for new parks, but I also believe that part of our exercise here is to maintain the legacy of a strong parks system set forward by visionaries long before us, and that if we knew how we were going -- if we never acted until we knew how we were going to pay for something, we wouldn't have neighborhood parks, wouldn't have a Portland streetcar, for instance. So part of the job up here is to be balancing vision with budget realities. I think, as I said, my priority is to acquire new lands, and if we can't afford to operate them now, land bank them, and that's exactly what we'll do until we figure out how to pay for the operations of this new park.

Potter: I might suggest, when these new parks come up, in addition to developers, when the community comes in to that area to perhaps set down a partnership agreement with the community so that they can help be stewards of that land.

Adams: And I would just note a suggestion for the parks bureau that in our next state legislative package that we raise the issue. I'm not sure that the development community would object to having the flexibility to address the park deficiency issues in northwest Portland. I think that's something that we could talk to them about and could potentially get changes in the state law, and would just ask you to bring that up when we put together a package for the state legislature.

Brown: We'd be happy to look at that.

Adams: Thank you.

Potter: Other questions? Thank you.

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

Potter: Did you have other people to call? I know there's a sign-up list.

Saltzman: Barbara walker and amanda fritz. There's a sign-up list, but --

Moore: We didn't have a sign-up sheet set out for public testimony.

*******:** But I came down, because I was requested to come down. And so I would like --

Potter: Excuse me.

Barbara Walker: Barbara walker, 1891 southwest hawthorne terrace, 97201.

Adams: Welcome.

Walker: Thank you. I would like very much to have the opportunity to address sam Adams' question at the end of this testimony if he wants to ask me, but I don't want to take my three minutes to do it. Since 1905, every neighborhood park -- every neighborhood was to have its neighborhood park. It was a legacy which made Portland inner city truly livable and appealing to this day. Sadly the council has not, and in many years, has not been able to fund -- to budget funds to develop or acquire parks for far too long. No one denies this. However to accommodate growth in a sustainable manner the city council decided that it would like to be able to put in newer, denser

September 21, 2005

neighborhoods. To do this, so that they're not plunked down in the middle of other neighborhoods, is a big trick. Hence, the south waterfront is to house 10,000 residents and 5,000 workers. It's an unprecedented opportunity for sustainable development. Thanks to all these methods we've talked about and working together, we have a tram and a streetcar to connect these neighborhoods -- this neighborhood to city hall, to the medical school, and adjacently to downtown. City hall has been neighborhood deficient for far too long. I've worked for 10 years, until my stroke, on every single committee. I worked on the s.d.c. as well as other things. I can tell you, I've never been through something that had so many different committees composed of so many different representatives who all were charged with figuring out how to include parks within the system and the greenway within the system which was already overtaxed for brownfields, for transportation, for basic infrastructure, which exists in most new development. It isn't there. It is unconscionable in my opinion to believe a neighborhood of that density without a neighborhood park. It is -- still we recognize these needs and we recognize that the city council and the park bureau did not have the funds to just promise one. So we worked and worked to decide where it would be, how large it would be, what would be the best time to acquire it. The most unanimous decision throughout that 10 years was acquire the land for the neighborhood park before the inflation that the improvements in that neighborhood will make it impossible to get and before no one will be able to find two to three acres of vacant land. We've compromised on other things. We can't compromise on this. Now, may I please ask Sam Adams to ask me the s.d.c. Question.

Adams: Barbara, would you answer any of the questions that I asked earlier?

Walker: Ok. What I would dearly like to address is the overall reason that you said it's not counterintuitive for why s.d.c. funds are limited the way they are limited. The idea was that the city in general does not want to pay for something in new growth when it has not yet been able to afford what it needs and has been deficient for a long time. The new people coming in do not want to pay for all of the deficiencies. And so it was a very logical choice to say, a certain amount must be taken care of by the existing city or neighborhoods and the new growth must be taken care of by the new people. And the funds developed for that must be spent within the area in which that growth is occurring. I would say to you I'm a big proponent of the northwest. There is no doubt that that neighborhood is going to grow -- continue to grow with the success that south waterfront has. I believe we should look for northwest funds from the northwest district. I believe we should look for the southwest from this. And I hope that we can in the future work out if these are -- and we all know it's unsatisfactory, this financing for parks, it's good. I only thank you for caring enough to look at the details and still want a neighborhood park. Thank you very much.

Adams: Thanks.

Potter: Ms. Walker, before you go, I want to say, thank you for your years of devotion to our park system. I rate you up with the Olmstead brothers. I've known you for 30 years, and I admire you so much, and I --

Walker: Thank you so much. I had to drop off everything with my stroke a couple years ago, and --

Potter: It hasn't affected your thinking, I can tell you that.

Saltzman: There's a sign-up list.

Moore: I didn't have a sign-up sheet, but I know there's people here to talk.

Amanda Fritz: Good morning. I'm Amanda Fritz. I'm -- up until this month, I was the chair of the citywide parks team. With me is the new chair of the citywide parks team. I pulled this item off the consent agenda --

*******:** We pulled it off.

Fritz: We. I made the phone call. We pulled this item off the consent agenda, first of all, because parks purchases should not be on the consent agenda, they should be a cause for great celebration and recognition of the staff and community members that made it happen. I personally worked very

September 21, 2005

hard for this particular property to be -- well, not the particular property, but for the park to be included in the north macadam plan that came from the planning commission. It was supposed to be a four-acre park. I'm disappointed to hear that it's only two now. Secondly, an expenditure of \$7 million, including \$1 million from outside the district, should not be on the consent agenda. I would like to hear some more information about why we're paying \$7 million when the property is assessed at \$2.2 million. I do support much of the property. I agree that we need to buy properties before they get more expensive, however I disagree with the funding mechanism. I agree with commissioner Adams that -- well, he suggested that we should borrow the s.d.c. Money from northwest if necessary. The city completed the development agreement without input from the community after all the process at council, so the fact that the Portland development commission and parks commission made an agreement, this is the first opportunity i've had to say that I think that that agreement is incorrect, that it's not a good idea to take \$1 million from a place that has a lot of growth already occurring, has tens of thousands of residents in a Portland area currently parks deficient, adding more, has a lot of section 8 housing there, a lot of affordable housing there already, why would we take that million dollars and not construct a facility -- purchase the land in northwest that also is not getting any less expensive. Systems development charges funds are used to purchase properties in parks deficient neighborhood. The holly farm park is a good example in my neighborhood. Where there's growth and ways do the reports to show that we're matching the funds, but you can use system development charges in existing neighborhoods to purchase acquisition. I'm very pleased to see the city taking responsibility for the operations and maintenance, and I would encourage you to rethink your policy. It's simply inequitable to expect people who have been living in parks deficient areas to have to fund the operations and maintenance when they've been paying property taxes like everybody else. If you move heaven and earth to get a property purchased and pulled into the parks system, it becomes a city responsibility. Again, in summary, I would urge you to certainly make sure that this property is purchased, but try to find a way. Maybe you could reevaluate, since you're no longer giving tax abatement to the trammell crow property, there's a lot of money in south waterfront you weren't budgeting going to tax abatements. Perhaps you could use that to fund this park instead.

Linda Robinson: I'm linda robinson. As she mentioned, starting october 1 I will be the chair of the citywide Portland parks team, a group of neighbors and citizens who care about parks. I'm no stranger to the s.d.c. Funding mechanism. When it was first started, I was on a citizen advisory committee to work with the city in determining what properties to begin purchasing. We met for a couple of years, heard a lot of properties, and then there was the person who was in charge moved on or retired, we were told for two or three years we would be meeting sometime soon. Finally, I was -- they finally told me about a year ago that that function had been taken over by the parks board. So I know what the s.d.c. Is about. I've been involved with the gateway urban renewal area. My second point is that it was my understanding and i've been on the parks subcommittee for the gateway area, another area scheduled for extremely high density increase, lots of housing already being developed, a lot more expected to be developed, we were told, at least it was my understanding, that we could not use s.d.c. Funds to acquire a park, a neighborhood park n the gateway area. So i'm -- i'm a little bit confused as to why one urban renewal area is getting a million dollars of s.d.c. Funds to acquire a two-acre park, while other areas are having to rely on tax increment fundings. That's one of my primary concerns. I mean, I have no objection to acquiring a park in this area. I think it's desperately needed, it's desperately needed in other areas. I just have some concern about the funding mechanism. I agree with amanda, that a purchase this big should not be on a consent agenda, which is why we pulled this for a public discussion. I think this has been a useful discussion today and we're still looking for some -- for some answers.

Potter: Thank you. Is there anybody else who would like to testify on this matter? Staff? Please come on up, too.

September 21, 2005

James Davis: My name is jim davis, land use chair of corbett-terwilliger-lair hill neighborhood association. I'm here speaking for our president. I'll try to be quick. I just found out about this item within the last 24 hours. I would like to point out to the commission that in the 1950's the university of wisconsin did classic studies in density and crowding, and this particular area, the south waterfront area, will be the most dense area that we have in the city of Portland. Portland parks has said that they have been planning for parks in this area since 1997 and island point out to you that in 1997 or friends, the schnitzer and zidells, I believe it was the schnitzers, who said the property down there was worth about \$9 a square foot. It would have been a good time to move in and take it up at that time. Unfortunately, we didn't. And according to the "daily journal of commerce" a couple months ago, we paid \$7.5 million for that property, not \$7 million, which comes out roughly to \$75 a square foot, which I think homer williams would say is still a good deal.

One of the major concerns that we have is that in the last three years our neighborhood has been promised three parks. We're now down to at least one. And this particular site is not the site, but it's probably the only available site, although we did have a chance to have a park underneath the ross island bridge, which was laughable at best, but apparently that's also disappeared. we are concerned that developers will be talking about the greenway as a park site as well, which we will not accept at any way, shape or form. I do not want you to think that our neighborhood does not want parks. We want this park. And quite frankly, I don't care if commissioner Saltzman calls a national dumpster day to pay for it. You know, I don't care where the money comes from, but I would like to have all our three parks back, because you cannot put 5,000 people and 10,000 workers in this particular area and have such limited open space. Now, i've seen all these plans. I've been working on these things for four years. I know the density. I know what's happening. And it is going to be hell on wheels if we put that kind of -- that many people down there with no open space. Thank you.

Potter: Thank you.

Robin Grimwade, Portland Parks and Recreation: I'm manager of strategy financing business development, Portland parks. Just like to clarify a couple points made here today. People have talked about borrowing s.d.c. money from the northwest. South waterfront is part of what we call the central northwest district. It is in fact in the same district. We're not taking it from another part of the city to use to prop up this area.

Adams: I think the point was to borrow it from that fund.

Grimwade: Yeah. the other thing I would point out, too, is that --

Adams: I was aware it was the same -- part of the same district. The point is that could we borrow it?

Grimwade: We can borrow it. And we have borrowed it in the past for purposes of cash flow, to move money around to facilitate purchases as they come up. There are occasions when districts have a projected amount of growth. We know that that growth is going to occur within a given financial year, but the money at that point in time, when an opportunity arises, and to seize that opportunity, we have to borrow across the districts and then repay back. The most important thing is we need the flexibility in the s.d.c. To seize the unique opportunities that arise to purchase land. The other one, just on methodology, the city council has the option of adopting different methodologies, and that opportunity shortly arises when the city needs to revisit the s.d.c. System. And there's an opportunity for you to use an alternative methodology to give you greater flexibility and also to recover additional revenue sources.

Adams: Can you break down the issue of the concern about -- that i'm left with after the first panel about we can't use s.d.c. to make investments in park deficient areas like northwest Portland?

Grimwade: Yeah. I certainly agree where you're coming from, in that what we would need to be mindful of and need our city attorneys to check, there was a particular court case, which had u.s. Supreme ruling, and we need to understand the implications of that. But generally it is important

September 21, 2005

that we be able to demonstrate a nexus between the development and the s.d.c. Capability of revenues. But this supreme court case ruling, which guides some of the methodologies used by the state, is so detailed and so specific, it may find a point of law that we can't do exactly what you want at this point in time.

Adams: Well, I have to -- this issue, I know that commissioner Saltzman is -- has inherited and so this is not intended as a criticism of you, commissioner Saltzman, but as someone who lived in northwest and tried for years to get the -- what I refer to as the copper beach site -- for a park in northwest Portland that was there for decades after it was abandoned by the hospital that apparently used to be there, we in northwest were told there was no money available for parks. Since that time now the copper beach trees have been cut down and development is proceeding on that site. So is that little tick in the law what prevented the city from using s.d.c. funds that could have funded a park site in northwest Portland?

Grimwade: Can't say categorically one way or the other, because that's all before my time as well, but it could have been a point of law or could have been just a cash flow issue at the time. I think the most important thing you're alluding to, commissioner, is that there's a need for additional land to be secured within areas of growth, not only related to growth, but areas of deficiency. That falls into the broader realm issue of a land acquisition strategy for public open space areas, that's something that has been preliminary work done on. I know we're ready to start talking seriously to our commissioner about a land acquisition strategy. The other thing is we don't necessarily have to purchase the land to make it available for public open space. There are other alternative measures that we can put into play to protect land. We can use first right options of refusal. We can use recreation easements. And that can reduce the capital costs as well.

Adams: Can you -- so could -- could -- can you try to answer just a question as yes and no as possible? And I know these things are complicated.

Grimwade: Yes.

Adams: But can we use s.d.c. Funds to purchase park land in the alphabet district or in the northwest Portland area?

Grimwade: I cannot give you a yes or no here without knowing exactly the area, how much growth, and the realms of being tagged park deficient.

Adams: With commissioner Saltzman's permission, if you could look at that, because there is the c.n.f. property and the neighborhood has talked to me about where the old bus -- the old truck barn site was, that they would like to -- on the c.n.f. property, that they think is a realistic -- potential realistic acquisition for park land, but nobody knows how to find the money for it.

Grimwade: I'm more than pleased to look at it and look at different options and come back to you on that.

Adams: Thanks.

Potter: I really appreciate the fact, also, that you folks are going to be working with your commissioner to develop a parks acquisition strategy, because we do need that. And I think this points out that case. And that whole strategy and process has to have community input from the front end.

Grimwade: That's certainly intended. We're just getting the baseline data, and then we want to have a period of involvement with community groups. We'll have the parks team group, which amanda and the other lady, i've forgotten her name at the moment, has been involved in. And there's a whole range of consultations with neighborhood associations as well.

Potter: Thank you folks. Others? Ok. Questions from the commissioners?

Adams: Umm, are we overpaying? Can we ask that question?

Potter: Yes. Could someone from the --

Brown: Appraisals were done on this property, both by the commission and staff over time, as well as by the owner, as this -- as is always the case in these proceedings. The county assessor and their

September 21, 2005

methodology for appraising property is very different in many cases than the private appraisal community. I should say, though, that the appraisals that we came up with on our side of the negotiating table were in the 5.6 range, 5.8. The opposite side of the table, also very qualified appraisal -- appraisers came up with up to \$8.2 million. And making a determination on whether to go to court and let a jury decide on -- on what the appropriate value is, we have to -- to make basically an informed judgment about who they're going to favor or what appraiser they're going to -- appraisal they're going to favor. The \$7 million that we ultimately agreed to settle on we, felt was that number that represented our best case without having to go to a jury and have a jury decide what the ultimate value was. So did we overpay? No. I think we paid the value of the property. We're told by others, as you've heard earlier, that in fact property's being sold today for much higher values than we paid for this land. It's simply very expensive property due to the success of the district.

Potter: Other questions? Thank you, sir. Karla, please call the roll.

Adams: Umm I am -- I guess I have a bitter taste in my mouth because -- about the issue of parks in northwest Portland, having lived there and having worked on for years trying to acquire the property at 24th and northwest Irving, having the city acquire that property. It would have had to have been pursued through condemnation as this piece of property was. It would have probably -- the city would have had to pay above market, maybe more than in s.d.c.'s, but at the time when I worked as the mayor's chief of staff I was told just flat out, wasn't possible, wasn't a way to do it. If part of the reason why we as a city were unable to do that is because the s.d.c. Policies do not readily allow us to acquire parkland in neighborhoods that are already built up, but continuing to get more dense, from this hearing, I still have a lingering concern about our policy related to that. I'd appreciate any clarification, or your best thinking, commissioner Saltzman, of you and your team on that. I'm going to vote for this. And I remain concerned about o&m costs, but I do agree that land banking is at this point better than land losing, and I appreciate the work that everyone has given to it and look forward to hearing back within a couple of months of what we can do for -- well, I like the idea of the comprehensive land acquisition strategy. I think we've got real urgent needs in different parts of town, and northwest Portland has seen an uptick of development, especially on the north end, and I'd like to see that piece come back sooner than later if possible. Aye.

Leonard: Well, we would have an interesting debate if we were trying to decide which part of the city should have new parks first in established neighborhoods. There are parts of the city that have no parks. And I love northwest Portland, but it already has parks. There are some parks there. Could they use more? Yep. But there are areas east of 82nd that don't have parks. So I'm a little concerned with the debate, whether to build a park in northwest Portland or south waterfront. That disturbs me. Having said that, notwithstanding some of my previous support of having districts for council members that are elected, we have, I think, to look at this issue from a more global citywide perspective. I'm becoming increasingly concerned by those in the community who would attempt to volcanize Portland into special interest pockets that they argue for. I won't question why that might happen, but it is a phenomena I'm become increasingly concerned about in this city. One of our testifiers said that the s.d.c. Policy that -- that articulates that communities that are experiencing new growth, that pay into a s.d.c. Fund, system development charge fund, should get that money for development in that neighborhood. I agree with that policy. It doesn't make a lot of people happy, but that, I think, is a balance that we achieve when we create a new neighborhood such as south waterfront is, because I think what's evident from this debate right now is if we didn't have that policy they could probably count on not having a park, because there's nobody there to come testify for it right now other than developers because residents aren't living there. That's not fair for us to rule a community that hasn't been created yet, to sit here in front of us and make the case for themselves. That's why I think the policy exists, and I think it's a good policy. There's also some, I

September 21, 2005

think, development envy going on in our community. I'm not always innocent of participating in that. But i'm also concerned, again, that some of exploiting that for their own purposes. I'm not talking about anybody here on the council at all, but there are those who I think would use that in order to promote whatever it is they want to promote. I think that's not good for our community and not good for our city, and i'm concerned about that. Having said that, it's the campaign season, weird things begin happening. Strap yourself in, because it will get weirder before next may. But I also am a tin here, and I think I have the right to make an observation about that. Aye.

Saltzman: Well, I appreciate this discussion, and certainly there's a lot of things that we can take a look at, but, you know, I will come back to what I said at the outset, my two goals are to make sure we're acquiring new parks and new lands for those parks, wherever, including park deficient areas, and we do are park deficient areas with no parks west of 81nd, too -- 82nd, too, i've learned. That's a high priority of mine. This is an opportunity to secure two blocks to be a neighborhood park from here to eternity, we need to move, strike while the iron's hot. The price may be too high, but i'm sure we settled this in court in order to avoid possibly going to a hostile jury, hostile toward the public sector, particularly in condemnation activities. It's a good deal and we should be celebrating this acquisition. I'm proud to vote aye.

Potter: In the short time I was the parks commissioner I read the report of the ulmstead brothers to the parks commission. And it's a very interesting -- if any of you folks haven't read it, I suggest you do read it, because they truly were visionary. One of the things that really struck me about what they said, an that is in good times put money aside for our parks so that in bad times we'll be able to support the parks. I don't think the city's done a very good job of doing that. and so I think that as we develop some long-term strategies on how we fund parks and maintain the parks, I think that we have to keep those words in mind. This particular case, I agree with the previous commissioner statements. I support this new park, but I also support -- and I apologize to amanda and others who were not here, or able to make their comments known during the development of south waterfront in terms of the park system and other things. So in the future, that will change. And I think the parks bureau is moving in that direction, as are other bureaus of the city, so that we did include citizens at the front end, so that we get more than just a few voices at the table. But this, I think, will benefit our entire community over the long haul. I concur with commissioner Leonard's remarks, is that there's a lot of areas in Portland that need parks. And it's not just up to the city, it's up to the community as well, to find out -- figure out how we're going to pay for our park system. It is one of the most livable features in the city of Portland. We have -- with the city with many livable features. We need to maintain our park system. We need to grow our park system. I think this moves us toward that. I vote aye. [gavel pounded] ok, let's move to the regular agenda.

Moore: We have another pulled item. 1115.

Item 115.

Potter: 1115, ok. Staff? Who pulled the --

Moore: This is don henry.

Potter: Ok. Please come forward, mr. Henry. As soon as she passes this out, please state your name for the record. And you have three minutes, sir.

Don Henry, Bureau of Environmental Services: My name is don henry. I'm the project manager for the burlingame sanitary trunk sewer rehabilitation project. As listed in the ordinance we have several properties we need to acquire easements over for construction of this project of the in putting together the list, we left off one of the properties. You'll see that on page one of the ordinance. It is property number 9600. And if you refer to sheet three of the exhibit a attached to the ordinance, you'll see that it's listed on the exhibit and is written in the legal description. We just left off the parcel number in the ordinance. I wanted to make sure that was correct and added that back in and had it pull from the consent agenda.

Potter: Ok. Do I hear -- do we have to have a motion to amend the ordinance?

September 21, 2005

Moore: Correct.

Adams: So moved.

Potter: Do I hear a second?

Saltzman: Second.

Leonard: Second.

Potter: Please call the roll.

Moore: It's a nonemergency. It will pass to second reading.

Potter: Don't we have to vote on the amendment?

Moore: I'm sorry.

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

Potter: Aye. [gavel pounded]

Henry: Thank you.

Potter: This moves to a second reading. Ok. Now moving on to the regular agenda. There is a presentation on race equality week that didn't make it on the agenda. Are there any objections to suspending the rules to allow a presentation on race equality week? Hearing none, would the folks here to discuss race equality week please come up. Thank you for being here, folks. Please state your name when you speak.

Proclamation – suspension of rules.

Item 1120-1.

Carmen Rubio: Good morning. My name is carmen Rubio, community affairs director for mayor tom Potter.

Karen Hansen, Bureau of Environmental Services: Hello. I'm karen hansen, an engineer with bureau of environmental services. I'm a member of the race equality week task force.

Donny Adair, Bureau of Human Resources: I'm donny adair, human resource coordinator in the bureau of human resources and affirmative action office.

Rubio: We're here today to share the mayor's proclamation, provide brief information and invite residents of Portland to join us in celebrating national race equality week. from september 26 through 30, the national league of cities will sponsor the sixth annual event in partnership with major cities across the nation. Race equality week is designed to be a week-long series of events to raise awareness of the important role of city officials in improving race relation, achieving social justice, and creating inclusive communities.

*******:** Do you have the slide show?

Adair: We're doing this in cooperation with the national league of cities, and they suggested five areas for us to focus on, including the proclamation, promoting homeownership, looking at equity in home opportunity, and promoting equity in education, looking at the achievement gap, and also just celebrating cultural identity.

Rubio: This year marks our first in participating in race equality week, and we will host one event this year, open to the community, and also the employees. Next thursday, september 29, from 5:00 to 7:00 n the city hall atrium. Commissioners Leonard and Saltzman and several supporters of diversity will be a part of the program.

*******:** We just wanted to really thank commissioner Saltzman and commissioner Leonard for taking their time that evening to host it. And also commissioner Adams for being the sponsor, along with the bureau of environmental services of this particular reception. The mayor will be out of town, but we really have the full council support in inviting the community in to see our display. And we want to note that there are a couple of young choirs, the martin luther king elementary junior school choir will sing right at 5:00, and then prior to commissioner Leonard bringing on our guests and making his comments, the international school choir is also going to sing. So it's going to a festive event as well as talking about very important issues.

September 21, 2005

Rubio: Next year, with more time we plan to have broader community involvement and support and put on forums that look at critical issues regarding race relations and discrimination in our community.

*******:** So members of our task force have researched the city archives, and donnie and karen are going to share some comments on the city's history.

Hansen: First let me tell you that this is not a complete history. We've chosen milestones just to demonstrate that the fight of racism is a process. Sometimes we jump four steps forward, sometimes we take two steps back.

Adair: To kind of set the stage for karen -- and we started in the mid part of the 20th century, but in the first half of the 20th century Portland, like many cities across the united states, was pretty much a segregated town. All the way up through the -- the second world war it was not unusual to see signs in businesses, white only, or we only cater to white only. It is the largest city in a state in which, by constitution of the state, african americans and other people of color, were not allowed to live here or own property under the state constitution, changed in the early part of the century.

Hansen: I'll start in 1950, during the tenure of our first female mayor, an ordinance was passed to amend the police code to include language to ensure all places of public accommodation be open to all persons without discrimination because of race, color, religion, ancestry or national origin. The mayor appointed a committee to do research on the ordinance prior to referring it to the voters. The findings of the mayor's committee on intergroup relations included the following undisputed facts. Number one, prejudice against people on account of color, religion, and national origin does exist in Portland. Number two, the largest group against which this discrimination is practiced is the negro.

And though it may be more severe against negroes, it is by no means limited to them. The voters pamphlet described arguments for passage of the ordinance and arguments against passage of the ordinance. One that I like to call to your attention is bullet number two, an argument for a passage of the ordinance stated that one of the greatest handicaps to the united states abroad is our opponent's attempt to discredit the sincerity of our ideals by showing our inconsistencies in our practices at home. The ordinance was ultimately defeated. That was Portland's circa 1950.

Adair: In 1955, mayor fred peterson at the request of the Portland branch of naacp declared freedom week. So this declaration today is the first proclamation that is similar to that in about 50 years. The Portland branch naacp is the oldest branch of the national association for the advancement of colored people west of the mississippi, and they were very active in this period of time, and mayor peterson was very proactive in declaring freedom week, really in celebration of the brown vs. Board of education decision eliminating segregation in schools.

Hansen: I'd also like to remind you of the meaning of that decision. Segregated education is inferior education. A person with an inferior education cannot interact as an effective citizen in a democracy. As such, they may not receive equal protection of the laws of that democracy, therefore segregation is unconstitutional.

Adair: We want to fast-forward to just a few other highlights of city council action. The Portland area affirmative action plan for the building and construction industry was adopted under mayor terry schrunk, ordinance number 134127 in 1971. Also, in 1974, the city appointed alyceh. Marcus as its first affirmative action officer. She served until 1985. By the way, her picture -- a portrait of her is prominently displayed in the reception area of the bureau of human resources, if you come through our offices. That is the african american woman whose picture is up in our office.

Hansen: In 1984, the city announced on its official stationery that it is an equal opportunity employer and that minorities, women, handicapped persons, veterans, and vietnam era veterans were encouraged to apply for all positions. In 1985, commissioner lindbergh requested a regulatory commission be established to improve the city's affirmative action performance, and the city issued its first equal opportunity complaint procedure.

September 21, 2005

Adair: However, in 1989, the city was found to be out of compliance in its affirmative performance by the federal government and directed to fix that situation. It resulted in consolidating the affirmative action offices, and that did lead to the city ultimately performing better and winning an a national diversity award for program improvements.

Hansen: In 1991 city code chapter 23 on civil rights, which is the current city code on civil rights, was enacted. It stated that it is the policy of the city of Portland to eliminate discrimination based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity, or source of income. Such discrimination poses a threat to the health, safety, and general welfare of the citizens of Portland and menaces the institutions and foundation of our community.

Adair: I'd like to read the actual mayor's proclamation at this time. Whereas the city of Portland and the national league of cities is committed to promoting racial equality an justice as a fundamental aspect of a healthy community, and whereas Portland will join the national league of cities and local officials across the country in a nationwide campaign the week of september 26 through 30 to promote racial equality and understanding, and whereas the civil rights act of 1964 was adopted banning discrimination because of a person's color, race, national origin, religion, or sex, and whereas the 14th amendment of the constitution of the united states was adopted giving all persons born or naturalized in the united states the right to due process and equal protection under the law, an whereas the city of Portland is dedicated to the advancement of culture understanding and personal enlightenment among all its citizens, now, therefore i, tom Potter, mayor of the city of Portland, Oregon, the city of roses, do here by proclaim september 26 through 30, 2005, to be race equality week in Portland, and encourage all citizens to reaffirm our commitment to eliminating all forms of racism and discrimination in our community. We would like to thank some members of our committee, our task group, who came together, really short time frame, to try to put something together for this, our inaugural foray into celebrating race equality week, including carmen rubio, who gave us great leadership out of the mayor's office, promise king out of commissioner Saltzman's office, and the others listed. They're bringing in that display for us, the no easy road, which will be in city hall starting, actually not only next week, we'll bring it in tomorrow or friday, and it will be in city hall. And it's a wonderful display with a number of panels, with pictures and information that depict what the experience of african american, hispanics, japanese americans, native americans and other ethnic groups has been in Oregon. You know, by contrast, in that display, for example, in early 1920's, you'll see a picture of the mayor of the city of Portland marching with the ku klux klan in that display.

Potter: And the police chief.

Adair: And the police chief. So we've come a long way in terms of where the city's leadership is on the issue of racial equality. I also want to thank karen for her great work in doing the research. Jennifer porter from sustainable development. Liz mitchell who put this powerpoint together for us from the office of management and finance.

Rubio: And for financial and overall support of diversity, we'd like to thank the mayor and all members of council. Sue keele, director of the Portland office of department of transportation, dean marriott, director of environmental services. And also, donnie adare for all his leadership effort on this as well.

*******:** Thank you. Diana from Portland city archives helped us with the research. And robert philips, our former affirmative action director, was a historian for us, and very helpful in giving us information. I know that the mayor and members of council may have remarks on this. We note that commissioner Sten is out, but his office did submit just a brief statement which says commissioner Sten is away on vacation, but is aware of the mayor's proclamation and wanted to register his continued support of the concept and practice of equal opportunity for all citizens. In the past, commissioner Sten has voted in support of ordinances which prohibit discrimination, for

September 21, 2005

affirmative action and equal treatment of all citizens. He encourages citizens to work toward culture understanding and achieving race equality. Thank you very much for the opportunity.

Potter: Thank you. Do the commissioners have any comments?

Adams: I just want to thank each of you for your efforts in this area. And I will get a copy somewhere in my files. We did a definitive -- we paid a professional historian in 1994 to do a definitive review of race in the city of Portland, and I'll get that to you so that you have it and can grow it and build on it. It's a sad history. So I think we need to -- anything that we can do to promote equality is well worth the effort. When I took over pdot, they did not have a functioning diversity committee, and that was sue keele's first task, which she's done, and both sue and dean know that we're interested in being a leader in this area, and I want to thank you for helping make that happen.

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

Leonard: Are we voting, mayor, on a document? We don't vote on a document?

Moore: It's a proclamation. We don't.

Leonard: Ok. So then I do want to make a comment.

Potter: Yes.

Leonard: I think the key to -- to harmony amongst all people is treating people -- and I think this applies to every culture i'm aware of in the world -- treating people the way you would like to be treated, and that is with dignity and respect. If each of us got up every day and told ourself like that, it with -- said that to ourself, it would be a better world. And that is a responsibility, I think, each of us has, no matter what our color is, our religious proclivities, our background, ethnicity, it's very important to me, and I insist on that with those that are responsible to me that everyone is treated with dignity and respect, and if that becomes confusing, treat them the way you want to be treated, and generally speaking people will feel respected and appreciated if you do that. So it's good for us to have this discussion and focus on this subject, because it is of great importance to a large members of our community. Thank you.

Potter: I also want to thank you folks. The history is also a good lesson. And it provides us the opportunity to not repeat the mistakes of the past. So thank you for reminding us of that. And donnie, would you push the exit button on there so we can go back to the --

Moore: I'll do it.

Potter: Do you have that? Ok.

Saltzman: I'd also like to echo the sentiments and appreciate the fact that we're taking a whole week to really focus attention on racial equality. And just parenthetically, you know, I know we were hoping to have maybe upwards of 1,000 evacuees move here from new orleans and mississippi, and other places affected by hurricane katrina, and not only -- you know, i'm truly remorseful we didn't get those 1,000-plus people, because not only were Portlanders more than ready to welcome them with open arms, but i'm fully convinced that upwards of 50% would have ended up staying in Portland, and that would have been good, not only for our schools, because we'd have more children, but also for improving the racial diversity of the city. And so with that respect, I truly do regret that we didn't have that opportunity to open our arms and welcome new children and new families to our city. But i'm pleased to support this proclamation.

Adams: Thank all of you. Thanks.

Potter: Thank you very much. Commissioner Saltzman has another appointment. We're going to hear the emergency votes very quickly, because we need four votes in order to pass the emergency votes. So beginning with 1121, Karla.

Item 1121.

Potter: Could you give us the abbreviated version?

Anna Kanwit, Bureau of Human Resources: Certainly will, mayor. I'm with the bureau of human resources. We're bringing forward this ordinance on behalf of the non-represented sworn

September 21, 2005

employees of the fire bureau. All but a handful of the sworn employees within the bureau are represented and have access, two of the voluntary employee beneficiary association, where they can contribute a portion of unused sick leave and vacation hours into that account to prefund medical expenses on their retirement. This would provide the same benefit to deputy chiefs, division chiefs, and the fire chiefs, through a social and charitable organization, the Portland fire chiefs association.

They would be able to contribute the sick leave hours that can be -- sorry -- contribute sick leave hours to be deposited into the account in the amount that the city would have cashed out on retirement, similar to the vacation hours, and that amount is set by a general order. There is no cost to the city to allow the establishment of it, and in fact because deposits are made on a pretax basis, there's actually a cost savings to the city. So that's it.

Potter: Thank you.

*******:** I'm deputy chief jim plum, president of the Portland fire chiefs association. I'd like to just say that this started several months ago in the springtime by our contact with your chiefs of staff to make sure that we're not a bargaining unit, nor do we intend to be. Just an inequity that 10 employees didn't receive when 1574 did. So we started with your chiefs of staff in every office, and said this is what we'd like to do. They all identified that it was a problem, an inequity that might need to be solved. We met several times with anna and her office was great. Ken mcgarr from the city attorney's office, and despite which way you vote, I can't think the council and their staff for the support that they have for this. And they had a lot of constructive ideas. We went through the process. Again, i'd just like to reiterates it's a no cost item to the city. It's basically a -- the plan only needs two or more members, but the big drawback to the city is the city is taxed for resources to administrator, and as anna points out it needs an association or a group to do it, so it doesn't create a hardship for the city. The Portland fire chiefs association has been around for 20 years, and they're willing to take that responsibility. And so that made an avenue that -- that can and anna helped us with, and we appreciate you considering this manner.

Potter: Thank you, chief. Any questions? Thank you. Karla, is there anyone signed up to testify?

Moore: No one signed up.

Potter: Is there anyone who wishes to testify on this matter? Karla, please call the roll.

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

Potter: Aye. [gavel pounded] Karla, please read item 1122, emergency vote.

Item 1122.

Anna Kanwit, Bureau of Human Resources: Mayor and commissioners, anna kanwit operations manager for the bureau of human resources. The genesis of the administrative rules before you stems from a variety of events, but the city does have a code of ethics that's contained in chapter 1.03 of the city code, but it is clear under that language that it is advisory only, it's intended to inform employees of conduct that is expected, but is not binding, where it's not otherwise enforced by the state ethics laws or other binding city rules. We found that in reviewing state statutes concerning ethical conduct for public officials, public employees, that they -- while they set an excellent standard, are lacking in some respects because it is the intent of the city to set a high -- even higher standard in terms of the ethical conduct we expect of our employees as stewards of the public trust and public resources. Both the auditor and the city attorneys have reviewed the rules before you and are in favor of their adoption. Rule 11.01 is a statement of ethical conduct, and if adopted as a human resources administrative rule, it is binding city policy and would be binding upon city employees. Sets forth a series of expectations, including city employees are to treat their office as a public trust. We believe that's extremely important statement to provide city employees.

And they're expected to recognize the possibility of a potential or actually conflict of interest and to disclose that conflict to their supervisor and bureau director. That's two of the five things that are listed. The second rule, 11.02, is entitled prohibited conduct, and actually lists, I think there are seven bullet items in that rule in terms of conduct that is prohibited for city employees. That's

September 21, 2005

considered unethical. In a couple of respects, this rule is broader than the state ethics statutes. a specific example is that the states employees shall not use their employment to gain financial gain or avoid financial detriment for the employee of their household, family members, or any business of which the employee is associated. State ethics laws prohibits that too, household, where the employee, not family members that are not in the household, and we recognize that's another serious area where there can be a conflict, and financial detriment or gain. It also states that city employees cannot use information received because of their employment for private -- again, private gain or to avoid financial detriment. If the information is confidential, that's similar to state statute, but also if the information is not something that's readily available to the public. And basically states that if a special request were made to obtain that information, special knowledge, such as acquired by city employees, needed to take advantage of the information. So there's a prohibition on the use of that kind of information as well. As part of creating a new section, the h.r.

Administrative rules on ethical conduct, although this does not require council action, we would also be moving an existing rule entitled duty to report unlawful or improper actions, which is previously been adopted that again requires city employees to report improper actions by any city employee or official. city employees are expected to disclose waste, fraud, abuse and corruption, and again if they haven't any question about whether an action should be reported, the rule directs them to bring that issue to the attention of their supervisor or to the bureau of human resources.

Basically adoption --

Potter: Anna, we've already read it.

Kanwit: Ok. Too long, all right.

Potter: I guess I forgot to ask you for the expedited version.

Leonard: I'm getting a lot done while she's reading it. Can you let her go on?

Kanwit: All right, i'm finished.

Adams: It was so nice. I'm mesmerized. I'm like, her mouth is moving.

Kanwit: Well, you know, these are important things.

Potter: They are very important.

Adams: We read it.

Potter: I don't want to diminish the importance of it at all, but we have a number of things to get to.

Kanwit: I appreciate that, mayor. I'm done.

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

Moore: No one signed up.

Potter: Is there anyone here who wishes to testify on this matter? Please call the roll.

Adams: Good stuff. Thank you. Aye.

Leonard: Now, this concludes actually a -- which anna artfully did not mention -- a very long and sad series of events that occurred in the city in the last 2 1/2 years. So thank you, anna, for getting this done. It's very important. Aye.

Saltzman: Aye.

Potter: Aye. [gavel pounded] ok. Commissioner Saltzman is asking if commissioner Sten is available to vote on the -- you're asking to pull --

Item 1129.

Saltzman: 1129.

Potter: 1129? Set it over for a week?

Saltzman: Yeah.

Potter: Is there any problem with that, folks? Is commissioner Sten on the line that he could vote with the other emergency ordinance.

Moore: He was only going to vote on 1128. We won't have him on the line till then. If you can hold, we can ask him if he'll vote then.

September 21, 2005

Potter: Ok.

Adams: Stacey witbeck, is that the one? We need that if we can get it.

Moore: When we get him on the line -- ok, thanks, rich.

Potter: Ok. So now we're at 1123?

Moore: Yes. 1123.

Item 1123.

Potter: This is the second reading.

*******:** It's the second reading.

Potter: This only requires three votes, right?

Moore: Correct.

Potter: Please call the roll.

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

Potter: Aye. [gavel pounded] item 1124.

Item 1124.

Adams: Does council have any questions? We're available to answer them, otherwise we can just proceed with the vote.

Potter: This actually moves to a second reading.

Adams: Oh. We can proceed to the second reading.

Andrew Aebi, Office of Transportation: I just simply wanted to note for the record that no objections were received to final assessment.

Adams: Thank you. Good work again.

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

Moore: No one signed up.

Potter: Is there anyone who wishes to testify on this matter? This item moves to a second reading. Item 1125 is an emergency vote. We'll hold that --

Moore: We may have him on the line. Are you there?

Potter: In that case then let's hear that one and then 1128. Is that ok, commissioner Leonard?

Leonard: Yes. We know what commissioner Sten's doing on vacation.

Adams: Who is on "the ellen show" today?

Potter: Commissioner Sten, we actually have two items, commissioner Sten. Commissioner Saltzman had to leave, and we have one emergency vote, and then the item that you were also here to vote on, 1128.

Sten: Ok.

Potter: Could we handle the emergency vote with you while you're here?

Sten: Oh, absolutely.

Moore: We should probably do a roll call.

Potter: Ok. Let's do a roll call.

Adams: Aye.

Potter: No. Here.

Adams: Here.

Leonard: Here.

Sten: Here by phone.

Potter: Here. Ok, please read item -- is it 1125?

Item 1125.

Moore: Yes.

Potter: Ok.

Adams: We have vicki here -- oh, sorry. We have vicki here to answer any questions that anyone might have regarding this.

Potter: I hear no questions. Thank you, vicki.

September 21, 2005

*****: Thank you.

Potter: Has anyone signed up to testify on this matter?

Moore: I did not have a sign-up sheet.

Potter: Anyone here who wishes to testify on this matter? Karla, please call the roll.

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

Potter: Aye. [gavel pounded] Karla, please read item 1128.

Item 1128.

Potter: Commissioner Leonard?

Leonard: Thank you, mayor. This ordinance really does speak for itself, but I do want to make a couple clarifying remarks to begin the discussion that we'll have. There have been those in the community that have argued that the council's approach to the issues revolving around enron, its bankruptcy and its ownership and regulation of Portland general electric are some sign of the city's anti-business attitude. I could not disagree more. In fact, my motives in improving this ordinance are distinctly pro business, in addition to being pro consumer. For an example, we have two utilities that provide power to Portland residents and businesses pacificorp and Portland general electric. The rate charged by pacificorp for businesses in Portland is 4.02 cents per kilowatt-hour. PGE's rate for businesses is 5.59 cents. Per kilowatt hour, PGE's rate 39% higher. What that means is that if a business pays \$500 a month to pacificorp for power for that same amount of power, if they're a neighboring business is that is supplied by Portland general electric, their bill would be \$695 a month, \$195 a month difference. Residents who have p.g.e. over pacificorp pay 31% more. That means if a resident pays \$200 a month to pacificorp for power, their next-door neighbor, where they're served by p.g.e., using the identical amount of power, would pay \$262 a month, \$62 a month more. Let me make one thing real clear that I think some have tried to confuse with the public in terms of this being some kind of an anti-business approach by the city council. P.g.e. is not a company that operates on a supply and demand model, such as grocery stores or restaurants do. PGE is a monopoly, whose price is set by the state regulatory powers granted to the public utility commission. This ordinance, if adopted, simply requires that the information that we asked for in the ordinance assures us that p.g.e. is paying the taxes, they are assessing and charging ratepayers for, and two, that we are assured that Oregon ratepayers are in fact sheltered from enron's huge liabilities. If those answers come back in the affirmative, there's not a problem. Thank you.

Potter: Ok. Is anyone signed up to testify?

Moore: Yes. Bill parish, jay dudley, and joan horton.

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

*****: Am I first, mayor Potter?

Potter: Please.

Bill Parish: Thank you. Appreciate the opportunity to be here. Last time I testified before the council, it was just after writing a 1200-word piece in "oregon business" magazine about warren buffett and its relation to p.g.e. Since then I've talked to large property owners and business leaders, and I think they do want a public utility corporation. They just had some issues with the city's original plan. What i'd like to submit today is a copy of omaha public power's plan, basically their business plan. It's a top quality utility, based in omaha. I think if you just copy their model, you'd get broad support. Also included in this is an article from the "wall street journal" related to warren buffett's right-hand man who basically has received a wells notice from the securities and exchange commission, probably be charged with accounting fraud. It's very important to look at warren buffett's organization and its relation to pacificorp. I think he was stalking this whole situation in the background. P.g.e. sold the t.p.g., it sells to buffet, take the whole thing over. I might also say there are significant accounting irregularities surrounding accounting at berkshire Hathaway that will probably come out in the news in the next couple of months. Their big issue is

September 21, 2005

with their malpractice medical insurance subsidiary, bets against the u.s. dollar. What this is about simply I think, Mayor Potter and Commissioner Leonard is local top execs, hire the top law firms, they cash out and the jobs and local control are lost. So I hope the city does step up. The finance is there. You could go to public pensions, you could probably call the government of Beijing, China-- say we want \$2 billion we'll pay you a 10-year Treasury plus 1%, are you interested? It would be a great way to demonstrate partnership. They're running a \$10 billion surplus a year—a month. That may seem ridiculous, but the financing's a snap. It requires strategic willpower backed by the business community. I think it's there. I think it's 1997 all over again. A large financially troubled organization is trying to acquire a crown jewel of our economy and get stability from it. I would advise you to lower the rates 50% if you need to. It's a beautiful way to condemn p.g.e. and PacifiCorp and bring Steven Cooper to the table and send Warren Buffett packing. My final comment was I was recently asked to review confidential documents about p.g.e. for Pulitzer prize winning journalist Nigel Jacques of Willamette Week. It was startling, the increase in profit they're forecasting. It is truly rare that the interests of low-income citizens and the most affluent are so closely aligned. This is an opportunity most mayors would probably dream about. Intel's utility bills, I believe is going to be up \$10 million alone this year. Of course, you've got the low-income folks. So the key, of course, is strategy, and I'd be glad to meet with you and Commissioner Leonard, if you're interested. My website has more information. It's www.billparish.com. Thank you very much for the opportunity to share these thoughts.

Potter: Either one.

Jay Dudley: My name is Jay Dudley. May I have more than the three minutes for my exposition? I have four minutes of prepared text to read here?

Potter: Yes. Go ahead.

Dudley: Thank you. I work for p.g.e. as an associate general counsel and represent p.g.e. in regulatory matters. I'm here to comment on the item number 1128. Before I begin, let me say everyone at p.g.e. is looking forward to becoming a stand alone Oregon headquartered utility again. And we very much appreciate the support that we receive from a variety of interests. The path that will return p.g.e. to an independent company, the stock issuance plan now before the OpUC, has been endorsed with conditions by the Citizens Utility Board, industrial customers of Northwest Utilities, groups advocating for low-income citizens, and OpUC staff. While p.g.e. is disappointed that the city does not support the settlement, we believe the OpUC is the appropriate venue for voicing the city's concerns about stock issuance. The proposed resolution expresses concerns about p.g.e. rates. There an OpUC process in place, the rate-setting process, where such concerns are given full airing. Under this process, parties can intervene, compel the production of books and records and other discovery from the public utility, file opposing testimony, and cross-examine witnesses in a public hearing. Decisions of the OpUC can be appealed to the courts. The city of Portland has been and can be a regular participant in these processes. In addition, the requests for information that are included with the proposed resolution seek information regarding the collection of payment of utility income taxes. The legislature recently passed SB-408 to address this issue, and working with the OpUC and other parties on its implementation. After the stock issue in April 2006, p.g.e. will not be part of a consolidated tax group and will be directly responsible for paying its income taxes to taxing authorities. Because these regulatory processes and the opportunity to seek remedies exist, remedies for stock issuance, for rates, and for the consideration of taxes of income -- income taxes and rates, we believe the resolution before the council today is redundant and unnecessary. The city itself reached a similar conclusion on rates in a 1979 study, copies of which I've submitted with my testimony. The 1979 study recommended that the city not set utility rates. The report finds, and I quote, the city would incur substantial costs in carrying out these duties and in developing and maintaining a competent regulatory agency. According to the city's study, in the first year alone, utility regulation would cost up to \$1.6 million in 1979. That's roughly \$4.3 million in 2005 dollars.

September 21, 2005

All to create a redundant organization to set rates for p.g.e.'s Portland customers. Finally, I want to make sure that council is aware of the responsibilities in setting rates for stockholder-owned utilities. The underlying standard for any public body setting rates is the standard set forth in the hope natural gas case, decided by the u.s. supreme court in 1944. That standard required by the u.s. constitution applies nationwide and requires regulatory bodies to set rates which allow utilities to recover their operating costs together with a fair return on their investments. The city's 1979 study confirms that the hope standard applies to utility rates that would be set by the city. In closing, Oregon has a proven way to address the concerns raised in the proposed resolution. These processes do not discriminate between customers based on their jurisdictional boundaries. Under the current system a customer in estacada, salem, or hillsboro, gets the same treatment as a customer in Portland. The opuc is the appropriate way and the appropriate agency to set p.u.c.'s rates -- p.g.e.'s rates. Excuse me. That concludes my remarks. Thank you very much.

Joan Horton: Thank you. My name is joan horton. I'm a c.p.a. And live in southwest Portland in the corbett lair hill area. I'm also a member of the Oregon public power coalition, so I support the efforts to make p.g.e. some sort of public power, and i've been supportive of the city council's interests and investigations. I'm testifying in support of resolution 1128. I think it's a good idea to check this out. 1128 in particular is a resolution to gather information and analyze the information.

And I think we all ought to do that. I know that p.g.e. ratepayers are paying a lot more for their utilities than pacific power ratepayers, and there's a lot of reasons for that. We've all heard about the taxes, and that's what 1128 looks at, is the income tax situation. However, there's other reasons.

For instance, we're being charged right now for profits that p.g.e. is making -- nonexistent profits on trojan nuclear power plant, which was decommissioned and is no longer functioning, and yet p.g.e. ratepayers are paying profits to p.g.e. that they would have been earning on this property, even though it doesn't actually exist. Discharges in -- this charge is in direct violation of o.r.s. 575.355, which makes it illegal to charge customers for nonfunctioning real or personal property, and trojan is certainly nonfunctioning. Also, about the business community, talking about how this is unfriendly and anti-business, they tend to say that about a lot of things, any kind restriction on themselves. A lot of that claim originates with the Portland business alliance, which p.g.e. and pacific power are members of, and so they have a lot of influence there. Portland business alliance has never been especially interested in what oppc, my group, sends to say about anything. But in reality, high rates are very unfriendly toward business and unfriendly toward the residents that live here, and high rates affect everybody. They affect the business owner. They affect the customers of the business, and they affect the employees of a business, because somebody's got to pay for that, and therefore somebody else has to make up for the cost of the electricity in either lower wages or hours that are cut or times the business is open. And I also know there's this idea that there's not a lot of public support for public power, but that's not true from my understanding. We get a lot of email and a lot of phone calls, oppc does, and also whenever I talk to people about it there's a lot of people who are very interested in finding out what's going on and what they can do about the situation. A lot of them simply can't come to meetings like this and take the time and energy to do that. Thank you very much.

Potter: Thank you. Any questions? Thank you folks.

Moore: We have liz trojan and scott forrester.

Liz Trojan: Good morning, mayor Potter, commissioners. My name is liz trojan. I'm with the Oregon public power coalition, 818 southwest third avenue, Portland, Oregon www.cheappower.org. I'll be brief. Going on four years now, the Oregon public power coalition has been advocating for public ownership of our local utility. The benefits of a public -- of public ownership are twofold -- lower rates, conservative estimates project a 10% reduction in electric rates, a rate reduction sorely needed to revitalize our local economy the second benefit is local control. Our history with enron shows the need for local control. The Oregon public utilities

September 21, 2005

commission appears to be poised for a stock redistribution plan for p.g.e., with no rate reduction whatsoever. P.g.e.'s financial situation has improved significantly. P.g.e. can afford a rate reduction. The resolution before us, resolution 1128, addresses one of our concerns -- high utility rates. The Oregon public power coalition therefore supports the city of Portland in your endeavor to reduce our electric rates. Thank you for your time.

Potter: Thank you.

Scott Forrester: Mr. Mayor, I wonder if I could get an extra minute of time.

Potter: For what purpose?

Forrester: The p.g.e. Representative got an additional minute, and I also have items which might spread beyond -- stretch beyond three minutes.

Potter: No more than four minutes.

Forrester: Thank you, mr. Mayor. My name is scott forester, a resident of gresham. It's a pleasure to be here. Folks outside of Portland care about what you're doing here. You're not alone.

We're supportive, many of us, out there. I live at 2030 northwest seventh place. I'm also a member of the Oregon public power coalition, and was one of seven chief co-petitioners for the Multnomah County people's utility district effort. Which by the way got 48,000 votes. We lost, but the majority of the 48,000 votes are the people that vote for you. And we imagine that in the last two-plus years, especially with ken lay going on trial this winter, that the -- it will be an increasing amount of support for public power. The comments made by jay dudley of p.g.e., it's interesting that p.g.e. wants to rely on the public utility commission. Usually the dog doesn't like the watchdog. But in this case it serves a function. It's covered, because the p.u.c. supposedly is our watchdog, but I will term it as a lapdog. Why? Trojan. We're paying for a plant that doesn't function, yet the p.u.c. authorized them to get a profit as if the nuclear power plant was operating to, I believe, the year 2011. Now, you try to invest something that goes -- goes -- that doesn't function, and then actually get profits, even though it's not functioning. That to me is not watchdog. Taxes. The p.u.c. said it didn't have any ability to deal with the tax issue, even though in 1979, attorney dan meek testified that when enron took over that it would be a shell game, in essence, and hard for them to keep up with all these -- these shiftings of monies, so they knew in advance that there were going to be problems, and now \$700 million, \$800 million of unpaid taxes, the p.u.c. still failed to take action, and took the legislature through senate bill 408 to stop the -- the abuse of customers and businesses and governments, especially like schools, for instance, because of their failure to protect ratepayers from this massive diversion of funds. A correction on your first page, that p.g.e. was acquired in 1995. P.g.e. was acquired in 1997. Just a typo. City council has concerns in your document. Wholesale energy trading irregularities, that's very gentle. Actually it's fraud. P.g.e. being owned by enron, has failed to sue its mother corporation. Many companies have sued enron for fraudulent rates, yet p.g.e. is almost alone in that it didn't sue for being abused by its parent corporation. That's money owed us, the ratepayers. Trojan, overearnings, anywhere from 1/4 billion to 1/2 billion dollars, and dan meek just testified in an oral hearing before the Oregon supreme court, referencing the class action lawsuit along those lines. There's a potential liability that commissioner Leonard mentioned among others. Had the city owned the electric utility, or a people's utility district were in charge with elected officials only doing electric utility issues, 3/4 of a billion dollars would not have let the citizens or businesses' pockets to be siphoned off into the enron black hole. The Oregon public power coalition supports this council's action being taken today, as well as the city near future use of condemnation of enron's p.g.e. to protect the public interest. And in closing, i'll say there's a history. In 1930, this city council, obviously different folks, voted 3-2 in favor of creating a public electric utility. This is in the book called "a growth of the city" by e. McCall. A year and a half later, in 1931, they went to vote for the bonds, to acquire the utility. And it failed by 3-2. So I want to let you know you did the hard part first, that if you

September 21, 2005

choose condemnation you've got \$3 billion of bonds, the money part has been done, and unlike 1930's you have the ability to just say yes with a majority vote. Thank you for your time.

Potter: Thank you.

Leonard: We have one more.

Judith Barnes: I am judith barnes and I was one of the chief petitioners on the 2002 ballot measure to create a Multnomah County people's utility district. I reside at 1425 s.e. 27th avenue in the heart of Portland's lively small business district on hawthorne and I am here to urge your support for the resolution 1128 for the following reasons. Basically, I believe what this resolution is doing is having the city council, on behalf of ratepayers in the city of Portland, do what the public utility commission should have done. In many, many instances it has failed to protect ratepayers as its mandate requires it to. In 1997 when enron applied to purchase what was then a locally owned utility, there were voices which predicted that this would not be the interests of ratepayers and the very things that we have seen enron do would come to pass. Those voices were ignored by the p.u.c. They could have disapproved the application of enron. They did not. In the year 2000 we suffered massive—53% rate increases here for businesses which by the way affects local small businesses much more than it does large businesses and as we all know part of what makes this city so vibrant and gives it the neighborhood character that it does is the viability of small businesses here. Those rate increases as we now know were caused by fraudulent manipulation of energy stream perpetrated by enron using the transmission lines that are owned by p.g.e. Fraudulent manipulations caused artificial energy shortages and artificially raised rates. Other utilities as scott mentioned before have successfully sued the enron to get out of high-priced contracts. P.g.e. because it's a wholly owned subsidiary was not able to do so and we have as ratepayers have suffered by enron's ownership of p.g.e. The p.u.c. could have stepped in to demand that we got out of those high contract. They did not. Ok. The tax issue which we have all been become very aware of in the last few years, p.g.e. Collecting taxes, paying it to enron, never ending up to benefit Oregon citizens or the federal coffers. Not only p.g.e.'s ratepayers have been harmed by that but all Oregon citizens have. The p.u.c. could have stepped in to demand that those taxes be paid. They did not. And the whole issue of trojan, ok, we paid for something that was never completed. We never got the money. We never got the electricity from trojan. And they decommissioned it and we get saddled with the decommissioning fees. The p.u.c. could have stopped that and did not. Now when they have the one chance to legally demand rate relief, tied to the new ownership under stocks redistribution and it's required by state law there be a public benefit --

Potter: Your three minutes are up.

Barnes: One closing point. I urge the city council to vote for this resolution but please look into the fact that with the passage of the energy bill at the federal level and the repeal of the public utility holding company act, the p.u.c. will be even less able in the future to protect ratepayers. Please look into that when you do your research. Thank you very much.

Potter: Is there anyone here who has not signed up who wishes to testify? Ok. Is this where I also can make a motion to amend the resolution?

Leonard: Mayor, you certainly don't need my permission to do that.

Potter: Substitute. I would make a motion to substitute this resolution with a subsequent resolution that has the council resolve to the initiation of information gathering from p.g.e. and report back to council. This was written by the city attorney's office as a second version of the resolution and I am recommending that this be substituted in lieu of the other. Is there a second?

Adams: Second.

Potter: Call the roll.

Leonard: Can I ask a question of the city attorney before we vote?

Potter: Sure.

Leonard: Linda.

September 21, 2005

Potter: Do you want a copy of the resolution?

Linda Meng, City Attorney: I remember basically what it was. If it's the version that I -- second version.

Leonard: What I need to know is if we adopt this substitute resolution, does it change the intent of the resolution I had drafted and introduced? Does it change what information we will receive as a result?

Meng: It doesn't change the information that's requested. As I recall, in your version of the resolution, there is a delegation of the subpoena power that's contained in the resolution, the second resolution does not contain that although the council could do that if we needed that at a later time. But the information that's requested is the same information.

Leonard: And, mayor, if at a later time it's deemed we need that subpoena power would you entertain that?

Potter: Yes.

Leonard: Ok. Thank you.

Potter: Call the roll.

Adams: Well, I think it's important that we continue to act in the, to the extent that we can in keeping with our own convictions, act in a unanimous manner. I think it's important so I vote aye.

Leonard: Obviously I prefer the language I drafted. However, I also prefer to get three votes. Aye.

Sten: Aye.

Potter: And I am obviously submitting this for amendment so I vote aye as well. Do we then vote on the --

Moore: Resolution as amended.

Potter: Ok.

Adams: Aye.

Leonard: We have a right under o.r.s. 229.240 to see, as a municipality, to set the rates of electric companies that operate within our boundaries. Where there is reason to believe that the rates charged by a utility are unreasonably excessive, I believe our right to regulate those rates then becomes an obligation. This resolution does not set rates. It asks only for information that the current rates are based on. If the information required by the resolution supports the current rates, I will be the first to say so. If not we will have further discussions. Aye.

Sten: Well, is this coming in fine?

Moore: Yes.

Sten: Great. Very pleased support this and appreciate commissioner Leonard and mayor Potter's work on the different version which I think in the end will give us the same information. We need to do two things. One is get this information and share it with our citizens. We have had too many instances where rates have been set based on information that was unnecessarily protected by the p.u.c. It's very important that citizens, particularly with enron and things that have happened, know the actual financials are and how the rates are set. This would be a step in that direction. Secondly, and I also support moving forward on rate setting unless it's warranted and it would not be warranted if what comes down the next couple of months is what we are being told is going to happen. If there's a stock distribution coming and if the taxes are going to be paid to us there will be nothing for us to take on. This does, however, I think send a very clear signal to enron and other potential buyers that what is planned down the road is another sale, once again charge and keep taxes for the government, we will be in a position to do something about that and I think that's very, very important. So this is a step towards sunshine which has been missing and it's a step towards having some local power to do things that need to be done. I would also mention that for those who watch the p.u.c. proceedings very, very closely. It's been very much explicitly by enron that if entertainers do not go along with the stock redistribution plan they intend to take it to the

September 21, 2005

bankruptcy court and frankly I think that this has a chilling effect on the process and this council should not be willing to sit back and say, hey, look, just because you are going to threaten the p.u.c. We will let this go on. Who knows what will come next, it's been quite a saga so far. I am glad to vote aye.

Moore: Potter.

Potter: When enron arbitrarily pulled out of negotiations with the city of Portland, we made it very clear that we were disappointed that they did not stay in negotiations but we said that we would do what was necessary to protect the interest of the ratepayers in the city of Portland. And to that degree I believe that this resolution and the information requested therein will help us determine whether our ratepayers are actually paying more or less than they should. So like the rest of these commissioners, I will live with the outcome of that information. But our commitment is to protect the citizens of Portland and ensure that this is done in a way that is not biased in terms of information but based on the facts that are presented by p.g.e. And so we are anxious to work with p.g.e. to get this information and to ensure that our ratepayers are being treated fairly. I vote aye. [gavel pounded] we will now return to our regular program of events.

Moore: Commissioner Sten want to stay on?

Potter: Commissioner Sten --

Sten: I will get back to what --

Potter: I think we have -- thank you, commissioner.

Sten: Great. Thank you.

Potter: Please read item 1126.

Item 1126.

Potter: This is a second reading. Please call the roll.

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

Potter: Aye. [gavel pounded] please read item 1127.

Item 1127.

Potter: This is a second reading as well. Isn't it? Yes. Please call the roll.

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

Potter: Aye. [gavel pounded] item 1129 has been set over at the request of the commissioner in charge.

Item 1129.

Moore: I will read the title. Reestablish a joint sustainable development commission with Multnomah county. I am trying to find a date. Did he say next -- did he say next week? Because we don't have it for an emergency next week.

Walters: He asked for a one-week emergency setover.

Moore: We don't have enough for an emergency next week.

Walters: Two weeks.

Moore: Ok. October 5 then. Continued.

Potter: Ok. Last item for the day. We are adjourned until next week. [gavel pounded]

At 12:49 p.m., Council adjourned.