



**October 26, 2005**

<p><b>1280</b> Authorize price agreements with Blumenthal Uniform Co., Inc., Class Act Uniforms, Law Enforcement Equipment Distribution and Sea-Western, Inc. for annual supply of fire and police uniforms and accessories (Second Reading Agenda 1263)</p> <p>(Y-3)</p>	<p><b>179695</b></p>
<p style="text-align: center;"><b>Commissioner Sam Adams</b></p> <p style="text-align: center;"><b>Bureau of Environmental Services</b></p>	
<p><b>1281</b> Authorize grant application for National Oceanic and Atmospheric Association community-based restoration grant for Tryon Creek Watershed partners for \$137,000 (Second Reading Agenda 1241)</p> <p>(Y-3)</p>	<p><b>179696</b></p>
<p><b>1282</b> Authorize Intergovernmental Agreement with the East Multnomah Soil &amp; Water Conservation District to partner on the Naturescaping for Clean Rivers Program (Second Reading Agenda 1242)</p> <p>(Y-3)</p>	<p><b>179697</b></p>
<p><b>1283</b> Authorize a Master Interagency Agreement between the Bureau of Environmental Services and the Portland Development Commission for improvement of the community and environment for Fiscal Year 2005-06 (Second Reading Agenda 1243)</p> <p>(Y-3)</p>	<p><b>179698</b></p>
<p><b>1284</b> Authorize an Intergovernmental Agreement with the Institute for Tribal Government at Portland State University for services associated with Portland Harbor Superfund Site (Second Reading Agenda 1244)</p> <p>(Y-3)</p>	<p><b>179699</b></p>
<p><b>1285</b> Authorize individual agreements between the Sustainable Stormwater Management Program and public and private property owners to assist in implementation of stormwater management retrofit projects in amounts not to exceed \$100,000 per agreement (Second Reading Agenda 1245)</p> <p>(Y-3)</p>	<p><b>179700</b></p>
<p style="text-align: center;"><b>Office of Transportation</b></p>	
<p><b>1286</b> Extend the Lloyd District parking pay station pilot project to March 31, 2006 pending completion of a new procurement process for pay station technology (Second Reading Agenda 1247; amend Contract No. 35437)</p> <p>(Y-3)</p>	<p><b>179701</b></p>
<p style="text-align: center;"><b>Commissioner Randy Leonard</b></p> <p style="text-align: center;"><b>Water Bureau</b></p>	
<p><b>1287</b> Authorize a contract for the construction of conduit vulnerability reduction projects at the S-10 Road, Ditch Camp and Sam Barlow High School sites (Second Reading Agenda 1251)</p> <p>(Y-3)</p>	<p><b>179702</b></p>

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<b>1288</b> Authorize a contract and provide payment for construction of the Downtown Water Mains Improvements Project (Second Reading Agenda 1252) (Y-3)	<b>179703</b>
<b>Commissioner Dan Saltzman</b>  <b>Office of Sustainable Development</b>	
<b>1289</b> Authorize a grant to NW Housing Alternatives, Inc. for daylighting Dolph Creek and other green building features at Village at the Headwaters located at SW Barbur and Dolph Court for \$50,000 (Second Reading Agenda 1274) (Y-3)	<b>179704</b>
<b>Parks and Recreation</b>	
<b>1290</b> Authorize a grant to Linnton Community Center for operational costs (Ordinance)	<b>PASSED TO SECOND READING NOVEMBER 2, 2005 AT 9:30 AM</b>
<b>1291</b> Authorize an agreement with Police Activities League of Greater Portland to provide payment for operational support to youth programs (Ordinance)	<b>PASSED TO SECOND READING NOVEMBER 2, 2005 AT 9:30 AM</b>
<b>1292</b> Accept a \$47,000 Recreational Trails Program grant from Oregon Parks and Recreation Department to repave the Springwater Corridor Trail from SE 82nd Avenue to SE 92nd Avenue with asphalt (Second Reading Agenda 1253) (Y-3)	<b>179705</b>

At 9:50 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 26<sup>th</sup> DAY OF OCTOBER, 2005 AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Susan Parsons, Acting Clerk of the Council; Linly Rees Deputy City Attorney; and Officer Larry Sparks, Sergeant at Arms.

<p><b>1293</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 1191; LU 04-094246 LDS AD)</p> <p><b>Motion to tentatively deny the appeal and adopt the Hearings Officer's decision with the following modifications: Amend Condition D.1 to add "The tree preservation plan shall be amended to include Tree Nos. 351-353 as additional trees to be preserved. The approved arborist report shall be amended to include the aforementioned trees as trees to be preserved. An appropriate root protection zone shall be shown on the amended tree preservation plan for each of these trees. Any other tree on the site, including Tree No. 519, can be preserved on a voluntary basis." Add Condition D.6 "New Tree Planting Condition: The applicant shall plant one additional tree per lot above and beyond those required to satisfy the T1 tree planting requirements of Code Section 33.248.020H on Lots 1-5. The applicant shall plant three trees on Lot 6, in addition to any T-1 requirements that may apply. Trees shall be selected from the Portland Plant List. Tree plantings shall adhere to the installation, maintenance, and completion sections of Code Chapter 33.248. All appropriate permits shall be obtained for the tree plantings and copies of said permits shall be provided to the Bureau of Development Services as verification that the trees have been installed." Modify stormwater management system for the private street to use a flow through planter instead of the originally proposed vegetated swale. Moved by Commissioner Saltzman and seconded by Commissioner Sten.</b></p> <p>(Y-3)</p>	<p><b>Disposition:</b></p> <p>TENTATIVELY DENY APPEAL AND UPHOLD HEARINGS OFFICER'S DECISION WITH MODIFICATIONS: PREPARE FINDINGS FOR NOVEMBER 30, 2005 AT 10:15 AM TIME CERTAIN</p>
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At 2:27 p.m., Council adjourned.

GARY BLACKMER  
Auditor of the City of Portland

By Susan Parsons  
Acting Clerk of the Council

For a discussion of agenda items, please consult the following Closed Caption File.

**October 26, 2005**  
**Closed Caption File of Portland City Council Meeting**

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

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

**OCTOBER 26, 2005                    9:30 AM**

**Leonard:** Council will please come to order. Please call the roll. [roll call taken]

**Leonard:** Communications. Well, before we do that, i'm sorry, before we do that, I want to welcome -- we have 23 university administrators from china with us today. They're from a province in northeast china. They're a Portland state university for two weeks to learn about the u.s. Higher education system. It's the sixth group for Portland state to host. They arrived on october 16. They'll go home on october 29. And they're hosted by the office of international affairs at Portland state. Welcome. Portland state happens to be the greatest university in the united states, so you've chose a good place. Thank you for being here. [applause] communications.

**Item 1276.**

**Leonard:** Mr. Philips. Welcome. You have three minutes. Please state your name.

**Paul Phillips:** Yes. My name is paul philips. And october 12 I read the letter that's before you from the senior and disabled services division, if you recall that, in which the senior and disabled services starts their letter "with ask." that's a-s-k, not -- they write in the letter, the only thing the state is -- the only thing the state in paying for is your part b of your medicare. That's read word for word, which really isn't proper english, but I guess it wasn't a very smart person that wrote the letter in the first place. The taxpayer, in other words, has been paying my medicare part b premium since february of 1998, which will mean that this february, that they'll be paying six years. Of course, I guess that goes on for the rest of my life. Recently in the mail I just got the medicare handbook, in which they state on page 98 your premium costs in 2006, no matter what type of medicare plan you have, \$88.50, medicare part b monthly premium. That of course is what the state was referring to. That figures up to more than \$1,000 a year that they'll be paying, the poor taxpayer, for my medicare insurance. And now i'd like to talk about the disabled, according to the definitions of social security and -- a retiree is a person that's age 65. And a disabled person is a person by the legal definition that can't do one or more daily life's activities. There's some 50 million people apparently that's disabled or retired. It figures up out of the population of 300 million that there's one in six, which means that for every 60 people, there would be 10 that's disabled or senior. And while in 180 seconds I can't bring up everything that I wanted to --

**Leonard:** In fact, you're done right now.

**Phillips:** Thank you.

**Leonard:** Thank you, mr. Philips. Item 1277.

**Item 1277.**

**Leonard:** Good morning, mr. Haines. Please state your name. You have three minutes.

**John Haines:** My name is john haines. I was born in 1959, not far from the veterans hospital. In my life i've had mixed book situation. One of them was beatrix Potter. I'm sorry the mayor cannot be here. The situation puts me as far as with -- problem with loyalties. This has happened throughout different parts of my life. I am presently into a group called cascadia, and need as far as some reason are finances are being taken away because the social ends of our particular group are going to be taken away. And that makes up the bulk of who we are as people, because it's like -- it can't just be all clinical and call themselves a group. I've -- i'm -- i'm a person that speaks his mind. The situation is this, is that if you -- if you your -- an application -- to look at, all the things that go

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down as far as your name, your social security, all these particular things, what they are, they're perhaps held as far as school, which had happened to me, as far as I went through grade school being passed on, high school being passed on, college passed on, and I couldn't make it into the military. The situation is, is that in my lifetime right now, it might be short, it might be long, but I choose to care. There are people worth my while. And I don't know what's going to happen after this. I speak to particular people, fill-in for cascadia. This is my group that -- and within that there's a situation as far as it holds another part of us together. It's social security. It's h.a.p. Section 8 housing. These are just -- they can't be disappeared to just mere gambling situation, like the -- to me like the president of the united states has talked about as far as just giving over funds.

**Leonard:** Thank you, mr. Haines. Regular agenda, item 1278.

**Item 1278.**

**Jeff Baer, Acting Director, Bureau of Purchasing:** Good morning, commissioner Leonard, members of city council. I'm jeff baer, the acting director for the bureau of purchasing. Before you have a purchasing agent report recommending an award of this contract with triad mechanical in the amount of \$590,801. Only 1% mwesb primarily because they'll be performing the majority of the work with their own internal work force. We also have a representative from b.e.s. in case questions come up.

**Leonard:** Questions from council? Anybody signed up to testify?

**Leonard:** Ok. Motion to accept the report? Susan, please call the roll.

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

**Leonard:** Passes. [gavel pounded] item 1279, second reading.

**Item 1279.**

**Leonard:** Please call the roll.

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

**Leonard:** Passes. Item 1280. Please call the roll, sue.

**Item 1280.**

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

**Leonard:** Item 1281.

**Item 1281.**

**Leonard:** Please call the roll.

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

**Leonard:** That passes. Item 1282.

**Item 1282.**

**Leonard:** Please call the roll.

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

**Leonard:** 1283.

**Item 1283.**

**Leonard:** Please call the roll.

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

**Leonard:** 1284.

**Item 1284.**

**Leonard:** Please call the roll.

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

**Leonard:** That passes. 1285.

**Item 1285.**

**Leonard:** Please call the roll.

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

**Leonard:** That passes. [gavel pounded] item 1286.

**Item 1286.**

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**Leonard:** Please call the roll.

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

**Leonard:** That passes. Item 1287.

**Item 1287.**

**Leonard:** Please call the roll.

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

**Leonard:** It passes. [gavel pounded] 1288.

**Item 1288.**

**Leonard:** Please call the roll.

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

**Leonard:** It passes. [gavel pounded] 1289.

**Item 1289.**

**Leonard:** Please call the roll.

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

**Leonard:** It passes. 1290. First reading.

**Item 1290.**

**Leonard:** Staff report.

**Saltzman:** This is a one-time funding grant that commissioner Leonard and myself worked on our budget team. Commissioner Leonard was particularly a strong advocate, a one-time funding of \$50,000 to the linnton community centers after-school and recreational enrichment programs. Lisa with parks and recreation is here to answer any questions. I don't know if you wanted to add anything to that.

**Lisa Turpel, Portland Parks and Recreation:** Hi. I'm with Portland parks and recreation. Just want to say again thank you on behalf of pat wagner and all of the folks in linnton neighborhood. They're very appreciative of this grant. This would represent the third year that the city has been able to help. Thank you very much. They serve more than 30,000 visitations of youth.

**Leonard:** Great. Thank you. Any public testimony?

**Parsons:** No one signed up.

**Leonard:** Ok. Please call the roll -- i'm sorry. Move to second. Item 1291.

**Item 1291.**

**Saltzman:** Mr. President and council members, the police activities league, as we all know, is an outstanding organization dedicated to helping inner city youth realize their potential by providing opportunities for personal and academic success. The program that we are funding is designed to enhance the recreational, social, academic and life skills of Portland's youth in order to counter the appeal of gang involvement. Portland parks and recreation has had a longstanding agreement with the police activities league. The funding has been between \$50,000 and \$60,000 per year for over a decade. And we have, again, lisa, and we also have the executive director of p.a.l. If there's any questions, or if morah wishes to say anything.

**Morah White, Director, Police Activities League:** Thank you. My name is morah white, the director of the police activities league. I just want to say thank you again. This is an outstanding partnership between a nonprofit and a city bureau with the parks bureau. We also partner very strongly with the police. These funds really help with some of those core operational costs for us to provide the programs for kids. We've seen an increase every year in the number of kids we're serving. Huge increase last year, and we appreciate the same this. We appreciate it a lot.

**Leonard:** Thank you.

**Lisa Turpel, Portland Parks and Recreation:** And i'm lisa turpel again. Just want to say that morahis also very careful to credit the city of Portland and Portland parks and recreation with this partnership. She's probably one of our best partners.

**Leonard:** Great. That's nice. Thank you. This moves to second. Item 1292.

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**Item 1292.**

**Leonard:** Any discussion, presentation? Nobody signed up?

**Parsons:** This is a second reading.

**Leonard:** Oh, i'm sorry. This is a second reading. Please call the roll.

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

**Leonard:** That passes. [gavel pounded] the council will stand in recess until 2:00 this afternoon.

At 9:50 a.m., Council recessed.



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2:00 PM

**Item 1293.**

**Leonard:** This is a continuation of a hearing. On a land use appeal of the maplewood neighborhood association, and do we need to have some rules?

**Linly Rees, Deputy City Attorney:** Just a couple things. We don't need to go through the whole litany that we usually do. I wanted to mention commissioner Sten and commissioner Saltzman both missed one of the hearings, but it's my understanding they have reviewed the record in the case and are familiar with it. Second, based on council's direction at the end of the last hearing this, is a limited evidentiary hearing. It is not a reopening of the record. It is limited to amendments to the storm water system and any effects and in particular I think effects on trees adjacent to the storm water system. So if i'm hearing other testimony not related, I will chime in.

**Leonard:** Ok.

**Parsons:** Excuse me, would you like me to read the title?

**Rees:** Please.

**Leonard:** Thank you. Do you have an update for us on discussions that have occurred?

**Fabio de Freitas, Bureau of Development Services:** I do. Thank you very much. Fabio de Freitas from b.d.s. I'm going to take a few minutes to go over what's happened since we last saw you regarding this case. Again, my computer fell asleep, never fails. Since the last time we were here the applicant has redesigned the storm water management facility within track b to include a float-through planter facility instead of the previously proposed vegetated swale. I'm going to show you a slide in a second to demonstrate that for you. City staff has reviewed the alternative storm water management plan, including the preliminary calculations that were prepared for the new facility, and determined that it satisfies the city's storm water manual. In making this change, this was your specific direction to the applicants and the neighbors, the area necessary for the new facility has been reduced to the point where the three large trees in front of the existing house can be saved. So this is the site plan of the site. The arrows pointing to now what is going to be a flow-through planter instead of the vegetated swale that was in this same general location. What's happened is the facility has been shortened to the point where it's starting in about this point on the lot now, and it's allowed these three trees, this cluster of three large trees to be retained. We're talking about the western red cedars that are going to be made part of the tree preservation plan. And there will be a recommendation that the applicant save any additional trees on a voluntary basis if he so desires. To get to where we need to get to to address these new findings, i'm going to read into the record two new conditions of approval, if you just bear with me for a moment. It's in front of you on the very bright yellow paper, if you want to follow along. To address the existing tree preservation plan, that was the hearings officer's condition, d-1, and we're going to amend it to say development or redevelopment activity on the site shall be carried out in conformance with the approved tree preservation plan and arborist report. The plan shall be amended to include tree numbers 351-353, which are the three trees in front of the house, as additional trees to be preserved. The approved arborist report shall be amended to include the trees as trees to be preserved. And appropriate root protection zone shall be shown on the amended tree preservation plan for each of these trees. Any other tree on the site, including tree number 519, can be preserved on a voluntary basis. And the new condition that's on the table has been on the table for a while, an offer by the applicant to plant additional trees, the language reads as follows. The applicant shall plant one additional tree per lot above and beyond those required to satisfy the t-1 tree planting requirements at code section 332.248.020h on lots 1-5. The applicant shall plant three trees on lot six in addition to any t-1 requirements that may apply. Trees shall be selected from the Portland plant list. Tree planting shall adhere to the installation, maintenance and completion sections of chapter 33.248. And all appropriate permits shall be obtained for copies of said permits shall be provided to the

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bureau of development services as verification that the trees have been installed. To summarize, the applicants represented has recently met with the members of the neighborhood association so go over the proposed changes. Staff believes the applicant has satisfied the direction that was given to them by city council the last time we were here. The storm water management facility for the private street has been revised in order to save additional trees on the site. The tree preservation plan and arborist report will be amended to include the three trees in front of the house. And as before, you have three alternatives today. You can deny the appeal, thereby upholding the hearings officer's decision. You can deny the appeal and modify the hearings officer's decision based on a review of the record. Or you can uphold the appeal by the neighborhood association in part or in whole, thereby overturning the hearings officer's decision and denying the project. If you have any questions of me i'll be glad to answer them at this time.

**Leonard:** Any questions of fabio?

**Saltzman:** Where tree 519 is --

**De Freitas:** It's one of the trees along the eastern property line.

**Saltzman:** Ok.

**De Freitas:** Sort of behind the existing house.

**Saltzman:** Oh, ok.

**De Freitas:** I can show it to you on the plan if you want to see it.

**Saltzman:** We're talking about -- it's east of the existing house?

**De Freitas:** If you look at your screen, it's the one the arrow is pointing to right now. Just midway through the house I guess on the eastern property line. And any other trees the applicant may want to save voluntarily.

**Leonard:** Are we allowing any testimony on this limited issue of the proposed amended conditions?

**Rees:** Certainly. The first condition relating to amending the tree preservation plan to include the three additional trees, which is as a result of the storm water swale. The other condition, which is certainly people can comment on whether they think it's a good idea for the applicant to agree to provide additional trees on the lots.

**Leonard:** Very well. Do we have anybody signed up that wants to testify? You have three minutes. Please state your name.

**Bill Cox:** Bill cox, attorney for the applicant. My address is 0244 southwest california street, Portland, 97219. Just here to affirm that we are in accord with the staff report and the conditions. And have nothing else to say.

**Leonard:** Thank you. Anybody else?

**Parsons:** We've got a couple sheets. For the appellant would be -- excuse me, the applicant, chris goodall and william cox. And chris, did you have anything to say? Ok. Thank you. Then Joann Calfee, Gordon Trapp and Dixon Shaver.

**Joann Calfee:** Joanne calfee, i'm going to just read a statement that the neighborhood association committee that's been working on this issue has drafted, and then I think we have some other folks that want to address specific comments that were made here today. We'd like to thank the city council for the opportunity to work with the planning department and robert whitaker's development team to resolve two of the issues of our appeal. We'd also like to thank mr. Whitaker for allowing his consultants Chris Goodell, Jerry Buchner, and William Cox to meet with us on two occasions. We appreciate the concession that's he has made such as allowing extra time to continue our discussions and for permitting access to his property to inspect the trees. We also thank Fabio de Freitas, Colleen Harold, Eric Engstrom, Kurt Krueger, Katherine Beaumont, the other city staff members for their time, effort, and energy in working with us to understand the appeal process and the impact of the code requirements on our neighborhood. We appreciate the southwest neighborhood's land use staff as well as advice from Greg Shifskyof the Bridlemile Stream

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Stewards and Liz Callison of the West Multnomah Soil and Water Conservation District. At its prior meeting on this subject, the city council stated our discussions were to be restricted to two or three points regarding storm water management, transportation, and tree preservation. There was a difference of opinion between our committee and the city planner regarding the transportation issues. Specifically the driveway street alignment and sidewalk placement. City staff felt these were closed issues and not to be part of our negotiations. Despite our belief that they could be included, no action was taken on these points. The applicants revised storm water proposal does save some trees and may prove to be more effective, although we haven't seen any specific calculations to review. As to tree preservation, two or three trees may be saved along the eastern property line based on the outcome of our competing certified arborist's opinion. Trees in the city right of way will not be saved due to the inclusion of the sidewalks. This was one point that fabio didn't mention, we had a certified arborist also review the trees, and in our last meeting on monday there was discussion of additional review of those trees as to whether or not they were diseased. There was discussion about the city arborist visiting the site, mr. Cox was going to visit the site. I don't know if any of those things actually happened or not, but there were additional trees that were specifically in discussion. But we did get some modifications that are welcome to the plan, and we thank mr. Whitaker and the city staff for their work in this regard. However, areas of vital concern remain. We -- as we have stated throughout this land use process, these issues include the city's questionable application of the r-10 zone, and the unknown factor of the new storm water runoff to be piped to vermont creek. We therefore respectfully reserve our right to further appeal. For our committee members, myself, Chris Byrne, Gordon Trapp, Dan Cooper, Anne-Marie Fischer, Dixon Shaver, Andrew Scott and Marilyn Coffel, this has been an important learning experience. We have seen firsthand the challenges of applying the building codes that serve to define our city and that ultimately define our quality of life. The challenge is great. It is critical for our city's future success that we continue to work together on resolving these complex issues. Thank you for providing this opportunity.

**Leonard:** Next?

**Gordon Trapp:** My name is gordon trapp, retired architect and engineer. I'd like to speak to the matter of the tree preservation, if I may, please, for their -- at our meeting on monday with fabio and some of the staff -- city staff and also the applicant's representative, we didn't have time to discuss some trees. If you would like on your monitor where the road comes up to about halfway as it's passing the existing residents, you'll see a number much trees that are taken out. It has occurred to us, there's been some discussion, even at the time with the hearings officer, that the road location is why those trees have to go, and our thought was that if lots one and two could be split apart and the road relocated to that location, this would save those trees. Now, in regard to those two lots, one and two, they seem to be in violation of what is called the through lot condition, and so this road placement that way would help solve that problem. Second item we have has to do with the fact there was a high amount of impervious surfaces about nine to 10 times the amount of impervious surface on tax lot seven as a result of this new road and the houses that would go in there, and that relates to the amount of storm water that has to be treated. And we think this is an important thing that should be looked at when we look at the code. It indicates when we have sites with landslide conditions and soil erosion hazards, that the code speaks of trying to reduce the impervious surfaces, instead why they've been increased. So we'd ask your consideration about that, because by moving the road as first suggested in what I spoke about, it shortens it, and --

**Leonard:** I'm sorry, i'm trying to give you leeway, but you're supposed to confine your remarks to the two issues.

**Trapp:** All right sir. That's all I have to say. Thank you.

**Leonard:** Thank you. Anybody else?

**Parsons:** Dixon, if you had something to say --

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**Dixon Shaver:** I wish we could have saved more trees. We had an arborist, and the developer had an arborist, and there's difference of opinion and dueling arborists' reports about what constitutes a healthy tree or a diseased tree. And I don't think that's resolved. Thank you.

**Parsons:** That's all.

**Leonard:** Thank you. Fabio, did you have anything else you wanted to say?

**De Freitas:** Unless you have any questions for me, I have nothing further to add.

**Leonard:** The issue of the various arborists' reports, what's your conclusion?

**De Freitas:** I'm going to let the city attorney address this matter. We received the information from the neighborhood last week, which was certainly beyond the scope of the information that was available to the hearings officer to make his decision on this case. As you've heard earlier this afternoon, you gave us some very defined issues to resolve, and I think those have been resolved.

**Leonard:** Great.

**Rees:** Would you like me to address it, the neighborhood -- it's mostly what Fabio said. The neighborhood submitted a brief letter from an arborist. That letter should not be accepted into the record because it's dealing with tree preservation that's were not the subject of the limited evidentiary hearing. There is one sentence in there that refers to the three trees that will be preserved, if you want to accept the letter to the extent that it refers to the three trees that will be preserved as part of the storm water system, you may, or just reject the letter out of hand.

**Leonard:** What's the pleasure of the council?

**Saltzman:** Accepting the letter as part of the record?

**Leonard:** For the limited purpose --

**Rees:** It mentioned three trees that are affected by the storm water system.

**Leonard:** Which we've agreed to preserve anyway, so I don't imagine there's any controversy surrounding that.

**Rees:** No.

**Leonard:** Ok. Council discussion? We have basically before us the issue of an appeal of a hearings officer's report that staff has suggested be modified to -- in essence, if we were to accept the recommendations of staff, we would deny the appeal and modify the hearings officer's report to include conditions d-1 as amended and d-6 as amended, and -- in your yellow handout.

**Saltzman:** I'll make that motion.

**Sten:** Second.

**Leonard:** It's been moved and seconded to deny the appeal and modify the hearings officer's report to include staff recommendations d-1 as amended, d-6 as amended. Is there any discussion? If not, sue, please call the roll.

**Rees:** Before you vote, commissioner, this would need to be a tentative vote because there would need to be new findings adopted, and I think based on the vote we can talk about when the findings would be adopted, if council so chooses.

**Leonard:** After the vote? Ok.

**Leonard:** This was an interesting hearing. What we tried to do was find a place where we complied with existing land use law that's allows the land to be developed as the code provides for, but still balance the interests of the neighborhood in preserving as many trees as possible and making the development as friendly as possible. I will tell you there is no more challenging thing we do up here than these kinds of actions, because universally everyone is not happy when we're done with these cases, and that's the nature of this kind of a process. Having said that, I do think we've produced a better product through this process than what otherwise would have occurred coming out of the hearings officer's findings, and I think on balance this is a fair compromise, and is workable. Aye.

**Saltzman:** I want to -- I guess I said this the first time I was -- the first hearing we had, I feel somewhat in the conundrum because I was on the council in 2001 when we did in the southwest

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community plan establish r-10 for this area, but the conundrum is the subsequent minimum density standards that we have adopted also, and are part of the development -- part of our development standards have been met. So I feel somewhat frustrated not at this particular application, but this whole issue as when the council decided to preserve large lots that are subsequent to the adoption of density standards has thwarted I think the protection of storm water and trees that we intended by r-10 lots. But nevertheless, I do feel this applicant has met all the applicable standards in place, and I want to appreciate the applicant and the neighbors and our staff for making this a better plan in terms of tree preservation and resolving some of the issues, and hopefully, I hope the applicant will agree to go above and beyond in terms of tree preservation. It seems to me, i'm no arborist, but there are a lot of good trees there from my casual observation, and I think we should preserve more of those trees, and that they can be done and still allow the applicant to do the planned development here. So I vote aye.

**Sten:** I guess I share my colleagues' point of view. I want to thank the neighborhood, I think you've worked very hard at this very arcane regulation, and understood them very well. I think it is a better plan. I would have liked to have gotten a few more of the things you were pushing for. I do think the developer has met the standards, and I can't not give approval when I actually believe they've met the standards, or else the standards are meaningless. So with that, i'm going to vote aye.

**Leonard:** Motion is adopted. So we need to set a date --

**Rees:** It's my understanding the applicant and staff believe they could bring findings back to council november 30, and I believe all three of you will be here. What we need to do in order for that to happen is an extension of the 120-day clock, which expires november 4, which mr. Cox will address.

**Cox:** Bill cox again. That is correct. I'm just here to confirm that staff and I have talked and I think they're going to try to bring them to you on your november 30 decision, or meeting, and we are in agreement with extending the 120 days to allow that to happen.

**Leonard:** Great.

**Rees:** Sue, this -- unless it's a really crowded agenda, let's do it in the morning so we don't have just findings at 2:00. Let's put it on the 9:30 agenda.

**Leonard:** Time certain 9:30?

**Rees:** We can just -- we can do time certain 9:30 unless you already have one.

**Parsons:** We do have a 9:30 time certain and a 10:00 time certain.

**Leonard:** Let's do it at 10:15. Thank you. If there's nothing else, stand in adjournment until next wednesday at 9:30.

At 2:27 p.m., Council adjourned.