



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **5TH DAY OF OCTOBER, 2005** AT 9:30 A.M.

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

Commissioner Leonard arrived at 9:34 a.m.

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

**Motion to adopt the Consent Agenda:** Moved by Commissioner Leonard and seconded by Commissioner Saltzman. On a Y-4 roll call, the Consent Agenda was adopted.

<b>COMMUNICATIONS</b>	<b>Disposition:</b>
1147 Request of Paul Phillips to address Council regarding caring doctors (Communication)	<b>PLACED ON FILE</b>
1148 Request of Patricia Schaeffer to address Council regarding hurricane victims (Communication)	<b>PLACED ON FILE</b>
1149 Request of Richard L. Koenig to address Council regarding an apology from the Mayor (Communication)	<b>PLACED ON FILE</b>
<b>TIME CERTAINS</b>	
1150 <b>TIME CERTAIN: 9:30 AM</b> – Designate three Heritage Trees and remove designation for one Heritage Tree (Ordinance introduced by Commissioner Saltzman)	<b>PASSED TO SECOND READING OCTOBER 12, 2005 AT 9:30 AM</b>
<b>CONSENT AGENDA – NO DISCUSSION</b>	
<b>Mayor Tom Potter</b>	
Office of Government Relations	

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<p><b>*1151</b> Amend Intergovernmental Agreement with the Housing Authority of Portland for lobbying services for the Columbia Villa redevelopment (Ordinance; amend Contract No. 51927)</p> <p>(Y-4)</p>	<p><b>179616</b></p>
<p><b>Office of Management and Finance</b></p>	
<p><b>*1152</b> Authorize charitable organizations eligible to participate in the City 2006 Combined Charitable Campaign (Ordinance)</p> <p>(Y-4)</p>	<p><b>179617</b></p>
<p><b>Office of Management and Finance – Bureau of General Services</b></p>	
<p><b>*1153</b> Authorize Chief Administrative Officer or designee to execute Bureau of General Services managed real property agreements (Ordinance; amend Code Section 3.15.080 C)</p> <p>(Y-4)</p>	<p><b>179618</b></p>
<p><b>*1154</b> Authorize contract and provide for payment for Uniformed Security Officer Services for Bureaus of General Services and Parks and Recreation (Ordinance)</p> <p>(Y-4)</p>	<p><b>179619</b></p>
<p><b>Office of Management and Finance – Human Resources</b></p>	
<p><b>*1155</b> Authorize an Intergovernmental Agreement with Portland Community College, Customized &amp; Workplace Training Program for employee development and training and provide for payment (Ordinance)</p> <p>(Y-4)</p>	<p><b>179620</b></p>
<p><b>*1156</b> Authorize a memorandum of agreement with the District Council of Trade Unions for terms and conditions of employment of certain employees in the Bureau of Water Works assigned to fight wild land fires (Ordinance)</p> <p>(Y-4)</p>	<p><b>179621</b></p>
<p><b>*1157</b> Create a new classification of Fire Land Use Review Technician and establish an interim wage rate for this classification (Ordinance)</p> <p>(Y-4)</p>	<p><b>179622</b></p>
<p><b>*1158</b> Extend contract with Joyful Noise, Inc. for childcare and development services (Ordinance; amend Contract No. 51396)</p> <p>(Y-4)</p>	<p><b>179623</b></p>
<p><b>Police Bureau</b></p>	
<p><b>*1159</b> Amend the FY 05-06 budget to appropriate a \$250,000 Buffer Zone Protection Plan Program grant award from the Oregon Office of Homeland Security, Criminal Justice Services Division (Ordinance)</p> <p>(Y-4)</p>	<p><b>179624</b></p>
<p><b>*1160</b> Amend the FY 2005-06 budget to accept a \$50,000 grant from Oregon Department of Transportation for highway Work Zone Enforcement safety program (Ordinance)</p> <p>(Y-4)</p>	<p><b>179625</b></p>

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<p><b>*1161</b> Amend the FY 2005-06 budget to accept a Bulletproof Vest Partnership grant from the Bureau of Justice Assistance, Office of Justice Programs for the purchase of approved body armor (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>179626</b></p>
<p><b>*1162</b> Authorize an Intergovernmental Agreement with the City of Gresham for a Justice Assistance Grant to reduce crime and improve public safety (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>179627</b></p>
<p><b>*1163</b> Authorize an Intergovernmental Agreement with Multnomah County for a Justice Assistance Grant to reduce crime and improve public safety (Ordinance)</p> <p>(Y-4)</p>	<p align="center"><b>179628</b></p>
<p><b>*1164</b> Amend a contract with Volunteers of America to continue domestic violence advocate services (Ordinance; amend Contract No. 35127)</p> <p>(Y-4)</p>	<p align="center"><b>179629</b></p>
<p><b>*1165</b> Amend a contract with Raphael House of Portland to continue domestic violence advocate services (Ordinance; amend Contract No. 35140)</p> <p>(Y-4)</p>	<p align="center"><b>179630</b></p>
<p><b>*1166</b> Amend a contract with El Programa Hispano/Catholic Charities to continue domestic violence advocate services (Ordinance; amend Contract No. 35141)</p> <p>(Y-4)</p>	<p align="center"><b>179631</b></p>
<p align="center"><b>Commissioner Sam Adams</b></p> <p align="center"><b>Office of Transportation</b></p> <p><b>*1167</b> Amend an Intergovernmental Agreement with the Tri-County Metropolitan Transportation District of Oregon to accept \$42,900 for the Portland Mall Revitalization Project (Ordinance; amend Contract No. 52024)</p> <p>(Y-4)</p>	
<p><b>1168</b> Call for bids for the construction of the East Columbia to Lombard Connector project (Ordinance)</p>	<p align="center"><b>PASSED TO SECOND READING OCTOBER 12, 2005 AT 9:30 AM</b></p>
<p><b>1169</b> Grant revocable permit to Oba! Restaurant to close NW Hoyt Street between NW 12th and 13th Avenues from 7:00 a.m. November 12, 2005 to 4:00 a.m. on November 13, 2005 (Ordinance)</p>	<p align="center"><b>PASSED TO SECOND READING OCTOBER 12, 2005 AT 9:30 AM</b></p>
<p align="center"><b>Commissioner Randy Leonard</b></p> <p align="center"><b>Water Bureau</b></p>	

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<p><b>*1170</b> Authorize a contract with Black and Veatch Corporation for design services for Mt. Tabor Deferred Maintenance and Interim Security Project (Ordinance)</p> <p>(Y-4)</p>	<p><b>179633</b></p>
<p><b>Commissioner Dan Saltzman</b></p> <p><b>Parks and Recreation</b></p> <p><b>1171</b> Accept contract with Skyward Construction for Children's Museum Second Generation improvements as substantially complete, authorize final payment and release retainage (Report; Contract No. 34679)</p> <p>(Y-4)</p>	<p><b>ACCEPTED</b></p>
<p><b>1172</b> Amend contract with Multnomah County to provide two full-time Alternative Community Service crews for a maximum of \$109,260 (Ordinance; amend Contract No. 35752)</p>	<p><b>PASSED TO SECOND READING OCTOBER 12, 2005 AT 9:30 AM</b></p>
<p><b>1173</b> Allow Portland Parks and Recreation Urban Forestry Division to accept a \$5,000 donation from PacifiCorp to purchase trees to plant on public property (Ordinance)</p>	<p><b>PASSED TO SECOND READING OCTOBER 12, 2005 AT 9:30 AM</b></p>
<p><b>Commissioner Erik Sten</b></p> <p><b>Bureau of Housing and Community Development</b></p> <p><b>*1174</b> Authorize subrecipient contract with Portland Community Reinvestment Initiatives, Inc. for \$110,000 to undertake rehabilitation activities of affordable housing units and provide for payment (Ordinance)</p> <p>(Y-4)</p>	<p><b>179634</b></p>
<p><b>*1175</b> Amend the FY 2005-06 budget to accept a Northwest Area Foundation implementation grant to support the Bureau of Housing and Community Development Economic Opportunity Initiative in the amount of \$250,000 and receive payment (Ordinance)</p> <p>(Y-4)</p>	<p><b>179635</b></p>
<p><b>Fire and Rescue</b></p> <p><b>*1176</b> Accept \$554,585 grant from the Department of Homeland Security for Portland Fire, Rescue and Emergency Services to purchase equipment and implement training and programs (Ordinance)</p> <p>(Y-4)</p>	<p><b>179636</b></p>
<p><b>*1177</b> Amend contract with Camp Dresser &amp; McGee Inc. to provide post-remediation services for Portland Fire, Rescue and Emergency Services for an additional \$13,150 (Ordinance; amend Contract No. 32034)</p> <p>(Y-4)</p>	<p><b>179637</b></p>

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## REGULAR AGENDA

<p><b>1178</b> Approve order of council for the Michael and Suzanne Lehne Measure 37 Claim (Order of Council; Previous Agenda 1106; Claim No. 05-121250 PR)</p> <p>(Y-3; Commissioner Sten abstained)</p>	<p><b>APPROVED</b></p>
<p><b>Mayor Tom Potter</b></p> <p><b>Office of Management and Finance – Human Resources</b></p> <p><b>1179</b> Authorize a labor agreement with Portland Fire Fighters Association for terms and conditions of employment of represented employees in the bargaining unit (Second Reading Agenda 1135)</p> <p>(Y-3; N-1, Saltzman)</p>	<p><b>179638</b></p>
<p><b>Commissioner Sam Adams</b></p> <p><b>1180</b> Authorize an agreement for services with the Regional Arts &amp; Culture Council to administer public art matters for the City and provide for payment (Ordinance)</p>	<p><b>PASSED TO SECOND READING OCTOBER 12, 2005 AT 9:30 AM</b></p>
<p><b>*1181</b> Authorize settlement with the Burlington Northern and Santa Fe Railway Company for reimbursement of costs for disposal of contaminated media for the Tanner Creek Sewer and the Lovejoy Ramp Replacement Projects (Ordinance)</p> <p>(Y-4)</p>	<p><b>179639</b></p>
<p><b>S-1182</b> Establish registration and reporting requirements for lobbying entities and City officials (Previous Agenda 1102; add Code Chapter 2.12)</p> <p><b>Motion to accept the Substitute Ordinance:</b> Moved by Commissioner Adams and seconded by Commissioner Sten. (Y-4)</p>	<p><b>SUBSTITUTE PASSED TO SECOND READING OCTOBER 19, 2005 AT 9:30 AM</b></p>
<p><b>Bureau of Environmental Services</b></p> <p><b>1183</b> Authorize two Intergovernmental Agreements with Oregon Health Sciences University for the City to assist in restoring native vegetation on OHSU Open Spaces Properties through the Watershed Revegetation Program (Second Reading Agenda 1136)</p> <p>(Y-4)</p>	<p><b>179640</b></p>
<p><b>1184</b> Authorize Intergovernmental Agreement with the Port of Portland for maintenance of Port-owned sewage pump stations (Second Reading Agenda 1137)</p> <p>(Y-4)</p>	<p><b>179641</b></p>
<p><b>Office of Transportation</b></p>	

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<b>1185</b> Create a local improvement district to construct street improvements in the NE 87th Avenue and Columbia Boulevard Local Improvement District (Hearing; Ordinance; C-10016)	<b>PASSED TO SECOND READING OCTOBER 12, 2005 AT 9:30 AM</b>
<b>Commissioner Randy Leonard</b>  <b>Water Bureau</b>  <b>1186</b> Authorize a contract and provide payment for demolition of Westinghouse Building and Fleet Garage canopy (Second Reading Agenda 1144) (Y-4)	<b>179642</b>
<b>1187</b> Remove the Bureau of Water Works Interstate Fitness Facility from those organizations eligible to use payroll deduction system and allow employees to utilize the Interstate Fitness Facility free of charge (Second Reading 1145; amend Code Section 5.08.140) (Y-4)	<b>179643</b>
<b>Commissioner Dan Saltzman</b>  <b>Children's Investment Fund</b>  <b>*1188</b> Approve funding recommendations for early childhood and child abuse prevention programs made by Children's Investment Fund Allocation Committee (Ordinance) (Y-4)	<b>179644</b>
<b>Office of Sustainable Development</b>  <b>*1189</b> Authorize an Intergovernmental Agreement for \$120,000 from Metro to help fund the BlueWorks program that provides businesses with free recycling, waste prevention and sustainable purchasing assistance throughout Portland (Ordinance) (Y-4)	<b>179645</b>
<b>Commissioner Erik Sten</b>  <b>Bureau of Housing and Community Development</b>  <b>*1190</b> Authorize subrecipient contracts with four projects chosen to further the goals of the 10-Year Plan to End Homelessness and provide for payment (Ordinance) (Y-4)	<b>179646</b>

At 11:26 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,  
OREGON WAS HELD THIS **5TH DAY OF OCTOBER, 2005** AT 2:00 P.M.

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

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

	<b>Disposition:</b>
<b>1191</b> Appeal of Maplewood Neighborhood Association against Hearings Officer's decision to approve the application of Robert Whitaker to create a six lot subdivision with a new private street and stormwater management tract at 6726 SW 63rd Avenue (Hearing; Previous Agenda 1146; LU 04- 094246 LDS AD)	<b>CONTINUED TO OCTOBER 26, 2005 AT 2:00 PM TIME CERTAIN</b>

At 2:15 p.m., Council recessed.

**October 6, 2005**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,  
OREGON WAS HELD THIS **6TH DAY OF OCTOBER, 2005** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Potter, Presiding; Commissioners Adams, Leonard  
and Sten, 4.

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

	<b>Disposition:</b>
<p><b>1192</b> Appeal of VoiceStream Wireless, applicant, against the Hearings Officer's decision to deny a conditional use and adjustment review application to construct a wireless telecommunications facility at the site of the Bethel German Assembly Church at 7220 SE Duke Street (Hearing; LU 05-119251 CU AD)</p> <p><b>Motion to deny the appeal and uphold the Hearings Officer's report:</b> Moved by Commissioner Leonard and seconded by Commissioner Adams. (Y-4)</p>	<p><b>APPEAL DENIED; UPHOLD HEARINGS OFFICER'S DECISION</b></p>

At 3:05 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.



**October 5, 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.

**OCTOBER 5, 2005 9:30 AM**

**Adams:** Karla, will you call the roll. [roll call] today is wednesday, 9:30 october 5 session of the Portland city council. We'll begin with communications. Item number 1147. Good morning, mr. Philips. Please give us your name for the record. You'll have the usual three minutes.

**Item 1147.**

**Paul Phillips:** I'm paul phillips. This is a letter from a walter r. Buell m.d., northwest primary care. Philips, paul a., 1-11-05, paul was here for a consultation regarding his right thumb and hand. He says his right thumb hurts and is useless. He wants to see a hand surgeon. I've given him the name of dr. Button, however he has some very bizarre ideations, including positioning him as a victim for most of the conversation, talking about how the doctors don't know what they're talking about and are completely blind. He makes repeated reference to how people have screwed him up. He gives a list of 48 doctors to contact for old information. I doubt that therapeutic relationship will be able to be carved out of the very limited territory common to his reality and to my reality. I am therefore contemplating terminating this patient and may do so in the near future. I really don't know if he has any thumb pathology or not. W.r. Buell, m.d., pathology f you didn't know, understand the term of it, is a history with 48 doctors there should have been somewhat of a history there. The morris button that he referred me to, I went the day previously to the doctor after waiting for the scheduled appointment, showed up there early the day before to find out where the office was, checked into the office, told them who I was, i'd be meeting the doctor the following day. The following day I show up for the appointment, the doctor won't see me. So I never did see the doctor. I had to go back to this dr. Walter buell for another referral. I'll talk about that. Thank you.

**Adams:** Thank you, mr. Philips. We'll now move to item 1148. Good morning, miss schaeffer. Please give us your frame record and you have the standard three minutes.

**Item 1148.**

**Patricia Schaeffer:** Patricia schaeffer. I see people suffering from an environmental catastrophe. People aren't aware of what to do. When I was here the first time mount st. Helens erupted in 1980, it was all over the ground, but I was in a building, didn't know anything about it. This time I was in Portland again. Ok, I developed respiratory problems and the doctors said kite be from the hurricane. And also flooding and everything else, pollution, that's everywhere. The rain, the environment, the effects everywhere, in every direction, north, east, south and west. And knowing from one state to the next where I have been, where the damage that is done to trees, land, everything, and people and disease that carries from one state to the next. Ok, if people don't watch -- in schools also -- the weather, are taught, the teachers and children and every one in every state I believe should watch all the time the weather, because of when a storm comes in it's too late, unless something is done immediately. And I think that some people don't understand this and others do, that -- but I have rescued people, and i've saved people's lives, just as a citizen, because I recognize something happening to prevent someone being -- dying from this. Some people -- you know, so many people are busy, sitting home drinking or sitting in cafes, doing crimes all the time in life, when the thing -- important thing is to watch the world and what -- what involves the things they have to be aware of what goes on in this world. Not having a lunch every day and not looking at

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the weather. Your family is important. To rescue them, get what you have, get out, move on. If you move to another state. But now that they've brought in these dogs in different -- here to Oregon, they're being put somewhere else, the flu is being all over -- it's starting to come in to Oregon. This bird flu. Ok. The people are concerned about also the dogs if they carry it from one - or the cats. Any type of disease. If it gets to the public and the people are affected by this flu, or anything transferred from one state or out of the country. This would be another disaster.

**Adams:** I really appreciate your comments this morning. Have a great day.

\*\*\*\*\*: Yes, yes.

**Adams:** We'll now move to item 1149, mr. Koenig.

**Item 1149.**

**Richard L. Koenig:** Good morning, city of Portland, city council. Hope the mayor's doing well. My name is richard koenig. I'm kind of -- i've kind of given up on the apology from the mayor. I believe he meant to do what he's doing. But this week will clarify just what he meant when he writes to me and says that i'm deprived of the right to associate with many of my public servants and to petition them for address of grievance and henceforth i'm restricted to putting my concerns to the chief deputy city attorney, harry auerbach. Restricted? Well, first americans cannot have their rights stripped by anyone without something called due process of law. That's something in the federal bill of rights under article 6. Second, it has been reported by credible sources, this gentleman over here, that the mayor is actually under the direction of harry auerbach to cause all communication about his own criminal acts and the missions by himself. Such a dream is called a conflict of interest. Legitimate businesses and especially government practice precludes such a scenario. Each member of city council is totally aware of the conflict of interest that harry auerbach has in regard to the crimes i've been investigating and laying on your table. I pledge before this council to secure a fair trial for harry before he goes to prison. I renew that pledge today. You folks have seen months go by without him filing a defamation suit against me because he knows that he cannot prevail in front of a jury. It's too obvious that he's colluding with the Portland police bureau to cover up the crimes they're committing. It's too obvious. He can't sue me. Even if he wasn't a criminal suspect, you folks know that the city attorney's office can't give other people the benefit of their time. For me to be referred to him is one thing, but without him being specifically authorized to talk to me, well, he's not going to talk back, so what we have here -- what we have here in essence is harry putting words in mayor Potter's mouth, which tell me that he -- as he is a suspect has total discretion to muffle my accusations and that he will protect all those who play ball with him if they just keep quiet and let him do the letter writing. Harry's crimes include, but not limited to, defamation of public statutorily and judicially for vehicles to use the streets of Portland, racketeering, and official misconduct in the first degree. Ask him in this week does he want to waive his rights. If he does, have him get in contact with me.

**Adams:** Thank you, mr. Koenig.

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

**Adams:** With the council's permission i'd like to dispense with the consent agenda. Any items to be pulled from the consent agenda? Any items from the audience?

**Leonard:** I move the consent agenda.

**Adams:** Move and second the consent agenda. Karla, please call the roll.

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

**Adams:** All right. That should free up staff to go back to work. It leaves us with item 1150, the time certain.

**Item 1150.**

**Saltzman:** I'm leased to bring forward certainly one of my favorite council actions, and that is the designation of new heritage trees in the city of Portland. Heritage trees are designated as such because of either their age, size, type, historical association, or horticultural value. And phyllis

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reynolds of our urban forestry commission is our lead person in finding mideast heritage trees and -- finding these heritage trees and designating them. I'll turn it over to phyllis.

**\*\*\*\*\*:** There are four. This is a little thing that got confused here, but now -- is this -- I can't even see it here. Is this thing on?

**Saltzman:** Now it's on.

**Adams:** Ma'am, if you could state your name for the record, we're ready to go after that.

**Phyllis Reynolds:** Phyllis reynolds.

**Adams:** Glad you're here.

**Reynolds:** And there are four trees that we're proposing for heritage status today. And one removal. First of all, i'll start with this one. It's a monkey puzzle on northeast fargo. It's not big enough to have been one of the trees handed out at the lewis and clark exposition, but it's a nice tree. It's a girl. And we --

**Adams:** It's a girl?

**Reynolds:** Monkey puzzle trees are what's called dioecious. The boys and girls are separate trees. Trees we have already as heritage trees are boys, and so this is a girl. The cones are different, you can tell. So found this a very nice tree, privately owned, and we would like it designated. Then the next tree -- oh, I should mention that monkey puzzles are originally from chile, natives of south america, but do very well here. The next one is a garry oak, southeast 109th. It is in the right-of-way. It's not the biggest garry oak in town, but our committee and the urban forestry commission is -- wants to save as many garry oaks as we can, because they're not really urban trees, and when we find one that is doing well in an urban setting that is big like this one we want it named a heritage tree. They're natives, you know, of Oregon. Next one is a northern red oak at patton park. And it's not the biggest northern red oak in town. It's only 15 1/2 feet around. But we're about to lose five northern red oaks having to be delisted. So this one will replace those. It's an extraordinary tree, as you can see, native to the eastern part of the united states, of north america really. Ok, the norway maple in eastmoreland on southeast 31st is the last tree we have designated, and it is -- it will be our token norway maple. Norway maples are all over the city. This is a big one. It's a good representative tree, but they're not well liked by tree folks, because they are very invasive. They're considered weeds in the east, as a matter of fact. But there are lots of them in eastmoreland. So we have picked this one as our token norway maple. And as you can tell by the name it's from europe. It looks -- its leaves look a lot like a sugar maple. And this is the want to have removed from the list. It's a black walnut. And as you can see, it's dying. It's not the only one in down. The black walnuts have a disease, and we're losing a number of them. This is particularly bad and really no longer represents what a heritage tree should be. So that is the total.

**Adams:** Any questions from the council or comments? Thank you very much for your continued -- oh, you had something to add?

**Reynolds:** Yeah. Something for you.

**Adams:** Ok.

**Reynolds:** We're going on a field trip tomorrow, the committee, and going to see two trees in north Portland.

**Adams:** Oh, promises, phyllis, promises. That's great.

**Reynolds:** Ok.

**Adams:** And one question that you can get back to me later on, but copper beach trees in northwest.

**Reynolds:** Yeah, that were cut down?

**Adams:** Yeah. Those were obviously never a heritage tree.

**Reynolds:** No. We tried -- we tried to get them made heritage trees, and we were not, with the promises that they would never be cut down, but the land was sold and the new developer cut them down.

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**Adams:** So the drakes actually sold the land?

**Reynolds:** Yeah.

**Adams:** All right, great. Much.

**Saltzman:** Just one more question, also, since you're here, somebody asked me recently, in fact she works for the police bureau, she bought a house that has a designated heritage tree on its property, and that was never known to her when she was going through the public title search and things like ha. I mean, she doesn't mind it, but she felt as a future practice it should be designated on title documents, things like that, that these should be designated as heritage trees.

**Reynolds:** We'd love to have that on the title, but so far we haven't been able to get it on this, just that there is a consent form signed, and that the owner selling the house is supposed to tell them the buyer about it. They don't often, and it's a bit of trouble, but it would be marvelous if this was recorded somewhere so that the new buyer would see it.

**Saltzman:** Maybe that's something you and I should work on.

**Reynolds:** That's fine, i'd love to.

**Saltzman:** If it's in the realm of city council ordinance.

**Reynolds:** Ok, good. Thank you.

**Adams:** Karla, please call the roll.

**Moore:** It's a nonemergency. It will go for second reading.

**Adams:** Oh, thank you. 1150 moves to a second reading. Thank you, phyllis. We're now moving to the regular agenda, item 1178.

**Item 1178.**

**Adams:** This ratifies our earlier discussion, correct? So we just vote on it?

**Moore:** Yes.

**Adams:** Please call the roll.

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

**Sten:** I missed this discussion, therefore will abstain.

**Adams:** It was lively. We're now at item number 1179. This is a second reading, so we'll move to calling the roll.

**Item 1179.**

**Adams:** Aye.

**Leonard:** I appreciate the work that went into this. It has the city's stated goals for healthcare in the first and second years. I expect that when we come back to the table both sides will earnestly sit down and come up with a creative agreement for healthcare. Aye.

**Saltzman:** Well, I appreciate the work that's gone into this agreement, but I cannot support this agreement as I did several weeks ago when I voted against the part-time recreation contract I stated that I could no longer support contracts that make no forward progress in controlling healthcare costs. And instead ones that are laying groundwork for increases in healthcare costs that are simply not sustainable. I thought i'd bring a visual aid today to help explain what I was trying to explain a few weeks ago. This chart illustrates how city employees healthcare premiums compare to other city -- other public employers and private employers throughout the region. It shows single family and family coverage, percentage of employees pay for their health insurance. Private sector, like nike, are up in the 20%, 25% private employee premium share. Portland is way over here at the bottom, below 5% of premium share. We're even lower than Multnomah county, lower than the port of Portland, and we're lower than ohsu. And I think this points that we really need to see how the city compares with other public sector employees, but it also we have to see how we compare with private sector employees, too. And because of the richness of senior -- of our healthcare programs and our low premiums, I really believe that we're in the danger of upsetting a -- of setting up a two-tier class of systems between private employers and public employers, and that's not going to serve us well in the future as we seek voter support for the things we need to do to make the city

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run and run well. So until we're ready to start dealing with this -- these issues -- and the healthcare employee plan, premium contribution, is only one aspect of healthcare costs containment, but it's an important one, because when the employee and employer are both paying for their premiums, it puts more eyes on the bottom line, and that helps to focus cost containment. It's not just a general fund issue either. We need to recognize that the city -- city healthcare costs are affecting our budgets. We will be asked this year to prepare budgets that will have deficits that are driven largely by increasing healthcare costs. These budget deficits will cut back on frontline services in our general fund, and they will cut back the frontline services in our enter funds, the bureau of environmental services, the water bureau as well. Both bureaus that i'm familiar with. So again, I think that we can all say, while national reform is truly the answer, national reform of healthcare is the answer, it's necessary, but it's not foreseeable. And just as we can't count on the state to adequately fund our schools, we can't look to anybody else but ourselves to come to grips with our healthcare costs. Us, management, an employees alike. So I really believe the time is now to engage in serious and immediate negotiations to contain healthcare costs and postponing major reforms to just over the next horizon won't get to that as a collective pairing of our heads that is not fair to taxpayers. This is no disrespect to our firefighters, our recreation leaders, but simply a policy that I have, I will not support bargaining agreements that have no meaningful healthcare cost containment agreements if them, so I respectively vote no.

**Sten:** I'm glad to see this. I've been working several years with the firefighters association and management and the mayor's office trying to get the contract to us. I think this is headed to arbitration, and if this did not come up with a package that's fair to both sides. While I understand commissioner Saltzman's argument, I think it doesn't hold up. It really means we'll be taking the firefighters to arbitration on an argument that the firefighters should take a healthcare cut the police have not taken at this point. We do need a citywide strategy on these issues, but sort of going to war with our employees to try to push the cost off on them to me is not the right strategy. I'm pleased to get this. I think it's fair to the firefighters. I think it's a very baseline package. There's not -- there's not a raise beyond cost of living. And it's one in which I think our -- and their healthcare costs will go up over time. There's no easy answer to these questions. I certainly agree with the trends, but I also believe that it's the public sector's prerogative and important to try and come up with healthcare solutions that don't further the race to the bottom. In fact, every person in this country is suffering in a poor healthcare system doesn't mean that the right answer is to make everyone's healthcare system worse. I was listening to a story this morning about how we had healthcare in this country for everyone, we wouldn't be scared of the flu epidemic that is costing millions and millions of dollars. We have the emergency management office now working aggressively at our request on what we do with the flu epidemic. We could immunize all the children who don't have healthcare that are going to spread the flu epidemic. I think these are issues, and while it sounds good to say we can solve them on the firefighters' back with a two-year contract we're already well into, I don't think it's realistic. So I think this is the right approach and we'll keep our men and women in the fire service doing what they need to do, while we keep working on the issues. I do have what I believe is a meaningful commitment from them to help us continue to work on these issues. I vote aye.

**Item 1180.**

**Adams:** That moves us to item 1180. This is one thing that is different, while we hear short presentation, exhibit a, where we have strengthened the performance measures in our contract with regional arts and cultural council, but to tell us more, give us an overview, is eloise, the executive director.

**\*\*\*\*\*:** Thank you. Good morning.

**Adams:** Please state your name for the record.

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**Eloise Damrosch:** I'm Eloise damrosch the executive director of the regional arts and culture council. I very much appreciate the opportunity to come and speak briefly about the scope of services that we perform on behalf of the city. As you know, 10 years ago the metropolitan arts commission morphed into the regional arts and culture council to better serve the tri-county region, and also to become a more entrepreneurial organization. I would say with 10 years of hindsight that was a good move. Three major service areas that we provide for the city, all of which support our basic mission, which is to work to integrate arts into every aspect of community life through a peer panel process. Jesse will talk more about our process and criteria, we award grants to arts organizations and individual artists, large organizations to the most fledgling small ones, and to artists for projects as well as professional development. Racc is also responsible for the collection, management and maintenance, commissioning and purchasing works for public collection and educating the public about that collection. With the leadership of commissioner Adams, we're currently working with the guidance of jesse, we're working with a group of city folks to improve the system by which we identify eligible art projects, and hopefully it will mean that all city bureaus are participating to the extent that city council intended 25 years ago when the first ordinance was passed. We'll be bringing that to you very soon. Finally racc works really hard to advocate for support for arts and culture throughout the region, both in terms of public funding and also in fledgling partnerships, organizations, such as the Portland, Oregon, visitors association, Oregon arts commission and many others, all of which further the agenda of arts and culture in this region. Then recently we've also initiated a program which city employees are happily participating in, which is not only growing funds for the arts, but is also raising the awareness of how individuals can support the arts, adding to our pool for grants funds and also educating future philanthropists and art consumers. I'm happy to take any questions, but before that I just want to thank all of you. I've been working in the arts and culture trenches in the -- in this city for almost 20 years, and I can categorically say there's never been such broad and strong support on city council for arts and culture. I really appreciate it, each and every one of you, for what you're doing. And one final thing. Tomorrow, 20 years ago Portlandia canceled up on her perch, and before we finish our presentation, I have something about that.

**Adams:** All right.

**Jessee Beason:** Hi. My name is jesse beason, I work in commissioner Adams' office. I'm here to briefly talk about the performance measures that we worked with the mayor's office to produce to attach to racc's contract. In discussions with the mayor's office and with eloise at racc, it became clear that council a lot of times didn't know all of the thought and criteria and the guidelines that racc was using when selecting artists from our community in both public art projects and when they apply for grants. So we developed a series of performance measures to ensure that racc was expounding upon its criteria, its guidelines for selection, and was always focused on how to improve those. So exhibit a of the contract is those performance measures. Their primarily directed at being more clear about what city council intends for racc to do in terms of growing its efforts out in the public and ensuring that artists are -- are having equal access to these grants and equal access to the ability to participate in regional arts and culture planning in the city.

**Adams:** Any questions for our panel? Comments? Well, before you leave the desk, I just want to thank you, eloise, for providing such great leadership in a very, very challenging role that you have. You get great kudos and compliments throughout the arts and culture community, and that's exactly the way it should be. I just wanted to thank you publicly for all the great work that you do on behalf of the region. And jesse, I want to thank you as well for helping make our office so effective in supporting what eloise does and art and cultures throughout the city. Thanks for all your great work. All right. We're ready to vote.

**Moore:** This is a nonemergency.

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**Adams:** Sorry, we'll have to forestall the satisfaction this week. Thank you very much. That moves us to emergency item 1181.

**Item 1181.**

**Adams:** Do we have any staff for this item sponsored by my office? All right. Then are there any questions or comments from council? Then let's call the roll.

**Moore:** I didn't have a sign-up sheet, but --

**Adams:** Oh. Anyone here to testify? Well, let's just get on with it, then.

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

**Item 1182.**

**Adams:** All right. That moves us to the first reading of a nonemergency, 1182. This is the first reading. We've had healthy discussions on this in the past. I need to move a substitute. The substitute is what mary jo just handed you. And it addresses some of the issues raised about the complexity of this, we sought to make reporting a little bit easier. We removed the detail required in terms of the nature of the contact. Mary jo, what else have we done?

**Mary Jo Markle:** Hi, I'm mary jo Markle. As sam mentioned, we took out the type of contact that was -- we asked for to be reported, in terms of whether it was email or phone call or --

**Leonard:** Where is that?

**Markle:** On this sheet, I spelled it out, but it's also -- i'm sorry, there's another sheet. Then I copied, cut and pasted the aspects of the code that was changed. So we limited the type of contact. We address the exemptions to registration and reporting. And then the other change made was that we specified reporting requirements for city officials that calendars posted by city officials are elected officials would be of activities related to official city business. We wanted to specify that.

**Adams:** The handout that mary jo gave you, there's been discussion and lobbying by folks in the business community that why don't we start adopt the state one, and you'll see a memo that has the october 5 date on it from me to you all, that we just simply called the Oregon government standard and practices commission and asked them to send the reports that are turned in as a result of the state system. And my observation of this is that it's very underwhelming. We have reports of expenditures of half a million dollars without any detail. Expenditures in the tens of thousands of dollars without any detail. I can understand why it might be -- here's one for \$42,000 -- owe understand -- \$117,000 -- without meaningful detail attached to them. While I understand the sort of lure of a much simpler system, I just do not simply believe that it provides the kind of transparency that I think that i'm seeking, and that I think the public is seeking. So for the amount of paperwork that they have to fill out at the state level, there's not a lot of benefit that's derived from it. And so I would argue that the state system is much inferior and more of a waste of time for all involved than has been sort of portrayed by some comments thus far. So are there any questions? This is a first reading. Are there any questions or comments of council of mary jo or myself? Then we'll have public testimony.

**Markle:** Sam, we made a friendly amendment suggested in terms of also having -- this is the ordinance cover -- having a six-month review and 18-month review that is in there.

**Adams:** Ok.

**Leonard:** I certainly appreciate the place you're trying to get, but I just have to say having served in the legislature for 10 years, and here three, I am very aware when you create exclusions that there are those out there that look to exploit that. And you have an exclusion and who in 2-1-2050 which may not have to register and that's - I just see that as a problem. I don't see how you can philosophically want transparency in lobbying activities and exclude a huge lobbying entity from that. I mean that just doesn't philosophically feel consistent to me.

**Adams:** Well, the exclusion is based on behaviors or actions required of those seeking the exclusions. So we're going to have to respectfully agree to disagree on this. I think also that in time we should continue to look at the exclusions and whether or not they make sense or not. I'm

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certainly willing to do that also at the end of the 6 month and 18 month review so those excluded now from my point of view should not feel confident that they would be excluded forever. But in terms of having to change -- this is a significant change to the political culture of city government. And another way to look at it might be in terms of phasing in. This is a brand-new system. It's going to potentially affect, you know, hundreds of people. And this can also be considered as a first phase. I'd be happy to -- you know, we're going to be revisiting everything after the end of six months. I can tell you with absolute clarity that what we're passing today will have unintended consequence or flaws in it that we will find out in the next six months and we'll seek to continue to perfect it. Any other comments or questions?

**Saltzman:** I had a conversation with you last week about labor representatives being covered under this, if they're lobbying about contracts.

**Adams:** Correct.

**Saltzman:** Is that now taken care of?

**Adams:** The way that the ordinance reads is that lobbying regarding the renewal of their contract would be -- they would have to report that as lobbying. Lobbying regarding the implementation of that contract is excluded.

**Saltzman:** Ok. So that is specifically in here? Can somebody show me where?

**Markle:** Well, how we have it -- what we have it called is -- i'll show you where it is. It's on page two of the actual code. It's the 2-1-2.020 and it says lobbying does not include --

**Saltzman:** Hold on a second here.

**Markle:** I'm sorry. It's on page two of the code language. If you do down to the bottom of the page .5. It says oral written communication made by a representation of a labor organization that is certified or recognized pursuant to o.r.s., and that o.r.s. is defining what collective bargaining is, as the exclusive bargaining representative of a city -- of employees of the city of Portland to the extent that such communications do not deal with actual or potential ordinances that are unrelated to the collective bargaining process.

**Adams:** So what we did, after your question commissioner, we consulted with the city attorney, and part of the record today memorializes the clarification of that. They felt that the language was adequate and our conversation today helps clarify the record. That particular provision was a hard-fought compromise, or the language was written in partnership with our organized labor partners. So I frankly was loathed to try to dig in and change it, but rather the record of this hearing helps to clarify.

**Saltzman:** How about we just add a number six that says exactly what I just said?

**Adams:** You can choose to do that if you want.

**Leonard:** Well, but I need to ask a question. Am I understanding what is being said here, is that if there's a collective bargaining process going on and it is coming to the council for a vote, and I call the affected employee group to talk about that, that is considered lobbying on their part?

**Adams:** If it is about renewal of a contract.

**Leonard:** I'm talking about if they've bargained an agreement, just as we did here today, and I met with the firefighter's president to ask him to explain to me from his perspective the agreement, that is considered lobbying on his part?

**Adams:** If he's lobbying you to take a particular position in your official action as a city commissioner, then that's lobbying.

**Leonard:** What if I just call him and I say, "I have a question about your healthcare provision, can you come in and explain that to me?" and he comes in and explains that to me prior to the vote.

**Adams:** The basic question is it lobbying or education.

**Leonard:** Where do you distinguish between those two things here?

**Adams:** The lobbying and education is really -- we define what lobbying is in the ordinance. It's a similar sort of lobbying definition that most other jurisdictions use.



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**Leonard:** But you said that number five -- tell me if i've got this wrong -- this number five, you intend to have the legislative record reflect that lobbying to gain the support of a council to approve a collective bargaining agreement would be a required reporting action.

**Adams:** Correct. The actual bargaining, which is covered under the o.r.s. is not considered lobbying. However lobbying to - is excluded under the o.r.s. cited. However, lobbying to support or not support a contract coming before the city council would be included. So the bargaining is excluded, but when it comes to the city council in terms of whether we vote for or against it, that is included in the lobbying.

**Leonard:** So I'm giving an example where this actually happened, that the association president came in and proactively explained why the healthcare provision he felt met our criteria, where he felt it made sense, and he urged me to vote for this, would that conversation under this ordinance have been required to be considered a lobbying effort?

**Adams:** Yes.

**Saltzman:** Still subject to a threshold of total hours, though, right?

**Adams:** Yeah, right.

**Leonard:** But I don't think the labor organizations understand that. I think that they believe that you have told them something different.

**Adams:** Those are the discussions that we've had in the meetings, that everything related to the actual contract is excluded, but in terms of renewing the contract and lobbying for the provisions, one provision or another provision in the contract that is subject to the lobbying provisions -- reporting provisions.

**Saltzman:** I guess the reason I feel it should be spelled out is because the occasional meeting, like you're just describing would be fine, but if it gets to be more than 16 hours a quarter -- if it's more than 16 hours a quarter of that type of activity, I think it's worthy of public knowledge.

**Leonard:** But the point is that it's defined as lobbying, that's the point, and that if it's not taken into account with all other lobbying -- in other words, you may not lobby 16 hours a quarter on a contract. I understand that. That won't happen. But you may lobby on some other things that taken cumulatively would -- and including going in, talking about your collective bargaining agreement, that would put you over the 16 hours, and at which point you would have to require that. I will tell you that my understanding of the conversations that I have had is that there are a whole group of people that think that's inappropriate on administering, to consider that lobbying is beyond what most reasonable people think lobbying should include, and I think that the people that are involved in these discussions that do nothing but contract administration believe what I just said is the case if that has been excluded, and this will be news to them.

**Adams:** We have one person here. We'll have to find out from him whether it's news to him, but we've made it very clear that lobbying on contract decisions throughout the city is an important part of the reporting requirements, in my opinion. So we will have testimony to see if this is a surprise or not. We've had lots of meetings and discussions on this and the points are -- your points are clearly made. Any other questions or comments for mary jo? Anyone else signed up to testify?

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

**Adams:** Ok. Is there anyone in the audience that would like to testify? Chris? State your name and you have three minutes.

**Chris Smith:** I'm speaking today for myself, although as someone who is likely to be required to register, representing at least one organization and maybe more, but i'm not authorized to speak on this for any of those organizations. Again, want to reiterate my support for this as an activist. I believe this level of transparency is important to our government processes and will improve our citizen involvement here in Portland. I do want to make some remarks specifically informed by my involvement in city club, although again to be very clear, city club has not researched this issue and city club as an organization has no position. This has become sort of more generally known within

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the club, and particularly the advocacy arm of the club, the advocacy board that I sit on with others, and as it's become more widely known there's been some reaction, I think not unlike reaction you saw in other organizations early in this process about the word lobbying and the distinction between lobbying for what we perceive as the general interest as opposed to for special interest. You know, we've been through those conversations, and I certainly understand your position, commissioner Adams, you're not trying to say lobbying is a bad thing, nonetheless some of my colleagues take some umbrage with the wording, and on their behalf I would like to pass on a suggestion that you consider broadening the title of the code language to regulation of lobbying entities and public interest organizations, so there's terminology there that people find the word a challenge can kind of take shelter in. I want to pass on that suggestion on their behalf since they're not able to testify this morning. Finally I want to ask a question about the development of the changes we've seen today. There have been a couple of red lines that have went out. I believe that covers the situation where one of you -- or a lobbying official requests a donation for a third-party organization. So commissioner Adams, you know, if you asked somebody to donate to an arts organization -- asked a lobbyist to a arts organization, whether you would have to report that. I think there was a draft that included that. I'm curious about the evolution of that.

**Adams:** I appreciate that. I should have mentioned that in the opening. After consultation with the city attorney's office, they felt that was not legally sustainable. So we kept in there when contributions are received to the city at the request of a lobbying of a city official -- from a request from a city official. But in terms of my efforts to raise money for the march of dimes or whatever else, that would not be required to be reported. So we've simplified the ordinance there. And that's based on further considerations of the city attorney.

**Smith:** Ok. And I just concluded by making one more point about the distinction between this system and the state system that commissioner Leonard has referred to. As an activist, I really think, where the rubber meets the road is the contacts between the lobbying entities and the decision makers. And the state system lets you know who the lobbying entities are and how much they spend. It doesn't give you visibility of the contacts that are happening, and there's tremendous information to be gleaned there. It's one of the parts I'm particularly attracted to.

**Leonard:** If I could ask Chris, we've developed a great relationship, and have had what I consider to be one of the better dialogues --

**Smith:** And when we have public dialogue on blogs, do we have to report that? The city attorney will have to rule on that at some point.

**Leonard:** Which is a good point, but nevertheless did have a good dialogue on the subject, Chris and others weighing in. You, as an example, and a good example, because, I mean, you're a leader in the neighborhood, you do what you do for altruistic reasons, but I also hope you can appreciate, with the number of hats that you wear, that you are potentially excluded from any reporting requirements, notwithstanding what you may be lobbying on as a representative of your neighborhood association, if you were to claim that, notwithstanding that you may have some other interests that you're lobbying for, you may go "hey, I don't have to register because I'm a representative of the northwest neighborhood association." Chris, I bet you if I looked at my calendar, there's nobody in this town that I've met with more than you.

**Adams:** Lucky you.

**Leonard:** Nobody that I've met with more than you, which I actually, I hope you would agree, do not just do because it's my job, but I enjoy meeting with you. That's not the point. The point is why is it that we would have a system -- just philosophically -- where meetings I have with some are reported, but you would never show up on anybody's radar screen, notwithstanding you have a tremendous amount of influence, you make good points, you argue your points well, and some would argue that your points, if we agree with them, actually enhance the value of the property from the area you're from. So there is some argument there might be economic interest as well.

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How do I get my arms around philosophically explaining to somebody why Chris Smith doesn't have to register, but, you know, somebody from, you know, the Salvation Army does, you know, the captain -- or the major in charge of the Salvation Army, who I'll be meeting with Commissioner Sten on a funding issue with them, he has to -- although he's providing housing for homeless women and we're meeting to try to figure out how to solve that, he has to report that. You don't have to report arguing to me why you don't want parking meters in your neighborhood.

**Smith:** Uh-huh. Well, thank you, Commissioner, I enjoy our meetings as well. And I think, in fact, a large number of the meetings we have, I would have to report, because I meet with you in several --

**Leonard:** But I'm giving you some circumstances where you could argue that you don't.

**Smith:** Right. So I will hone into the neighborhood argument I know you're making, but I would guess at least half of our interactions I have been representing City Club. In that capacity I would be reporting all of those, because City Club would qualify as a lobbyist organization.

**Leonard:** What if the neighborhood association adopted the same position? By the way, the City Club agrees with me, but I'm representing the neighborhood association, here's --

\*\*\*\*\*: But --

**Leonard:** Why wouldn't you say you represent the neighborhood association to avoid the paperwork?

**Smith:** I guess I could do that. I wouldn't. It would be disingenuous. On other issues, the neighborhood has different positions, so I wouldn't be able to do that generally. As to the issue of neighborhoods, you know, I'm no longer a neighborhood board member, so it may be easier for me to say this. You know, from a pure policy level, I don't necessarily see a rationale for excluding neighborhood associations, because once you get to the level of detail that we're talking about, actually reporting contacts, not just sort of general interests, you know, there is information to be gleaned from the level of contact activity. On the other hand if you look at sort of the -- the overall reporting burden of the system and the amount of paperwork we're going to generate and the amount of information we're going to gain, I think that we would have neighborhood associations generating tremendous amounts of paperwork for very little information gained about what sort of what they were working for as opposed to some of the -- I'll just say paid lobbyists that I think many people would be interested to read their lobbying reports, understand what they're doing, what issues they're working on on behalf of whom. I call it the surprise factor. What would I be surprised to learn in a lobbying report, and I would expect very little surprise in the neighborhood reports, and much more surprise in the reports from the paid lobbyists. And on that -- on kind of that pragmatic basis I'm OK with exempting neighborhoods. You know, I think if some savvy neighborhoods might see there's actual benefit in voluntarily reporting, seeing what they're doing, earning credibility through that.

**Leonard:** OK, right. I guess my only point is if -- and this discussion is one Sam and I had -- if the point of the ordinance is to make our decisions transparent, that is so that a person that is a member of the public wanted to figure out how does Randy Leonard end up voting the way he does, and they look online they'll get a skewed version of that, because they'll see who happens to fit the criteria, but they won't see the people that frankly I probably give the benefit of the doubt to when I do meet with him, which isn't to disparage obviously activists. I mean, I hope most people would agree, when there's an argument, I consistently give them the benefit of the doubt, but the point is that then it is truly transparent, people know who I'm meeting with, how I make a decision. This system, doesn't to me, doesn't allow that.

**Smith:** Philosophically I wouldn't argue that. You trade off cost against public benefit. The costs of making the neighborhood reports versus the public benefit gained is much weaker versus the other folks we're targeting.

**Adams:** Thanks, Chris. Anyone else wish to testify? Yes, sir. Did you ride your bike today?

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\*\*\*\*\*: I did.

**Adams:** You're a model citizen.

**Michael Danner (sp?):** Michael danner. Commissioner Adams, we've been highly involved in this process and had many discussions. We've tried to emphasize throughout that we think organized labor occupies something of a unique position with respect to these proposed regulations. There are essentially two reasons or two grounds for that claim. One is the special status that organized labor enjoys as the exclusive representative of bargaining unit members. That's a status that's recognized by law and well established. The second component is the obligation that as the exclusive representative we face, which is to represent all of our members of the bargaining unit fairly. And again, this is a status, well established, imposed under law, and nonnegotiable. I was, as I set over there listening, surprised to hear your explanation of the proposed language, because it does in fact differ starkly from both my reading of the actual language of your proposal as well as my understanding of the sort of difficult accord I thought we had reached, "we" being my local union and your office. I think your explanation of it doesn't square with the proposed language and it certainly doesn't reflect what we thought the intent was with respect to labor. We had addressed what we felt were two large categories of what we do as a local union. One is we collectively bargain. Two is we implement or enforce these contracts, which we have collectively bargained. And both of those, we felt because of the special status they enjoy under law, both of those categories deserved an encompassing exemption from this regulation. Anything less than that would be an unworkable impingement of our -- not only our legal right as exclusive representatives, but also our obligation to fairly represent all our members. The -- you know, as we sort of started with --

**Saltzman:** How is reporting impinging on your rights, disclosure of how much time you may spend visiting one of us on a negotiation? How does that impinge on your rights?

**Danner:** That's a fair question. Essentially, like everyone, we're busy folks. And every minute that we have to spend dealing with administrative or regulatory matters takes away time and resources for us that are available to represent our members. So that's an impairment in our view. Also, we have some --

**Saltzman:** In other words, having to prepare the paperwork to comply with this ordinance?

**Danner:** Right. And I know commissioner Adams has taken pains to make this a streamlined process. I'm not going to say this buries us in -- you know, in tons of paper, but it is, we feel, a significant burden in that respect. Similarly, many of the issues we deal with, personnel issues, issues relating to grievances or disciplinary matters, are highly sensitive, highly confidential, and we feel -- we have a legitimate concern about preserving confidentiality while complying with the requirements of this regulation. There were people -- and I wasn't -- within that group, but there were people that argued for a wholesale exemption for anything labor did. We tried to take a more restrained approach than that and carve out the two large categories, which I mentioned -- collective bargaining and implementing or enforcing the contract. I would just like to reiterate that we think those are crucially important exemptions.

**Adams:** Let me try to clarify. And I apologize that we surprised you. That certainly wasn't my intent, because I thought it was clear. The bargaining, which is covered under the bargaining laws, is exempt. However, once the -- once the council is going to be considering a contract, outside of bargaining, so there's a point at which we meet in executive session and we talk about what our position would be, but then once a contract has been -- has a tentative agreement and it goes to both for ratification and then for city council approval, from that point forward, if you lobby us on it then you would have to report that. Now, in the practical world there isn't -- there will be some lobbying after the tentative contract is approved and before we consider it at council, but most of the work happens under the bargaining that takes place. For us those meetings are in executive session.

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**Leonard:** Well, I have to say that's -- that distinction is a unique in my experience. Bargaining very much includes getting the other side to sign the agreement. To somehow think that bargaining is done when the representatives of both sides get up and walk out of the room is not accurate. I mean, it is very important as part of a collective bargaining process to make sure that as we discovered in -- as the firefighters agreement, for an example. We walked out of the room last december thinking we had a deal. The council accepted it. The representatives at the table accepted it. And the firefighter members rejected it. That was very much part of the collective bargaining process. That was not a political process. To somehow think that going in and explaining to council members, who are the ultimate signatories of the contract, collective bargaining agreement, are somehow not part of that process, doesn't reflect the law or what really happens.

**Adams:** I think this discussion sort of outlines the policy choice the council has over this issue. We're talking about the line to draw for an exclusion. And as we were with neighborhoods, that was drawing a line in a particular place on an exclusion. Every single lobbying register and reporting system that we've ever seen has exclusions. So the fact that there are exclusions sort of maybe back to your earlier points is not unusual. So council has a -- a policy choice here that i'm happy to poll the question on to see which way they want to go and move forward.

**Saltzman:** Yeah. I guess, you know, I don't disagree with anything that's been said here. Every -- you know, we're not trying to impinge upon your role in fulfilling grievances of existing contracts, nor are we trying to interfere with your role to talk to each one of us once there's a tentative agreement. But I think once we get to that tentative agreement stage it's noteworthy from a public interest point of view to know how much time and effort a particular bargaining effort is lobbying the city council. So I guess what i'm looking at is under the exemptions that we were just talking about, number five on page 2, I think the last sentence is a little awkward the way is worded. I would say something that the exemption for lobbying us does not apply to the extent that such communications do not deal with actual or potential tentative agreements that are related to the collective bargaining process.

**Danner:** Well yeah --

**Saltzman:** That doesn't mean they can't occur. That just means if you spend more than 21 hours a quarter, speaking to us, that it's disclosed.

**Leonard:** With all due respect, I think sam hit it on the head. I mean, we need to vote and decide who wins, because I cannot disagree more. And we've laid the issue out and discussed it. And I think it -- you know, it's been characterized by the testimony here accurately, and we just need to decide. I couldn't disagree more.

**Danner:** I know i'm running on, but I could make one brief comment.

**Adams:** Sure.

**Danner:** We are strongly in favor of open government. We're not trying to botch this. We wanted very badly to support this, but we also need to be effective in our unique role.

**Adams:** Thank you for your partnership on this. So the policy question before the council is on number five, do we interpret that to mean the entire -- do we exempt the entire process up to the council vote or do we only exempt that up to the tentative agreement? Where we go from council executive sessions to council -- eventual council public considerations of the tentative agreements? So I just want to poll the question first before -- your position, I think -- do you want to restate it?

**Leonard:** I don't think I need.

**Adams:** Ok. Commissioner Saltzman, your position is very clear.

**Saltzman:** Right. I believe once we get to the realm of tentative agreements, that that contact between labor organizations and our offices should be subject to the reporting. It's not prohibitive activities by any means, but subject to the reporting disclosure.

**Adams:** Commissioner Sten?

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**Sten:** I'm still thinking about it, but I lean toward it's not lobbying.

**Adams:** Ok. Then i'm going to move forward with a proposal that -- interpretation of this proposal that for the trial period, that it will not be considered lobbying, but that we will monitor it in the trial period to determine if we should make changes later. I think we've got some things to learn here. And since it was the general understanding of organized labor, that it included all the way up to the final council vote, and my desire to move forward with the trial period, that's what i'm going to move forward with. So is there any other testimony? Yes, sir. Please state your name. You have approximately three minutes.

**Norman Turrell:** I'm norman turrell, here representing the league of women voters of Portland. And I didn't intend to speak this morning, but i'd like to weigh in on this question you just discussed. And it seems that the -- number five that you were just discussing is exactly analogous, or at least very closely analogous to number four as well, dealing with any contract that the city makes with any corporation, group or organization. Whether it's a corporation, group of people, or organization like league of women voters, if you're making a contract with them, and are voting on this contract as a council, then any discussion or attempt to influence you on that -- the contract is in fact lobbying under the definition of lobbying. And if you, you know, try to exclude some contracts, or other contracts, I think it's just not logical, in my mind. So I think that's all I really wanted to say this morning. But I wanted to reiterate that the league of women voters very strongly supports this ordinance and thinks you should pass it in one form or another.

**Adams:** Thank you very much. Anyone else that would like to testify? If not, then this moves to a second reading.

**Moore:** We didn't get a second on the substitute.

**Adams:** Oh.

**Moore:** Commissioner Adams moved it.

**Sten:** Second.

**Adams:** Moved and seconded. Do we need to vote on the substitute?

**Moore:** Why don't we.

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

**Adams:** All right. Mary jo, thank you for all your work on this.

**Leonard:** She's not done.

**Adams:** I know, but she's a step closer.

**Item 1183.**

**Adams:** That gets us to item number 1183, but before we do that -- no, we're going to go ahead and do item 1183. Karla? Unless there are questions or comments we'll go to a vote. This is a second reading.

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

**Item 1184.**

**Adams:** We're now at 1184. Second reading. Let's call the vote.

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

**Item 1185.**

**Adams:** Next is 1185. Any questions from council on this? We've had this project before us a number of times, but staff is here to answer questions you might have.

**Andrew Aebi:** Good morning, commissioner Adams. I'm andrew aebi, local improvement district administrator. I want to state for the record that we've not received remonstrances against l.i.d. formation. Thank you.

**Adams:** Thank you, andrew. Any questions from council? If not, let's call the vote.

**Aebi:** I believe this goes to a second reading.

**Adams:** Oh, thank you, andrew. 1185 goes to a second reading.

**Item 1186.**

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**Adams:** That gets us to 1186, which is also -- which is a second reading. Any comments or questions from council on 1186? Call the roll.

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

**Adams:** Before we move on to the next one, I want to introduce a delegation from saint petersburg, russia. If you could please stand up. Please stand up, all of you. Don't be afraid. We just look surly. Thank you for being here very much. Really appreciate it. Enjoy your time. [applause]

**Item 1187.**

**Adams:** All right. We will move on to 1187, second reading. Call the roll.

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

**Sten:** I understand I missed quite a good discussion of this. Not looking for a recap. Aye.

**Adams:** We will -- we will work with the council to get this to apply citywide, but we don't want to hold up the water bureau's efforts.

**Leonard:** Thank you. I appreciate it.

**Item 1188.**

**Adams:** Moving on to 1188. Commissioner Saltzman.

**Saltzman:** Mr. President, members of the council, in november 2002 Portland voters passed the children's initiative, which created the Portland children's investment fund. The investment fund makes targeted investments in early childhood, child abuse prevention, and after-school and mentoring programs. A five-person citizen allocation committee was created to make funding recommendations to the city council. I am the city's representative, county commissioner lisa naito represents the Multnomah county commission, and there are three citizens, ron belts representing the Portland business alliance, dr. Clara willis, and another representing the city and county respectively. The county has asked to weigh in on the funding recommendations, and then they come to city council for ultimate approval. In july and august of this year the allocation committee made funding recommendations for renewing its investment in 18 early childhood programs and 10 child abuse prevention programs and awarded a contract for early head start services as well. On september 8, the board of county commissioners considered these funding decisions and recommended that they be approved, so we have now meg mcelroy and mary gay broderick here to tell us more about those early childhood and child abuse investments.

**Adams:** Welcome.

**\*\*\*\*\*:** No cupcakes, but props.

**Adams:** Props are good.

**Leonard:** Cupcakes are better.

**Adams:** Cupcakes are better, commissioner Leonard said.

**Meg MacLeroy:** We'll work on that for next time. I'm meg macleroy, assistant program director with the children's investment fund. Thank you. As commissioner Saltzman just said, we had 18 early childhood programs and 10 child abuse prevention and intervention programs who had two-year grants and then 18-month grants respectively, and whose investments that were recently eligible for renewal. And what I would like to do is give you a brief overview of what our renewal process looked like, and also a brief program description of the programs that were recently recommended for renewal by the children's investment fund allocation committee, and then as well talk you through -- i'm sorry -- after that wait for your decision to accept that slate of recommended investment renewals, and then talk you through the early childhood -- excuse me -- early head start funding decision that was also made by the committee and look for your decision on that as well.

**Leonard:** Great.

**MacLeroy:** Our renewal process for those 18 programs that were just discussed included -- well, only current grantees were eligible. We weren't taking on any new applications with this renewal process. And the main components of the renewal process included a review of contract compliance. So we made sure that programs were performing their scope of services as stated in

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their contracts, including the number of children they were supposed to serve, the types of activities they were supposed to offer. We also assessed program performance. So during the time that they were receiving investment from us, did they meet the goals that they had stated in their contracts. In addition, we as a staff performed site visits with each of the 28 programs that were eligible for renewal. And we assessed program performance based on a set of standards, program implementation, best practices, reviewed programs extensively, and sort of assessed whether or not programs met those standards, exceeded those standards, or failed to meet those standards. And just to give you a sense, nine programs that we visited exceeded those standards, and 19 programs met the standards, and in no case did any of our programs fail to meet sort of the standards of best practices. In addition, we required that each program submit an audit for a period of at least nine months, during which they were an investee of ours, and at this time none of the audits have revealed any problems. They've all turned out to be satisfactory. And then finally, we required that each program submit a renewal application in which they described the program that they would continue to offer, the program outcomes that they would be tracking, or as commissioner Adams likes to say, I think performance measurements, and then their budgets, and a narrative describing how they would use the funds they're requesting from us. Any questions on the process? If I could give you a sense of the programs we're requesting to be renewed. There were five head start or early childhood programs that we recommend, which includes albina. Friendly house, which offers a preschool program. Mount hood community college, which offers a head start classroom in both the morning and the afternoon at the gateway community center. Neighborhood house, which offers a home-based early head start program, predominantly in southwest Portland. And Portland public schools head start, which we predominantly -- which we had an investment with their program in the morning and afternoon classrooms at the kelly center. In addition to those, we had three childcare programs. One is the childcare improvement project, which works with networks of in-home childcare providers to improve the quality of the services they offer to the children in their care. The peninsula children's center, which provides quality childcare for low-income families in northwest Portland -- in north Portland. Excuse me. And then Portland community college child development center. That investment helps provide care to toddler and preschool-age children while their parents, eligible for financial aid, are enrolled in p.c.c. Classes. Investments fund five home visiting child development programs. So these are programs in which case managers or parent educators are visiting families in their homes and providing parenting education, focused on child development of young children. And we have, like I said, five of those programs. Insights, teen parent program. The immigrant and refugee community organization, which focuses its home visiting services on three populations -- bosnian population, vietnamese, and other southeast asian populations, and recent african immigrant populations. Morrison child and family services has a home visiting program that we fund that focuses predominantly on latino families. The native american rehabilitation association offers these kind of home visiting services to teen families, teen moms predominantly, and children who are at risk for child abuse. And then finally, Portland impact offers these same home visiting child development services in southeast Portland. Finally, there were five other early childhood programs that we funded that didn't fall neatly into some sort of grouping that I just laid out, and they include an early literacy programs that takes place at three public housing sites around Portland, run through the housing authority of Portland. One program with morrison child and family services that provides early childhood mental health consultation to 10 childcare centers and preschools around the communities. So these are consultants working with children and families and teachers to support children's behavior and parents' ability to manage young children's behavior. Another program operated by ocha, which works on public health education and outreach information and referral for latino families. Another program offered by cascade aids project called kids connection, which does case management with children who are h.i.v. and aids-affected or infected. And then finally an early intervention program offered by



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albertina kerr center, providing interventions with families of children who are special education eligible or have mental health disorder diagnoses. So those programs in total serve around 3500 children per year. And over the 33-month period for which these programs have been recommended for renewal, the total investment amount would be around \$9.8 million. There are 10 child abuse prevention/intervention programs also eligible for renewal. And they don't fall neatly into groups in the same way that the early childhood programs I just described did. So i'll take them one by one. Investments are with big brothers/big sisters of metro Portland, a mentoring program that focuses on children in the foster care system. Children's relieve nursery, which offers therapeutic classroom to young children, to reverse the developmental affection of child abuse and neglect. The children's receiving center, which offers short-term care to children who have been removed from their homes while they're waiting for stable placements by d.h.s. Project metamorphosis, which is a three-organization sort of collaborative that works on alcohol and drug treatment and mental health services for homeless youth in Portland. The family and community alliance by -- operated by life works northwest, which provides home-based case management for children and families who have been referred to the child abuse hot line. And another program operated by life works northwest, the youth service team, which provides home-based case management for adolescents at risk for abuse or perpetrating abuse. There's a three-program collaborative called the Portland children's intervention project, operated by three organizations. Listen to kids, the salvation warmer west women's shelter. And catholic charities. All three programs provide intensive therapeutic services to children who are victims -- excuse me -- to children who -- whose parents are victims of domestic violence. And then finally, the volunteers of america, family relief nursery, which provides therapeutic classroom to reverse the effects of child abuse and neglect for children who are infants to 5 years old. Those 10 investments serve around 1300 children per year, and for the 33-month period would be a \$4 million investment. So if you'd like to discuss the decision to accept the recommendation of the allocation committee to renew those investments.

**Adams:** Any questions or comments? Is there anyone signed up to testify?

**Moore:** No one signed up.

**Adams:** We want to thank you for your time here and for all the good work that you do on behalf of all of Portland's kids and families.

**MacLeroy:** Thanks. I have one more quick decision I need for you to make, please. In addition to the renewal decisions, the allocation committee was faced with a decision to reinvest one of its original investments in early childhood -- excuse me -- early head start services. Early head start family center of Portland recently underwent some organizational stress and decided to relinquish its federal funding, in which case -- or as a result an interim contractor took over management of the organization and would not take over management of its other contracts, including its children's investment fund contract. So the committee decided to offer a limited request for investment to reallocate those funds to the community, and through that process of having volunteer reviewers read those recommendations and submit its recommendations to the allocation, the allocation committee decided to fund a proposal submitted by neighborhood house, and it is approximately \$300,000 each year over 33 months to provide 35 children with early head start home visiting services. And again, if you could discuss and decide whether to accept the allocation committee's decision to fund that program.

**Adams:** And is that --

**Saltzman:** Our ordinance contains all those approvals, I believe.

**MacLeroy:** Ok. I wasn't clear on that. Sorry.

**Adams:** We've got your back.

**MacLeroy:** Thanks. Appreciate it.

**Adams:** Any other discussion? Ok, then Karla, would you please call the roll on 1188.

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**Adams:** I just want to thank commissioner Saltzman for his leadership in getting this started and his sustained efforts at making it work. I also want to thank both of you and everyone associated with Portland's children's investment fund. Good stuff's happening. Aye.

**Leonard:** And I second those comments, but also want to make sure that I remind everybody that commissioner Saltzman has committed to running this with a 5% lid?

**Saltzman:** 5% cap on our administrative expenses.

**Leonard:** Which is just virtually unheard of. In addition, and this is, you know, where commissioner Saltzman and I may disagree on some things, this is not one of them, we're joined at the hip on his approach, which I absolutely am completely impressed by, including the other members of the committee, Lisa Naito and Ron Belts, who are -- particularly I want to point out Ron, a private sector member, who is very focused businessman, as I'm sure you know, and wants to get the most out of every dollar, so I have a lot of assurance that this isn't just a good sounding program, it is a good program, and does really good things. Aye.

**Saltzman:** Well, I want to thank the staff for all their work in getting us to this point. And thank all the organizations that we're investing in for delivering these very important services to children and families in the city of Portland. One of the daunting aspects of serving on the allocation committee we have many, many more requests than we can possibly fund. And so the need for services for children and our families facing abuse, domestic violence, needing after-school mentoring services, and needing early childhood development is great, and we'll continue to try to fund as many of those programs as long as they have a proven track record and that we can expand their capacity. That's the operational mantra of the children's initiative, proven programs, expand their capacity, keep our administrative expenses below 5%. We'll continue to do that as well as we can. Aye.

**Sten:** Well, I think you did an excellent job as usual of selecting programs. I'm just always so impressed when I hear about what's going on by both the voters' willingness, it's not an easy time to do this, but to put money where it matters the most, the kids. And the thoroughness with which commissioner Saltzman and the team have spent that money. I really appreciate it. Aye.

**Mary Gay Broderick:** We just wanted to thank you. Jeff from commissioner Saltzman's office brought your brochures around. We'll also be coming out with an annual report next month, a detailed 14-page report, talking about outcomes and financials. And then we'll be doing a mailing next year also to all city taxpayers, telling them about some of those programs, and staying beneath our 5% cap as well. We know we're only here because of the generosity and goodwill of Portland taxpayers. We want to let them know all the good work we're doing.

**Adams:** And your name for the record was? Mary Gay Broderick, director of communications. 1188 passes. We're now on to 1189. Good morning. How are you?

**Item 1189.**

**Jill Kolek:** I'm well. I'm Jill Kolek with the office of sustainable development. I'm here to talk about blue works, one of the business programs that are targeted to the business community. Most of you that there's several programs that deal with residential and business audiences. Blue works provides assistance, customized assistance, to businesses regarding waste prevention, recycling and purchasing practices. This program is a joint effort with metro, as well as p.s.u.'s environmental services. Last year we touched about 350 businesses with my technical assistance staff. And of which 200 received full waste and recycling evaluations, which means we actually went to the business, sat down and chatted with the contact we had there, reviewed their business practices, also looked at their routines, and made a list of recommendations for areas of improvement with purchasing, waste prevention and recycling, and then we follow up within six months and talk to them about how they're achieving those recommendations, anything we can do to encourage them to reach those goals. The program this year has a goal of hitting 450 businesses, and that's obviously an increase of about 150 businesses. So I think that's the packets that I handed out are examples of what we give to the business customer. The left side is standard materials that hit our

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three core areas, waste prevention, recycling, and purchasing. And then the right side we customized with fact sheets that pertain to that particular business sector or questions that they have.

**Adams:** Any questions from council? Thank you very much.

**Kolek:** Yes.

**Adams:** We appreciate that. Is there anyone that wishes to testify, Karla?

**Moore:** No one signed up.

**Adams:** Is there anyone in the audience that did not sign up that would like to testify? If not, this is an emergency ordinance, so please call the vote.

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

**Saltzman:** Good work. Aye.

**Kolek:** Thank you.

**Sten:** Good stuff. Aye.

**Adams:** 1189 is approved. And we're on to 1190.

**Item 1190.**

**Sten:** I just asked will white, the director of bureau of housing and community development to come up. The 10-year plan to end homelessness is actually a collaborative process that we're in with the county, the private sector, a ton of nonprofits. We've talked about this quite a bit. And we intend to before the end of the year is have the council formally adopt the plan, which we haven't done yet, but we wanted to give a brief update on where we are. Happily we're far ahead of schedule in terms of what our goals were in trying to get chronically homeless people off the street. Far ahead of schedule still leaves us far behind the amount of people on the streets. It's not something that i'm particularly complacent about, but what we found, and i'll be very brief today, i've been much longer in front of the council on this topic, is that about half of the money that we spend on homelessness, which is a lot, about \$35 million citywide, and whether that's not enough or too much is a separate question. And that number is a guesstimate. It includes what we think is spent on the jails each year. We don't have an exact number, in the emergency rooms, but it's the money that's in all reality being spent. About half of that money is being spent on the roughly 2,000 homeless people who have been homeless for more than a year. So whether it's too much or not enough, it's not getting them off the street. That's exactly the bottom line as far as i'm concerned. So the goal has been how do we get the chronically homeless people housed. And it's the right thing to do. It's something that I just feel is an affront to humanity, let alone a city of our nature. It's also the fiscally correct thing to do. If we were able to get those people off the street, only about 10% or 15% of the people homeless in a given year, 20% at tops, we would see more resources we could put into more proactive programs. One of the things we've been doing, not easy, but gets at a conversation commissioner Leonard and I have been having with the salvation army the last couple of weeks we've had to move money out of some programs into others. For example we pulled about \$161,000 that funded a women's shelter that was really strictly a great thing, but a place for women to go and sleep at night. We were funding a women's housing network that's including four or five nonprofits, actually aggressively trying to get people into housing. About half of the 34 women in the shelter now are into housing and the other half slated to go there. The money is buying 15 beds in an s.r.o. that will stay open and essentially function as shelter, but they will be apartments. We'll have to eye very closely do we have enough adequate emergency shelter. , but we're trying to get to solutions. It's almost a case-by-case basis. One of the things, and we've seen a lot, is how well the community mobilized around the hurricane victims coming here. I don't think that's in conflict with any of this, but it raised the question of people, if you can move that quickly for folks out of town, how can we come together a little more collaboratively in town. So we're trying to address that question. I think actually this homeless plan gives us a template to try and do that. It's not final yet, but we're working on the idea of a large community day on december 8 to try and give people, you

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know, very concrete things they can do. Not a one-day event, but a one-day event to sort of jump-start the process of how to engage people a little better. Frankly there's not great things in line for how to help a chronically homeless person other than spend money. Will will talk about the key, not a card program, give you a sense of where we're going with this. We'll be back with continued updates and maybe sure the numbers of where we are with the numbers of chronically homeless people.

**Will White:** Thanks for framing that, Erik. The 10-year plan to end homelessness was launched the beginning of this calendar year, and we'll be back to you for formal adoption soon. The plan all along has been to get particularly the chronically homeless population, a small percentage of the population, but major consumers of the resources, into permanent housing, combined with services.

Our goal for the first year was to get 175 chronic adults into housing. So at the end of six months, the goal was 175. The actual achievement was 390. So we are well ahead of goals that we've set. We're documenting it carefully. And in the next couple weeks we'll be able to tell how we stand at the end of the third quarter, which just ended this past week. So we're doing extremely well. As a result, during last year's budget process, council approved one-time-only funding to expand this program. And at the bureau of housing and community development we've programmed that money primarily toward rent assistance and other assistance that will move chronically homeless people immediately into housing, housing that is combined with services, that will get them out of systems where they're relying on our much more expensive emergency systems for taking care of them. So we bring you this program today. There are four different providers that have demonstrated success working with homeless individuals over the past years. And we're going to be working with them to house nearly 100 people with this funding, provide them with housing and with services. We'll be focusing on the chronically homeless, working on the housing first models, what's nationally shown to be most effective, and locally as well. And we're picking the organizations with the best documented record of success. So we feel like it's the most efficient way to spend the city's money. We're being really careful in how we use it. We'll be back with you, in front of you, to show you the results as that program moves forward. So if you have any questions, I'd be glad to provide any more detail you might like.

**Adams:** Thank you very much. Does anyone seek to testify on this agenda item?

**Moore:** No one signed up.

**Adams:** Anyone in the audience that did not sign up that would like to testify on this item? All right. This is -- yes, sir. [inaudible] ok, thank you. Please come forward and give us your name. You have three minutes.

**Kurt Wehbring:** My name is Kurt Wehbring. I'm a management consultant and planner, and I've done work in affordable housing. I'm also on the board of William Temple House, and I have a degree from Lewis and Clark in counseling psychology. As you proceed, be aware that life changes, lifestyle changes that homeless people need to make are quite considerable. And so as you meet your goals, that's not the end of the story. And I think it's the long-term benefits of this approach that are important, not just meeting short-term goals. And -- and there will be some of the people that you help who will backslide. That's just part of reality. And you may need to come back in a year or two or three and look at your program, as I'm sure you're planning to do, to strengthen it and get the kind of mental health, alcoholism, drug abuse and jobs and all the other kinds of services that they need to make this work.

**Sten:** That's an outstanding point. Just to share two thoughts. One is we crafted this plan with the Citizens Commission, and they've agreed to meet every six months. We just finished the first six months. It includes -- I won't name them, but what you might expect on a commission, very, very smart, thoughtful, but also the sheriff, head of Providence Health Systems, folks quite engaged in this. That's the goal, is to keep looking at this thing. Be glad to share with everyone. We actually asked -- we have a series of goals for the plan, and we asked the Citizens Commission to give us --

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we went back to school, give us an a through d grade on each. We've got a published document that says, you know, it's no big deal, it's on the computer, that says how we're doing. We obviously got an a on the number of people off the streets, but not at a on a bunch of other pieces. The other thought on the psychology, sliding back and other issues, be very short on this, but getting ready to take a look at our systems we contracted with sisters of the road and asked them to do -- it was their request to us, but they went out and did interviews, oral interviews, with 300 or 400 chronically homeless people. I don't think it's been done at that depth in the community, in the country before. And one of the things that came out -- and everybody's story was very, very unique. They have some common elements, but every story is different. But there were two common elements. One tended to be a lower education level, which probably is not a surprise when you're thinking about preventative issues and the children's investment fund, those types of things. The other, though, that did surprise me, but shouldn't have, and I think it's really, really important to put out there, is that to a person they felt an enormous sense of alienation, almost to point of feeling subhuman, felt no contact with the community. If you're chronically homeless, you've lost track with the support systems. I think the reason that that's so important is that it is utterly lacking from every governmental response to homeless. I'm part of this. You can be very good about talking about housing and systems and triage, all the kinds of things. At the end of the day one of the things that people need is a sense they're worth something and part of the community. And where i'm trying to go with project connect, but it's hard, because nobody's ever done it, is to build a way to make sure this each of these folks has a tie a community. We'll talk to churches and community groups, asking how do we identify these folks by name, define a social connection there. That's a critical part of it. I'll stop here, but dignity village is not an answer for homelessness, but sheds light on why that's been successful. It's a community of people for folks who don't have a community. So I think that's really going to be the next step, I think is -- even if we had more money, what all of that shows from a psychology standpoint is we need to get people back into our community, not just provide the resources. Those are the kind of things we're trying to aim for.

**Adams:** Thank you.

**White:** I would just add, I think kurt's point is well taken, that this requires a long, sustained effort. And looking at the key not a card program -- i'm sorry, the transitions to housing program, providing rent assistance to homeless people and at risk of homeless people since 2000, we've placed about 1750 families or individuals into housing with that program. And we've tracked long-term retention because we know just getting them there initially isn't really success. And of those 80% remained housed six months later, and 73% after 12 months. So we are tracking it. We are finding that those numbers are actually rising over time, and so we're looking for long-term success with our expenditure of these funds.

**Adams:** Thank you very much. Any other comments or questions from council?

**Moore:** We have one more person to testify.

**Adams:** State your name for the record. You'll have three minutes.

**Sharon Nassett:** My name is sharon nassett. I want to commend commissioner Sten on looking at this, and also grasping the concept of community. I was born to -- in a family of 11 children, and having lost my father and leaving my mother with nine children under the age of 18, we did boarding. My mother also ran a halfway house for people that wanted to get out of prison, but needed an address because in the 1960's, if you didn't have an address, they didn't go out. She ran a soup kitchen and she had a second boardinghouse next to ours. As I grew up, she also took in foster care children. As commissioner Saltzman has said, we used to do emergency foster care. Police car would pull up, kids would come out, no shoes, no clothes, not a second thing, had watched their parents beating the heck out of each other, had no idea what was going on with them, none of their stuff. Sometimes they would come with other siblings, sometimes the other siblings would be taken to different homes and this person would be dropped off. And it was a very terrifying experience.

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She also took in unwed teens towards my senior year in high school. And it all led to an experience, an experience of homelessness comes from some of the changes we've made in zoning.

We no longer allow boarding houses. When you have a boardinghouse, everybody sits there, they're now a community. Instead of spending their money on drinking, the food's right there. So after a while they're going to be eating on a regular basis, get the correct nutrients in, make decisions. When they have problems, situations, they have people to talk to, they have a home and a community that they become attached to. We are also not doing enough accessory housing. They have people not using the full extent of their home, their basements, attics, garages, turning them into accessory housing. So we have elderly people that become isolated, do not utilize their full property, could be making money, offering vital things to people who have slipped a little. If you lose your lights when you're in an apartment, you could be kicked out. If you can't pay, you could be kicked out. It doesn't matter if you don't have a roof over your head, they find out, you could be removed. You can't get your first and last and can't get in. If you come in to a boarding situation, your meal's there, somebody's there, somebody says, "hey, you've got to behave right," and you get this whole idea that you're human again. When you allow people to do accessory housing, you can get many people into the same area, do not change the integrity of the neighborhood. You have basements, garages, they have spaces of their own. They start living again. And the person that is there is able to make a little money off of it. Right now it is so expensive that it's about \$35,000 to renovate your basement or something. There's only a few ways that a basement, a garage, or a house can be renovated. They should have standardized plans and say, "hey, if you want to do this, use one of these standardized plans, and we'll let you do it. As a matter of fact, we'll help you, because it helps the community, you get money, and you're not isolated." the last thing is we used to have approximately 1 million square feet of property in downtown Portland, above ground, not being utilized. We need to be starting to look at something similar to what jimmy carter does with his habitat humanity in a rental site basis, where that person will have a fixed rental basis that's there that changes by taking that building, helping them renew it, signing a contract where once a year they help it, come to a building that's downtown, gorgeous, has all these things done, and has mixed occupancy of people who are able to afford it and people that weren't. Those areas need to be revitalized and put back into the community. I think if you have the individual people revitalizing it and the properties being utilized, you'd have a lot more people downtown.

**Adams:** Thank you. Appreciate it. Anybody else that seeks to testify on this agenda item? If not, let's call the roll.

**Adams:** I just want to take this chance to again laud commissioner Sten and the entire team for pushing forward on an important problem, an opportunity for the community, enthusiastically vote aye.

**Leonard:** Well, this is truly the lord's work that you all do. And -- as my grandmother would say.

**Adams:** Look out for the lightning.

**Leonard:** And I just can't say enough about the leadership of commissioner Sten on this. I'm grateful he's here to be the point person on this issue, because I don't know that any of us would be able to do the things he's doing with the focus he does. I was really happy to hear the person testify about the relationship of homelessness to other issues. I just -- my background in the legislature, i'm painfully aware of the cuts we've made to mental health service programs that the counties have traditionally provided that have gone away as we've seen, not coincidentally homeless, drug abuse or mental health issues going untreated. I appreciate the attention to that, because that, although appears to be a secondary issue, in my opinion is one of the primary causes of homelessness and we have to treat that. So I notice you have central city concern in there as one of the recipients, which i'm a very fond supporter of. This is good work. I really appreciate it. Aye.

**Saltzman:** Well, I want to thank commissioner Sten and the bureau of housing and community development and these participating organizations. And I was just -- as commissioner Sten was just

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mentioning to me a second ago, it's nice how you're honing in on those organizations with the proven track record as we do with the children's initiative. It really makes a difference. I think it helps build voter confidence in how we're spending taxpayer dollars to serve the many needs of homelessness to children. So thank you. And your mother sounds like a true saint. So I want to just commend you on that, too. So i'm pleased to support this. Aye.

**Sten:** Well, really it's very meaningful for me, appreciate the council's support and compliments. We're also going to try to continue to do, I want to say the county's doing an aggressive job working with us, despite their tough budgets, is we'd like to be back to the council through the budget process to also look at -- again, sharon and others were real articulate in saying today homelessness is a symptom of other things breaking down. It is the way to approach this, is to come back with the different pieces that each bureau can be a part of. I don't see any reason other than will and tough work, not will with a small -- "will" with a small w, that we cannot end chronic homelessness in this community. The number of housing units we need, it's well within the scope of things we could do. You could imagine each of these people having a tie to community organizations and other places they can go when times get tough. We know that a lot of the treatment programs and other things work just fine, you just have to get them up and running. So I think this -- to have a goal any less than ending this I think would be the wrong thing to do. It's a tough goal, but I think we can get there. We'll keep pushing. Again, my thanks. Aye.

**Adams:** All right. That's the last agenda item on our morning council calendar. We will reconvene at 2:00 p.m. To hear the appeal of the maplewood neighborhood association. We are adjourned. Thank you.

At 11:26 a.m., Council recessed.

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**Closed Caption File of Portland City Council Meeting**

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Key: \*\*\*\*\* means unidentified speaker.

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**Adams:** All right. I'll call to order the wednesday 2 p.m. Meeting of the Portland city council to hear the appeal of the maplewood neighborhood association. This is continued from a previous hearing and on our agenda today is item number 1191.

**Moore:** Do you want to call the roll?

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

**Adams:** Go ahead and read the title.

**Item 1191.**

**Adams:** Last we met, we encouraged conversations to occur among the parties. Do I have to read the legal stuff? Ok. Do you have to read any legal stuff? Ok. Fabio, do you want to report to us what's happened?

**Fabio de Freitas:** Yes, thank you very much, council members. I'm Fabio de Freitas from b.e.s. First of all, i'd like to say that importantly the property other than has granted us a 30-day extension of the 120-day review period on this case, so we do have extra time to work on this case if we go that direction today. City staff did meet with representatives from the neighborhood association and the applicant on monday evening. I'm going to let them do most of the talking, because it was good work that evening. And I would just say that everyone was in the spirit of cooperation that evening. We reached some direction that the applicant is going to go into to take a look at their stormwater tract that is of issue here. And I would just like to say that if it were up to me i'd like to have three weeks for reviewing the new information that will be prepared by the applicant. That will give both the applicant and city staff reasonable time to look at their new proposal.

**Adams:** Ok. So who from staff? Who would you like us to hear from in terms of reporting on the conversations between the parties?

**deFreitas:** I think it would be suited for both parties to come up and discuss that.

**Adams:** Oh, directly?

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

**Adams:** Ok. If I could have a representative from the neighborhood. Or do you all want to come up and speak? [inaudible] ok. Fair enough. And a representative from the developer. And if you could state your name for the record. Why don't we start with you.

**Ann Marie Fischer:** Ok. I'm ann marie fischer. And I -- i'm representing the committee for maplewood neighborhood association. We met with mr. Whitaker's representatives and the staff. As fabio said on monday evening, we had a lot of good discussion, and we appreciate the 30-day extension. And we plan on continuing in the process of discussion on these issues.

**Adams:** Ok. Sir?

**Bill Cox:** I have nothing to add. My name is bill cox. We've done what was just told you, and we'll be back with whatever adjustments that are available to us.

**Adams:** Ok. Any questions or comments from the council for our panelists? Hearing none, do I -- what's the procedure? I'm sorry, i'm new at this.

**Beaumont:** I believe we need to continue this to another date. Maybe -- let's see, the 30-day extension that's been granted would expire on friday, november 4. This could come back to the council either october 26, which would be the wednesday before thanksgiving, or november 2, which would be the wednesday after thanksgiving.



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**Adams:** Does council have a preference?

**Leonard:** That can't be right.

**\*\*\*\*\*:** Oh, i'm sorry. Thanksgiving comes in november. I was a month off. Sorry about that. I'm sorry. Wednesday, october 26, or november --

**Leonard:** I can't believe that I knew a holiday.

**\*\*\*\*\*:** -- wednesday, november 2.

**Adams:** Before or after halloween.

**\*\*\*\*\*:** Yeah, right.

**Moore:** On the 26th, the mayor and commissioner Adams are gone. On the 2nd of november commissioner Saltzman and commissioner Adams are gone. So either of those weeks we'll be missing two council members.

**Beaumont:** Commissioner Adams, I should add that we may actually want to set two dates. I think we want to hear, as I understand it the applicant is going to propose some changes to one of these stormwater tracts. I think we want to hear what those changes are and allow people an opportunity to react and testify to that. And then have final decision making be a week later, if that's possible.

**Adams:** So do we want to reserve both those dates that you mentioned for the first hearing and that second hearing?

**Beaumont:** Yes.

**Adams:** Ok.

**Beaumont:** If they're available, I would recommend that.

**Adams:** So we will continue this hearing until october 26, did you say? We have some conferencing going on here.

**Beaumont:** All right. I've been asked to clarify that the only testimony that council will hear on the 26th pertains to any revisions to the stormwater tract that had been made by the applicant. The record will not otherwise be open for any other testimony.

**Fischer:** That wasn't quite what I understood, because we were still talking about trees.

**Adams:** Trees, right.

**Beaumont:** I would consider the issue of trees related to the stormwater tract to be part of that.

**Adams:** Ok.

**\*\*\*\*\*:** Sidewalks.

**Fischer:** Yeah, we were still discussing sidewalks. I mean, everything was still on the table as far as we understood.

**Adams:** Ok. If you two could take your seats. Fabio, could you come back up here and clarify? Or kurt, or both. So in terms of continuing this hearing, we've already heard a clarification from katherine that the word "stormwater" does include trees. So the question remains, is the sidewalk issue in or out for the continuing hearing?

**De Freitas:** Thank you, commissioner Adams. The last time we were here, I think council had us look at the public street improvements relative to perhaps preserving trees in the right-of-way. If you want us to continue down that road, we can. We've had discussions with the neighbors regarding that, and the city's position on that remains that the improvements should stay. If you want to direct us otherwise, we could take that into consideration.

**Leonard:** Well, I will tell you when I was talking about the possibility of being flexible upon that, I envisioned the site as being a flat site. I have since learned that there is a drop-off, and that there really isn't the possibility of having, for example, a meandering sidewalk to go around trees. So i'm not sure where we're going to get with that discussion, given that that flexibility isn't there in the topography of the site, because I was -- I was assuming that was available to us, gave us some flexibility. So that was a fact that I learned after actually having it explained to me, that the topography did not allow for that.

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**Adams:** So it sounds like the continued hearing, the scope of which will include stormwater facilities and trees --

**Beaumont:** Correct. [inaudible]

**Adams:** You have to approach the -- you can go ahead and come up and take a seat. You have to identify yourself again.

**Fischer:** Ann marie fischer. We also discussed the potential on the adjustments that were proposed, and there was discussion with eric on the possibility of retaining the existing driveway, if they were able to move the location of the storm tract b, we could save trees, and also possibly keep the existing driveway in there, which would connect the house more to 63rd.

**Adams:** Sure. I think that we are already providing an opportunity for problem-solving here related to trees on the lot that are not on the bank and on stormwater facilities. I don't think that we have -- that the scope of the continuing discussions would include changes to the proposed driveways or street.

\*\*\*\*\*: Well, that's too bad.

**Adams:** But other council members can speak up if they have a different point of view.

**Leonard:** I would just encourage -- I mean, if the idea is to reconfigure things so they can basically build the same project and save trees, I think that's all consistent with what we'd like to see happen, if there's some creative way, what you're saying, to readjust how they have the driveway.

\*\*\*\*\*: Right.

**Leonard:** I would encourage both sides to talk about that.

**Fischer:** Ok.

**Leonard:** But, you know, I want to also send the message that we want to find a solution, and we don't want either side to consider anything we're saying to be some tool that can be used to block the other party. We'd like to encourage, where we can, the parties to sit down, be creative, see if the developer can get to where they need to get, and do that in a way that makes you guys feel good by keeping as many trees, and if that means being flexible on the driveway to the developer so that you can save more trees but doesn't impede what they want to do, that is a good thing.

**Adams:** I guess as transportation commissioner I would prefer one entrance to the development, to the street, than right next to each other. I'm willing to hear your best ideas, but I would also like to limit the number of driveways going into the street.

**Fischer:** Erik did mention that, but he thought an exception to be made.

**Adams:** I'm just telling you my personal view is to have one driveway to the street and not two, but go forth and do the very best you can. Both sides are going to have to compromise. This lot is going to be developed. Try to make it a win-win for both.

**Fischer:** We're trying.

**Adams:** Ok.

**Beaumont:** Commissioner Adams, is out fair to summarize for the october 26 hearing, the record would be reopened -- the linchpin really is the stormwater issue, to the extent that trees and the driveway, that has an impact or is related to trees or driveways, those are the topics that can be fairly discussed, everything else the record's closed.

**Leonard:** Yeah. Those are all related, so --

**Adams:** Is that ok with you, commissioner Sten? All right so this hearing is continued until october 26. Go forth and compromise -- 2:00 p.m -- go forth and compromise.

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

**Adams:** Thank you. That's the only agenda item we had on our agenda today. So we stand adjourned.

At 2:15 p.m., Council recessed.

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**Closed Caption File of Portland City Council Meeting**

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**Potter:** Karla, please read the item.

**Item. 1192.**

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

**Kathryn Beaumont, Office of the City Attorney:** Thank you. Before we begin the hearing, I have several announcements required by state law. They deal with the kind of hearing we're having today, the order of testimony, and some guidelines for presenting testimony. First as to the kind of hearing today. This is an on-the-record hearing. This means you must limit your testimony to material and issues in the record. During this hearing you may only talk about the issues, testimony, exhibits and other evidence presented at the earlier hearing before the hearings officer. You can't bring up anything new. This hearing is designed only to decide if the hearings officer made the correct decision based on the evidence presented to him. If you start to talk about new issues or try to present new evidence today, you may be interrupted and reminded that you must limit your testimony to the record. In terms of order of testimony, we'll begin with the staff report by mark walhood of the bureau of development staff for approximately 10 minutes. Following the staff report, the city council will hear from interested persons in the following order. The appellant, who is the applicant in this case, will go first, and will have 10 minutes to present the appellant's case. Following the appellant, persons who support the appeal will go next. Each person will have three minutes to speak to city council. Then if there is a principal opponent, the principal opponent will have 15 minutes to address the city council and rebut the appellant's presentation. If there is no principal opponent, or if there is after the principal opponent, the council will hear from persons who oppose the appeal. Again, each person will have three minutes to speak. Finally the appellant will have five minutes to rebut the presentation of the opponents of the appeal. The council may then close the hearing, deliberate, and take a vote on the appeal. If the vote is a tentative vote, the council will set a future date for the adoption of findings and a final vote on the appeal. If the council takes a final vote today that will conclude the matter before the council. Finally I have several guidelines for those who will be speaking to city council today. Again, this is on on-the-record hearing, which means you have to limit your remarks to arguments based on the record compiled by the hearings officer. You can refer to evidence that was previously submitted to the hearings officer. You may not submit new evidence today. If your argument includes new evidence or issues, the council will not consider it and it will be rejected in the city council's final decision. If you believe a person who addressed city council today improperly presented new evidence or presented a legal argument that relies on evidence not in the record, you may object to that argument. Finally under state law, only issues that were raised before the hearings officer may be raised in this appeal to the city council. If you believe another person has raised issues today that were not raised before the hearings officer, you may object to the council's consideration of that issue. And that concludes my statements.

**Potter:** Thank you. Do any member of council wish to declare a conflict of interest? No council members have a conflict of interest to declare. Do any members of council have any ex parte contacts to declare or information outside of the hearing to disclose? No council members have ex parte contacts to declare. Any questions or preliminary matters that need to be addressed before we begin the hearing? Could staff please come forward?

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**Mark Walhood:** Good afternoon, mayor Potter, members of the council. I'm mark walhood staff with b.d.s. I have a brief presentation today. I'm sparing you the exhibits, but they're available if we need to go back, plans, etc. We're here today for an appeal of land use case 05-119251-cu ad. In summary, the proposal involves a wireless telecommunications facility that includes an 80-foot-tall stealth tower. By that meaning the antennas are contained within a sleeve that's no wider than the tower at the top of the tower operating at 460 watts of e.r.p., effective radiated power. The tower would be placed south of the church building on the south site with a 15-foot by 25-foot fenced equipment area underneath the tower. Landscaping around the base of the tower was proposed except on the north side, where an access gate was load. And the applicant had proposed to maintain a walnut tree. Conditional use is required to construct the tower in a residential zone. And adjustments were requested to reduce the minimum site size and landscaping around the tower and equipment. We have the standard approval criteria for cell towers in a residential zone, chapter 815, section 225-b, 1 through 6. And the standard adjustment approval criteria in chapter 805. The site is five or six -- six parcels at the corner of southeast 72nd and duke, developed with the church - the church parking lot and a vacant area. This is looking southeast into the site from the opposite side of duke and 72nd, the church building on the left. If you look sort of straight ahead, in the left, in the background to the left of the utility pole, in the center, that's the walnut tree. The tower would go between the church building and that walnut tree. This is just looking east into the site from 72nd, approximately where the cell tower would go is in the right background. And then this is looking from the south edge of the site. That's the walnut tree in the right center. The tower would be about midway between it and the church building on the left. I included this picture to show the height of the existing utility poles in the area, which is 30 to 40 feet tall. The original proposal included a 100-foot-tall tower with antennas mounted around the tower, in a different area on the site, over by the sidewalk on 72nd. Staff recommended denial of the original request, because what was considered inadequate landscaping. The applicant put the case on hold and submitted a revised project that's 20 feet shorter for the tower, relocating the tower between the building and the walnut tree, which allowed for a little more landscaping, and then they flushed out their feasibility analysis. In this case, and this has to do with the franchise agreement, because the existing utility poles are 30 to 40 feet tall, and today's franchise agreement won't let them go more than 20 feet taller than that, that didn't get them to the 80 feet they were looking for, so staff found that that met the feasibility test and recommended approval with conditions. Following the hearing, the hearings officer denied the proposal based on his determination that they hadn't met the feasibility criterion. Specifically he said that the applicant had not investigated using two lower utility poles, two shorter utility poles, as an alternative to a single 80-foot-tall utility pole. So then the -- the hearings officer found that all other criteria were met. That was the sole criterion that he based his denial upon. And then we're here today, because the applicant appealed the hearings officer's denial. The feasibility criterion I referred to, it states that the applicant must prove a tower is only feasible for a way to provide the service including documentation as to why the proposed facility couldn't be feasibly located in the right-of-way. It's a relatively discreet appeal in that it's just focused on that issue. As I mentioned, the hearings officer made findings that if only one utility pole was necessary to consider for this criterion, that the criterion would be met, however he found that this multiple pole analysis, looking at two shorter towers instead of one tall one, was reasonable, and under that criterion. The appellant on behalf of voicestream wireless is arguing and will elaborate that it wasn't practicable. I believe that's everything I have today. I could answer questions.

**Potter:** Any questions?

**Adams:** Voicestream, as I understand it, was bought by a different company. Is it still voicestream and --

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**Walhood:** Voicestream and t-mobile merged operating -- still using both names, one big company.

**Adams:** Ok.

**Potter:** Other questions? Thank you. We'll now hear from the applicant. Please come up. You have 10 minutes. Please state your name when you testify.

**Spencer Vail:** Good afternoon, members of council. My name is spencer vail, i'm a land use planning consultant. I represent the applicant in this appeal. To answer the question, voicestream is the licensee, doing business as t-mobile in the Portland metropolitan area. I think staff covered quite well the original submittal, which was for the 100-foot pole and how we went back and reevaluated, had a couple meetings with the neighborhood group about the site and the landscaping, and we worked together to do a good landscaping plan, we felt, around the base of the tower. But the jux of the appeal comes right down to the hearings officer's interpretation of some recent council actions. In the hearings officer's decision, he states, when he's talking about this proposal on page seven, or about the prior proposal, he says that the hearings officer is taking the approach that -- to be more rigorous in examining evidentiary burden as previously applied, and he stated because he'd been overruled by the city council on some prior occasions, he was going to take the more stringent and literal interpretation of what the council -- what he saw as being the council directive. He also determined that the word "feasible" is not defined in the zoning code. So he goes on to state that he consulted a dictionary and found that "feasible" meant capable of being done or carried out, and also was reasonably likely, and as a synonym, he took it as also what's being practical. And he then concluded that where we had provided him with information, that the utility poles in the vicinity of the cell site, specifically the ones -- the three or four shown on our site plan, wouldn't meet the right height and wouldn't solve the problem, he's saying that the multiple pole theory should be evaluated. Well, we mentioned to him -- or I mentioned to him in testimony that all the utility poles in that general area of town are about the same height. And I don't think you'd agree that it's feasible that if a cell site costs in the vicinity of \$250,000 to \$300,000 to establish and get on the air, that's counting everything from the beginning survey to the little black boxes that go into the equipment, that spending \$600,000 or \$900,000 to serve the same area is a reasonable or practical solution to doing that. A lot of times where the utility pole might be a feasible option, the adjoining landlord is not interested in leasing property to you for the necessary ground equipment, or there's not sufficient room to do that. Coupled with the -- that our priorities to establish a cell site aren't necessarily the priorities of the utility -- of the utility company to allowing a replacement of a monopole -- or replacement of the utility pole, certainty puts us in a tenable position of trying to solve the problems that we have with the cell site. This particular cell site was designed to serve a relatively small area, about a little less than a square mile around the proposed cell site. It's a cell site designed to alleviate some capacity problems and some coverage problems that we have in the area. There was a -- a cell site can only handle so many calls at any given time. When those systems get busy, the answer isn't boost power or raise the height of the antenna, but it's to create a new cell site to take some of that offload in to do that. And also it's important that a cellphone work not only outside in your backyard, but also in your house, or down in your basement, or in your car when you're driving by. And to do that, especially with all the new technology that's available on cellphones now, it's not just a voice instrument, it's also instant messaging and photo cameras, and it uses a lot of spectrums, so you have to have a lot of available space to send these signals. That's why this site is necessary and it needs to be established within the small area that we showed in our search circle, which is part of my original submittal. I made the broad general comment, as I stated earlier, that all the cell -- all the utility poles in that area are basically the same size. We didn't go through and pinpoint every one of the utility poles to the hearings officer. Now, he may have desired that, but I think the interpretation -- the interpretation he took is -- is being too stringent or too -- he's asking more than he normally would have asked based on his interpretation of what he

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thinks the council's directive was from prior cases. And he cites those cases in his decision. I don't think the council wanted to be that strict in their interpretation. And to indicate that you'd have to spend three or four times as much to serve the same area as you would by just creating one cell site that would serve the area that we are -- intended to cover, as I said, was shown on that search circle.

This isn't a unique situation about being able to divide coverage within certain areas. It's all the -- all the cell companies are going to have this problem. And so is the wi-fi system that council is going to have established. They're going to have the same problems placing their antennas, and we need latitude and understanding that not every property buyer buy a utility pole is going to be cooperative with us or we can get the pole replaced if we want to, or given the limits of increasing a pole height in a residential zone is only 10 feet now, and in a commercial zone it's only 20 feet. If we've only got 30 or 40-foot poles making them 50 or 60-foot-tall won't solve the problems that we're confronting. So I would hopefully that the council grant our appeal. If you want to send it back to the hearings officer to answer the question that he possesses that we didn't -- poses that we didn't answer all those questions, we have that documentation, but we didn't give it to him because we didn't think he'd interpret it as every utility pole within the area. That's all my comments. If the council has questions, i'd be glad to answer them.

**Leonard:** I've got a couple. In reading the hearings officer's report, mr. Vail, he makes it clear that if he were to accept the conditions, as you stated them, that you were right, that it's a flat topography, there aren't buildings as tall as need to be in the area for the coverage, but he also makes a point, which frankly i'm pleased to see him make, and that is that part of the criteria for placing a cell tower is that to satisfy the criteria you need to show that you have pursued feasible or practical alternatives to what you've proposed to minimize the impact.

**Vail:** Yes.

**Leonard:** So his conclusion is, as I understand it, that you did not do that, that you -- that you acknowledged -- and this may not be literally in here, I may have just created this in my own reasoning, but it seemed that he stated that -- that you acknowledged that you could provide the coverage on to smaller poles, but that it would be a lot more expensive to do that it way.

**Vail:** I think what he said was that if we just looked at the utility poles immediately around where we're proposing to put the new one, on the southwest corner of -- southeast corner of 72nd and duke, then I addressed the issues that the utility poles right around there, the ones we had noted on our site plans and had the dimensions and height shown, I would have made my argument. He's saying but I did not look at all the utility poles in the search circle. That's the way I read it -- if you're looking on page 26 of his decision --

**Leonard:** I'm on page 10. I'm looking specifically at --

**Vail:** He says in his conclusions on page 26, the hearings officer agrees with the applicant, that if only one monopole is to be construct, then the proposed site satisfies the approval criteria, however the hearings officer interprets that to require the applicant investigate all alternatives.

**Leonard:** Right.

**Vail:** Which means, as I read his decision, we look at every utility pole in the area or come up with why we should build two 60-foot or 360-foot towers which won't solve the problem because they're not tall enough to do that.

**Leonard:** Well, but I think the point is that they wouldn't be tall enough using the criteria you are. I think his point is that smaller towers with smaller coverage, multiple of them, provide the same level of coverage. No one by themselves, you're right, provides the level of coverage you're asking. But if you have a range that you've created to show within which you want better coverage, you can do that with one 80-foot tower or two 60-foot towers. That's how I understood his reasoning that you --

**Vail:** Well, that's --

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**Leonard:** What his point was, was that you hadn't pursued. I mean, he didn't have evidence to show whether that would or would not work.

**Vail:** That's right.

**Leonard:** His point was you didn't prove that and you hadn't provided evidence.

**Vail:** Certainly you could put one on over corner if you had the money and it would work. That's not practicable from --

**Leonard:** That's not what he said. What he said was that -- well, to quote him from page nine, he said the hearings officer is making a finding that the multiple utility pole alternatives must be analyzed to determine if such an alternative is feasible or practical.

**Vail:** Right. That's why I was saying, we had the information because we did look at those poles. We didn't introduce it to him because we didn't interpret his directive or the council's directive that we needed to look at every utility pole in the search ring, only those in the immediate vicinity of where we wanted to place the tower.

**Leonard:** However, he's correct, in some of our prior decisions we've really focused on taking advantage of existing facilities by multiple users.

**Vail:** Well, but there aren't -- one of the --

**Leonard:** Well, but let me finish.

**Vail:** Ok.

**Leonard:** But the point -- the point there is not necessarily exclusively to take advantage of multiple users using one pole. The point is we're trying to minimize the impact of cellphone towers in general in the urban area.

**Vail:** Right.

**Leonard:** And one of the ways that we have to do that is to be more creative where we place the cell.

**Vail:** Ok. Commissioner --

**Leonard:** That may mean, as in one hearing, we discovered that there's technology that shows that we can put some of these antennas and the equipment on existing power poles. You're correct that it may require more of them to provide the same coverage, but I think he's correct that that's been the direction the council's headed.

**Vail:** Ok. Commissioner, can I pass out to council -- this is exhibit -- this would have been exhibit h-7 that I gave to the hearings officer, this map. While he's checking on that, I'd like the council to see this map.

**Leonard:** What does this purport to show us, mr. Vail, the document?

**Vail:** It shows -- it's a map that the city has prepared itself. It shows --

\*\*\*\*\*: I'm sorry.

**Vail:** May I?

**Leonard:** Sure.

**Vail:** The circles on the map indicate a 1,000-foot radius around existing cell towers. I think what's important for you to note on the map, and I've indicated the proposed cell site with the red arrow, is that it's basically all yellow, which means that's all single family residential zoning. There aren't any tall buildings in that area. There aren't any tall water towers in that area. There aren't commercial zones in that area to speak of.

**Leonard:** What do these serges, what do they tell me?

**Vail:** The little triangle represents a cell tower. The circle is a 1,000-foot radius.

**Leonard:** Any cell tower?

**Vail:** An existing cell tower.

**Leonard:** Not just your company's?

**Vail:** No. Everything in the city. It's a city-produced map. The circle indicates a 2,000-foot radius around the base of the tower, because if you're proposing a new tower, you're inside one of those

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circles, you have to provide evidence why you cannot colocate. We're not within 2,000 feet of an existing tower where colocation was an option.

**Leonard:** Right. That's not the point i'm making.

**Vail:** Ok. I misunderstood you, then.

**Leonard:** The point i'm making, and the hearings officer I don't believe was making the point that you didn't propose colocating with another cell tower, he was suggesting that you could use lower existing utility poles.

**Vail:** Ok. And we felt --

**Leonard:** To place a -- for example, within this area you have your one tower at 72nd and duke would provide a ring equivalent to what you've showed at these other sites. I think what he was suggesting, and what we have, I think, in the past been saying, is how about smaller rings with antennas on lower structures, so as not to impact the neighborhoods as much.

**Vail:** Well, we still have -- it's still line of sight transmission technology. And so you can't get down so low that you can't see through trees or through a house.

**Leonard:** Aren't we talking the difference between 80 feet and 60 feet?

**Vail:** In this instance we're talking about an 80-foot tower.

**Leonard:** 80-foot tower on 72nd and duke. Telephone poles are 40 foot high, you're allowed a 20-foot extension --

**Vail:** Not in residential.

**Leonard:** The entire area?

**Vail:** There's a commercial grocery store across the state in a cm2 zone, but when we contacted him, he wasn't interested in having --

**Leonard:** He doesn't control our poles.

**Vail:** But he controls whether or not we can put any ground equipment on his property. And even replacing it -- that small pole, I think, was only 35 feet. 20 feet's only 55 feet. You know, there's -- it's void of -- you know, all the good land's gone where it's easy to get a cell site in. We're stuck now with trying to provide the demanded service on very difficult sites and trying to do it in a way that lessens the impact. That's why this is a stealth tower design.

**Leonard:** I want you to understand that's exactly why we're having this discussion, because we recognize that, and they end up being placed in places that could arguably be considered more obtrusive in neighborhoods. That's why we're trying to find a way to provide the same coverage with lower structures.

**Vail:** It's not always going to work going lower.

**Leonard:** Staff, you had --

**Vail:** With regards to the franchise agreement, if you have a 40-foot tower in a residential zone, the currently language allows you to increase the height of the pole by 10 feet, plus an additional 10 feet for the device that the antennas are mound on, so it amounts to 20-feet plus.

**Leonard:** Even in a residential area?

**Vail:** But if you're looking at what we measure as the center point of the antenna, is the effective place to measure how effective our unit is, that's the height that we have to pay particular attention to. Again, i'm just trying to emphasize to council that I think the hearings officer is being overly stringent, that we did give him the information that's necessary, and hopefully you'll find the same thing. And if it's an easier thing to go back and have him look at all the other information, fine. How we handle this is the council's decision. Yes, commissioner?

**Adams:** You are seeking to -- well, let me ask this. The two cellphone towers on 82nd to the east, one on duke and 82nd, and one on ogden and 82nd, whose towers are those?

**Vail:** One of them I know is at&t, now cingular. But it's a short, stubby tower, and it's by automotive tire company in the back, and the one further to the south is behind a convenience store. And i'm not sure whose that one is.



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**Adams:** Is it a tall or stubby one?

**Vail:** I think the -- I can't say for sure about that other one.

**Adams:** Ok. And then the one on 57th and ogden?

**Vail:** 57th and ogden, is that the one -- i'm not looking at the map. Is that the one down by the school?

**Adams:** Yeah.

**Vail:** That's a wooden pole that -- it was one of at&t's first five cell sites in the city of Portland and it's on a wooden pole.

**Adams:** You're seeking to improve service for your customers on 82nd into woodstock?

**Walhood:** Do you have the submittal materials?

**Adams:** Yeah. Don't we?

**Vail:** If you have a map that looks like this, this is the search ring that -- this one. [inaudible] but that's the area where we have -- where the engineers have noted that there's coverage problems. And it was -- had to be someplace within that ring for us to establish a new cell site to take care of those issues.

**Adams:** And you found -- you've exhausted all possibilities along woodstock and 82nd?

**Vail:** Well, they're beyond the search circle area.

**Adams:** Ok.

**Vail:** And we have one of the cell sites in that area. So I mean that's one of the areas that we're trying to alleviate.

**Adams:** Ok.

**Vail:** If you look at the -- these maps, the green ones, these indicate at&t's -- I mean these indicate where the voicestream sites are. Only their sites, is on this one. So they've got one on -- well, it shows where they are. One's on the i-5 freeway. So they have no sites on 82nd of their own.

**Adams:** Ok.

**Potter:** Did you say you met with the neighborhood association?

**Vail:** Twice.

**Potter:** And what was their sense?

**Vail:** Well, they have a spokesman here. I don't want to speak for him. But I met with them the first time. They didn't like where we were in the parking lot, right next to the street, with very little landscaping and an antenna -- or a monopole that had arms on them, and they wrote a letter indicating that they were very much opposed to any reduction in landscaping. And so that's when we went back and we redesigned to a stealth-type design pole, dropped it 20 feet, and provided landscaping to meet with -- that would meet the code standards. And the second meeting I had with the neighborhood group, we talked about the landscaping in detail. There was some concerns about types of planting materials that we said we'd work with them on, because there were some experts there who had some knowledge about what would grow under the walnut tree in the shade and what wouldn't, and what would work best. And we agreed to work with them on that status. The hearings officer also asked the staff and I to prepare findings that would incorporate those landscaping criteria into a decision, should he decide to approve it, he'd have those at hand that he could incorporate them. And we still would support those same conditions.

**Potter:** Further questions? Thank you. We'll now take testimony from supporters of the appeal. Karla, has anyone signed up to testify in support of the appeal?

**Moore:** No one signed up.

**Potter:** We'll now take testimony from opponents of this appeal. Karla, is anyone signed up to testify?

**Moore:** The principal opponent.

**Potter:** Please state your name when you testify.

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**Tom Gugg:** My name is tom gugg, southeast 61st avenue and duke street. I'm a brentwood darlington association board member and testifying today on behalf of both the neighborhood association and private citizen. I'd like to read a brief introductory statement and run through a list of issues that we found with the case record for this proposal. The brentwood darlington neighborhood association is strongly opposed to the applicant's proposal to locate an unsightly facility in a neighborhood. We've discussed this proposal at our neighborhood meetings and the applicant's representative has been present at these meetings. Martha richards, land use committee chair, wrote a letter on behalf of us, and has written a second letter in response to this appeal. Due to jobs and busy schedules, other members of the neighborhood association are not able to attend this hearing. We strongly support the hearings officer's decision to deny the cell tower proposal and believe it could have been denied for failure to comply with other criteria. It needed to meet conditional use camera one through six. I'm run through these. This is hopefully based on all information that I pulled from the case file. The applicant must prove that a tower is the only feasible way to provide the service, including documentation as to why the proposed facility cannot be feasibly be located in the right way. For an applicant to satisfy this approval criteria the applicant must provide evidence in the record of all feasible practicable alternatives and show that the one chosen is the only feasible way to provide the service. We don't feel that's occurred. There's no proof in the record that locating in the public right-of-way is not feasible. I mean, we can sit here and say that, but there's no proof in the record that's not feasible. Additionally, a 40-foot or 60-foot tower, again, there's no proof, evidence in the record, showing that's not a feasible way to provide the desired signal strength. They want an 80-foot tower, but that doesn't mean that's the only way to provide the desired signal strength. Also, multiple shorter towers. It's not been shown in the record that that also wouldn't provide the desired signal strength. Additionally, item number one, in general requirements for radio frequency transmission, a new tower must be accompanied by evidence that application was made to locate on other towers or other structures with no success, or that location on an existing tower or other structure is infeasible. If we look at exhibit number four in the applicant's proposal, it doesn't even show two of the nearest colocation possibilities, that one being at 57th and ogden or the one at southeast 82nd and duke. The one that was just described as a wooden pole at 57th and ogden actually is a very tall tower. I don't know if it's wooden or not, but it's at the end of the green thumb property, right across from lane elementary school. It's an extremely tall tower. So I would be surprised if that actually is a wooden pole or not. Again, that's not part of the record. So it's -- getting back to exhibit number four, which is a signal propagation map, showing signal strength based on existing t-mobile towers. And that is being used to justify the need for the tower. However, these two towers that I mentioned are not used as part of that signal propagation analysis. So we don't know whether or not locating on one of those towers would -- is a feasible alternative, because it hasn't been included in their analysis. Also, I would point to exhibit number five, which is -- it is supposed to show the aftereffects of this tower. My read of that is that it's of a different neighborhood, a neighborhood to the north of what is shown in exhibit number four. So I was -- our point is, how can colocation on existing facilities have been proven by the applicant to not be feasible when the applicant's documentation doesn't even show the nearest possible colocation sites? We have the 2,000-foot radius issue, but because we're out that radius doesn't mean it's not feasible. That's my read of the -- of the documentation. Item number three, the visual impact of the tower on the surrounding area must be minimized. The hearings officer found that this criterion could be met. We disagree. The walnut tree that's mentioned won't provide the screening that's being suggested. The hearings officer, in his review, states that its size was overstated in the applicant's proposal. It's also a deciduous tree, so only going to provide any kind of screening half of the year. The rest of the year it's going to be bare. When it does have leaves, it's not a very dense canopy, it's not going to provide the type of screening that's being suggested in the documentation. Another condition of approval, the top half

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of the tower should be painted a dull matte, light gray color, which helps it blend in against a Portland sky. I find that incorrect. We have in the Brentwood-Darlington neighborhood, we have numerous cellphone towers, all painted gray, and they're all very visible, they don't blend in, and very unsightly. So we would disagree with those reasons. For those reasons, item b3 shouldn't stand. Item four, accessory equipment associated with the facility must be adequately screened. The hearings officer found that the ground equipment would be 10 feet. The fence that's being required is eight feet. So we have a two-foot differential. Item number nine in section c of the general requirements for radio frequency transmission facilities, the base of a tower and all accessory equipment are structures located at grade must be fully screened from the street and any abutting sites. Code requires 15 feet of landscaping around the base of the tower, 10 feet of landscaping around the accessory equipment 90% year-round, but the adjustments being granted will reduce this level of landscaping. Bdna questions whether this criterion is met. Item five, public benefits of the use outweigh impacts which can't be mitigated. The hearings officer indicates on page 17 of his decision, the hearings officer is not obligated to anticipate negative impacts beyond those raised by the participants in the case or so obvious that the hearings officer would be remiss to ignore them. The committee chair stated in her letter, May 15, that residents were concerned about the location of a visual intrusion on their neighborhood. So the question is, what is the negative committee to the community and its property values intruding on public sight lines, which we consider visual pollution with this development. Secondly, how can an 80-foot tower be considered but anything but a fundamental and obvious negative impact. Since this negative impact hasn't been quantified, how can the applicant show that it outweighs the negative impact? It appears that the benefits are primarily private, to be reaped by the applicant at the expense of our community. What is the cost to the Brentwood-Darlington community of another yet industrial cellphone tower in its midst already home to ugly cellphone towers host one more when other parts of the city appear exempt from such developments? In our special meeting in August with the applicant's representative, he pointed out that these industrial facilities aren't necessary in northeast Portland, for instance, because companies can colocate on water towers. Yet, when colocating option was suggested in this -- and this is something that he didn't mention, that we did cover in our meeting, we suggested about colocating. That's not possible. Why is it possible in one success of the city but not possible in another section of the city. That's my question. As I've shown, it wasn't even fully analyzed, because those existing cellphone towers aren't part of the signal strength propagation analysis that they provided. Adding to the disproportionately high number of unsightly cellphone towers already in Brentwood-Darlington is another fundamental and obvious inevitable impact that should have been addressed in quantifying the negative impacts of this proposal. Brentwood-Darlington is a relatively low-income neighborhood. This is a case where the public benefits go to those who can afford cellphones with the profits going to a multinational company, while all of the adverse effects, the visual blight on the neighborhood, the loss of land that could be used for housing, or plain open greenspace, are borne entirely by the residents of the neighborhood. An examination of the environmental justice would call into question whether this criterion is being met or whether our neighborhood is being used for the dumping ground for the city's cell service. It's incumbent upon the applicant to prove that the public benefit of its appropriate outweighs the negative impacts. There's nothing in the case file that shows the applicant considered the negative impacts that are either fundamental or obvious or raised by the neighborhood association. As such, any finding that public benefits outweigh negative impacts the community is faulty, therefore the conditional use approval should not stand. I'll just conclude. The applicant refers to Southeast 72nd Avenue and Southeast Duke Street as feeder streets. That technically may be correct, but they're also main streets through our neighborhood. Brentwood-Darlington has a tremendous amount of potential. And it deserves better than this sort of industrial facility placed on one of its -- two of its main streets. There is a solution here that we can all agree upon that will be satisfactory to

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everyone involved, and that requires that we all work together. We request that you uphold the findings of the hearings officer in this case and deny the appeal. Thank you.

**Potter:** You said that you thought there were some solutions. What are the solutions?

**Gugg:** The multiple tower solution, I really feel they can colocate on one of the existing towers, either the one at 82nd and duke, it's 10 blocks away. What is that? Half a mile? Or they can colocate at the 57th and ogden. We need to find out whether that's possible or not. They have the resources to do that. And it hasn't been done. I'm a t-mobile customer. I live 11 blocks from the site. I have excellent signal strength. The signal strength, interestingly enough, in the past few weeks, has increased dramatically, in my house. I've always had signal strength inside my house. So I don't see the evidence there to begin with, showing that they truly have a need for that tower in order to serve the neighborhood. I believe that the true purpose of this is to service a much larger area, or to be able to move calls as people go across town. I don't think that -- that the tower is being put there to serve this 2,000-square-foot radius. That's the only thing that's really suggested.

**Potter:** Council have any further questions? Ok. Thank you.

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

**Potter:** Are there other people signed up?

**Moore:** No one else.

**Potter:** Ok. We'll now hear the applicant rebuttal. Could you please come up? You have five minutes.

**Vail:** Spencer vail for the applicant again. The concept or the idea of using existing monopoles that are indicated on that map I gave you to colocate on for the antennas to use this site isn't engineeringly feasible. There's already antennas on those sites serving either voicestream or serving other cellular providers.

**Adams:** Can I ask a follow-up question on that particular topic?

**Vail:** Yes.

**Adams:** The red ring that's indicated on the city cell site map --

**Vail:** Yes.

**Adams:** Which is 2,000 feet from a particular cell site.

\*\*\*\*\*: Right.

**Adams:** Obviously service is beyond the 2,000 feet in some areas, right?

**Vail:** Yes.

**Adams:** Ok. And you're seeking -- your client is seeking this new site for -- early you talked about it can either be to handle additional volume where a second cell tower is required or to provide additional coverage or both?

**Vail:** A little bit of both. The existing cell sites that provide coverage in this area are already at or will soon be reaching their capacity to handle calls. And to keep that from happening, to stop customers from getting the fast busy signal when you try and dial up, or to have you get a dropped call because it can't transfer across, trying to anticipate that happening, we need to create this cell site.

**Adams:** Sure, but you could technologically-wise, to handle that increased volume, could you or could you not have two cellphone towers right next to each other offering double the capacity than if you just had one cell tower at a similar -- at a same location, in terms of the volume coming from the coverage area.

**Vail:** I'm not sure I understand. Create two poles side by side?

**Adams:** You'd have double the capacity.

**Vail:** Right.

**Adams:** But would you or would you not have double the capacity? From your earlier comments I was led to believe you'd have double the capacity.

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**Vail:** I'd hate to answer that, because i'm not an engineer and I don't know. I don't think that would solve the problem just based on my experience over the years in working with them. It's the ground equipment is designed to handle a certain frequency and so many calls at a given time.

**Adams:** No. I mean you build two fully functional cell tower units with the ground equipment near each other, handles double the volume than if you only had one. The coverage is obviously a different issue.

**Vail:** Yes.

**Adams:** But it's my understanding that the answer to my question is yes. What is your understanding of the answer to my question?

**Vail:** I don't have the engineering expertise to answer that, commissioner. I wish I did. It's just never been asked me before, so I don't know.

**Adams:** Ok. Thanks. Please proceed.

**Vail:** So we can't use those existing cell towers. The wooden pole over by the school that I mentioned, it is a wooden pole. I was responsible for getting the land use approval for that. It's owned by another cell tower company and outside the service area that we're trying to service here. Cellular systems aren't a -- like an f.m. Radio station where one tower serves everybody. Or like the megatower up on healy heights, where every radio station can go on there and put their antennas on, or that every cellular company can use the same antenna. The system doesn't work that way. I mean, there are areas where colocation is feasible on other towers, and there are also instances where you have to have your own tower just because there isn't room or there isn't space or for some other reason to do that. But to get back to the neighborhood issue of -- incoming that this is an industrial use in a residential area, it's not -- well, that's an argument that's used all the time. We're -- somebody's getting rent for our service and we're charging people to use our system. Does that make us commercial or industrial? I guess from a monetary perspective, yes, but it's a passive use. Nobody comes there, except maybe once a month. It's quiet. It just stands there and does its thing. We tried -- I wasn't hot for the two-tone paint thing, but the planning staff seemed to think it would work. But we don't -- you know, we'll try it and see how it comes out. But we've tried to create a facility that is slim line -- you know, my suggestion was to paint it brown so it would look like a utility pole. Staff overrode that. You just -- you know, if you're going to be someplace, you have to have the facility and make it look as nice as you can. Now, I know council knows from its prior discussion on other issues that more and more people are using cellphones, and cellphones are used in place of landlines. My new next-door neighbors don't have a landline. They rely solely on their cellphones. And cable for their high speed internet. And so to anticipate that, people are using cellphones more and more and more. And to anticipate all the things cellphones can do, like I said in earlier testimony, take pictures, send messages, you know, go on the internet, do anything you want, attach it to your laptop. You need to have the spectrum to allow to do that, and that's what we're anticipating to do in this system and the other systems that we're proposing. The industry's growing rapidly. Only occasionally do issues like this come to the city council. We try very, very hard not to find sites that will end up with the city council, but sometimes -- and this is one instance -- where you just have to do that. I've done hundreds of sites, and I think i've only been before the city council three or four times. So, I mean, we are trying really hard to make the zoning code work for us in a manner in which it was designed. We make input to the code when issues come up to modify it or make changes to it. But this is an instance where there aren't water towers, there aren't tall buildings. We just need, in this instance, the need is there to build a new pole. And I hope you either, as I suggested, send this back so we can give the hearings officer some additional information so that he could make those findings, because it was only one issue he found it's lacking in, or you can adopt what i've been saying and we'll come back with findings to show that in this instance this case is justified. So thank you very much for your attention.

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**Potter:** Any questions? Thank you. It's now time for the council discussion. I just want to ask staff a question. Would you go over very briefly, what was the basis for your recommendation to approve?

**Walhood:** In our approval, the -- well, the revised proposal had additional landscaping, and we found those landscaping issues had been addressed. In terms of the feasibility, which is the issue that carried forward, that resulted in the denial, in part because of limitations within the city's franchise agreement for wireless facilities on our utility pole and the right-of-way, limiting the height increase to 20 feet and given the existing maximum height of 40 feet, and importantly looking at providing comparable service with the single pole and antennas at 80 feet tall, in combination with items mentioned before, it's flat topography, there aren't suitably tall buildings, there's no school chimneys or water tanks where they could go without a free standing tower, and given their limited search ring, which is a couple blocks around the site, that we felt no reasonable alternatives, the important issue, of course, ended up being the -- our consideration of just a single utility pole.

**Potter:** But you felt that 80 feet was appropriate?

**Walhood:** We found that they had submitted sufficient information, and the hearings officer agreed, that they could only provide the service they were trying to provide to get the in building coverage throughout this area with -- at 80 feet above grade.

**Potter:** As part of your process, do you talk to neighborhood associations about this, or surrounding areas?

**Walhood:** The neighborhoods gets two different notices, early notice, and public notice of the hearing. I had several conversations on the phone with martha richards, talked to her after the hearing. I did not attend the neighborhood meeting. Mr. Vail attended the meeting. There was some phone calls, responding to their letter in the staff report. That's about the extent of involvement.

**Adams:** Is it an option of a cell tower applicant to put the equipment below grade?

**Walhood:** The accessory equipment could be put underground.

**Adams:** And do you know of -- if that ever happens?

**Walhood:** There's a few sites in Portland. I think there's --

**Adams:** So it's technically possible?

**Walhood:** It's happened.

**Adams:** Ok.

**Walhood:** It's rare, but it's happened.

**Adams:** And do you know -- do you know the answer to my question regarding --

**Walhood:** Coverage versus capacity?

**Adams:** Yeah, location.

**Walhood:** It is a complicated issue. I know generally it is -- it is difficult to add more antennas or expand the coverage with a given antenna host site.

**Adams:** I was talking like -- I was more interested in that -- that seemed common sense to me, but the capacity issue.

**Walhood:** I think that they can add more antennas at a given site, and somewhat increase the capacity. Again, it's probably not even wise for me to guess because i'm not an engineer. I know generally that as call volume increases, the capacity of x number of antennas is, you know, limited.

**Adams:** Ok.

**Potter:** Are you aware -- the city provided this map of the cell sites.

**Walhood:** We do make that available. It's a map we keep in b.d.s. Really the reason we have that map is because the 2,000 feet is a trigger for our conditional use, even if you're in a zone, like a commercial zone, where you could do the tower by right, if you're within 2,000 feet of another

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tower, you're going to get thrown into the conditional use process. So we really use it as a trigger. If your new tower is within one of those rings, you don't have an option other than going through the conditional use review, from the same zoning out of the ring you might not need the review.

**Potter:** Are aware of any other towers in the city of Portland that have the combined height of 80 feet or greater?

**Walhood:** There are several. Our tallest tower is 120 or 130 feet. Most of them are in the 80 to 100-foot range. There's also a lot of them that are scraping 45 feet, which is the height limit. In a lot of zones, because they were able to be built at the height limit in the zone without a review. So there's a broad range, both taller and shorter.

**Potter:** So the topography in that area is flat. Why wouldn't a 60-foot tower do it?

**Walhood:** Well, that gets to the engineering analysis, wherefore their coverage and the line of sight workings of the cell, 60 feet will not turn enough of the yellow areas on the map up to green, or whatever their color codes are, their coverage level isn't sufficient with the lower. We lie on the applicant's engineering for those issues.

**Potter:** Ok. Thank you. Any other questions?

**Adams:** Thank you.

**Potter:** Thank you. Council discussion?

**Leonard:** I'd move to deny the appeal and uphold the hearings officer's report.

**Adams:** Second.

**Potter:** Karla?

**Adams:** Aye.

**Leonard:** You know, these are tough, but I think that the hearings officer has been reading the sense of the council correctly, that certainly we understand the importance of cellphone coverage, but I think that the applicant, mr. Vail, made the point by saying that coverage is becoming more and more difficult, and in an increasingly dense city we need to be creative about coverage and how we erect towers and provide coverage, and I think that probably does require looking at making -- maybe have a few more and having them be smaller. So I vote aye.

**Sten:** Aye.

**Potter:** Well, I think that -- the appellant made a good case, but I also feel the neighborhood has a right to -- to have a neighborhood that is free from obtrusive things, such as this tower, and that I would think that the company working closer with the neighborhood to see if there were some other means by which to accomplish what they wanted would have been my preference. So I too vote aye. [gavel pounded] this is the only item in the afternoon?

**Moore:** Right.

**Potter:** We're adjourned until next week. [gavel pounded]

At 3:05 p.m., Council adjourned.