



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **7<sup>TH</sup> DAY OF DECEMBER, 2005** AT 9:30 A.M.

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

Commissioner Adams arrived at 9:42 a.m.

Commissioner Saltzman had an excused absence to leave at 10:55 a.m. and returned at 11:57 a.m.

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

On a Y-5 roll call, the Consent Agenda was adopted.

	<b>Disposition:</b>
<b>COMMUNICATIONS</b>	
<b>1500</b> Request of PaulPhillips to address Council regarding City Council (Communication)	<b>PLACED ON FILE</b>
<b>1501</b> Request of Charles E. Long to address Council regarding a word of commendation (Communication)	<b>PLACED ON FILE</b>
<b>1502</b> Request of Harold Williams to address Council to thank the city for support of Success Academy - friendly faces of summer program (Communication)	<b>PLACED ON FILE</b>
<b>1503</b> Request of Carlos Jermaine Richard to address Council regarding a simple prayer (Communication)	<b>PLACED ON FILE</b>
<b>1504</b> Request of Teresa Teater to address Council regarding drug testing of Police Officers (Communication)	<b>PLACED ON FILE</b>
<b>TIME CERTAINS</b>	
<b>1505 TIME CERTAIN: 9:30 AM</b> - Report from Measure 37 Citizens Advisory Committee (Presentation introduced by Mayor Potter)	<b>PLACED ON FILE</b>

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<p><b>1506 TIME CERTAIN: 10:00 AM</b> – Accept report from the Parks Bureau on Total Asset Management and Deferred Maintenance (Report introduced by Commissioner Saltzman)</p> <p><b>Motion to accept the Report:</b> Moved by Commissioner Saltzman and seconded by Commissioner Adams.</p> <p>(Y-4, Commissioner Leonard absent)</p>	<p align="center"><b>ACCEPTED</b></p>
<p><b>1507 TIME CERTAIN: 10:30 AM</b> – Adopt recommendations to form an Inter-Bureau Problem Solving Task Force to provide a structure to address chronic problem-locations throughout the city (Resolution introduced by Mayor Potter and Commissioner Leonard)</p> <p><b>Motion to accept amendment to add BE IT FURTHER RESOLVED, the Inter-Bureau Problem-solving Task Force will work with neighborhood and business leaders to publish a quarterly top 5 chronic problem locations and who is responsible for working on which aspect of each problem:</b> Moved by Commissioner Saltzman and seconded by Commissioner Sten. (Y-4, Commissioner Leonard was absent)</p> <p>(Y-4, Commissioner Saltzman left)</p>	<p align="center"><b>36362</b> AS AMENDED</p>
<p align="center"><b>CONSENT AGENDA – NO DISCUSSION</b></p> <p align="center"><b>Mayor Tom Potter</b></p> <p align="center">City Attorney</p> <p><b>*1508</b> Approve settlement agreements with Natt McDougal Company and Montgomery Watson Harza Americas, Inc. (Ordinance)</p> <p>(Y-5)</p>	
<p align="center"><b>Office of Management and Finance – Grants</b></p> <p><b>*1509</b> Authorize grant agreement with Oregon Emergency Management to assist with the mass sheltering of Hurricane Katrina evacuees (Ordinance)</p> <p>(Y-5)</p>	<p align="center"><b>179800</b></p> <p align="center"><b>179801</b></p>
<p align="center"><b>Office of Management and Finance – Purchasing</b></p> <p><b>*1510</b> Update Purchasing Code to conform to new state law and make technical corrections (Ordinance; amend Code Chapters 5.33, 5.34 and 5.68)</p> <p>(Y-5)</p>	<p align="center"><b>179802</b></p>
<p><b>1511</b> Accept proposal of First Response, Inc. for uniformed security officer services for Bureaus of General Services and Parks and Recreation at an estimated cost of \$1,243,000 (Purchasing Report; RFP No. 104620)</p> <p>(Y-5)</p>	<p align="center"><b>ACCEPTED PREPARE CONTRACT</b></p>
<p align="center"><b>Commissioner Sam Adams</b></p> <p align="center">Bureau of Environmental Services</p>	

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<p><b>1512</b> Authorize Intergovernmental Agreement with Department of Environmental Quality for technical assistance on Columbia Slough Total Maximum Daily Load implementation (Ordinance)</p>	<p align="center"><b>PASSED TO SECOND READING DECEMBER 14, 2005 AT 9:30 AM</b></p>
<p><b>1513</b> Designate a portion of certain City of Portland property as a Storm Drainage Reserve and assign jurisdiction of said property to the Bureau of Environmental Services for the Tryon Creek Headwaters Project No. 7545 (Second Reading Agenda 1454)</p> <p>(Y-5)</p>	<p align="center"><b>179803</b></p>
<p><b>1514</b> Authorize agreement for acceptance of a donation of two riparian parcels from Port of Portland to the Bureau of Environmental Services for the Ramsey Refugia Habitat Enhancement Project (Second Reading Agenda 1455)</p> <p>(Y-5)</p>	<p align="center"><b>179804</b></p>
<p align="center"><b>Office of Transportation</b></p>	
<p><b>1515</b> Set a hearing date, 9:30 a.m. Wednesday, December 28, 2005, to vacate a portion of SE Long Street west of SE 40th Avenue (Report; VAC 10024)</p> <p>(Y-5)</p>	<p align="center"><b>ACCEPTED</b></p>
<p><b>1516</b> Set a hearing date, 9:30 a.m. Wednesday, December 28, 2005, to vacate a portion of Freeman Street east of SW 19th Avenue (Report; VAC 10021)</p> <p>(Y-5)</p>	<p align="center"><b>ACCEPTED</b></p>
<p><b>1517</b> Set a hearing date, 9:30 a.m. Wednesday, December 28, 2005, to vacate a portion of Baldwin Street east of N Delaware Avenue (Report; VAC 10022)</p> <p>(Y-5)</p>	<p align="center"><b>ACCEPTED</b></p>
<p><b>1518</b> Set a hearing date, 9:30 a.m. Wednesday, January 11, 2006 to vacate the alley in Block 10, Walnut Park Addition (Report; VAC 10028)</p> <p>(Y-5)</p>	<p align="center"><b>ACCEPTED</b></p>
<p><b>1519</b> Amend Interagency Agreement with the Portland Development Commission for 2005-2006 professional and technical services for transportation improvements (Second Reading Agenda 1465; amend Contract No. 52477)</p> <p>(Y-5)</p>	<p align="center"><b>179805</b></p>
<p><b>1520</b> Authorize the Director of the Portland Office of Transportation to execute agreements pertaining to sponsorships, donations, contributions and cost-sharing for transportation programs, services and projects in form acceptable to the City Attorney's Office and in amounts not to exceed \$150,000 per agreement (Second Reading Agenda 1466)</p> <p>(Y-5)</p>	<p align="center"><b>179806</b></p>
<p align="center"><b>Commissioner Randy Leonard</b></p>	
<p><b>*1521</b> Authorize acquisition of vehicles for use by City bureaus (Ordinance)</p> <p>(Y-5)</p>	<p align="center"><b>179807</b></p>
<p align="center"><b>Water Bureau</b></p>	

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<b>1522</b> Extend contract with Alpha Community Development, Inc. to complete work on the large meter test bench (Ordinance; amend Contract No. 32892)	<b>PASSED TO SECOND READING DECEMBER 14, 2005 AT 9:30 AM</b>
<b>1523</b> Amend an Intergovernmental Agreement with Multnomah County to provide additional general heavy brushing work on right of ways, roadsides, trails and City properties (Ordinance; amend Contract No. 52239)	<b>PASSED TO SECOND READING DECEMBER 14, 2005 AT 9:30 AM</b>
<b>Commissioner Dan Saltzman</b>	
<b>Office of Cable Communications and Franchise Management</b>	
<b>1524</b> Approve substitute of Comcast Corporation as guarantor of performance of cable franchises (Second Reading Agenda 1475)  (Y-5)	<b>179808</b>
<b>Office of Sustainable Development</b>	
<b>1525</b> Authorize a \$35,000 Intergovernmental Agreement from Metro for the administration of the Master Recycler Program (Second Reading Agenda 1474 )  (Y-5)	<b>179809</b>
<b>Commissioner Erik Sten</b>	
<b>Bureau of Housing and Community Development</b>	
<b>*1526</b> Accept a grant award of \$470,000 from the Corporation for Supportive Housing (Ordinance)  (Y-5)	<b>179810</b>
<b>*1527</b> Extend contract with Cathey Briggs, Consultant, for planning, coordination and facilitation services (Ordinance; amend Contract No. 34647)  (Y-5)	<b>179811</b>
<b>REGULAR AGENDA</b>	
<b>1528</b> Accept report of City Attorney regarding documents requested from Portland General Electric (Resolution introduced by Mayor Potter, Commissioners Adams, Leonard, Saltzman and Sten)  (Y-5)	<b>36365</b>
<b>Mayor Tom Potter</b>	
<b>1529</b> Recognize Joanne Zuhl, recipient of the 2005 Lowenstein Trust Award (Presentation)	<b>PLACED ON FILE</b>

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<p><b>1530</b> Appoint Gavin Thayer to the Housing Authority of Portland Board of Commissioners for a term beginning December 10, 2005 to expire December 10, 2009 (Resolution)</p> <p>(Y-5)</p>	<p align="center"><b>36363</b></p>
<p><b>1531</b> Re-appoint Lee Moore to the Housing Authority of Portland Board of Commissioners for a term beginning January 18, 2006 to expire January 18, 2010 (Resolution)</p> <p>(Y-5)</p>	<p align="center"><b>36364</b></p>
<p align="center"><b>Office of Management and Finance – Bureau of General Services</b></p>	
<p><b>1532</b> Authorize contract and provide for payment for the remodel of Fire Stations 15, 24 and 43 (Ordinance)</p>	<p align="center"><b>PASSED TO SECOND READING DECEMBER 14, 2005 AT 9:30 AM</b></p>
<p><b>1533</b> Authorize contract and provide for payment for the Justice Center Tenant Improvement project (Ordinance)</p>	<p align="center"><b>PASSED TO SECOND READING DECEMBER 14, 2005 AT 9:30 AM</b></p>
<p><b>1534</b> Adopt an Operating Agreement for PGE Park between the City and Beavers PCL Baseball, LLC (Second Reading Agenda 1482)</p> <p>(Y-4; N-1, Adams)</p>	<p align="center"><b>179812</b></p>
<p align="center"><b>Office of Management and Finance – Purchasing</b></p>	
<p><b>1535</b> Revise the regulations for the disposition of City surplus personal property (Second Reading Agenda 1487; replace Code Sections 5.36.001, 5.36.010, amend Code Section 5.36.025 and repeal Code Section 5.36.011)</p> <p>(Y-5)</p>	<p align="center"><b>179813</b></p>
<p align="center"><b>Office of Management and Finance – Revenue Bureau</b></p>	
<p><b>1536</b> Amend contract for Downtown Business District Management Services between the City and Portland Downtown Services, Inc. (Second Reading Agenda 1485; amend Contract No. 51730)</p> <p>(Y-5)</p>	<p align="center"><b>179814</b></p>
<p align="center"><b>Commissioner Sam Adams</b></p>	
<p align="center"><b>Office of Transportation</b></p>	
<p><b>1537</b> Create a local improvement district to construct street and traffic calming improvements from Barbara Welch Road to north of Bybee Drive in the SE 152nd Avenue Local Improvement District (Hearing; Ordinance; C-10017)</p>	<p align="center"><b>CONTINUED TO DECEMBER 21, 2005 AT 9:30 AM</b></p>
<p><b>*1538</b> Amend agreement with Portland Streetcar, Inc. to provide design and other professional services for the Portland Streetcar Lowell Extension Project (Previous Agenda 1491; amend Contract No. 31428)</p>	<p align="center"><b>CONTINUED TO DECEMBER 14, 2005 AT 9:30 AM</b></p>

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<p><b>*1539</b> Amend contract with Stacy and Witbeck, Inc. for the construction of the trackslab, track drains and other minor civil elements on a segment of SW Moody and SW Bond Avenues between SW Gibbs and SW Lane Streets (Previous Agenda 1492; amend Contract No. 35163)</p>	<p><b>CONTINUED TO DECEMBER 14, 2005 AT 9:30 AM</b></p>
<p style="text-align: center;"><b>Commissioner Dan Saltzman</b></p> <p style="text-align: center;"><b>Children's Investment Fund</b></p> <p><b>1540</b> Amend Intergovernmental Agreement with Portland State University for evaluation related technical assistance services (Second Reading 1494; amend Contract No. 35298)</p> <p>(Y-5)</p>	<p style="text-align: center;"><b>179815</b></p>

At 1:07 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **7TH DAY OF DECEMBER, 2005** AT 2:00 P.M.

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

Commissioners Leonard and Saltzman arrived at 2:11 p.m.

Commissioner Leonard had excused absences for 3:36 p.m. to 4:35 p.m. and 3:37 p.m. to 5:35 p.m.

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

<p><b>1541 TIME CERTAIN: 2:00 PM</b> – Adopt and implement the Division Green Street/Main Street Plan (Ordinance introduced by Mayor Potter; amend Comprehensive Plan and Title 33)</p>	<p><b>Disposition:</b> <b>CONTINUED TO DECEMBER 15, 2005 AT 3:30 PM TIME CERTAIN</b></p>
<p><b>1542 TIME CERTAIN: 3:00 PM</b> - Appeal of Southwest Hills Residential League against the Hearings Officer’s decision to approve the application of Erik Eekhoff, W E Develop, LLC to construct a 36-unit condominium building at 1299 SW Cardinell Drive (Hearing; 05-128719 EV EN M)</p> <p><b>Motion to postpone the Hearing for a short period of time:</b> Moved by Commissioner Adams and seconded by Commissioner Saltzman and gavelled down by Mayor Potter after no objections.</p> <p><b>Motion to tentatively deny the appeal and uphold the Hearings Officer’s decision with an additional condition that stipulates in detail the characteristics described how the proposed plan will be enforced for at least 10 years with clear penalties and remedies if it is not:</b> Moved by Commissioner Sten and seconded by Commissioner Adams. (Y-4)</p>	<p><b>TENTATIVELY DENY APPEAL AND UPHOLD HEARINGS OFFICER’S DECISION WITH CONDITIONS; PREPARE FINDINGS FOR JANUARY 4, 2006 AT 10:30 AM TIME CERTAIN</b></p>
<p><b>1543 TIME CERTAIN: 4:30 PM</b> - Tentatively deny Maplewood Neighborhood Association and uphold Hearings Officer's decision with modifications 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 (Findings; Previous Agenda 1442; LU 04-094246 LDS AD)</p> <p><b>Motion to adopt Findings and Decision:</b> Moved by Commissioner Sten and seconded by Commissioner Leonard. (Y-3, Mayor Potter and Commissioner Adams recused themselves)</p>	<p><b>FINDINGS ADOPTED</b></p>

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**1544 TIME CERTAIN: 4:45 PM** – Tentatively deny appeal of Hayhurst Neighborhood Association and uphold the Hearings Officer’s Decision with modifications to approve the application of Michael and Rita Wallace to create a four lot subdivision, a common green and an environmental resource tract at 3609 and 3617 SW Cullen Blvd (Findings; Previous Agenda 1499; LU 05-128857 LDS EN)

**Motion to adopt the Findings and deny the appeal and modify the Hearings Officer’s decision to approve a preliminary plan for a six-lot subdivision related adjustments subject to conformance with the storm water management and tree preservation plan and subject to the amended conditions listed:** Moved by Commissioner Adams and seconded by Commissioner Sten. (Y-4)

**FINDINGS  
ADOPTED**

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At 5:35 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.



**December 7, 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.

**DECEMBER 7, 2005            9:30 AM**

**Potter:** I'd like to ask a question that we ask at the beginning of every council meeting on wednesday morning. The question is, how are the children? And we ask that question because in many communities around the world when people greet each other instead of asking "how are you," they ask "how are the children?" and they know if the children in the village are well, the village is well. And so today we've invited some experts in to talk to us, and these young people attend tryon life community farm, and it's a sustainable education center and urban ecovillage. So if they would, would the students please come up? Why don't you have a seat in one of those chairs. Thank you for being here. Hope, did you want to introduce them?

**Hope:** Thank you very much. We all really appreciate being here. We want to thank you very much. For those who aren't an acquaintance to us, our farm is an environmental sustainability education center. We're on seven acres of urban farmland in southwest Portland, surrounded by tryon creek state park. The land was about to be bull dozed about a year ago, and a group of volunteers with a vision and neighborhood support has been fund-raising. The purchase price is \$1.6 million, and we've now raised over \$1 million. So we're nearly there. The kids wanted to share their thoughts today because we're reaching out for a little more help and if anyone is interested in our story that's listening today, our website is [www . Tryonfarm.org](http://www.tryonfarm.org). So the children would love to speak. Thank you very much for letting us be here.

**Potter:** As you folks talk, would you just state your name, please?

**Willow Carver:** I'm willow carver. The farm, like she said, is on seven acres, but it isn't just a farm. I feel that it is also a learning experience where everything can coexist. It's like a sanctuary where not only are you learning how to preserve the earth we live on, but how to get along with other people and preserve yourself. And I think that's important, because it doesn't seem like there are enough places where you can be yourself and be truly accepted. But this is a place that seems to accept everything, where everything can get along together, and I really like it.

**Potter:** Thank you.

**Bryony Carver:** I'm brynni --

**Potter:** Could you point the microphone towards her?

**Bryony:** I think the farm is a really great place. You can learn a lot and -- about nature and -- these are some pictures. And there's goats. This is something else, but -- and I think it's -- you can learn a lot with calm, and nature, and just how to get along.

**Potter:** Thank you. How are you today?

\*\*\*\*\*: Good.

**Potter:** Did you want to say anything to us?

**Sedge Carver:** Yes. These are some pictures I draw. This is of goats, and this of is chicken. It's not that good. I just brought it because I had nothing else to draw on this page.

**Potter:** Ok.

**Sedge:** And there's also this, and -- one thing I think is good about it is people who have kids, it's good for them to go there because they can learn a lot, even grown-ups.

**Potter:** Even the grown-ups can?

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

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**Potter:** That's good. Thank you very much for coming in today.

**Hope:** Thank you very much for this opportunity to speak. Obviously these kids really came from their hearts today and spoke spontaneously, and they didn't premeditate any of this because they just wanted the opportunity to say what they thought.

**Saltzman:** I've had a chance to visit the farm and help you try to raise some money at one of your fund-raising events, and why don't you just tell us what is your current deadline to get the \$1.6 million?

**Hope:** Thank you, dan. January 6 is our current deadline. And like I said, we are very close at this point. We are down to the last few hundred thousand dollars. And it's been a fantastic community support that has brought us to this point. We really want to be giving thanks to everyone who's been a part of bringing that together, and we're really encouraged by this city for being such a green city and being so strongly supportive of the environments, and that's why this project is so important here. So more and more kids can come out and get involved as well as adults, and continue to learn how to work with our environment and to create a greener world. Thank you.

**Saltzman:** Thank you.

**Potter:** Thank you very much for being here.

**\*\*\*\*\*:** You're welcome. And those are nice pictures, sedje. I think you could teach commissioner Leonard a few things about art.

**Leonard:** Drawing. [laughter] I was thinking the same thing.

**Potter:** Thank you very much. Ok. City council will come to order. [gavel pounded] Karla, please call the roll. [roll call] [gavel pounded]

**Potter:** Communications, please read the first item.

**Potter:** Please state your name when you testify. You have three minutes, sir.

**Item 1500.**

**Paul Phillips:** Yes. Paul phillips, I might owe you, mr. Mayor, an apology. When I spoke the 19th and I asked the question for the second time if anybody had heard of anybody with growth rings before, you had answered that no, you hadn't, and I found out that I guess it was sam Adams also spoke that said that no, he hadn't heard either of anybody with growth ridges. If you recall from the conversation, an orthopedic hand surgeon had actually said that I had -- and if you were offended by my comment -- a politician practicing politics, I apologize for that. Were you?

**Potter:** No, I wasn't.

**Phillips:** Well, I certainly apologize for that.

**Potter:** You may want to ask commissioner Adams that, but I wasn't.

**Phillips:** He's there now?

**Potter:** He just appeared.

**Phillips:** I'm so blind, I don't see to recognize people. Were you offended by that, mr. Adams?

**Adams:** No. I represent that comment.

**Phillips:** I apologize. I did talk to the deputy city attorney, benjamin walters, I got his card, and he actually handed me back this photographic picture of my x-ray and said that his father and mother, his father being a doctor, and mother being a nurse, had actually discussed at dinners that they -- that he remembers them discussing about growth rings in people. As you might know, mr. Mayor, I find it hard to believe, and so did ed tabor and yourselves, two of the city council members are apparently wrong, and as you might know, two wrongs don't make a right. Growth rings as you might know, if I knocked on this table, knock on wood, as they say, some people know the difference. Is my time up?

**Potter:** You have a half minute left, sir.

**Phillips:** Oh. Well, I intend on talking about the breaks that i've had next week, and maybe this will be presented more clearly. By the way, the city attorney also said that the mayor wasn't taking his advice from the city deputy city attorney, they weren't supposed to comment.

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**Potter:** Ok. Thank you, sir. Please read the next item, Karla.

**Item 1501.**

**Potter:** Good morning, mr. Long.

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

**Potter:** Please state your name when you talk. You have three minutes, sir.

**Charles Long:** My name is Charles E. Long, and I'd like to state publicly how proud I am of the city council. I think it's an unusually good council we have. David Knowles, former director of planning of the city of Portland wrote an op ed article in "the Oregonian" on the 2nd of December. He said Portland isn't perfect, but it is remarkably successful by almost every measure. The two things I like about Mayor Potter particularly is his focus on children, because that is certainly a very important thing for our city. I also appreciate Mayor Potter's focus on a vision project. I think vision is vital to a successful community. As the proverb says, "if there is no vision, the people perish." "Your sons and your daughters will proselytize your young men shall see visions. The prophet says, "write down the vision and make it plain on tablets so that whoever reads it may run with it, for the vision awaits an appointed time." As we see, governments are generally not -- are not supported very well by many people, and there are many reasons for that. For instance, in this morning's Oregonian the headline was "Spokane voters oust mayor embroiled in sex scandal." In Philadelphia the "USA Today" reported Monday that Philadelphia had 352 murders so far this year. In San Diego the mayor had to resign and two council men were indicted in regard to a corruption there. And their federal congressmen also had to resign for corruption. In the Portland monthly there were mentions of -- pardon me. Mayor Potter and Erik Sten and Commissioner Sam Adams as one of the leaders of our community. I wish I had more time, but thank you.

**Potter:** Thank you, Mr. Long. Please call the next item.

**Item 1502.**

**Potter:** Please come forward, Mr. Williams. Thank you for being here, folks.

**Harold Williams:** Thank you for having us. This is a video of what was done for approximately six weeks this summer with the Success Academy. We would really like to thank you the city council for its support and the mayor and police bureau, park bureau, and everyone else that pitched in to help us pull this off. It happened in a six-week period.

**Moore:** Pull the mike down that's as loud as we're going to get it, sorry.

**Williams:** One of the things we found with -- we wanted to get families involved, the community involved, and show that we could keep crime down by having our partners come together. One of the things we did with the resources that we have to show that we could bring all the partners together, and this is what this video is about to show that. Pardon us for our technical difficulties, but now we will move forward to make this presentation. One of the things we found, if you have children -- [dvd]

We provide case management and assessments, mentoring, and provide an assortment of other activities and individual needs assessment to evaluate the needs of each client to assist he or she in getting his or her needs met. We make the appropriate form for housing, clothing assistance, mainstream and alternative education, employment, medical, and/or drug and alcohol treatment referral if necessary. We walk them through the Madison and make sure they have all their necessary forms and paperwork needed to meet the requirements of each service provider. We also help them through their initial transition from their place of residence and service providers. Success Academy. Summer youth program. Friendly Faces of Summer was built on the concept of collaboration and partnerships with private businesses, local government agencies, and education institutions such as city of Portland, Portland police bureau, Portland community college, Portland parks and recreation, Portland cable media, KBOO radio, Jam 95.5 radio, and Nike. The summer project was the first step of Success Academy's Fill in the Gap concept. We plan to provide services during the gaps of the school year, which will include early and late summer, Christmas, and spring

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break. Harold c. Williams senior, project director, is a graduate of Portland state university where he received a b.s. in political science and a masters in general studies. Mr. Williams is currently the president and c.e.o. of ch2a and associates. He's also chair of success academy and board chair of Portland community college. Mr. Williams has been heavily involved in the community for over 40 years. During this time he's also held positions such as labor relations manager for the state of Oregon, executive department, affirmative action director for the state of Oregon, office of the governor, equal opportunity coordinator, state of Oregon, office of the government, state of Oregon, and he's received numerous awards for his leadership and volunteer service. Harold c. Williams two is a graduate in north carolina. He received a bachelor's of science early childhood development. Mr. Williams is currently the vice-president of ch2a and associates and vice chair of success academy. Mr. Williams has been working in the field of early childhood development for over eight years. During that time he's also pursued a career in college and professional football. Along with his work with the success academy, mr. Williams has worked as a football coach, a teacher's assistant, activity coordinator, counselor, mentor, residential counselor, and case manager.

**\*\*\*\*\*:** Groove.

**\*\*\*\*\*:** The voice of liquid struggle, it's not their fault. I have this black boy's got a.d.d. Graduate from high school, but since every kid counts, nobody will quit until every kid counts and they don't need counseling. What they need -- every day when the sun comes out, we know they're done, because they say you can't seat morning and not -- I see mobs in the sun modern at night, from night to morning. When the sun is night, morning to night, we need more food in the house. I know what it's like to be poor with no food in the house. It's like we like to be poor with no food in the house. It's a habit. We're addicted to the madness. It's like we gotta have it. It hurts, but -- i'm bleeding, it hurts, but you need it so I do it. [inaudible]

**\*\*\*\*\*:** You can call me dr. Groove. I'm sticking up docs for you, looking for b-positive. I've got to be positive. Guess what? I got b-positive, my blood's the same as yours. If i'm as good as -- as good as it gets, there ain't no regrets when I squeeze and hit the floor, i'm a zarqawi identifies. We got to redefine the word "success," man. We got to.

**Potter:** Very good. [applause]

**Williams:** Again, we want to thank you for -- one of the things we ewanned to show, we involve families and everyone. We can make Portland really the great city it is, the city of roses that enhances everybody. And if we can get a little more assistance during the off season, like for christmas when we have gaps, we can keep the crime level down and keep Portland positive and on the upbeat. We have families involved, and all the bureaus involved in helping us do this, we can take it to a higher level. Our goal with the friendly faces of summer and the friendly faces of the whole year, bringing the colleges, the cities, the bureaus all together and benefit all of our children in this great city. Yes really want to thank you for your support.

**Potter:** Thank you, folks, very much.

**Adams:** Thank you.

**Leonard:** Thank you.

**Moore:** I don't see him. 1504.

**Item 1504.**

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

**Teresa Teater:** Teresa teater, homeless volunteer. I'm here to make some comments regarding recent newspaper headlines and formal requests of the ad hoc committee of the kendra james shooting and mr. Perez's shooting that officers be drug tested after a lethal enforced death custody shooting, and just drug testing in general of officers randomly. The "the Oregonian" headline was a few weeks back, so I didn't get to testify because you didn't have a meeting a couple weeks later. I'm making suggestion that's the union shouldn't stand behind hiding officers that do engage in drug

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use. I have people that come up to me a lot on tri-met bus between Oregon city and here that see me talking to you folks regarding drug use, and they've told me they have officers in this town stop them on the way to youth hangouts and catch them smoking, and then smoke a bowl with them and then take it from them and not cite them and put it in their pocket and tell them they're free to go. And these kind of things scare me. If it starts with marijuana, what's the next level of drugs, if they're taking from people and hiding from you? It endangers officers on the scene later in the day, the evening, if the group have to come together to handle something, if one of the officers is under the influence. Whoa a chiefs advisory meeting a few weeks ago, and chief was asked by former city commissioner doug neeley, here's the headline this morning in "the Oregonian" about the Portland police, and chief spoke up and said, our officers have been drug tested for years and we don't know why Portland is way behind with the rest of the country. And there's other things that Oregon city police department is way behind on that you guys are way ahead of, so i'm going to be fair about this statement to you, i'm not going to just slam you, because this is not appropriate, this is about solutions, this is about if the citizens' integrity can be impugned out here, if we're guilty of a crime until proven unguilty in court, an officer who shoots someone, and they kill them at the scene, should be drug tested within an hour of being removed from the scene, having their gun removed from them, and this keeps the community from pointing fingers over and over and going, what was the cop on that night? Nobody ever drug tested him: I asked chief foxworth on that on august 1 when he handed out the review policy, the c.p.r. Masks are not back in there yet, and no drug testing of the officers is not back in there. There's no reason why what's good for the goose is good for the gander. Thank you very much.

**Potter:** Thank you. Please read the next item.

**Moore:** We'll do the consent agenda.

**Potter:** Any commissioners wish to pull any items from the consent agenda? Anybody from the audience wishing to pull any items from the consent agenda?

**Adams:** I have to pull -- let me double-check. I want to make sure those streetcar things are not --

**Potter:** What number is that? Here it is. It's on the regular.

**Adams:** Ok. I'm fine.

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

**Potter:** Aye. [gavel pounded] move to time certain.

**Item 1505.**

**Eric Palmer, Measure 37 Citizens Advisory Committee:** Good morning, everybody. Thanks for being here. My name is eric palmer, i'm the land use chair of the cathedral park neighborhood association. I'm presenting today on behalf of the measure 37 citizens advisory committee. Also with me is Linda nettekoven, another member of the committee, and shelia martin. Also in the room today are amanda fritz and ashley henry, also members of the committee. Bonnie mcknight prepared the report for you and could unfortunately not be here today, and so we're pleased to be able to step up and help out with this presentation. The committee itself was created several months ago by council resolution. The membership of our committee is drawn from multiple stakeholder groups, including business interests, development interests, neighborhood interests, environmental representation, and from various parts of town. We've -- the call of the committee by council was to work to improve communication with citizens regarding measure 37 and measure 37 claims, and also to analyze the city's procedures for dealing with measure 37 claims and possibly make policy recommend indications to improve -- recommendations to improve the city's performance in that area. In some ways it's been a difficult task for us. Obviously measure 37 has been ruled unconstitutional in salem during the course of our work. There have been relatively few claims in Portland for us to analyze, and in the course of our work there was a change in the measure 37 manager for the city that slowed our progress somewhat. However, we do have concrete accomplishments to report. We reviewed the procedure by which this city provides notification

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cards to neighbors of measure 37 claimants, reviewed the cards themselves. We also proposed a number of revisions and reorganizations to the -- what the city's measure 37 website and many of those changes have been adopted. We've discussed the possibility we should undertake further outreach efforts, further educational measures that might be valuable for citizens involved in measure 37-related issues, and we've had a number of substantive policy discussions about a higher theoretical issue. In the course of all that we've come up with both a group of recommendations that are supported by consensus within our group and also a number of topics that we are -- have explored and are continuing to explore further but have not reached consensus on, so I want to pass it over to Linda who is going to go through several of those items.

\*\*\*\*\*: The key committee recommendation --

**Potter:** Excuse me, could you state your name?

**Linda Nettekoven:** Linda netakovin. Regardless first of all if measure 37 continues to be in operation, we feel the issues being -- need further discussion and consideration by the community, so we're recommending that the committee continue its work for a while longer. Second recommendation that we find a better way to account for the property value impacts on adjacent properties when a claim comes forward and is considered. There needs to be other options to more fairly address the overall impacts of site by site regulatory waivers, which may have cumulative impact over time. Third, the fabric of our community planning efforts is in a sense, if you think of a piece of fabric you're having holes cut out of it as waivers are granted, and there needs to be some way to account for and preserve the investment in community planning. An incredible amount of public and private resourcing, especially if you consider volunteer hours, go into the principalling process, and the value of that needs to be considered in the granting of the waivers. Fourth, the waiver of environmental regulations for a specific property often times has a much broader impact. Streams don't stop at the edge of a property line, and so when making a decision on an individual parcel, there needs to be a way to look at the larger context in which that's occurring, and the larger impacts. In terms of issues to consider, the notion of how to separate speculative market value from actual market value, again, we don't have the answer, but we feel it's important, it's important to look at pieces of property, for example, that have been vacant for long periods, despite being available for development, and how can that value be better defined -- how can that real market be better defined if waivers are granted because of measure 37, how will the higher market value be subject to property tax assessment in a timely fashion. Should the council better define the actual market value that's provided because you have zoning and environmental regulations in place? That seems to be not being addressed. Should the council be recovering processing costs for measure 37 claims when considering the final value of a claim settlement? Does the council action granting waivers adequately protect public investment and zoning, what does that do to the zoning that other folks that are continuing to operate under the existing rules, how is that impacting them? And are there other compensation methods that could be identified to respond to measure 37 claims? And to the council -- could the council north macadam a settlement amount for claims and if so, what would the basis be for a proposed settlement? Finally, should the council consider how city processes are funded? We're trying to work on a cost recovery basis that makes some processes fairly expensive. We found specially with the environmental regulation, the environmental review that's some claims are withdrawn when the cost of that processing has been reduced. So should there be general fund support for some of the processing to avoid measure 37 claims. And then simple one is how should the zoning maps indicate where there's a waiver in place for folks that may be thinking of purchasing property so that they're aware of what could be allowed given a waiver in place. And so in conclusion, to restate, we feel there are a lot of issues that could still be addressed and investigated and feel the committee has other work it could carry forward. If you would want us to continue we need your guidance in terms of what items are most important and what mechanism you'd like us to use in bringing the results of our discussion to you.

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**Adams:** Could you expand, one of you, on when you say -- I thought it was useful your advice to us to consider the impact of our decisions on the surrounding properties more than we have. I don't think we've had a lot of discussion of that of the claims that have come before us. Do you have any advice on how to sort of do that?

**Shelia Martin:** I could address that. Good morning, mr. Mayor, commissioners, sheila martin, director of the institute of Portland metropolitan studies. There is quite a bit of ongoing work happening as we speak about how to address the property value impacts of regulations such as regulation that's are subject to measure 37 claims. There is an economist at Oregon state university who has done some preliminary work in this area, and the Oregon community foundation has just funded an extension of that work between Oregon state university and the georgetown center for law and environmental policy. So we will be getting better guidance on that very shortly. But I just also wanted to mention that regardless of what happens in salem in january when they plan to take hearings on the constitutionality of measure 37, each of these claims represent an issue that cause tension in our planning system that need to be addressed. That's one of the reasons that we hope to continue our work, despite what the resolution is in salem on the constitutionality issue. Thank you.

**Adams:** The other follow-up question I had, I really appreciate your work, it's very useful, I voted against the calcagno claim, and one of the reasons is I thought it provided an instructive, as you've noticed -- noted here, an instructive case that we might explore revenue generation opportunities, metro city council, robert liberty has put on the public discussion table some opportunities for fees that might help fund our ability to purchase property instead of just waive regulations. But I don't see that fee generation or revenue generation discussion on your suggestions. Is there a reason for that? You considered it and decided not to put it on, or it just didn't make your radar screen?

**Martin:** I think what you're asking is whether or not we've identified a revenue source for paying rather than waiving. And there's also work being done in that area, but as you know from your deliberations here in city council, it's pretty difficult to come up with that kind of revenue when you're facing difficult choices with respect to how to spend the city's budget.

**Adams:** Actually, what we talked about on the calcagno claim was actually some fees that we could charge related to 37, or our regional government could charge related to annexation that could be used by local governments as a source of money to buy properties. So just maybe if you could look at that, and robert liberties I thought had some good ideas, and get back to us on whether you think those had merits on that, I would appreciate your thoughts on that.

**Nettekoven:** These ideas were kind of generally subsumed, so these specifics are very helpful.

**Adams:** Thanks for your work on this.

**Potter:** Any other questions from the council? I certainly want to thank you for your work. I know that what you're doing is important. I don't remember when you were created last march by the council whether there was a time limit on the service of this committee or not.

**Nettekoven:** Basically how to -- it had a six-month charge to come back and report to you, and I think we would be determining at that point the future of the committee and the future work of the committee. So this is our six-month report.

**Potter:** I would --

**Saltzman:** Are we supposed to give you a new charge?

**Adams:** Charge:

**Potter:** It's not like you have some work still to be done.

**Nettekoven:** I guess to let us know if the issues we've identified along with some specifics that you're adding are the direction in which you'd like to see the committee continue, and if you want to see the committee continue, are two questions --

**Adams:** I would.

**Potter:** Yes.

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**Saltzman:** Yes. Stojakovic I think you've still got stuff to do. I agree. I think you've got the questions right.

**Palmer:** I think it would be -- one way I think it -- I think it would be helpful to us to know as politicians as our representatives, when you think about measure 37 claims, when you think about measure 37 in an abstract way about how you as politicians should be dealing with it, what kinds of questions and what kinds of issues come to your mind, and perhaps if there's a way we could capture that information and use that to help prioritize and shape the topics that we're working on, I think that would really help us to make sure that we're connecting -- we're kind of operating in a little bit of a vacuum because we don't have that kind of connection with what's going on in the real world political world of how we take what we do and connect it with something that might actually turn into a policy, or a regulation, or something like that that would help to make measure 37 work better, or work more appropriately to achieve both the intent of the people that voted for it and also to balance it against all the other competing concerns.

**Potter:** Do you folks interact much with measure 37 program manager?

**Nettekoven:** Oh, yes. Very much.

**Palmer:** Absolutely.

**Potter:** Because he attends all of our executive sessions as well as council sessions, and some of the issues that you've raised I think he's got additional information that perhaps could be provided to you folks. In terms of looking at some of the cost issues as well as just the process of how we -- the legal structure how we look at these claims. It is restricted to the individual property, we can't go outside as you were suggesting to look at the larger picture, we can only take the claims one at a time, and for the individual properties as they come forward to the city council. So our program manager is aware of those things, so I just want to make sure you folks are having regular communication with him.

**Palmer:** Yes. He's a staff person to us as well in a sense, and it certainly helps to convenient or committee and supply us with needed information.

**Adams:** And just two quick answers to your questions o. Number two where the -- where you talked about the value of surrounding properties, but also if you can find a way to legally relate it back to our decision making useful, or if it provides information for private right of actions of a private property, that's fine too. So it's only as the mayor alluded to, it's only useful if it's truly usable for us. And then on the second thing, we don't have the -- we haven't identified the discretionary resource that's we have yet to buy these properties. So if you can really work on that piece of, is there a way to institutionalize a fee or surcharge or something, and that dedicated to a pot or a fund that we then could consider for buying some of these properties. Unless we sort of get to that level, we will be stuck up here just deciding whether we're going to say yes or no to waiving the fees.

**Potter:** I'd like you to stay in place as a standing committee until such time as we determine that -- where you folks determine that you've been as useful as you can to the city council and to the citizens. Is there any -- is there concurrence on that from the rest of the council?

**Leonard:** Yes.

**Potter:** Ok. Thank you very much for doing that. And thank you for the report.

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

**Item 1506.**

**Saltzman:** I'm pleased to bring forward a comprehensive asset condition report on our major parks community centers and arts and cultural centers. In our last budget process the council made it a high priority to tackle the backlog of maintenance items in our park system. And that remains as my job as commissioner in charge, one of my two top priorities are tackling our backlog of deferred maintenance and require new parks lands and natural areas as opportunities present themselves. But we're here today to talk about the first priority, tackling deferred maintenance. The parks



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bureau has put together a very comprehensive condition report of our community centers and arts and cultural centers, and I think the good news is that many of them are in much better shape than we may have expected, despite their age. Many of -- which were built in pre-world war ii era. They are in better condition than might be expected, but nevertheless, the council did budget \$1 million in one-time money, and this year -- in this year's budget to tackle some of the deferred maintenance, and we're going to hear what those projects are going to be today. And then as a result of last week's council action to prepare the buckman pool and to pay for that out of our general fund contingency, rather than out of the parks bureau budget, we have an additional \$436,000 that we're also applying towards the backlog of deferred mains and those projects will be identified today as well. And finally a couple of the issues we're funding today involves structural studies of some of our community centers, and we believe that those will lead to more comprehensive funding requirements that will be addressed by the council's direction for the parks bureau to establish a gulf surcharge fee of \$1 per nine holes that will be used to bond for an additional \$7 million, which we believe will tackle some of the more comprehensive seismic and structural issues facing our facilities. I'm going to turn it over to parks in a second, but I want to say it's a great report, it's got a lot of interesting trivia, I thought i'd try a trivia question on a council member here, anybody want to guess what our first community center was in the city of Portland?

**Leonard:** Sellwood.

**Saltzman:** Nope.

**Adams:** First community center in Portland.

**Saltzman:** Peninsula. 1913.

**Adams:** I'm voting no on this report. [laughter]

**Saltzman:** Our last trivia question, which community center used to be housing in world war ii?

**Adams:** Housing in world war ii? It's not gabriel park.

**Leonard:** Sellwood.

**Saltzman:** St. Johns. Anyway. This report has a wealth of interesting information about the history which I find fascinateing.

**Adams:** Do you know the first sewer line in the city of Portland?

**Saltzman:** The willamette river: [laughter] that's an easy one.

**Potter:** Do you know when we began using bull run water?

**Adams:** 1905.

**Potter:** Very good.

**Saltzman:** Ok. Let me turn it over to robin.

**Adams:** We've exposed our ignorance.

**Robin Grimwade, Portland Parks and Recreation:** Manager of strategy finance and business development with Portland parks. Mayor, commissioners, we're here today to provide you with a progress report on one of the bureau's major changes, and that -- challenges, and that is asset management and deferred maintenance. This challenge is one of five key challenges the bureau is addressing through its strategic plan in order to bring about the delivery of a world class park system as envisioned in parks 2020 vision which was adopted by council in 2001. The other challenges were working on about -- are working cooperatively, delivering our services, developing a sustainable revenue base and organizational excellence. Now, nancy and I would like to provide a brief presentation on asset management which leads to addressing the issue of deferred maintenance. As with all organizations, it's important to look towards the mission statement for good answer and Portland parks is about sustaining a healthy park system that makes Portland a great place to live, work, and play. Our park and --

\*\*\*\*\*: We're not advancing here.

\*\*\*\*\*: Technical glitch.

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**Grimwade:** Our park and recreation system is both extensive and diverse. More than 10,500 acres of land, 145 developed parks. 47 habitat parks. Four golf courses, and a number of urban parks and plazas. Likewise, the assets within that park system are also extensive. Some 900,000-plus square feet of facilities community centers, arts and cultural centers, restaurants, stadiums, more than 150 miles of trails, 365 sport fields, 119 outdoor tennis courts, 110 playgrounds, more than a thousand picnic tables, and believe it or not, more than 19,700 rose bushes. That's another bit of trivia. To manage that system we have developed an integrated management planning framework, and this framework guides the decision-making processes and the day-to-day management processes of the bureau, and in the past three years, we've been working our way through this framework. And the key thing here is that it translates the community needs and expectations, it draws upon the 2020 vision, our mission statements the city mandate and requirements, and puts them into action plans for the bureau. The key component of that planning framework is the total asset management strategy. And this strategy provides for the ongoing strategic management of our physical assets that base support our service delivery. It directs us into how we acquire, renew, adapt, and dispose of our assets and it results in a reliable asset within the constraints of available resource that's provide the services to the public. Now, the benefits to this approach are numerous, but some key ones, we talk about linking assets to community needs. It's very important that an asset meets the need of the community. If it doesn't meet the need, why do we have that asset? It improves the ability to make sound decisions from a business perspective. It promotes the effective use of resources. It improves bureau support and accountability. It improves the coordination with the city's asset management programs, it links our asset management to financial management and capital improvement plans, and it reinforces the work that the city auditor has initiated through the service efforts and accomplishments. Now, the key components of the asset management strategy are here, and steady progress continues to be made on all fronts. We are actively developing a 20-year capital investment plan. We're actively working on the development of site-specific and systemwide detailed asset management plans which relate specifically to maintenance and we're also looking at assets that no longer meet service needs and to incorporate them into an asset disposal plan. The key thing about title asset management approach is that it's a continual process, it enables decisions to be made and updated as information becomes available. It is a dynamic, living program. To implement asset management, we need a variety of tools, and these include the asset register, which inventorizes our assets, provides reports about the condition, the value, and the suitability of those assets for use, and it provides a manual for the organization in terms of policies and protocols to follow. Our asset register is extremely comprehensive and provides the sound basis by which we can analyze our assets, and it's divided into a variety of categories -- buildings, amenities, infrastructure, landscape, and natural resources. In terms of buildings, this basically applies to structures with walls or roofs. It's about our administration and maintenance buildings, our community centers, our pools, our restrooms, our picnic and sport shelters, stadiums, storage and utility building, and visitor services buildings. Amenities are a very diverse array of assets. Benches, drinking fountains, decorative fountains, recreation facilities skate boards, skate parks, courts. Infrastructure. The major networks or systems that support us in terms of electric, gas, storm and san trisewers, water irrigation lines, roads and parking lots, and trails. Our landscape. These are the green elements that require regular maintenance. Planting beds, turf, trees, hedges, and bioswales. Much of the work this organization is doing in relation to landscape asset management is groundbreaking work. This is the poorest area of asset management globally. Natural resources. Green elements are part of an ecological system. These are generally self-sustaining. These are our grass, our shrublands, our forested areas, ponds, streams, our riverbanks. And the willamette river. Now i'd like to land over to nancy.

**Nancy Gronowski, Portland Parks and Recreation:** I'm nancy gronowski. I'm going to talk about the specific report you were given a few days ago, and we're going to walk through that a

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little bit. Our asset register reports are report that include information on specific physical properties of an asset, especially its condition. Its suitability for its intended use and the financial information serve as its current replacement value. It could -- could include a lot of other information as well. Our first one is your basic, the 1st three elements of asset register report. It has many uses. It will support our capitol planning, our budget preparation, as robin mentioned, fulfill the city reports requirements, it will help the system planning, master park planning, facility programs, all our maintenance and operations work, financial forecasting, and general information request that's we get from the public. So this is our first asset register report. It's on our 12 community centers and two of the arts and cultural centers, one is the community music center and the other is the Multnomah arts center. We chose these because these are really important assets to us. They deliver year-round services to the public. They have a high collective financial value, we have quite a bit invested in these. And these are pretty complex systems. They have a lot of parks that are -- community center is much more complicated than a restroom building, so we wanted to see if what we were trying to do would apply to these buildings. The report application specifically for this report that you have in front of you is that it helped to us to make informed decisions on the first 1.1, which is now \$1.5 million allocated to us by council. And it helps us identify systemwide needs whiche where we can target investment. For example f. We look at a whole series of the community centers, we find that a number of them, the doors and windows were installed around the same time. At some point when we're failing, we could look at putting that together as a package, have monetary savings by doing that. So I wanted to talk about the conditions of these buildings. We've adapted an industry standards for these buildings that was started in the 1970's by the navy and it's been used by a number of colleges and hospitals and universities use this same kind of method of determination. We examine a building very thoroughly and determine what the deficiencies are, whether it's your plumbing is falling apart or your finishes are in bad shape, and determine what the cost is to correct just those specific sis. Compare that to the replacement value, and then divide that. You come up with a numeric number. And you can rank this any way you want to. We've chosen the following limits shown up here as very good, good, etc. That's a constant all the wray across the board that makes things equal. So in summary, we found these 16 buildings that eight of them were in very good condition, because two of them are quite new. We've also invested a lot of money into mt. Scott, for example, and some of the other ones with the bond project funds. Four are in fair condition, one is very poor, because it has one deficiency that's almost as expensive to correct as the building, and that's the community music center. We then have a way of being able to compare things across the board and set priorities. So currently we have about for these 16 buildings about \$5 million in deficiencies, and all together over the next 10 years we'll have about \$10 million in deficiencies. So we're going to walk through the fulton community center just briefly. We identified three major areas where there were deficiencies. The finishes, the mechanical, which includes the plumbing, and electrical work. There's about 113,000 dollars there. The building's replacement value is about \$1.8 million, and if you divide those two numbers you end up with .6, and that's in pretty good condition. E it has specific problems, but overall it's not in bad shape. We can also use this for forecasting deficiencies. If you look at the bar on the 2010 one, and look at the chart below it, it shows up as needing \$60,000 with floor repairs and \$30,000 in mechanical, so we can usually -- easily use this over our whole system to see what kind of deficiencies we're going to have to deal with. And fulton is going to be one that we're going to use part of the funds of the \$1.1 million, and that will be to repair its plumbing. In order to provide a safe water supply, protect the asset from potential water damage, and to improve our operating cost -- the plumbing was put in in 1914, that's old plumbing, and it's falling apart. This is the full list of the initial -- not the full list, the first one, and i'll come to the rest of them in a minute. The initial deferred maintenance project, how we're planning on spending the \$1 million. This is the additional deferred maintenance projects, which would be to look at the problems we're having

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with the pioneer courthouse square skylights, restroom repair, we have about nine that are in pretty bad shape, we could easily spend \$1 million on restrooms, and pier pool repair for \$936,000. Our work schedule to follow is every three months or so we hope to complete another series of reports until we've completed them all through the whole system. And then we'll have something to use to work with continuously, this is a process of continuous improvement, something that's not just a one-time thing, this is an ongoing process that will improve over time as we keep moving through this.

**Potter:** Thank you. Questions?

**Adams:** Thank you. This is very promising work. What was the last estimate is your maintenance backlog, refresh my memory?

**Grimwade:** There have been figures mentioned about 16, 17 million.

**Adams:** Ok. And this one is down to what again?

**Grimwade:** Down to 10 million over 10 years, and it relates particularly over the major buildings. What our project is doing is enabling to us verify whether those figures that have been batted around over the years are really accurate, and in some cases it may have been inflated because it's accommodated every asset, and what we're finding is that some of our assets are required for delivering services, therefore it enables council to make a decision as to whether to upgrade or dispose and save ongoing investment.

**Adams:** It seems to me commissioner Sten has raised the issue about that big number we got in the last budget session that a debrief with the folks at o.m.f. As to how you went about this might be useful for them to further refine the accuracy of the overall maintenance backlog analysis they provided council. So i'd encourage you to do that. The other thing is, my office is working hard to get i.f.c.c. both off the city dole and to thrive. But you did not include i.f.c.c. in the buildings that you looked at, and would you do that, considering some of the other centers that you have noted here are also on the list to get off the city's dole? Would you be willing to do ifcc --

**Gronowski:** That's our next -- we want to do the aquatic facilities and finish up the arts and cultural facilities as our next project.

**Adams:** Excellent. Thank you.

**Saltzman:** I just want -- I know there might be public testimony, but I wanted to thank the parks bureau staff for doing really excellent work. And I want to thank the auditor reace office too for helping us and doing the asset management report.

**Potter:** Good job, folks. Thank you. Are there folks signed up?

**Moore:** No one's signed up.

**Potter:** Ok. Then if there's any discussion from the commissioners -- i'll accept a motion to ask for a motion to accept the report.

**Saltzman:** So moved.

**Adams:** Second.

**Potter:** Please call the roll.

**Adams:** Thanks to the bureau, bureau leadership, all the people that work in parks. It's a tough job, and thanks also to commissioner Saltzman for his leadership in this area, providing a focus and a refinement to what seems -- what before seemed like a totally sort of unreachable problem, this begins to break it down in a way we can actually respond to it. Aye.

**Saltzman:** Again, I want to thank the council itself for identifying some funds in this year's budgets to allow us to begin to tackle this with putting real dollars to real projects, and that's our next step, is to get these dollars into our facilities to make them better places for our citizens. Aye.

**Sten:** I appreciate this. It makes it a lot more helpful, and I was asking that question last year and I think this gives us the chance to do what we need to do at the council, which is figure out our strategy to take this on. I think it makes it more credible if we've got this detail. So I do appreciate

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it, and also the hard work of putting some priorities and saying this is the one that's the most important next. I appreciate it, and let's see what we can do in the budget process. Aye.

**Potter:** I also want to congratulate the parks bureau staff. As being one of the infrastructure bureaus, it's a concern to this city that we have adequate funds to both maintain and replace our capital equipment, but also to ensure that our parklands are taken care of properly. We've had a lot of discussion on the council, and in the community about some of the invasive species that have come into the park systems and what's going to take to get that taken care of, and I think this is a big step towards helping us come to those conclusions. So good job, folks. Aye. [gavel pounded] please read the next item.

**Item 1507.**

**Ed Marihart, Office of Neighborhood Involvement:** Good morning, mr. Mayor, commissioners, and whoever else. Good morning. My name is ed, i'm the inspections supervise for neighborhood inspections at the office of neighborhood involvement. Before us this morning is a resolution to adopt the recommendations to form an interbureau problem solving task force, providing a structure to address chronic problem locations throughout the city, and this is to formally adopt a process that we've been using informally for quite a while now. I'd like to go over the specifics of the proposal and then we have a couple police officers here from community policing to speak to the community policing aspect. First of all, this is a proposal that was introduced by the mayor's office, who has been working closely with commissioner Leonard's office to bring this resolution forward to the council. This is -- the task force is to more efficiently address chronic problem locations throughout the city that we experience. Currently city bureaus spend a lot of resource addressing public safety, code enforcement, and other neighborhood livability issues, and many of these problems properties require cooperation across bureau and even agency lines to ensure that various enforcement tools and strategies are being leveraged appropriately. And as I mentioned, much of this interbureau collaboration has been already taking place, and has been working very well. As I mentioned, we were -- we have been doing -- when o.n.i. Was part of commissioner Leonard's office and wanted to continue that as being part of the mayor's office. Specifically there would be a core group that would identify the problem locations, and that core group would include the following. Impacted neighbors or businesses, the office of neighborhood involvement, crime prevention, and neighborhood inspections. The police bureau would be a member of the core group, the fire bureau, and the bureau of development services, specifically code compliance. This core group would meet and get referrals and they would decide whether this met the criteria to be worked on as an interbureau problem-solving property. And the chair or coordinator of this task force would be the mayor's office public safety liaison position. Some of the other bureaus and agencies that we've had included in our meetings and would be used as needed would be possibly office of transportation, abandoned auto, vector control, the olcc, Multnomah county parole and probations, Multnomah county juvenile justice, gang enforcement team, social service agencies, Multnomah county animal control. And then we have developed some criteria that would make certain locations eligible for working amongst the task force, and some of those criteria would be, ha has there been significant impact on neighborhood livability, does it involve multiple agencies or departments, does it need a high level of coordination to resolve the case. Has there been a long-standing problem, and also could this case or problem location be used as an example or catalyst to develop policy changes. For example, identifying some additional tools such as code changes or working with other partner agencies to support ongoing coordination efforts. And so again, the core group would meet as needed and would decide through the mayor's office public safety liaison if this location meets the criteria, and if it did, we would call a meeting of the liaison group and receive an update from all the agencies that have been involved on the activities at that problem location. We would devise an action plan, and would ensure coordination appropriate timing of enforcement actions, and would also decide which additional agencies or organizations should be involved to help resolve the issue

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and the problem. And so that's pretty much gives you sort after background of how the task force would work. And one thing did I want to also mention is currently the task force is meeting currently right now and we're actually dealing with a couple of properties in downtown Portland currently as we speak. Also as part of the resolution the interbureau problem-solving task force would present an annual report to city council of problem properties that have been addressed by this group. And if there's any specific questions on the mechanics of the task force, if not, i'll turn it over to the police officers to talk about community policing component and aspect and the fact they're there used to be an interbureau task force way back when.

**Brett Smith, Portland Police Bureau:** Brett smith, commander for northeast precinct, Portland police bureau. I wanted to speak in support of the resolution to create an interbureau task force. Portland police bureau has been an active member and participant in the first interbureau task force when it was formed in the early 1990's. We found it was a very effective tool to bring multiple agencies together, people who have experience and expertise and other abilities to try to problem solve on chronic problem locations. These problems are the root of crime and livability issues that affect our neighborhoods that sometimes are much better than the police are able to resolve on their own. The approach helps the communications by having everyone with information resources at the table at the same time and having a clear understanding of what the issues are and blah the availability to solve those problems might be. The advantage of this partnership is that the police are able to tap into the resources to solve problems that are not necessarily best resolved by the police or police action. We're able to partner up with o.n.i., olcc, parole and probation, etc., in order to resolve that. The resolution is a reinforcement really to a commitment to the practices that are being used currently by the Portland police bureau. We're already working with neighborhood crime prevention and other partners on a variety of problem oriented policing strategies this year, in addition to ongoing partnerships with neighborhoods to reduce crime and improve livability. Most specifically in northeast precinct we have a prom with o.n.i., we call it a -- cases of interest. Within 24 to 72 hours we'll try to broadcast through email to o.n.i. Things that have happened that we think are pretty significant within the neighborhoods. We'll package that and then sends it back out to the neighborhood chairs so they can be disseminated to people within their communities so they can find out what happened over the weekend, or what happened last night. It's pretty significant. We currently have a biweekly meeting with olcc, parks and recs, it's called a target meeting to address chronic problems within our precinct. And to try to problem solve and come together with a solution. So those things are taking place. This would be more of an affirmation of this commitment and more formalized and larger scale of this resolution. So in closing, the Portland police bureau does look forward to an active participation with this new interbureau task force and we see it as an integral part of our ability to improve livability in the neighborhoods.

**Jason Christensen, Portland Police Bureau:** Good morning mayor and city council. Jason christensen, one of the neighborhood response team officers at north precinct currently assigned there. I'm speaking today in support of this resolution. My role is to serve as liaison with the kenton portsmouth and university park neighborhoods. My job is to track chronic problems and work with officers and residents on solutions. One thing i'm working on currently and i'm proud to be working on is web-based community forum called the involvement project. This began in 2003, primarily in the portsmouth neighborhood, and it was solely based on community policing. It's expanded to north Portland, not only dealing with community policing but other livability issues, and people are able to communicate on a site called the back fence. I can personally speak with them, send information to them of crime trends, things that happen in the neighborhood, warrants being served, people are very excited to communicate in that forum. Flew the back fence i'm also able to respond to other crime prevention topics and how we can assist them. This type of communication is an essential part of community policing, and I think it's important to solving problems in the areas. I see this interbureau task force as another tool that I can use in

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communication with these types of problems in my neighborhoods that require additional strategies and resources. At north precinct we currently have a monthly meeting which brings in different bureaus and agencies to work together on problems that we're having, and this is a big success, and valuable to us. I can see where this is a -- where we could bring for the larger problems a greater city bureaus would be an asset. So in closing I look forward to being an active participant in this new task, interagency task force and I see it as a valuable way to help me work with officers and citizens to reduce crime and the fear of crime.

**Potter:** Questions from the commissioners?

**Adams:** Would you accept a friendly amendment?

**Potter:** Depends on what it is.

**Adams:** I would like an amendment on the further be it resolved, I haven't seen this before today, that you would -- that each police precinct would work with neighborhoods and business leaders to publish a top -- quarterly top 25 chronic problem locations and to identify as part of that bureau responsibilities for addressing it along with other parties. I think it's really important, I think what you've got here is excellent, and I just want to make sure that everybody that you have access to all the communities as part of community policing, including the bureau, all the bureaus, my bureaus, transportation, which has a big -- should have a big partner addressing some of these things, whether it's lighting or bad sidewalks, or bad roads, whatever, and I think publishing a top 25 or top 10, whatever it is, on a regular basis and working down the list and refilling it, working down the list, puts a greater degree of accountability to this effort and brings on I think in a concrete way the other -- all the resources of the city, and so doesn't just focus on the police bureau and just on o.n.i.

**Potter:** Could you greed read that again?

**Adams:** Be it therefore resolved each precinct will work with neighborhood and business leads to publish a quarterly top 25 chronic problem locations and detail who is responsible for working on what aspect of the problems.

**Potter:** Instead of the police bureau, how about the interbureau task force?

**Adams:** Perfect. It makes more sense.

**Potter:** I certainly take that as a friendly amendment. Anybody have any problems with it?

**Smith:** Is that per precinct, so that would cover the entire geographical area of the city for five precincts?

**Adams:** Correct.

**Potter:** So there would be --

**Smith:** So there would be 125 --

**Adams:** Is that too many?

**Potter:** Maybe just for the city. How about that? Take five from each precinct.

**Smith:** I think that might be more manageable. We may find that some of these projects we do work on are extensive, and they're not resolved overnight. And if we have 125 of them, we may find that we may have a difficult time --

**Adams:** You're right. I'll take the friendly amendment to my friendly amendment.

**Potter:** Ok.

**Adams:** Do I give it to Karla?

**Potter:** Do I hear a motion to accept the friendly amendment?

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

**Potter:** Second.

**Sten:** Second.

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

**Potter:** Aye. [gavel pounded] this is on the resolution itself. And by the way, i'm really impressed with interbureau task force, and I think it's doing a great job. So please keep up that good work, and

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it certainly is community policing. And it's really getting -- engaging the entire community in problem solving. I know when it existed in the earlier years it closed down more drug houses than the actual law enforcement side of the sections. So we're looking forward to some good results from that. Thank you, folks, for being here. Is anybody signed up to testify on this?

**Moore:** We have four people signed up.

**Saltzman:** Officer Christensen, before you leave, I wanted to acknowledge last night he was awarded for his good service, a spirit of Portsmouth award by the neighborhood association. So he was recognized for his good work.

**Adams:** He does a great job. [applause]

**Potter:** Please identify yourself. You have three minutes.

**Teresa Teater:** Teresa Teater, Oregon City, Oregon, downtown Portland homeless volunteer advocate. Mayor Potter, I'm also going to suggest a friendly amendment because you're overlooking a core group of people that are already appointed by you. The chief's advisory committee, which is from each community of where could you get more of your vital information. The gentleman on that committee calls himself Mayor Potter appointee Richard Brown, puts in quite an input on the impact of northeast Portland of meeting police officers out there to solve a lot of the problems out there, and you've got a core group of people sitting there already with recommendations that need to be paid attention to, and they just get stated there on the 14th floor of the first and third Monday of every month, and they just have to fight between themselves to keep coming to each of these agencies to get things done. So I think if you tap into that, make a resolution to take recommendations from your chief's advisory committee, that would be a great idea. I've been to Commander Smith's precinct quite a bit on some of the youth gang task force that's been held under Mayor Katz, and I've observed the sharing of the information there, and it's quite well done out there in east precinct on resolving problems, etc. And I also notice on the last thing of this proposal that it's just a rough idea of a concept. Welcomes feedback, particularly on who should be involved in the core group, and who should facilitate etc. On tracking. I don't really see - I'm getting what Mr. Adams just asked for, Commissioner Adams on different core groups, the homeless community, because they are neighborhoods, even though they're homeless, and I'm hoping some persons would be contacted from maybe Southeast Uplift to be in the core group to give recommendations, because a lot of the homeless are alcoholics, etc., and do have chronic problems that create a lot of these problems that are going to be investigated through this intergovernmental task force. So I want to make sure everybody's best interests are represented, and that people just aren't attacked out there because of their situation. Thank you.

**Potter:** Thank you.

**\*\*\*\*\*:** I'd like to invite John and Scott up here with me.

**Richard Jensen:** Richard Jensen, I'm a leader of the recovery association project. A member of men in recovery, and involved with the Mac G organization. I spent most of my life involved in a lot of the things in criminal activity and methamphetamine, here in Portland, and being part of the solution is what I'm about today. And so I have some personal interest in the issues that are at hand right now, addressing this -- the task force and also addressing the condemned houses in Portland, from the manufacturing methamphetamine. And I believe that the task force is a great thing for Portland, I believe it's going to make things real safe for our community, and -- but Mac G has a vision, and the vision consists of a solution to a problem that we have here, and there's a process that needs to -- that we need to go through here in Portland, and I believe that step one is actually condemning and shutting down these houses. And I believe part of step one might also consist of this task force. And step two I believe is -- the organization believes that is -- step two would be more what we've been working on and we've been working with Commissioner Sten and also Commissioner Randy Leonard on addressing that -- the meth houses actually be addressed as a specific issue, and in that, the concern is today definitely being part of the solution, and safety, and



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health, and our children, and the community property values and just things of that nature, are really important to I believe everybody in the community. If we get down and really get honest about the situation, the honest truth is that we have a problem here. And the problem is that our community is got toxins in these houses, and they're shut down, and they're just sitting there. And it's just real important that we take and move these proposals forward, you know. And I believe our proposals are real specific. Thank you.

**Scott Brazial:** My name is scott brazil, i'm a local musician. I'm the coordinator for a community space called interbeing on alberta street, and i'm also a leader in the metropolitan arts common good -- alliance of common good. The mac g began focussing on our own healthy communities campaign about a year and a half ago, which includes a lot of the very issues within the current resolution that's being discussed this morning. I'd like to acknowledge the city commissioners, commissioner Sten, commissioner Leonard, for meeting and working with us on this over the past few months, especially. And i'd like to acknowledge and thank you, mayor Potter, for joining us on our walk through the lents neighborhood back in april, and spearheading this interagency task force. We believe this is a good beginning. We have -- in front of us here. However, we're here this morning to be sure the policy is very clear, and we look forward to being here within this process and working with you. Thank you very much.

**Potter:** Thank you.

**John Rodgers:** My name is john rogers, i'm part of a pastoral staff of the redeemer lutheran church community and also a leader in the metropolitan alliance. And I just wanted to segue from what scott has said in that, again, we appreciate the work that the mayor's office and all of the commissioners have done thus far, but we also want to make sure that there are -- there's clear and very precise follow-up in this policy, and our particular concern has to do with the clean-up of meth houses, and I know this task force has a much larger and broader scope, but we believe that it's really important that out of this task force and out of the council's action that some further legislation come out of the city council to create a policy that has some clear time lines in it as far as the clean-up of these houses go, the clean-up and the restoration of these houses, that it has clear, enforceable penalties in terms -- not just fine, but even going beyond that, even looking at things like the use of receivership or eminent domain, if that has to -- if that's the only solution for clean-up of these particular homes. And in addition to that, we believe there needs to be some clear incentives in the policy for homeowners to help them rehab these programs. A revolving loan fund of some sort that might enable them to clean these houses up, restore them, to use, and create a healthy community. We'd also like to see, this again goes beyond the scope of this policy, but out of some of the legislation that might flow from this, a pilot project set up in terms of taking some of the list on commissioner Adams' top 25 and maybe pick some of those and say, we're really going to focus as a pilot project and try some methods, see how they work, what does or doesn't work, and we believe this could be a very effective tool. So we look forward to working further with the council in developing this policy. Thank you.

**Potter:** Thank you, folks.

**Moore:** That's all who signed up.

**Potter:** Commissioner Leonard, did you want to make any comments?

**Saltzman:** I'm --

**Leonard:** I'm sorry for being out of the room when this came up. I did want to say a couple things. I could do it when we vote, or just say them now. This idea really arose from a by chance conversation I had with a Portland police officer almost two years ago when I was attending a neighborhood gathering in northwest Portland, and this officer that was assigned to that neighborhood asked to talk to me after the meeting. And I know a lot of police officers, and i'm sure mayor Potter will agree with me on this, they are generally very proud people who don't often like to say they need 11. And so this officer, young officer said to me that he was at wit's end and

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needed help on an apartment known as west port villa on northwest 25th and hoyt. And as this officer explained to me, this had historically been a place that the owner had, who was an out-of-town owner, had rented these rooms to some folks that had mental illness these needed medication, and he was charging them an exorbitant amount of rent for them to live there, there were also drug dealers living there, and the drug dealers were victimizing the mentally ill people there, and the neighbors were terrorized, and had become basically numb over the prior 10 years of their criminal activity that as it turned out I learned later also a number of fire calls in the building so that this had been truly a problem building. He said he needed help. He didn't know what to do to try to deal with this building. So we just really, he and I sat down and kind of brainstormed and realized it had a number of fire code violation, health code violations, building code violations, and that the county fully had people there, it was paying the owner to live there who had some other concerns as well. It brought all these people together in a room and here in city hall, these -- the fire inspector, the police officer, the building inspector, county officials, noise inspector, and yes targeted this address.

And we met once a week and we had updates once a week. What we agreed to do was meet in that room right across the way here once a week for them to give me updates on what the violating the fire inspector found in the prior week, the police bureau, what violations the housing inspector found. And I got a call from the owner of the building, he said, "i feel like you're picking on me." and I said, "well, you're paying attention. Because we are." and I am directing a group of people that intend to cite you for every legal violation you have within five minutes of you committing it. Until you figure out that we're not going to allow mentally ill people to be victimized or you to allow drug dealing to occur in your building. And he decided to vacate the building and sell it, and we did. We had -- a system in place to find places for them those people to live, and it worked well.

This that we're vote ok today is a result of that successful project. And it will formalize for us that process. And what we were hoping to have happen that you have encouraged to happen is to have this group meet on a formal basis, regular basis, and have a work list of buildings, houses around the city that are problem consistent problem places where drug dealing occurs and other criminal activity occurs, and this group will target them one at a time throughout the city until each one is cleaned up. It takes a lot of intensive work, but it works, and we know it works, because we tried it at 55th and holgate. We did the same thing there and close add drug house down there. So mac g has been fabulous. It's one of the most effective organizations i've ever worked with. I'm so appreciative they focused in on this subject. Mayor, you've been absolutely outstoppedding in your support of this, your office has, the police bureau has been fabulous, particularly officer jeff meyers, who is what I think of, and I think I can say on behalf of the mayor, the mayor thinks is an example of community policing that others ought to emulate. So we're going to -- we have a lot of work to do, but this is going to be fun and we're going to make a change in Portland with respect to these drug houses, and the ability of these landlords to get away with really highway robbery. And then obviously what mac g would like to see happen with these houses, which I totally support, is we come up with a process much as we do with people who engage in drug selling or buying, or prostitution in a vehicle is confiscate the house, rehab the house, and sell it to deserving low-income people who need a place to live.

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

**Adams:** I want to thank the police bureau, and the staff at bureau development services, mac g, commissioner Leonard, mayor Potter, I think this is an incredibly constructive and appreciate allowing me the friendly amendment that allows me and others to keep track at our bureaus n. My case transportation is playing its -- pulling its weight in this issue, and transportation and rack stand ready to help in any possible way we can. Great job. Aye.

**Leonard:** Aye.

**Sten:** I also want to thank mayor Potter and commissioner Leonard on this one. The whole council has actually been working on the issue of meth house, it's a real 46y one, from everybody's point of

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view. The metropolitan alliance for common good has actually done a real service in terms of coming up with the community-based strategy and a lot of support for it. And quite a bit of the strategy comes from very brave people like the folks you saw today who are recovering meth addicts and are willing to talk about how the systems work and how you can fix them. And so I want to thank Mac G for that, and I want to mention, I working with the other offices, and this is almost a bigger umbrella under which the meth house strategy comes, and we're going to bring back a resolution outlining the next steps in the meth house strategies and linking them up with these community efforts in the next couple weeks. I told a gathering on behalf of the council we would have that back before Christmas and I'm intending to do that. If we miss that it will be a week after Christmas. So it will be very soon. Thanks. Aye.

**Potter:** It's -- this is the kind of problem solving I think that most citizens were really like, because of the several hundred thousand calls that the police bureau's dispatched to, about 10% of the addresses on those calls are responsible for about 60% of the of calls. So we have a high concentration of problem houses, problem locations, and this is the kind of focus that we need to begin to focus on that. I think it will help free up officers to respond to other issues, but it also I think a lot of community and citizens have sort of given up on some of these places and we want to give them hope again that by working together with the community by these bureaus working together in this task force, that we'll begin to solve some of the more serious specific area problems in Portland. So my hat's off to Commissioner Leonard, even though he's not the police commissioner, he's taken a broad-based approach to this and I think has done a great job, and is really the one that is kept this concept alive. So thank you. I vote aye. [gavel pounded] moving on to the regular agenda. I'd like to ask the council's indulgence if we could pull item 1529, the Lowenstein Trust Award, it will take just a few minutes.

**Sten:** And I had spoke with you ahead of time, but it might make sense to do 1530 and 1531 as those appointees will be waiting a long time, and the board chair is here.

**Potter:** If Chris Lowenstein, Joe Hertzberg, and our recipient is here --

**Moore:** Item 1529 --

**Item 1529.**

**Potter:** Speaking of the blast from the past.

**Michelle Harper, Board Chair, Lowenstein Trust:** Good morning. I'm honored to be here this morning. Michelle Harper. This award was created a name for the late Steve Lowenstein. He was an attorney, an author, community activist and chief of staff of former Commissioner Lindbergh. Annually this trust recognizes an individual making an exemplary contribution to improve the quality of life of vulnerable populations in Portland. Steve was an exemplary person throughout his life, whether it was law practice or his dedication of being a dedicated person working for city government. He was a quiet warrior who champions the causes of the underserved population. He wanted to make a difference in the lives of the Portland in the city of Portland. He left his footprints for us to continue his work. It is an honor for us to be part of this legacy through the work of the Steve Lowenstein Trust. At this time I will yield to Commissioner Lindbergh to make a few remarks.

**Mike Lindberg:** Mayor, members of the council, I just want to take about 60 seconds and tell you a couple things about Steve. As time goes by we tend to forget that the contribution and role people played, and he had a very colorful past in terms of going to Ethiopia, setting up a law school during the time of Hallie Sellasi, writing a book on law, going to Chile and working for the Ford Foundation, setting up a legal system. He was the founder of Oregon Legal Services. Basically he devoted his entire life to ensuring that we have a fair and just society. During the time in my office of many years he was chief of staff. We basically working with Gretchen Kafoury led an effort to introduce an ordinance banning discrimination against gays and lesbians and housing and employment. Set up a sister city which was very controversial to help stop the war that was very unjust to those

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people. He taught me so much, one thing he taught me was to hire people that are smarter than you are. He was one of the brainiest, toughest managers that ever worked for me. And as michelle has said, the thing that really made him stand out in my mind, it was all about service. It was not about recognition, or money. And that's why it's an honor for me to say he worked for me all these years and to honor today someone who followed in his footsteps and adhered to those ideals. Thank you.

**Harper:** I'd like to introduce the board members as well as steve's family. I don't do this work myself. Ron paul is a member of the board. Joe hertzberg, charley williamson, art alexander, of course you heard from commissioner lenberg. His son, chris lowenstein, margie harris, and I think that covers it. Did I miss anyone? And sandra, his widow. Sorry about that. The person that we're here to honor this morning is joanne sule. For recognizing her for the work she's done with the city's homeless community, joanne is the full-time managing editor of "street roots." it's the only newspaper that serves the homeless community. This paper provides this population with flexible employment and assistance to improve the situations. Joanne is a very diligent and extremely dedicated person who's very patient. She's one of the most resourceful people that i've heard from many, many others. She inspires the staff. She encourage people to sell street roots. This paper raises awarenesses on a variety of societal and justice issues impacting the homeless community. She encourage them to reclaim their lives. Show encourage them to discover their gifts and their talents and they have significant contributions to provide to the community. Since this newspaper is dependent on donations to cover just the cost barely of printing, the very small amount that's gained from selling the newspaper allows the homeless community to provide for food, for clothing, and for shelter. Things that sustain their lives. Joanne is a phenomenal woman who continues to wilfred livengood straight from the heart, and she passes it on to others in need. Street roots is is for many a lifeline, and it allows them the opportunity to celebrate who they are and the importance of who they are. Here are just a few comments from those about joanne's work. From a very dedicated person. "i'm on ssi and. Sd and the newspaper helps me with the extra money I need. I like talking to the people and stake connected to others. It helps provide me with additional income to help make ends meet, i'm on disability and that doesn't provide for very much, but allows me for housing and for clothing. " another comment came from commissioner Sten. "i enjoy reading "street roots" for the different perspectives in the community. It's a great example of what a group of people can do for themselves when faced with homelessness and poverty. Street roots has changed the face of homelessness in Portland. She has done a great deal for the Portland community. She's definitely a woman of substance and I would like for the Portland city council to join me and the lowenstein trust board of directors. We're pleased to recognize joanne sule as our 2005 recipient of the steve lowenstein trust award. Would I like for her to make a few comments and i'll present the award to her.

**Joanne Zuhl:** Thank you very much. This is a tremendous honor for myself, but also for every one at street roots and certainly all the fantastic vendors that are out there, all the wonderful people who launched this paper seven years ago, brian pollard, michael parker, israel baer, richard smith, and art garcia, bob healy, the offices of volunteer dynamo of people, and this funding is really a major gift to our organization, and we have a very small budget of about \$85,000. We manage to do quite a bit of that and generate closer to \$150,000 of income and economy on the streets for people who need the money for assistance. I'm tremendously honor and humbled and I want to thank the lowenstein trust and their wonderful group of people for selecting street roots. Thank you very much.

**Potter:** Thank you, joanne. Also to the steve lowenstein trust group. You folks did great work. I remember steve when he worked for you, and he was a great person. We're very honored to have chris, his son, who I think most people just remember as a little kid before, he's here -- he traveled the longest to attend this meeting.

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**Potter:** The work you do, I often run into the folks downtown while i'm walking around, and like colleen who sits in front of the bijou restaurant every day and passes out advice and sells "street roots," she's fantastic, and they're all fantastic. It gives them a sense of dignity that they don't have that many opportunities for. So thank you for doing that. I really appreciate it.

**Zuhl:** Thank you. [applause]

**Potter:** I think a couple of the other commissioners --

**Sten:** Congratulations, and I wanted to say to the trust board, I think you could not have picked a better -- they were always inspiring people you pick, but this one is really a gem. Nice work.

**Adams:** Did I not have the opportunity to know him, but what a great legacy. Glad you're here, and congratulations. Seven years?

**Zuhl:** Not myself, that's when the paper started, seven years ago.

**Adams:** That's awesome. Thank you so much.

**Leonard:** And thank you and congratulations.

**Harper:** I'm honored to present this check to you for \$75,000, and --

**Leonard:** Merry christmas. [laughter]

**Potter:** That's a lot of "street roots."

**Zuhl:** Thank you so much. [applause]

**Potter:** We'd like to pull ahead of 1528, items 1530 and 31.

**Items 1530 and 1531.**

**Potter:** Are these folks here today.

**Sten:** Would I ask them to come up with the new appointments. I think we also have mary, who is going to be the alternate commissioner as well. If mary is here, and -- great. If I could quickly, mayor, lee moore is a reappointment. I think many people know lee, he's a small business owner. He's been working on all kinds of things for many years in this community. And for me it's been one of the big highlights, is getting lee convinced to serve. Him the first time, but I think we've hooked him, and I certainly hope we'll vote him through before he thinks about that. He was in charge on the board level of looking at the issues of the columbia redevelopment, the questions of how we move people out and back in, which was the real goal. So i'm just glad you're willing to serve. I have not worked with gavin thayer before, but he comes highly regard and has been the alternate commissioner on the board, and has really cona remarkable job of bringing a resident's perspective to the meetings. This is critical, because as much as everybody works hard at it, you know things that only a lean can know, and it's been very, very construct and i've very good. With that in mind, I think the idea of having an alternate commissioner is something that's proven to be a strong organizational strategy, it's almost a way to have one more commissioner while getting somebody else ready. So mary is going to be stepping up and be the alternate commissioner. And that -- mary is the current president of the community alliance of tenants, which makes her one of the community's most active housing advocates. As you can see, this is a strong slate that we bring before you today. I'm going to turn it over to kandis.

**Kandis Brewer-Nunn, Chair, Housing Authority of Portland:** Kandis, just a couple of quick comments. Thank you for having us here today. I personally am very proud to bring this slate of prospective employees to you and would be very pleased if you could confirm them for us. It's -- particularly with lee, his insight from his years of experience in business as well as state government gives him particular insight, this has -- which has been very helpful to us, and makes his contributions that much more valuable to us on the commissioner. By appointing him it allows to us maintain continuity that's really important to us at that time, given the pressing number of things we've got on our agenda to be able to deliver on our mission. And as he heads through, as commissioner Sten indicated with new columbia, he's voice add strong interest in serving in a similar capacity for eye russ court clusters. So that experience and his credibility in the community will be tremendously valuable to us. In terms of gavin, the -- as an alternate commissioner, he was

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alternate only in that he had no formal vote on the commission, but he was at every of vote, he interacted with staff and residents, and he -- it was a way for us to double so that our current resident commissioner didn't have the sole burden of responding to resident concerns. I think when he was asked for his reason ball game why he wanted to serve as a commissioner in our own selection process, I think his first response was really telling about who he is as a person. He said "i welcome the opportunity to serve the cause that has done so much for me, and continues to provide so many a sense of well-being with such a high degree of respect." and I think that is what we try -- that's the underlying thought with regard to our commission, and he has served as an alternate and is deserving to serve as our current resident commissioner, and we're delighted that mary has stepped forward and agreed to step forward as an alternate commissioner. In this season of gratefulness in particular i'd like to thank the mayor for his recent communication with regard to the integrated housing database and his confidence in our commission to serve both the mission of the commission itself as well as the needs of the community. So thank you very much for that.

**Potter:** Thank you, folks, for serving your community. It really is appreciated by the city council and by all the citizens in Portland, because you do such an important task for our community that not everybody chooses to do, and I think for that you're very special people. Thank you.

**Adams:** Thank you.

**Potter:** Thank you. Are there folks signed up? Is there anybody here to wishes to testify on this matter? Can we vote on both 1530 and 31?

**Moore:** We should --

**Potter:** Separately? Ok. 1530. Please call the roll.

**Adams:** I want to thank you both for -- all three of you for your willingness to serve. It's a very important issue to all of us up here. Thank you. Aye.

**Leonard:** Aye. **Sten:** Thanks again. Aye.

**Potter:** Aye. [gavel pounded] you're confirmed, folks. Thank you. Now 1531.

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

**Potter:** Aye. [gavel pounded] now you're really confirmed. [laughter] ok. We're going to go back to item 1528.

**Item 1528.**

**Linda Meng, City Attorney:** Linda meng, the city attorney for the city of Portland.

**Leonard:** Do you mind if I introduce this a little bit?

**Potter:** Yes.

**Leonard:** On september 21, 2005, the council adopted a resolution I introduced requesting certain information from p.g.e. regarding their finances. The purpose of that introduction was obviously to get that information, but the to analyze it to see if there were questions that might arise from that request that could trigger us having future forums after today to analyze whether or not the rates established by p.g.e. are appropriate. My perspective is that this is one in a series of forums that we'll have to discuss the information given us today which already has given rise to other questions that will include future requests for information from p.g.e. And obviously at a point the council agrees we want to give p.g.e. the opportunity in this forum to come in and respond to the information that we have received. Linda is going to give a report on the information she was directed to receive from p.g.e. And that will of course engender some conversation amongst the council when she's done. Linda? Thank you.

**Meng:** Thank you. As commissioner Leonard said, the council passed a resolution directing the city attorney's office to seek particular information from p.g.e., and that information relates to their income taxes that they collected and that they paid. Income tax these were collected, paid by p.g.e. to enron, paid by enron or p.g.e. to any of the taxing authorities for whom the taxes were collected. And also to ask about information related to claims that p.g.e. had against enron that may have been waived, transferred, settled, forgiven, or otherwise given up or not paid by enron to p.g.e. So

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those were the specific things that we asked about, and those questions were included in the resolution. We did make that request to p.g.e. for those documents. We asked them particular questions and asked them to provide documents in support. They did that. We had them reviewed by our outside attorney. We developed some initial numbers and we then talked with p.g.e. staff about those numbers. They had some additional information that we had not initially received. For instance, one factor was that the actual acquisition by enron was in midyear 1997, so there was an adjustment that had to be made because the enron did not acquire p.g.e. until the middle of the year.

So those had not been -- those numbers were -- for 1997 were slightly inaccurate in our initial look at that. So there were things like that we talked with them about. We then relooked at the numbers and my report shows what we have concluded from those numbers, and the substance of it is on the income taxes that there was \$683,449,044 collected by p.g.e. for income taxes during the period 1997, midyear 1997, and we tried to make that adjustment through the third quarter of 2005. Of that amount, \$11,006,165 was actually paid to taxing authorities. Something under \$600,000,000--594,000,000-- was paid to enron, and there were taxes that again were retained by p.g.e. and retained by enron. We had some discussion with p.g.e. about what those taxes were, the question of deferred taxes had -- was raised, it's come up, we've concluded we do not have sufficient information at this point to determine exactly where those taxes fall and what would be the impact of that on ratepayers even if they are considered to be deferred taxes. So that's the basic issue on the -- that's the basic numbers on the income taxes for what we have right now. As far as claims, the documents show about \$245 million in claims that p.g.e. had against enron, which have either be somehow waived, transferred, settled, or compromised. When we talked to p.g.e. staff about those documents they told us they had additional information as to what had happened with those claims and would provide that. We have not yet received that information.

**Leonard:** Did you get a date by which you'd get that?

**Meng:** I expected to receive it by today, but I have not. I will get back to them and ask about that.

**Potter:** Would you give them a time certain, a date? This resolution calls for a hearing in february, and we'd certainly like to have that information before then.

**Meng:** Certainly. So that's the substance of what we concluded from the documentation that we received again. This is from p.g.e.'s documents. We did not go behind those documents to look at any other information other than what they provided us. The part of the resolution asked that I come back with a suggestion for where we go from here. I believe it would be appropriate to have a hearing at which p.g.e. can look at the -- can talk to the council about the information that was provided and our office would probably want to obtain additional expertise to look at these documents. Before that time as well.

**Leonard:** Do you have the authority to get that assistance and do we have enough money from prior council action for you to hire what you need to understand some of the information you've received?

**Meng:** It's my understanding there is money still available in the one-time money the council allocated for the acquisition activities related to p.g.e. And if that was appropriate with the council, we could probably use that -- some of that money to do this.

**Potter:** I think the answer is yes on that.

**Meng:** Are there any other questions?

**Leonard:** I have obviously we knew from the beginning this was information would give rise to other questions. And it has. At some point for the record I want to read some of the concerns and information i'd like further developed and requested. So I don't know if you, commissioner Sten, you want to say anything first.

**Sten:** I think I would -- won't repeat what commissioner Leonard has said that in the sense clearly there's enough questions raised, and I believe there's been a lot of conversation that perhaps I think

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is off point. I think there's a lot of questions as to whether or not things were legal or illegal. The fact we're even talking about legal versus illegal is a shock to me. The fact we've got somewhere and the number of disputes p.g.e. held on to a chunk of taxes, the question is how much, it could be 96, it could be \$88 million, the lowest number i've heard is \$65 and the highest i've heard is \$270. I'm not comfortable making policy decisions when the numbers are floating around like that, and these are numbers from p.g.e. documents. I think we do need more time to take another look at these things and allow p.g.e. to put the numbers on the table. I don't know of any report that's ever been written that has confirmed up until we asked for these documents that's p.g.e. was retaining taxes themselves, whether you call them deferred or otherwise. The deferred tax is a tax that has not been paid, and I have a lot of questions as to if a new buyer buys p.g.e. and they happen to have losses on their books, can they just keep that money and say we're going to charge that against the deferred tax? If so, that might explain part of the motivation for holding on to this company longer because there's a whole bunch of money sitting on the table that's a premium that can be added to it. I am -- it's not -- I am not clear as to what the p.u.c. knows about and does not and i'm not clear as to why we haven't had a rate case look at these issues. And i'm not clear as to why we wouldn't want these things addressed before enron washes themselves of the stock, which is essentially what the stock redistribution proposal amounts to, which is enron is going to say we transfer this company to steve cooper who is the ceo of enron and the enron bankruptcy has nothing more to do with this. Perhaps enron owes p.g.e. some money based on some of these documents. My point is not to go on and on, but to say I think these numbers raise a lot of questions, and perhaps albeit very important, that the least key for this council is whether or not the technical keeping of the taxes is legal. The question is why are we paying for them, why are they in the rates, and should we continue to pay them or allow them to be paid. And because there was so much surprising information I think the conversation has turned in some directions -- the question i'm leaning towards, I want to think a little bit about what authority we have to ask these different questions, because I think what we're going to need to do between now and february is have a quick discussion among the council to figure out which of the ones we'd like to pursue, and I think we need to turn to other bodies to ask for help. Because I think this is -- there's more implication than some of these questions than I believe we have the skills to look at. So i'm curious from your sense, hearing the directions in which this is going, and nobody's yet touched the question of the business income tax, and what happened in 2001 which was not coming from our inquiry. Do you think you have the pieces in place you need to ask the follow-up questions, and if not what steps do we need to take to get that information?

**Meng:** The council has very broad authority under the charter to look into the operations and business of a utility that's operating in the city. The resolution that was passed in september was very specific. It directed me to ask very specific questions. So I think it would be cleaner and clearer if we came back with another list of questions that the council wanted me to pursue and then do another resolution.

**Sten:** I had the same feeling. I believe -- I think part of why these details, whether you find them deferred taxes comforting or alarming came out is that p.g.e. did comply fully with the request, so i'm not implying any way that that's been an issue, it's not been, but given that we asked for those specific things and that's what we got, we may need to ask for other things, I think.

**Leonard:** And I want to, for the purpose of establishing on the record the kinds of questions I have arising from the documents we've received and other sources, the kind of thing -- I don't know how we would do this, the things i'm asking in a resolution, but I want to read them off and have you -- react to it at the end. I would be interested in all internal and/or external communications including tapes, voice mails, and/or videotapes, including digital recordings related to the variety of transactions with respect to taxes collected and taxes retained. And i'm specifically -- that's in general, but i'm specifically focused on the period of october 2001 when a series of transactions



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occurred relative to wholesale energy sales and purchases by p.g.e. relative to the business income tax email exchange that we have seen in the last week. I also would like copies of those emails, the original copies and any related emails, specifically to that subject in that period, any memos they might have, letters, phone messages, and I have these written down, you don't need to write them down. Minutes, tax returns, all information documents related to the sale and/or purchase of wholesale and/or retail power by p.g.e. or any parent or subsidiary company, including the origin of a sale and/or purchase of any power, identify conclusively the total amount of taxes collected by p.g.e. for federal, state, and local entities, including property taxes, and any other taxes since p.g.e. was acquired by enron through the present. Identify where any dollars collected for the above stated purpose ended up in the year for which they were collected, whatever its represented those dollars are dedicated to. That's specifically getting into the issue, are they deferred taxes, are they profits, it doesn't matter. Identify what forgiven liabilities by p.g.e. to enron were originally or subsequently incurred for. Include itemized list for each liability, p.g.e. has forgiven enron for. Identify the total amount of refunds p.g.e. any of its subsidiaries or parent company enron have received since enron acquired p.g.e. And I have some further questions that actually relate to the things that commissioner Sten was discussing, and those are what limitations does the city have under the state statute granting municipalities, the power to set rates. For example, are we allowed to reduce rates by the amount p.g.e. has charged taxes to rate pay there's were subsequently kept by p.g.e. and enron and not paid to the various taxing authorities, 2) are we allowed retroactively to credit ratepayers for taxes they paid in their p.g.e. bills but were retained by p.g.e./enron, and finally, what does the council need to do if anything, to exercise the power of to subpoena documents and compel testimony under oath? Again, i've got all this written down.

**Meng:** Ok.

**Leonard:** You and I had an email exchange on the last point, I think I know the answer to that, but I just want to -- I think it's important to somehow take these various issues and memorialize them somehow. Whether it's this resolution we're talking about or some other means, i'm going to leave that to you to tell us. Obviously the -- we're going to get more information, but I don't know that we need another forum like this as a council to discuss it as we are today other than having this february 2006 forum in which we're going to allow not just p.g.e., but other interested parties to respond to the information. I envision out of that the council to make a decision as to whether or not to go forward with then a more formalized rate setting process obviously we're inventing from scratch, we've never done such a thing, so we don't quite have thought out what that process will be, but this -- but this is not the rate setting process. This should not be interpreted by anybody to be a process by which the end of february we'll make a decision and set rates, it will be much more thorough and complicated and formal than that.

**Meng:** What I would suggest is I pull together what I think we need, including the information you want and anything any of the other Council members want, and bring it back, at least for the information requesting part, bring it back in the form of a resolution. We can also discuss what kind of procedures would you like in february process and then if we get into another kind of another formal process we would have to develop procedures for that ahead of time so everyone knew what was going to be happening.

**Leonard:** I also wanted to make one other announcement. We have had some inquiries by knowledgeable parties about information they'd like to share. I do have a contact person I want to read into the record that interested individuals may contact, her name is celia nunez, and she can be contacted at 823-4682.

**Potter:** Other questions for the city attorney? Thank you. Are in people signed up to testify?

**Moore:** Yes. We have five people signed up.

**Sten:** Mr. President, recognizing that mr. Robertson does represent p.g.e., I would allow him as much time as he would like and to testify separately if you'd prefer.

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**Adams:** Unless there's objection by council, we will provide you that privilege. Why don't we have you go last. Oh, no, first.

**Dave Robertson, PGE, Director of Government Affairs:** Either way. Thanks, mr.

Commissioner, members of the council. Dave robertson, I am director of government affairs for p.g.e. I won't take a lot of time. I know it's typically a three-minute exercise. I think i'll keep it at that. Obviously in reference to the report on p.g.e., I know it's not an action item today, but we're really wanted to emphasize a couple things. P.g.e. is open to -- and committed to dialogue with the city, trying to work out this process, commissioner Leonard has tried to outline today that we really believe that sitting down we can -- in a meeting format we can come to an agreement about how that process ought to go. And we've cooperated with the city thus far and we intend to continue to do that. P.g.e. is committed to running its business in a transparent, honest, and ethical manner. Commissioner Sten raised a couple of points in his comments that were worthy of some comment by me as well. The commissioner raised a number of numbers that the council might consider as items that taxes p.g.e. has retained. I have another number to consider, and that's zero. At no time did p.g.e. ever retain any taxes that its collected and raised from customers for profit. So --

**Leonard:** But did you collect taxes that you didn't pay.

**Robertson:** And furthermore, i'd like to say that p.g.e. also would welcome commissioner Sten mentioned the possible need to bring in other parties to help with this, and we would welcome and encourage the council to ask the Oregon p.u.c. to do an investigation of this as a third party who can bring in all the parties who might have some interest and knowledge about this who have staff who can take a look at this and resources, I know the city is short of resources as well, so they may -- they are certainly a good resource we could use to try to help look into this matter. We really hope the city extends an invitation to us to sit down and talk about the process. We think that's more beneficial than dueling numbers and reports. We think the call we had friday with the city attorney was helpful, it was a good exchange of information, we just need more of that as this process unfolds. P.g.e.'s employees remain focused on delivering safe and reliable power. We're look forward to the time we can be a Portland headquartered company again. We think that's within the next few months, keeping our fingers crossed on that. I know you probably have questions, but I think we really probably should work together to try to figure out how to best answer those in anticipation of february. So i'm not really the one to get into details of the attorney's office report, but I am here to take back questions, and i've certainly taken a lot of notes on commissioner Leonard's questions, and i'm sure we'll get those in writing as well.

**Leonard:** I'm happy to share them with you after council. I have spent years working with p.g.e. employees out on the front lines. They are outstanding men and women. I don't want anybody to misunderstand the questions i've been asking and the concerns i've been raising as to question the commitment of the line working men and women. I have nothing but the highest respect for them. Outstanding.

**Robertson:** Thank you.

**Leonard:** I will tell you, whoever -- however, if you want to do your business in a transparent and open way, it doesn't help me to have you sit and parse words here by saying things like we collected zero for profit purposes. When what you really mean is we're not going to call it profit, we're going to call it something else. You call it deferred taxes, I call it money ratepayers paid in their bill that they reasonably expected when the line says federal tax and state tax and Multnomah county business income tax, they have a reasonable expectation that those dollars were used for that purpose, and not retained by p.g.e. for deferred taxes, or maintenance, or whatever we want to call it. I don't expect you to respond to that. I just want to make clear for the listening audience that I don't appreciate this parsing of words that I believe you and others at p.g.e. understand confuses the public. If you want to be straightforward, be straightforward. Say you kept the taxes the law allowed you to keep, and I have no quarrel with that.

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**Robertson:** Thank you. I do appreciate that. And I am doing my best to try to be as simple and --

**Leonard:** It doesn't need to be similarment. We need it to be straightforward.

**Robertson:** The most simple answer is that our analysis and our numbers and our commitment is that this number is zero. We have not retained any taxes for profit.

**Sten:** Let me just ask a couple follow-up questions. I don't want to -- I think we're clear on the process, and I appreciate that. It's consistent with what i've seen and heard all along. Did I want to reiterate commissioner Leonard's comments. When i've been in the past involved with arguments with setting up a public utility, it's to keep p.g.e. employees running it. I don't believe you're going to be a standalone company for very long, and that's partly what I think the problem is. I think it ties right into this. I don't think it's a complete aside, because I believe the problems that we're dealing with today are not coincidental, they are the enron culture seeping its way down to a company that enron still owns, and the c.e.o. of enron is about to get control of for the next three to seven years. That's what the p.u.c. documents say. So I think what we're really trying to get into is these practices. So I guess what i'm understanding that the distinction you're drawing, I just want to make sure I understand it, is the taxes we're not -- were not retained for profit, you're not testifying p.g.e. did not retain taxes. P.g.e. did retain taxes. Is that correct?

**Robertson:** I am testifying p.g.e. Did not retain taxes.

**Sten:** You retained no taxes?

**Robertson:** As part of our rates that are set at the utility commission, taxes are included as a component. And those are paid over the course of the 1997 period for which the questions were asked, either to our former corporate parent, which was Portland general corporation, or to what then became our new corporate parent, enron.

**Sten:** About the one of your parents, so your corporate p.g.e. retained taxes but not p.g.e.?

**Robertson:** The corporate parent was in place only for half a year, 1997, as linda meng stated. So the number -- the dollars collected -- we covered this on the phone on friday. The dollars collected in 1997 were not paid to enron because of the fact enron was not the owner until part way through that year.

**Sten:** Are you distinguishing you deferred taxes, you did not send all the taxes collected to enron. Is that correct?

**Robertson:** That particular year I think -- I believe taxes --

**Sten:** The whole year for the report. There was seven or eight years for the report. Every report i've seen seems to indicate that there was a total amount collected for taxes on the bills, and that something less than that is what was sent to enron. Is that correct?

**Robertson:** No, that's not correct. There's no amount on the bill that is -- it's not a line item on the bill. It's built into rates.

**Sten:** I think -- you may not understand --

**Robertson:** Dollars were sent to enron, yes.

**Sten:** Were all of the dollars that however you put them on the bill, however you apportion them, that your documents ascribe to taxes, were all of those dollars sent to enron?

**Robertson:** I believe that's the case, yes. But I think -- again, it's a question as we look at the different tables and the way the numbers have been looked at by the city's office and our office, that it's probably best left to the tax experts and --

**Sten:** It's a startling to me to hear you say, that because I have not heard that was argued even by your folks. You're saying 100% of the money that was attributed to taxes, whether it was on the bill or however it was done, was sent to enron, p.g.e. retained, deferred, and no possible verb that I can think of was used for money that didn't go to enron that was collected.

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**Robertson:** I'm not quite sure how the answer I gave before doesn't satisfy you. I think i'm looking forward to the process, i'm looking forward to sitting down to find out exactly what the questions are. If you want to write them down and submit them, i'm happy --

**Sten:** Our city attorney, i'm trying to help you. If you really want to leave this with p.g.e.'s official testimony being that you didn't defer, retain, or do anything and you sent all the taxes to enron, that's what you're saying.

**Robertson:** I guess you're asking -- the first question you asked was did we retain taxes. Did we defer taxes, and there are -- the way the tax law is written at the federal level, we're allowed on a large capital asset to defer the collection and the payment of those taxes to an out year.

**Leonard:** You're distinguishing between deferred and retained?

**Robertson:** Yes I am distinguishing between the two. Deferred taxes is a technical term and generally accepted accountings term that is used.

**Sten:** Let me back up again. I may have been inarticulate. The question i'm asking is, of the total amount that you billed customers for, however it was done -- i'm talking about your accounting, your documents you gave us, there was a number. And according to your documents, it's \$683 million or so that's attributable to income taxes over the time period. Was all that money sent to enron? Yes-or-no question.

**Robertson:** I don't have that in front of me. The money was -- that we've collected in rates and the intention was and the practice was it was paid up to enron, yes.

**Sten:** I'll leave it there. What is your understanding of what the parent company did with those taxes? Is that profit for them? Is that just a bonus?

**Robertson:** I can't comment on that.

**Sten:** You have no understanding --

**Robertson:** We are not enron, so I can't comment on what their practices are.

**Sten:** So your company's position is you sent them almost \$700 million with no idea what they'd do with it?

**Robertson:** I think it's been well documented those taxes were either offset with losses or other things that -- so our obligation at the time was to the parent corporation.

**Sten:** Technically what is that? Is that a profit when you offset those types of things? You're the guys drawing the distinction on retaining for profits, so i'm trying to understand what it means.

**Robertson:** I think it means there's a component of our rates that goes for taxes and that we're required to pay those to our corporate parent, and we did that.

**Sten:** Do you see any distinction between what enron did with the taxes and with the taxes that stayed with p.g.e.?

**Robertson:** There were no taxes that stayed with p.g.e. I think that's the crux of my statement.

**Sten:** Ok. Thanks. Appreciate it.

**Potter:** On another page from the city attorney, she indicates that p.g.e. claims against enron which amounted to about \$245 million, had not been collected and had transferred enron, waived, forgiven or compromised. Could you tell us what was the arrangement there? What were those things you gave up to enron in terms of the money.

**Robertson:** Mr. Mayor, I cannot comment about that. I just don't have the knowledge on that. I could anticipate that as the process unfolds we could get back to you and have more of an answer on that.

**Leonard:** That is one of the questions I have that I will provide to you.

**Potter:** Other questions from the commissioners?

**Bill Michton, Member Oregon Public Power Coalition:** My name is bill michton, member of the Oregon public power coalition. As I think the interaction between you and this gentleman here has so amply demonstrated, I ask the council to excuse itself from the dance that its performing with enron and pge. The time is long past due to stop the draining of our economy through pge, enron's

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manipulation of the negotiation process, rate setting and the federal state and local taxing structures.

As the report makes clear, pge/enron will continue to stall and obfuscate to avoid taking responsibility for the damage that they have done to the local economy, municipalities and the citizens in their so-called service area. Please Mayor Potter, Commissioners, start condemnation proceedings now. For those outside of Portland who are whining about the big, bad city, show them the structure of a Portland-run utility that commissioner Sten and his staff worked so hard to make representative for all governments and areas who have been victimized by enron and p.g.e. In at most two years, the money saved, the democratic process demonstrated, will stop the boo-hooing and the city council will be heroes. Thank you.

\*\*\*\*\*: Every year my friends have a christmas party --

**Potter:** Would you please --

**Bill Parish:** Bill parish, Portland resident. Every year my friends have a christmas party, and it's almost become a joke, asking me what the big story is going to be in the following year, and i've been right every year except last year, because I say the big story would be tom Potter would be a great mayor and solve the p.g.e. situation. So i'm hopeful that might happen in 2006. Thank you for the opportunity to speak here and say a few words. In my opinion, this is all about pacificorp and warren buffett. Let's face it, he's the second richest guy in the world and didn't get there making lattes at starbucks. His strategy is divide and conquer. They're telling people in Utah that the big capital improvements there will basically be subsidized by us. Their deal is set to close in february and once it's over it's over, so they're trying to run out the clock, hoping you'll have this debate over the tax issue long enough to run out the clock, then they'll go to the state legislature and pass a law prohibiting you from setting rates. Today's "willamette week" has a great story by Pulitzer prize winner, Nigel Jaquiss. I'd read the article, send him an email. It's startling the administrative judge at the p.u.c. does not require buffet to disclose his plans regarding p.g.e. Meanwhile julie brim edwards and nike have just about got the shoe sizes and the style of toothpaste for every employee in the city of beaverton. It's ridiculous. Over an annexation issue. What are the impacts? Pge, pacificorp and nw natural gas which I think will be folded in--dramatic job losses. "the Oregonian" big cuts on a probable sale within two years with less local control. The city, how do you finance important services? Intel spent \$60 million a year on energy, their bill's gone up \$10 million this year. Oregon steel spends \$20 million and the Portland public schools \$3.1 million for the year ended in june. So in conclusion, I would suggest don't be duped, commissioner Leonard. Be strategic. For lunch and a beverage, i'd be glad to talk about some of these accounting issues. I'm sorry I'm not in Dave's shoes because I could answer questions you asked him. Again, I think this tax debate is a terrific debate, but include pacificorp now, because inside the trojan horse is sitting warren buffett, hoping to distract you until february and close the deal. Commissioners Adams and Saltzman, there's a thunderous silence from you guys. I hope you speak up. Mayor Potter, you've probably read that top executives at Berkshire-hathaway have been indicted by the s.e.c., and nothing you do as mayor will impact citizens as much as a solution for p.g.e. And frankly I think it would be a regional solution, rather than one run by the city. Think out of the box. Today there was an article in "the Oregonian" about china, maybe sending somebody to china. They'd be delighted to put up a billion dollars for a buyout for a utility. They've got a \$10 billion surplus every month. If you're p.g.e., pacificorps, northwest natural gas employee, protect your jobs and local control, because you'll be sold out by the top execs. Send Nigel Jaquiss of "willamette week" an email, blow the whistle. Talk to former enron employees if you want to know how they account for taxes. Half of them are probably in jail and might get a favorable hearing from their parole board. Finally warren buffet and locally tom imerson's divide and conquer strategy, break it by reaching out to people like myself glad to help. Finally, commissioner Sten has done a lot of heavy lifting over a long period of time. He's done his part. It's up for you to complete the job. Thank you.

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**Joan Horton:** Good morning. I'm Joan Horton. I'm with Oregon public power coalition also. I'm a resident of the Corbett-Lair Hill area. Basically I want to second what Bill and Bill just said, because I think they wrapped it up pretty well, most of what our position is. Secondly, we are the group that started the P.U.D. campaigns, etc., and kind of got this whole thing off the ground. I want to respond to the issue about the P.G.E. employees, because this comes up. We've sort of been attacked for attacking employees. We've never attacked the employees. And right now there's a whole bunch of them in my neighborhood, so I go out and talk to them. They're all very pleasant and all perfectly good at doing their jobs. I just want to put that in the record for once. I do think the tax issue is interesting. I don't want it to become a distraction to the general concept, which is we really do need to have control. The issues of ownership over and above what they're doing with tax money or money they collect from us is very important. What would be repealed of the Puca law, and it comes down to a point where either we have control of it or somebody else in the world will do that. And that's enough for me. Thank you.

**Potter:** Thank you very much.

**Moore:** That's all who signed up.

**Potter:** Ok. Is there anybody else here who wishes to testify on this matter? Thank you. Karla, please call the roll.

**Adams:** Aye.

**Leonard:** Well, I want to say, again, that I hope in no way that any comments I made have been interpreted to reflect badly on the men and women of P.G.E. that are out delivering power every day. I have the highest regard for them and know a lot of them and have worked with them over the years. I will finish by saying that when I hear things that are said here today, the effect that they have on me is to cause me to get up earlier and stay up later. And I'm not trying to kid around. It really upsets me to have smart, intelligent people use words that I think are intended to mislead the public. And I don't like it. And it makes me focus very much more on the subject at hand. The process from this point on, I commit will be fair and balanced, but it will be thorough. Aye.

**Saltzman:** Aye.

**Sten:** Well, I agree and would like to get some clear answers to these. Actually the accounting is not that hard to figure out. The books are not that hard to figure out. I think the only reason that there's some ambiguity today we're trying to take time and folks have thrown questions around, but the wording is very, very specific. I did want to mention that I think the community does also owe some thanks to the utility reform project who sued over the business income tax, because if you look closely at what happened at the business income tax, and again I will hold my final judgment until we get more information, which we'll be requesting on this, it appears that the business income tax was withheld using the same rationale as consolidation of taxes that Enron uses, only the B.I.T. Isn't allowed to be consolidated in that fashion. The idea that there is not a culture that is perhaps permeated good -- a good institution I think is hard to argue. Taxes have been -- I'll let somebody else decide the verb, but they've been deferred or retained, whatever it might be. They have not been paid. Maybe I asked it wrong. Maybe I got slipped into the semantics game and I should have said have the taxes paid to the taxing jurisdictions. It's a resounding no. And whether or not the city council should set rates in Portland or the Salem city council should do it in Salem, or anywhere else, I think remains to be seen. I do not jump to the conclusion that that is ultimately the best solution, but I think it's something that has allowed us to get on the table some information that's absolutely critical to what's happened here under Enron's leadership, and has not even been talked about. I'm going to begin opening up a much more detailed dialogue with the P.U.C. Commissioner Leonard and I have drafted a letter, which we'll be circulating among council members, requesting that the P.U.C. put on hold the stock redistribution decision until these questions can be answered. Strictly put, there's more here than meets the eye. The stock redistribution proposal is -- is presented in sound bites that are very misleading. It will be not -- it will not be a stand alone

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independent company in two or three months. It will be a company solely controlled by Stephen Cooper, the C.E.O. of Enron, and three or four folks he's hand-picked. Frankly there's very few controls based on that. If it was an independent company, I think people would be viewing it quite differently, but it's anything but. And having been burnt as we have by the Enron debacle over the last eight years, I can see an scenario where an approval of this next scheme, and that's what it is, is rushed through and we're back here, you know, eight years from now looking at what we didn't catch. So I think the prudent thing for the P.U.C. to do is put this effort on hold until these questions can be answered. That's what PGE is calling for PUC to look at, saying push this thing through, at which point it really won't matter because the crooks will be gone. We need not let Enron off the hook until we've had a chance to answer these questions. That being said, I've spent a lot of time on related questions over the years, and much of this came as a surprise to me. So I think it's very reasonable to say, given that P.G.E. is saying very clearly that the information isn't all on the table, and given that with the simple inquiry, which was can you show us the facts on the taxes, we got all kinds of information that nobody ever had an idea existed. We ought to slow this thing down as a community. And Enron's been ripping us off for eight years. There's no reason to not make them wait another eight, 10 weeks, and have this next round of discussions and then see where to go, go from there, and perhaps longer. So I will be circulating it, making that argument to the P.U.C. It's within their jurisdiction, we can't tell them what to do. So with that, I vote aye.

**Potter:** Seldom does a resolution come before the city council that has all five members of the council supporting it. This particular resolution does, and I think that what that does express the concern of the city council about the documents that we have from P.G.E. to date. But unfortunately it raises more questions than there are answers. And so we're taking this next step to look further into it, and it will be fact-based, and I think you heard from the rest of the city council that it will be fair and objective, and we will base our decisions on the facts of what is presented to us. So I think that this is an important step for our city, and actually for our region. And so I support it and think that it's going to be an interesting process. I think that it's going to be good for our citizens to pay attention to this particular subject and see what the results are. Aye. [gavel pounded] please read the next item.

**Item 1532.**

**Moore:** Staff, please come forward.

**John Acker, Bureau of General Services:** Good afternoon. My name is John Acker, with the Bureau of General Services, Facilities Manager. This is for fire stations 15, 24 and 43 for remodels. It's part of the bond program voter approved in 1998, I believe. This is the next round. This ordinance will allow us to go out to bid for these remodels, primarily seismic and upgrading the facilities.

**Potter:** Any questions from the commissioners?

**Adams:** Are they green?

**Acker:** Wherever possible, yes.

**Sten:** Still painting the trucks red.

**Acker:** Yeah, yeah.

**Adams:** Are they -- what's the minority -- or these are authorizing --

**Acker:** They're authorizing us to go out to bid.

**Adams:** So these are authorizing the bids?

**Acker:** Correct.

**Adams:** Ok. Thank you.

**Potter:** Other questions? Thank you. Do we have a list on this?

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

**Potter:** Ok. Anybody here wish to testify on this matter? Thank you. Please call the roll.

**Moore:** This is a nonemergency. It will pass to a second.

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**Potter:** Move to a second reading. Please read item 1533.

**Item 1533.**

**Potter:** Are you going to speak on that matter?

**John Acker, Bureau of General Services:** This is me, too, yeah. And this is the state crime lab move from the justice center, so the police bureau is remodeling spaces and moving people around and better using the spaces on 13 -- let's see -- 11, 12, 13, and 15 the second phase of that project. Again, authorizing us to go out to bid.

**Potter:** Questions from the council? Thank you. Is there a sign-up sheet on this?

**Moore:** No.

**Potter:** Ok. This is a nonemergency, moves to a second reading. Please read item 1534.

**Item 1534.**

**Saltzman:** This is a second reading, right?

**Potter:** Second reading, vote only.

**Saltzman:** Well, I wanted to speak to the issue of the living wage that we talked about last time. And I guess I have a proposal I'd like to offer for consideration, and that would be to postpone the second reading on this agreement for 60 days with our bargaining team instructed to go back and negotiate with the operator of p.g.e. Park, or the proposed operator of p.g.e. Park, a living wage agreement that reflects our current city standard for parking lots, security, and janitorial services, and that that be paid for by the operator in the operating agreement. Come back with us with a new agreement within 60 days. That would be my proposal. I think the living wage issue is something that the council let lapse, and we probably didn't provide adequate instructions to our bargaining team that this is an issue that should have been on the table. I don't fault the bargaining team. I think it was something the council did let lapse between p.f.e.'s operation of the park and the interim arrangements and the financial agreement that existed at the time, but we're moving ahead with an operator that I believe has the financial resources to make this agreement, to honor this agreement, and I would ask that that agreement be honored through their end of the deal, through their resources, not ours.

**Potter:** Before we proceed, dave, could you tell us what the impact that would have on the contract with the proposed operator?

**Dave Logsdon, Spectator Facilities Manager:** Yes. I'm dave logsdon, spectator facilities manager. I think it raises a couple of immediate concerns, the first being our current agreement expires on december 31, so that we would -- you know, our hope had been to get a new operating agreement in place prior to that date. So it raises an issue of what we do during this interim period when effectively we don't have an agreement with the park operator. I think we'll be very challenged to try to require the operator to pay another \$350,000 for this program. If it's council's will, we can go back there and try to do that, we certainly will try to do that. I think it will be a difficult process.

**Sten:** What's the length of our agreement at this point?

**Logsdon:** The new agreement?

**Sten:** Yeah.

**Logsdon:** Five years, with an option for a two-year extension.

**Leonard:** Well, I think I -- I hope I don't have to establish my credentials on issues such as family wages and minimum pay. I mean, this is something that's characterized my career here and elsewhere, but I really think it's unfair at this point to put this on the operator. I agree with the sentiments of commissioner Saltzman, but if that's the sentiment then the council needs to make a decision whether or not we want to subsidize the agreement out of our -- I forget the name of the fund, that this --

**Logsdon:** Spectator facilities.



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**Leonard:** Spectators facilities fund, that's the decision we need to make, but i'm a person that really believes in the integrity of the bargaining process, and i've lived by it and i've suffered by it, but I believe in it. I think it's really unfair at this point to -- although, again, I want to make clear, I absolutely appreciate the sentiment of the amendment, but I do think that if this is something we believe in, and I do, then we need to bite the bullet, and I will, to support having this come out of the spectator fund. That i'm fully comfortable supporting, but i'm not, given the ups and downs of the relationship vis-a-vis this city and p.g.e. Park comfortable at this point throwing this wrench into what I know david has spent a lot of time and effort in coming up with a good deal. I appreciate that. I'm just really not going to support doing something to interfere with that.

**Potter:** David, you know, I think the local newspaper didn't accurately state what the salaries were with this agreement, that there are full-time people and that there are part-time seasonable people. Could you explain the difference?

**Logsdon:** Yes. I think the -- and the full-time staff at the park are all paid above what would be the city's directed wages. In fact, they make salary only above the directed wage -- I mean the fair wage. And the fair wage is meant to represent wages and benefits under the fair wage policy. So I don't think there's any issue with any of the full-time staff at the park. The seasonal part-time staff are paid at two different entry levels. I think concessions and ground keepers do start at the Oregon minimum wage, which is \$7.25 and the other workers start at \$8.25 and are allowed raises for longevity if they come back year after year, they receive pay increases. And for performance, they have, you know, performance reviews and offer wage increases that way. And it's also, I think, important to draw the distinction between the city's fair wage policy and the application to seasonal workers. For the most part the summer work force at p.g.e. Park are largely students, they're high school and college students. There's a considerable number of retirees. There's a considerable number of folks for which this is their second job. This is not their primary job. In general, they work about halftime during the course of the six-month event season. So this is not for, you know, all those folks. This is generally not a full-time job. This is seasonal and it's part-time as well.

**Sten:** I'm not aware that the city's policy only applies to full-time jobs. I mean, in fact I think there's a pretty strong argument, at least that I ascribe to, that people who have less than full-time work are often the most in need of a fair wage. Am I wrong, does a fair wage policy only apply --

**Logsdon:** I don't know if the fair wage policy draws that distinction, but says when the city directly contracts --

**Sten:** If you don't know that it does, i'm fairly certain that it does not.

**Saltzman:** The city's fair wage policy applies to operators of our parking facilities, contractors for parking facilities, janitorial and security services. I don't think it distinguishes whether the employees receiving that living wage are full-time or part-time.

**Logsdon:** What I was meaning to say under the fair wage policy there are a lot of full-time workers part of that work force. The seasonal workers at p.g.e. Park essentially none of them are full-time workers. It's all part-time work. That was the point I was intending to make.

**Sten:** I think it's a fair one and worth thinking about in this context. The genesis of a fair wage policy is essentially that when we're doing work for city-owned facilities it's the city council's position that we're not going to lower the costs by contracting to pay wages that we are unwilling to pay our own employees. And that's -- and I don't believe most of the parking lot attendees are full-time. You know, if you look at that. So that was really the idea, was if we're contracting out, it's not done on the backs of the workers, because nobody in our operation makes \$7.25, and i'm proud of that. So I think this one is analogous. I don't fault any -- it's one of the things that's slipped through the cracks, but I don't remember having fought this issue hard the first few rounds at p.g.e. Park and then having voted to suspend it for a year. I think it should have been evident that this should have been in the negotiations, but it wasn't, and so I was planning to make a similar motion, although I would have to go with commissioner Leonard's approach, because I don't think we can in

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good faith go back to the other party and say the deal's off. So I would go to the spectator fund, be willing to make it for the next season or something, and try and come up with another -- I mean, i'll bet you -- i'll bet anybody who wants that this contract will be renegotiated before the five years is up.

**Saltzman:** Yes.

**Sten:** That's what my history tells me.

**Saltzman:** I don't think that -- I don't think -- you know, i'm not trying to, you know, pull a last-minute thing on the operator, but the fact is I don't believe this issue was brought up at the negotiating table. And as we're reminded many times by people up here, we are the final arbiter, at least on our half of the deal. I mean, the city council is in the loop. And so raising this issue, which I believe simply, through no fault of anybody else, was not brought up with the operator as one of the items in the negotiation. I'm saying return to the bargaining table. It can be 30 days, if not 60 days, and come back to us, you know, hopefully with a deal where they would agree to pay and comply with our living wage ordinance. If not, then the city council can then make a decision, do we want to take it out of the spectator fund or somewhere else, but I do believe -- you know, I do believe the analysis that the spectator fund is under financial stress. We have capital obligations for the memorial coliseum that -- I mean, I believe the analysis that shows the spectator fund shouldn't be the first source we should go to. And I believe rightly it should be the operator, those who are going to be operating this as a business and making a profit from it. And that's where I believe the living wage stipend --

**Leonard:** If anybody hasn't noticed, the p.g.e. Park has been an albatross around our neck, and the subject of not just a little bit of finger-pointing by the citizenry, so i'm sensitive about the cost of operating p.g.e. Park. What i'm saying is if we all feel strongly enough about seasonal part-time workers being paid the living wage then we need to put our money where our mouth is and pay for it.

**Adams:** As I recall, the city council paid for the living wages when it was in effect.

**Logsdon:** That is correct.

**Adams:** So I would -- I would be interested in -- there's a motion on the floor, but I would be interested in maybe -- maybe there's a halfway point where we would fund the differential on living wages for a year and ask that that portion of the contract continue to be negotiated for the following four years. And that I think a good fire will get going with that enterprise, and we'll have the opportunity to negotiate with an operator that is making money.

**Sten:** I think that's a good -- good compromise. I do think -- I mean, i'm not being cynical, I just think this will be back before us in the next five years, and it sends a message to the operator that we missed it, but won't keep missing it. I want to be very clear into the record, that what we should be doing is -- for this one year -- is paying the difference between what the market is paying -- I mean, the economy's getting better. If it's harder to find workers, they may end up paying a buck more this summer. It shouldn't be a deal that it's 9 or 10, and they pay 7. It should be we pay the difference between what -- that's why you have to negotiate these things, because otherwise you end up paying more than your share. That's why I think we missed this.

**Adams:** Are you comfortable with the mayor's office, along with o.m.f., given administrative authority to negotiate that for the next year?

**Sten:** I'm quite comfortable leaving it in david's hands once he understands what we're doing.

**Potter:** Let's be clear what we're saying.

**Adams:** I'm suggesting we use the spectator funds in the next year to -- that you and o.m.f. have our authority to negotiate a differential so that folks getting paid at the facility get a living wage. We don't make a distinction between seasonal and full-time. I don't believe we made that distinction in the past, if I recall correctly. I think we did a differential on both. I would also note, just as a matter of policy, the city does pay the differential on the other contracts that it has. We don't

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require depaul industries or p.h.c., or anyone else, to dip into their funds and pay the living wage. We end up doing that. So I think there's some precedence here in terms of expectations and relationships with our contractors. But there's a motion on the floor, but if the floor was cleared I would make that motion.

**Saltzman:** Well, my preferred route would still be to go back and negotiate this with the operator, but I don't sense there's a second for that motion. So I will withdraw my motion, unless there is a second. I do feel that we can get this, and we can protect city funds at the same time.

**Adams:** So mayor I would move that we amend this agreement to provide for one year of city subsidy for the differential as you will negotiate, as o.m.f. will negotiate with the operator, for one year, and that this issue return to us for consideration after that year, and that we leave open our right, the city council leaves open its right, to negotiate this issue for the remaining four years, which leaves open the possibility of commissioner Saltzman that if this enterprise should start showing the kind of profit that it should, that we would be able to ask for -- or be able to put in less money into the kitty to provide these living wages.

**Potter:** Can I ask the city attorney hiding behind that camera man, what is the best forum for this to happen? You heard what the council has expressed. What's the best form for this to take place?

**Harry Auerbach, Chief Deputy City Attorney:** Harry auerbach from the city attorney's office. What you have before you is complicated by two things. One it's a contract that's been negotiated with another party, and the other is it's a second reading of a nonemergency ordinance. So you have -- you can't -- you can only put something in the contract if the other party's willing to agree to it. As I see your choices, they kind of look like this at this point -- you can pass the ordinance as it is, and approve the agreement and ask david to go back and negotiate an amendment or addendum to it that provides for the -- the directed wage subsidy. You can -- you can amend it to require this to be in it, but then you'd have to wait to vote on it until next week, and perhaps david would be able to find out in the interim week whether that's going to fly or not with the operator. I think those are the two options at this point.

**Adams:** If I could suggest a different -- the city council has the ability on 30 days' notice to terminate or seek changes in this contract. Is it 30 days or 60 days?

**Logsdon:** I would have to check. There certainly is a termination provision in the agreement.

**Adams:** Or an amendment provision. I mean, we could ask david to come back to us as we get toward the end of the fiscal year or the end of this contract, and have this discussion, and we wouldn't even need to amend the contract in the first year because we would just be putting in the difference, right? Or would we?

**Auerbach:** Well, you need to have some -- commissioner Adams, in order to do it at all, you'd have to have some agreement in place with the operator that would permit you to give them the money, which they would pay their employees. You can do that either as a part of this contract or as a -- as this stand-alone separate agreement, but you have to have some formalized agreement to do that.

**Adams:** Ok. I understand.

**Saltzman:** I'd prefer the course that we put something in the contract that reflects -- signals our intent that we're going to maybe cover the subsidy ourselves in year one, but we're looking for the operator, presuming good scenarios, in the remaining subsequent years.

**Adams:** I agree.

**Saltzman:** Have them have a chance, a week, I guess, to respond to david, and then we'll vote on that next week.

**Adams:** You're right. I was trying to find a way to do this voting today, but I think, commissioner Saltzman, your arguments are persuasive.

**Auerbach:** And I would suggest before you make your final decision on that, which you can legitimately do, you ought to think about what you will do if the operator does not want to do that.

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This don't go along with that, you'll have to not approve the contract or amend it again and wait another seven days for a vote on it. If that's what you intend to do, that's fine, you just need to know that will be the consequence.

**Saltzman:** We'll have a week to think about that.

\*\*\*\*\*: Ok.

**Logsdon:** One other option might be, since if this contract is nonemergency, so it's not affected. In fact, the effective date is January 1, 2006, so we have the rest of December. Even if this contract was voted on and passed today, it's not going to take effect. That would allow us several weeks to come back with the addendum document. I'm not sure if we need to file that as a new council item, but we would know before this new agreement takes effect, we could have that addendum prepared, signed off on by the operator, and on the council agenda, so that we wouldn't, you know, by that way not delay the current agreement.

**Saltzman:** So give you more time than just coming back next week, but give you a couple weeks --

**Logsdon:** To the rest of the month before this agreement would take effect anyhow, and then we'd have the addendum prepared by that.

**Potter:** Can we do that?

**Auerbach:** Run that by me again. Vote on it today?

**Logsdon:** If they vote on it today and approved it, it doesn't take effect January anyhow.

**Auerbach:** Then come back?

**Logsdon:** Come back with the addendum before January 1 and we'd have the full result at that point.

**Leonard:** I like that.

**Saltzman:** It's a little different, because what Commissioner Adams and I are saying let's signal our intent by putting it in the agreement going back to the operator, and then --

**Auerbach:** Part of the difficulty with putting it in the agreement is we don't really have the language -- we don't know precisely what the language is that you want to put in the agreement. So, I mean, I assume we could come up with something, but we don't --

**Potter:** I think the intent's been signaled. I think it's just a matter of then following through between my office and Dave to work with the proposed vendor and come to something that we bring back here before the first of January as an addendum that we would then vote in as an addendum to the agreement. Is that correct?

**Auerbach:** Yes.

**Potter:** Is that something for folks?

**Leonard:** Uh-huh.

**Saltzman:** Ok.

**Potter:** Should we just go ahead and pass --

**Auerbach:** Just go ahead and vote on it and tell him what you want him to do.

**Potter:** Administrative direction. Do you understand the direction, Dave?

**Logsdon:** Yes, I do, Mr. Mayor.

**Potter:** Is there people signed up to testify on this?

**Saltzman:** It's a second reading.

**Potter:** Oh, that's right. Sorry. Call the roll, please.

**Adams:** So we're voting on the contract.

\*\*\*\*\*: You are.

**Adams:** Ok. No.

**Leonard:** Aye.

**Saltzman:** Well, you know, notwithstanding the living wage issue, which I think is something that needs to be pursued, and I believe the operator, you know, if we don't ask, we don't get, and we

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haven't asked this question. I think we're maybe compromising our negotiating ability a little bit by passing this agreement today, but nevertheless I believe that everybody's coming to this table in good faith, including the operator, including the city, and that we need to make sure that we're representing the citizens of our city who need to earn living wages. So i'm going to vote for this agreement and I commend all the people who have worked hard on this, but we need to get this living wage nailed down one way or the other and look forward to doing that by the end of the month. So I vote aye.

**Sten:** I'm glad to get the operator in place. I appreciate all your work with your team, david. It's been a long run to get here. You know, I think we -- this has been a tricky issue. I think we missed it again, but it's never too late to do the right thing. Aye.

**Potter:** Aye. [gavel pounded] please read the next item.

**Item 1535.**

**Potter:** This is a second reading and vote only.

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

**Potter:** Aye. [gavel pounded] please read item 1536, which is vote only.

**Item 1536.**

**Potter:** This is a second reading only, vote only. Please call the roll.

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

**Potter:** Aye. [gavel pounded] please read item 1537.

**Item 1537.**

**Andrew Aebi:** Good afternoon. I'm Andrew Aebi, local improvement district administrator. I will endeavor to be brief. Council approved this on November 9. The ordinance before you today would actually form the l.i.d. We received timely remonstrances from 29 of the 484 properties in the proposed southeast 152nd local improvement district, representing. We also received three objections from wavered properties, which do not count toward the remonstrance level, but which are summarized in exhibit g, along with the remonstrances, and identified in the map being passed out to you. Both the remonstrances and the objections, again, are shown on the map that i'm handing out to you -- I should say Karla is handing out to you. None of the assessment zones, remonstrances and objections combined, including from the two assessment zones abutting the street and traffic calming improvements met the threshold in city charter that would defeat formation of this l.i.d. We did receive both a letter of support and two letters of opposition after the filing deadline, properties of which -- copies of which have been provided to you just now. I'd like to note to council that by the most generous of measures, counting not only wavered properties objections as remonstrances, but also counting late remonstrances as being timely remonstrances, and even counting those who called me on the phone to oppose the project but did not submit a remonstrance, this would only bump the percentage of opposition to 9.7%. By comparison, the properties included in the water leaf development represent 15% of the total area of the l.i.d. and 13% of the assessable area in the l.i.d. So by the most generous measure the level of remonstrances and objections are less than the area of the water leaf properties, and that doesn't even begin to include -- include support from other properties in the l.i.d. If council wishes to sustain the remonstrances, it may simply vote no on this ordinance at the second reading. If you wish to pass this ordinance, I would suggest that the mayor entertain a motion today to overrule the remonstrances and objections. Thank you.

**Sten:** One question.

**Potter:** Yes.

**Sten:** Andrew, I do support the l.i.d. and moving forward. I had an opportunity to speak with a representative of some of the people that came in last time, particularly Mr. Drake. And I believe his property is wavered.

**Aebi:** Yes.

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**Sten:** Just to be -- just real straightforward about it, it appeared to me that their assessment was fairly high compared to the other folks. And, you know, I thought there was a compelling argument that they had a fairly high assessment. I just wanted to see if you saw any options there or if you think the methodology -- I mean, none of this is exact science, but what's your thoughts on that? Simpler situation would be what's your thoughts on those properties? I think you're well informed on the whole debate.

**Aebi:** Thank you, commissioner. I'd like to just quickly note that even though the drake's property is wavered, I endeavored to address each and every one of the issues they raised in their objection, which is in exhibit g. So between now and the second reading, you can certainly read that if you haven't already. Second point that I would make is I think when you look at their assessment as being high, you have to say relative to what? When the -- I know I mentioned this last time, but it bears -- worth repeating. All of the properties in the south assessment zone are 2.5% of the total cost of the l.i.d. So yes, they're higher than the folks in the central zone and the east zone, but you're working off a much smaller number once you throw in the developer contribution and all the contributions from the east and the central zone. My level of -- first of all, to directly answer your question, yes, there's room to make any adjustments that council sees fit. I have a little bit of discomfort, for sake of argument, if the option were to simply set the southeast -- the lower 152nd folks in the south zone, if we were hypothetically speaking to set those equal, to the assessments in the central zone and the east zone. That gives me a lot of discomfort, because my feeling is, is -- and it's ultimately council's call -- I don't think they benefit to the same degree. The folks in the central zone and east zone have already paid for frontage improvement for the entire network of local streets improved up to their front door. The folks in the south zone have contributed nothing to improving a street up until now. And southeast 152nd is their only means of access, where as the folks in the east zone and the central zone already have an alternative means of access. And the folks in the central zone and the east zone do not have maintenance responsibilities for the unimproved portion of 152nd. I know i'm throwing a lot at you, but I just don't feel that the benefit level is the same.

**Sten:** I don't have a proposal. I do agree with that analysis. Again, you know, you have a lot more history on this and knowledge. My answer in compared to what was essentially compared to the other properties that you talked about. I don't think it should be equal. I think that the south property should pay more.

**Aebi:** Uh-huh.

**Sten:** It seemed like a bit more than my instinct was telling me. And then the other one, which is a nuance, because I may end up splitting this in my own mind, which is not the position of all the property owners, is i'm distinguishing between what appears to me to be land that's going to develop relatively soon and homes that have a bigger site, you know, don't look to me like they're going to be developed soon. I'm looking at, you've got a homeowner, mr. Drake, obviously making his case, who's got something like a \$4,000 assessment, and the homeowners further away are in the hundreds of dollars. That was the gap bothering me, not so much on the jump on the land that's going to develop. That makes perfect sense. That was a differential that felt -- \$4,000 versus \$250.

**Aebi::** Having said that, because the south zone is only 2.5% of the l.i.d. Hypothetically if we zeroed assessed every property in the south zone it would not have a tremendously high effect on the --

**Sten:** Yeah.

**Aebi::** So the reality is, it's really more of an equity issue than it is an affordability issue, or knocking a hole in the budget, so to speak, in terms of the l.i.d.

**Sten:** Yeah.

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**Aebi:** I am very concerned, having said all that, that, you know, consistent practice with l.i.d.'s, is we do place a responsibility on abutting property owners, and that's something that the city of Portland does, but virtually every city in the state of Oregon, and i'm just going to point this out for the record, there are some cities in the state of Oregon, by their charter, they would just simply look at their charter and say, "sorry, the folks on 152nd are paying the whole freight and the folks in the central and east zone would pay nothing." i'm not going to sit here and argue that that would be fair in this instance, because it wouldn't be, but i'm just saying that we certainly endeavored to be flexible and accommodating with the assessment methodology so as to be fair.

**Sten:** I'm just one vote. If it wasn't objectionable and if there were votes on the council, I would be supportive of something that brought them down a bit, knock a third off, and portion it back in so it doesn't make a big hit. There's no magic on that. There may be no support on the council.

**Aebi:** Just assuming there were support on the council, maybe I can pose this to question to harry, if we're talking about a pretty immaterial impact on everybody else, then it seems to me the two options before council would be either to direct me to amend the -- the ordinance now, between now and the second reading, or I guess the other possibility is, is that we change the assessment methodology prior to final assessment. My recommendation to council, notwithstanding what harry may say here in a moment, would be if we're going to change anything let's change it now, get it baked in, and not leave that hanging between now and final assessment.

**Saltzman:** I'm supportive of what commissioner Sten is suggesting.

**Harry Auerbach, Chief Deputy City Attorney:** I think the cleanest -- the cleanest thing for you to do is to get direction as to what changes they want you to make, the council wants you to make, in the assessment, and then have that returned for a second reading.

**Aebi:** We could bring those changes back at the second reading, correct, or no?

**Auerbach:** The problem is -- no. Probably you'd need to bring it back and -- for -- let's see. You'd have to have two readings on the amendment. So, I mean, essentially if you're going to amend it today, then you can bring it back for a second reading. If you don't know what you're going to put it in today, then you've got to come back with what that is and make that amendment, and then have a second reading after that, I think would be the --

**Aebi:** Ok. My recommendation would be -- if there's support on the council to amend something, my recommendation would be to give me that direction today. Bring back the amendment next week, and then, you know, if we put off the true second reading, or I should say the vote until after that, I don't have a problem with that, because we're not in a huge hurry. It's not like we're going to build this next month. Nail it down today, and you tell me what you want me to do or not do, and I come back next week. Actually i'll be gone next week, so I suppose we could put this off until the 21st, if need be.

**Sten:** Andrew, understanding my analysis or argument about, you know, sort of the relative developable versus, you know, somebody's single-family home and positions, I would be most comfortable if you came back -- if you were comfortable, you came back with a proposal that sort of meets the spirit of that, because I don't really like to pick numbers up on this side of the dais. I can't remember debating on any of these questions, I don't do it very often, and, you know, I want you to think it through a little bit and think through my argument and see where it lands you.

**Adams:** Maybe by way of discussion, because i'm still learning the ins and outs of all these issues as well, what I would want to include in -- if council wants to go that way, and i'm open to it, I want to include on that, though, some fail-safes, in other words I don't want to set a precedence where we do this and someone turns around a year later and buys it up and sells it at a greater profit. If there's some way -- a clawback clause, you know, within three or so years, or three to five years, where we get some -- a clawback if -- if something changes beyond folks' control and it's suddenly divided up and we've just given an unnecessary windfall, i'd like to hear that.

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**Auerbach:** I want to point one thing out, which is that the purpose of the exercise is to assess each property its proportional share of the special benefits that it's going to derive from the improvement. And so you -- whatever it is that you ultimately do has to be defensible against that backdrop.

**Aebi:** And just to take what Harry said, I have an idea of what I might propose to you. I'm going to be honest with you, it's not going to be a big reduction, but I have some principles in mind that -- I know we're running late today, so I won't walk you through them all, but why don't I come back in two weeks. Again, I'm going to be out of the office a week from today. I'll come back in two weeks, lay out my principles, what it all means, and then all of you can make a decision.

**Potter:** You know, the other thing I would like, Andrew, is that you mentioned that some of these other areas of this development have already paid a similar fee. Is that right? But that this group did not.

**Aebi:** Well, what happened was, was that when the neighborhood as a whole was being built, and don't quote me on this, but normally the way these things work is the developer has certain requirements and they have the whole land use process in terms of where the streets are going in and how wide they are and all that, and then normally what happens is the developer just goes off and builds streets on his own or her own part of the whole housing development. So then when the developer goes and sells the properties, then, of course, I should say sells the houses, then they're charging the purchasers a price for the house, which includes not only the cost of building the house, but the cost of building the street. So it's not something that really flowed through the city.

**Potter:** Excuse me, I meant the l.i.d., for the other parts of the development. You said that the other parts -- the east and central had an l.i.d., that this group did not?

**Aebi:** No. I'm glad you clarified that, Mayor Potter. No. What I'm saying is that the development that occurred in the east, in the central zones, were done under a permit as opposed to an l.i.d.

**Potter:** Oh, I see.

**Aebi:** I'm not speaking to whether a street improvement is done via an l.i.d. or done via a permit. I'm just saying one way or the other somebody pays for it. In the case in the east and central zones, the developer, and then of course the property owners paid for it, whereas in the south zone they just have a dirt street in front of their house, so they haven't paid anything to improve their frontage yet.

**Potter:** Is that sufficient for the council, for him to come back in two weeks?

**Sten:** Uh-huh.

**Potter:** Ok. Thank you.

**Sten:** Thanks, Andrew.

**Potter:** Are there people signed up to speak on this?

**Moore:** Six people signed up.

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

**Joseph Boeski:** My name is Joseph Boeski. And I seem to have some misunderstanding in the piece, the road building done on 152nd. We do have a couple piece of land, me and my wife, and it seems like putting so much amount charge on the small piece of land, that it's twice as much as the other lands above ours and somehow I couldn't go figure it out, even if you go by frontage or size, that how come it add up so much on my side, and the other side is half as much. So this is -- I'm not against progress on it, but I sure against something that I don't feel is comfortable for me to charge more for the piece of land just to put the frontage there that would be a whole project, even if I divide it up on later day for building houses on it, I still wouldn't be -- I wouldn't make any money, or even lose money, by selling the way it is. So my objection is that that road, I check with the builders, private contractors, and they was building the sidewalk for \$4 a square feet, and \$2 a square feet for paving. And I figured out, any other way, I figured out, wouldn't cost more than \$30,000 for the whole frontage of the 300 feet. And they are charging me \$100,000 for the same



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amount of frontage. And if the other landowners, other house, whatever they build, if they only add up on that \$600 their houses, still, I don't, for another \$10,000, it still wouldn't come up to \$100,000. Still only come up to \$50,000, but I would see that might be reasonable amount money to go along for the road building. So just about all I have to say.

**Potter:** Thank you.

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

**Mike Khal:** Hi. My name is mike khal. Thank you for taking the time to talk to us this afternoon. I live -- I live in the area that's supposed to be developed. I'm just actually just north of it. Ours is a fairly new development. It's been there probably about five years. The road, I live right on the corner of 152nd and evergreen drive there. And the road's all developed. I figured that we've paid for all of that, and I figured that all of this has gone through the planning department, through the city of Portland, before any kind of neighborhood or anything goes in there. And I would think that they'd have to have some kind of road and developed so that people can get to their homes. And this seems -- this road, 152nd, is a critical road that leads to the neighborhood in the back. It's called mcgregor heights up there. And we come off of henderson from 162nd. So I could see that that road should have been improved from before those houses were even -- were even developed. And now to develop it this late in the game, after five years, that people have been living there, have been driving the road, it hasn't been a problem for anybody else, I don't see why we should have to make that an accessway to create more traffic in the neighborhood, an easier road for more people just to come through our neighborhood. There's only one entrance and one exit to that neighborhood, and a way -- I like it, and I think a lot of the neighbors around there seem to like the quietness that we have and the secluded area. And we're right across from a Portland park that's kept natural, and we like to keep that Portland park natural. And our roadway just the way it is. And not go through that extra expense that we have to be paying for -- for a road that we may use maybe once or twice. And for an extreme amount of money. I don't think it should necessarily come out of the homeowners' pockets, that we'd have to do this. I think this should have come out of the builders' pockets or -- I don't know how it necessarily works. Or maybe the department of transportation helping out a little bit with this. Thank you.

**Adams:** Just for f.y.i., I mean the adjacent property owners paying for the improvements in the street is a -- is a common way, both since the beginning of the -- this city and the most common way in cities across the united states for paying for streets. Absolutely roads sometimes are paid for by the developer as it's happening, and then it's built into the price of the home. But with some exceptions, tax investment financing -- increment financing, state and federal roads, l.i.d.'s, local improvement districts, the streets downtown, the adjacent property owners, almost every place in the city have paid for the roads and sidewalks.

**Khal:** Thank you. I understand that we're responsible for halfway into the middle of the road. I understand that. And i'm just saying that our properties are north of this.

**Adams:** Right.

**Khal:** We're not even -- it's on the back half of my property. And the ones in my neighborhood are north of it. I would figure they've already paid for their share of the roadway. So that's I don't understand why we would be getting tacked on, for me, another \$700 to pay for it down the road.

**Adams:** Right. And the proposal that we're considering here is providing, maybe not access that you, for whatever reason will use, but it's that you would pay a piece of the connector streets into your neighborhood. I understand you're objecting to that, but --

**Khal:** Yeah.

**Adams:** Thank you.

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

**Paul Grosjean:** My name is paul grosjean, a resident of hawthorne ridge on henderson way. I don't have a lot of new comments. I've spoken on this in this room several times over the years. I'd

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like to reinforce the need for this to go forward and the uniqueness of this particular solution. The transportation needs, the emergency services needs, and the weather blockages are all very important issues. They're not hypothetical. We've experienced exactly those difficulties over the years. And I have seven years of history on the hill. This, for the first time, is a true collaborative effort that includes participation by residents. It includes participation by current developers and future developers. It includes collaboration with the fire bureau, the transportation department, and indeed the parks bureau. I should make note of the -- the references of the park by the previous person. That park is intended to become a full-service park, not a nature area, which will include the traffic -- increase the traffic demands. This is really our last chance to do the right thing and get the road and put this subject to bed. I'd appreciate a positive vote. Thank you.

**Potter:** Thank you for being here, folks. Would you please state your name. You have three minutes each.

**John Drake:** My name is John Drake. And I live at lower 152nd what I was going to say is slightly changed today, but I'll read what I have. Mayor Potter, members of council, first of all I'd like to thank the members of the council who took time to speak with me this past month. As I explained in our meeting and the last hearing, I'm not opposed to the construction and improvement of lower 152nd as I see it as a necessary item for the Portland fire bureau having a second access road to Hawthorne Ridge. I do appreciate your relooking again more closely at the methodology used to charge those residents of lower 152nd for the construction of this road. A trip study conducted showed traffic would increase by over 6,000% on lower 152nd. Assisted suicide this, the residents of Hawthorne Ridge will by far gain the most from construction of this road. Yet the residents of 152nd representing a mere fraction of the rants who will use this and benefit from this road improvement. Lastly, a stu document improved -- improving Portland's local infrastructure recommendations for local improvement district process that Mr. Aebi helped to develop has a mission statement that reads in part, the formation of these districts, and I quote, the formation of these districts should be clear, efficient, cost effective, affordable, and above all fair to all those participating. I appreciate the council relooking at this agenda item. Thank you.

**Potter:** Thank you.

**Matt Seidel:** Good afternoon. My name is Matt Seidel, a representative of Riverside Homes. I just simply wanted to put in the record our support for the I.I.D. We support the city in making this happen, however means they see fit. That's it.

**Potter:** Thank you.

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

**Mark Behnke:** Good afternoon. I'm Mark Behnke. I live in the Hawthorne Ridge neighborhood. I'm also on the association's board of directors. I personally support the I.I.D. I think there's a definite need for it. Last winter my 89-year-old neighbor fell and broke her hip in the ice. The response by the ambulance was extremely slow. They couldn't get up the hill to get there. The fire department had an extremely difficult time. I'm not sure 152nd's going to provide any additional help in that situation in the ice, because it will be probably be as steep as the Henderson Way access, but in my canvassing to get on to the board for the association, in talking to my neighbors, they overwhelming object to the fact they have to pay for this I.I.D. They feel that planning and the city bureaucracy, when that developer came in there to put the development in, let the citizens down that live in that neighborhood by allowing a development, not only just the Hawthorne Ridge, but McGregor and the Riverside and the new developments that are going to go in there, approximately 400 homes, were built on a hillside with one -- only one access. And, yes, we would have paid for it at the time that the development was done if that road was put in, but the cost would have been a lot less seven years ago than it is today to do that same amount of work. So I just wanted to throw in that I do support it, but overwhelming what I heard from my constituents or my neighbors was they do not support the fact that they have to pay for it. Thank you.

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**Potter:** Thank you folks.

**Adams:** Thank you.

**Potter:** Karla?

**Moore:** That's all who signed up.

**Potter:** Any discussion, council? This moves to a second reading in two weeks, Karla. What is the date on that?

**Moore:** Were we continuing this to two weeks?

**\*\*\*\*\*:** Right. You're going to continue it to two weeks.

**Moore:** December 21.

**Potter:** December 21. Commissioner Adams, do you wish to comment on items 1538 and 1539?

**Moore:** I can read those into the record first. 1538 and 1539.

**Items 1538 and 1539.**

**Adams:** Mayor, with council's concurrence, I propose that we hold these over till next wednesday.

**Sten:** I just emergency having these on the docket.

**Potter:** Does it add meaning to your life? Ok. I don't think there's any problem.

**Leonard:** I would really like to discuss them today.

**Potter:** I think we'll have a one-person council session. Ok, we'll hold those over. Please read item 1540.

**Item 1540.**

**Saltzman:** Second reading.

**Moore:** Second reading, uh-huh.

**Potter:** Is this item 1540?

**Moore:** 1540, right, uh-huh, the agreement with p.s.u.

**Adams:** It doesn't say second reading, but it was a second reading.

**Moore:** That's right. Thank you. It was identified wrong on the agenda.

**Adams:** Trying to help you out here, Karla. Trying to help you out here.

**Potter:** This is a vote only.

**Moore:** Yes.

**Adams:** I got your back. Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

**Potter:** Aye. [gavel pounded] adjourned until 2:00 p.m. Take your time.

At 1:07 p.m., Council recessed.

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

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

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

**DECEMBER 7, 2005            2:00 PM**

**Item 1541.**

**Gil Kelley, Director, Bureau of Planning:** Good afternoon, mayor, council. Gil Kelley, director of planning. With me at the table today are Jay Sugnet from the Bureau of Planning and Jean Harrison from the Department of Transportation, or Office of Transportation I think as they're now called. This project, we're very pleased to bring you this today for public hearing and eventual adoption. This has been a very interesting kind of strategic intervention in the Portland landscape around Division Street with the notion of really bringing together community, environmental and economic concerns into a very kind of focused strategic planning effort. And the two things I wanted to remark on, if you sort of look at your document on page 12, there's a great photograph of something which fortunately never happened, which is the Mount Hood Freeway that would have zipped right up this corridor all the way to about 50th and displaced many of the businesses you're going to hear about today and much of the housing. Fortunately we found other things to do with that money. Build the light rail system. And we left the neighborhood intact. This photograph is from the early 1970's, and now 40 years later or so, 35 years later, it's really important to say that just leaving it alone was not good enough. We now actually have to go back in and do some work there. And the work, of course, is not anything like that photograph. It's more like the other diagrams you'll see in the document and hear about today. But I did want to acknowledge that this really began as a community initiated effort, and I'm very happy that there are community representatives here to address you on that. They worked hard with Joe Zehnder of the planning staff and John Gillam of Transportation to scope this effort out to be a focused and effective effort. I'm very happy to say that we all have followed through with that collaboration right to the end. The other piece of the collaboration, of course, has been a multi-bureau effort, is included PDOT and Planning, but also B.E.S. and their many stormwater demonstration features here that were advanced in the workshops and the conversations with the neighborhood, and will be followed through on by B.E.S. So I think those -- those attributes here make this a very rewarding and kind of selective effort about how we can go in and work with communities to really improve the life of neighborhoods in a very focused and strategic way. So with that introduction, I'd like to turn it over to Jay Sugnet who will tell you more about the contents of the plan and the process.

**Jay Sugnet, Bureau of Planning:** Good afternoon. My name is Jay Sugnet with the Bureau of Planning. For the record, the entire project file is in the room and available for review. I just want to get started. This is the basic contents of the plan. There are six elements. In a nutshell it's to improve the economic vitality and livability of Division over the next 20 to 50 years. What I'm going to focus on today, there's a lot more in the plan and there's a nice thick technical appendix, but what you're acting on today has to do with the goals and objectives, the land use and zoning, and to a certain extent the transportation alternatives. Just to put Division in context, the study area is between Southeast 11th and 60th, but Division is a pretty long street and it goes clear out to Gresham and beyond. The timeline as Gill mentioned is built on previous work that's been done. There was -- the community that has really coalesced around improving Division is the Vision Coalition, and it's a loose-knit organization of business associations, neighborhood associations, and others to basically pool their efforts and basically be more effective in the community. And they were instrumental in getting this city to apply for a State Oregon Solutions grant to do some initial

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visioning for the process, and as Gil mentioned it involved all the city bureaus, but also involved Oregon department of transportation and metro. And in that process the community and this group basically scoped the entire process that is contained in this plan. Fairly unusual approach to involving the community and actually scoping out the planning process. So over the past year to 18 months we've been working on the plan. And then -- but it's not over. Basically in January of next year will be the next phase of transportation planning, which we'll get to more the details on how to spend \$2.8 million in local and federal funds for streetscape improvements. Throughout the planning process, the bureau did extensive public involvement. Made use of neighborhood walks. Basically it's a great opportunity for city staff to get together with the neighborhoods to go out and really experience the street, figure out what the problems are, and identify opportunities and challenges. We worked with the community working group. They're all -- the membership is listed here. A lot of them are in the audience. And we had a technical advisory group that was broader than the traditional technical advisory group. We had representatives from Reach Community Development Corporation, from the Multnomah County Health Department, and Southeast Uplift. And one of the things that worked fairly well is that we actually brought these people together, brought the technical folks together with the community to share perspectives. And that was one of the lessons we learned that was quite effective. So over the period, we had three workshops. The first one in January of 2005. We sent out a notice to well over 10,000 people between Southeast Powell and Hawthorne, and we had over 200 people attend. And the attendance at April and June was also quite impressive. We had over 100 people at those as well. At the first workshop in January, we introduced these goals. And this was -- tried to reexamine how we look at our planning goals. And understand the relationships between a healthy community, clean and green environment, a shared economy, and where all those come together is really where we start making a place. So we developed these goals and objectives. The shared economy is really focused on a local economy. Clean and green environment. Integrating green infrastructure and green design in all buildings, public and private. And B.E.S. has really developed Southeast Portland and Division as a showcase for sustainable stormwater management techniques. They have a walking tour and they've been putting a lot of grant money into helping businesses and the city in general to promote green infrastructure. Healthy community, and there's a strong emphasis on safety, making a place is where it all comes together, and how to forge a unique identity for Division that unites the corridor as opposed to dividing as the name implies. Early on we developed a concept for the corridor, a way to visually understand the opportunities and constraints. It was used to help us develop our alternatives over time. Most significantly it helped us to identify that parts of the corridor had very different characteristics between Tenth and 20th, seven corners was primarily residential, between 11th and 50th was more commercial, and then 50th to 60th was more residential. In between, there were distinct commercial nodes, and we wanted to try to emphasize those commercial nodes, focus as much activity there as possible. And then look at the areas in between. How do you make those work well? So one of the things that we found from this concept is this idea of an education corridor. There are a number of schools along Division. If you look at all the yellow blobs, those are all schools. So we have a number of elementary, middle schools, and Warner Pacific, and Portland Community College. This is a great opportunity to integrate those schools into the street and the community more. Right now most of them have fences that separate the schools from the street. Another concept that came out was incorporating art and water into -- as a unifying theme along Division, so that there is some -- some consistency. New Seasons is one that's integrated both into its stormwater feature. And the community has done quite a bit of work to promote art on their own along Division, on private and public projects. And of course the emphasis on sustainability and green practices. So not just the green infrastructure, but also landscaping and simple things like planting trees. And then a lot of the time with the community was spent on transportation issues.

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Reuniting the divide. How do you create easy movement to, along, and across division? And Jeanne Harrison's going to talk about that.

**Jeanne Harrison, Office of Transportation:** Thank you. During the process we looked at a lot of different -- Jeanne Harrison, Portland office of transportation. The transportation portion of the project involved looking at a lot of different alternatives for the corridor. We originally started with just a few, and kept changing those, morphing them, looking at all sorts of different aspects and issues that the community had identified. We had a number of objectives we kept in mind, creating community places, pedestrian safety and comfort, bicycle movement, transit movement along the corridor, which is very important. How do we use onstreet parking to support and vitalize the economic aspects of the corridor. Neighborhood livability. How do we manage the congestion that people identified along the corridor as an issue? And how do we integrate innovative stormwater management into the corridor as part of the green street concept. The two concepts we've brought forward as the two preferred alternatives instead of one are variations on that. How much parking comes off the street and goes back to a more normal situation. We were unable, however, after the last workshop to come up with consensus from the community. We had a straw poll at the last workshop, and the community was about -- approximately divided in half on which concept they liked more. So as the next phase of the project progresses, we'll look at those two concepts in more detail and try to come up with one concept that the community can support. We did, however, also look at a number of pedestrian improvements along the corridor. The community identified crossings as one of the most difficult things to do, and that occurs primarily because of the offstreet -- offset streets and what we call the curve. This is a picture of a concept for improving the curve with a median that would be landscaped with -- as a to the form water feature, and then would include two new opportunities to across the street. We also looked at a number of enhancements at what is called seven corners, which is around division and 20th, 21st. This is a very difficult intersection. It's the heart of the community. We heard that over and over again. And yet it's a very difficult place to navigate as a bicyclist or pedestrian or in a vehicle. We looked at enhancements that would make this a better place for everyone and reinforce that concept of the heart of the community. Again, these concepts are in -- in evolution as we know more about how we want the street to operate and the design for those will be refined in the next phase.

**Sugnet:** Next I'm going to talk about the zoning proposal before you. And really just to set a foundation, the premise behind this is to support the division of division as a pedestrian-friendly main street. Again, again, brings us back to the concept, and also address the nonconforming uses that exist along division. So nonconforming uses are uses of a property that are not allowed in the zone. And stumptown coffee is probably a good example. This is a commercial building with a commercial use, but it has residential zoning, and that creates a number of problems for tenants and property owners in terms of burdens on -- for redevelopment. What we found is that we do want to encourage businesses on the main street and allow these viable commercial buildings to remain. These were made for policy reasons in the past. Originally all these corridors were zoned commercial in southeast. The entire strip was commercial. There's a desire at various periods in our history to break up that strip commercial zoning and focus as much commercial activity in nodes as possible, and also try to achieve some of the city's housing goals, to provide higher density housing along our corridors as opposed to in the neighborhoods. One of the overriding factors, or two of the overriding factors, was density. We did not want to increase the number of housing units up or we did not want to decrease them down. Second is we have this city policy, no net loss of housing. So wherever we take away housing units, we need to balance them in the study area. And this plan, as presented to you today, does that. Where we have lost units by rezoning from commercial to -- or from residential to commercial, we have made up elsewhere in the study area. So the zoning changes, and this map is difficult to read, really just describe very generically, rezones a number of properties from neighborhood commercial two, described as more of a

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suburban commercial zone, to an urban commercial zone. So slightly more increased development potential, but also gives a lot more flexibility for redevelopment. Rezoning from general commercial, which our most auto-oriented zone to storefront commercial, and also rezoning a number of properties from residential to mixed-use commercial. That addresses the nonconforming uses, recognizes commercial uses as allowed by right, but still has a housing requirement that meets our goals. Beyond that, the zoning, there was -- there are zoning code amendments that address design. And this is a concern that was raised by the community over and over. A lot of our commercial corridors, basically they recognize that this is an appropriate place for increased density, but there's a lot of call for better design. And this project has been going along almost in tandem with infill design project, which will come before council next week. And that addresses a lot of the same issues, but with this there are specific -- there were specific concerns along division, and we addressed this with the main street overlay. And the main street overlay is a tool that we apply to a specific area to address specific concerns, and you can see it in the blackened area between 11th -- or the dark black lines surrounding the area between 11th and 50th. The first standard requires the building to be oriented to the corner. Down division, a lot of the buildings, the older buildings, are oriented to the street. A lot of them have corner entrances. So similarly, the standards require the buildings to be brought to the corner and have a main entrance at the corner or on division street. Second is this transition to the residential zones. There's a lot of concern about the new development towering over single family neighborhoods, and the scale not -- basically not relating well. So what we've done elsewhere in the city, and are applying along division, are proposing to apply, is a stepback approach to height. So basically 25 feet of the site that adjoins the single family residential area, the gray area here basically, the height limit is the same as the residential zone. So in most cases going from 45 feet on the majority of the site to 30 feet, similar to what the adjacent single family residential zone is. The third standard is -- has to do with exterior finish materials. These are taken directly from the community design standards. Basically prohibits the worst materials being overused on a building. And retail size limitation. This was strong desire among the community to have -- emphasize very local -- local retail. So basically there's a 10,000-square-foot limitation on retail. Then the neighborhood contact requirement. This applies to all new development and significant redevelopment. The developer must contact the neighborhood prior to submitting an application to bureau of development services. And the neighborhood has found this has been a very effective tool to getting very early input into a development and have noted that it does produce improved designs for certain projects. So again, all of these are standards. It does not require additional review or process or fees. It's a plan check. It can be administered directly over the counter. So that's the main proposal i. Just wanted to reiterate the timeline. Starts again january 2006 is when the planning will continue, all the details that jean described in transportation, how to spend that \$2.8 million. Actual construction, 2007-2008 is when it will begin, in the first phase between sixth and 39th, and then later phases as money becomes available. Finally these are all of the elements that council is being asked to address. If there are any questions, be happy to answer them.

**Adams:** What resources have been identified for implementation?

**Harrison:** The \$2.8 million coming through a grant will be the primary implementation for transportation improvements in this first phase of improvements, and then we anticipate asking for additional funding as we work through the process.

**Adams:** Where's the phase one project list that would be funded?

**Harrison:** We don't have -- at this time we don't have a specific list of projects, because we're still -- we still have the two preferred alternatives. So the next year will be a planning phase, where we will look at those two alternatives and try to narrow that down to one -- one preferred alternative that the community can support. And that will include pedestrian improvements, improvement at transit locations, crossing improvements, some bicycle improvements. We're going to try to do

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some bicycle boxes at seven corners and things like that. So we've left it deliberately vague at this point because we don't know specifically where each thing is going to be.

**Adams:** Each what is going to be?

**Harrison:** Each element, what the pedestrian improvements would be, what the bicycle improvements with be. We have a concept map we did for the last workshop, but it's really at a very preliminary stage. I'd be glad to show that to you if you're interested.

**Adams:** Can you give us a sense of what \$2.8 would buy? I want to make sure that our expectations with the community are measured appropriately.

**Harrison:** Right. I think that's very appropriate. The primary reason the funding came through mtip is that the street itself is in pretty bad condition. Between 6th and 39th is where it's identified as having the most serious pavement conditions. So a lot of the money, probably the bulk of it will have to go to paving improvements, but we're hoping to do it that strategically rather than apply it completely the same way throughout the corridor and to have some money left over, and we're not much that will be yet given the prices and costs and so on for transportation improvements, how those have gone up. But look at a list of improvements that can be prioritized by the community and then we'll, you know, go from there.

**Adams:** And then does this change the bus stop in front of -- does it change the bus stop so it's no longer in front of the hardware store? That was a campaign promise I made, which I had no authority to deliver on, but I just want to know if I can go back into the hardware store anytime soon.

**Harrison:** We definitely looked at that. And that is in the preliminary concept, has it moving, but there are issues from other property owners, whether they wish to have the bus stop moved in front of their property. So that's going to be one of the issues that's going to be continuing for discussion. So you may be able to go back to the hardware store, but don't make any more promises, please.

**Leonard:** Thank you for saying that.

**Adams:** So the timeline -- I just want to make sure that i've got it in my head -- the timeline in which you hope to have resolved with the community, how the 1.8 would be spent is approximately when?

**Harrison:** The next planning phase will start in january of next year. We anticipate that going through the entire year of 2006. And then the improvements -- the money actually starting to come in to the city will be 2007-2008 with construction probably more like at the 2008 end of it. That's what we're hoping.

**Adams:** Thanks, jean.

**Potter:** Received a letter from a homeopathic physician on 44 th and division. Are you familiar with that issue?

**Sugnet:** Yes. He contacted me a couple weeks ago. And he's operating as a home occupancy at the moment. The majority of the nonconforming uses that we were addressing were properties that are -- have been operating a business. So basically they were -- there's been a business in the structure since the zoning changed as opposed to purchasing a residential house and then operating a business out of it.

**Potter:** So are you saying, then, that you -- there was no nonconforming use for that particular property?

**Sugnet:** At the time that we were doing the study, it was still a residential -- it was in residential use. And it still is. He is operating within what's allowed in the code. What he's asking for is additional flexibility so he can expand his business upstairs.

**Potter:** By expand, in terms of just renting out a vacant space? That's correct?

**Sugnet:** Well, it's the second floor of a residential house.

**Potter:** Yes. It's vacant.

**Sugnet:** Yes.



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**Potter:** I'm trying to figure out the problem with helping him out on this.

**Sugnet:** The planning commission struggled with this quite a bit. That was the majority of their discussions, were requests from property owners who currently have a single family residential house along division, and who would like more flexibility to convert that use to commercial. The problem is that with our no net loss of housing policy, so what we've said -- what council has adopted in the policy is we will not lose housing units. Housing units that are lost will be gained elsewhere in the study area. The problem is when we grant these zone changes that we are losing housing units and we're not able to make them up elsewhere in the study area.

**Potter:** But this man lives in the back of his house.

**Sugnet:** Correct.

**Potter:** So it's still a house, isn't it?

**Sugnet:** It's still a house, but you're changing what is allowed in that zone. You go from one development standard to another. So you go from basically the -- the massing of the building becomes very different if it redevelops in the future.

**Potter:** I'm not sure I understand it or agree with it. I guess we can take that up later.

**Leonard:** What do we have to do to make that legal?

**Sugnet:** Well, he can still operate within the confines of a home occupancy permit. Or you can rezone the property and make up the units elsewhere along the street. So basically upzone another property.

**Adams:** It's one unit?

**Sugnet:** Sorry, I don't know the exact number. I believe it's --

**Adams:** I mean, is it surrounded by commercial or residential on either side?

**Sugnet:** I believe he has commercial on one side and residential on another.

**Leonard:** The point being, we could rezone it and say something to the effect that notwithstanding the city's replacement policy -- I remember talking -- I mean, we're talking about one unit.

**Sugnet:** Well, there are other property owners who are in line, would like the same request.

**Potter:** It didn't sound unreasonable. Have you read the letter?

**Sugnet:** Yes, I have.

**Potter:** It doesn't seem unreasonable. I mean, it's not a high-volume business. Or the one that he wants to put upstairs is not high volume either. So in terms of impact on traffic in the area. I thought the purpose of nonconforming use was to allow certain uses not in the zone -- zoning requirement itself.

**Kelley:** I think the difficulty here is that unlike many of the cases, which were truly nonconforming uses because they had been built as commercial structures and operated businesses with a higher volume and have been rezoned residential at one point. That's one set of cases here. This is a different case, where this was always a residential structure in a residential zone that allows a home occupancy as part of the residential zoning. I think what Jay is describing is if you change the zoning to commercial, it would allow what he's requesting. It would also allow someone else to come in, subsequently purchase the property, tear it down and build a more substantial commercial structure.

**Leonard:** Facing division?

**Kelley:** I believe so, yes. That may be fine. I think what you want to look at, when you get to your sort of work session portion, is the whole cast of properties along division, because I think the effort here in response to the community concerns were to cluster the residential and commercial and not to do sort of spot here and there based on today's individual circumstances. So you may just want to look across the landscape before you make your --

**Leonard:** Doesn't that deal more with people who are using their structures as single family dwellings, and this is a person that's using it for a commercial purpose? I mean, why couldn't we figure out, or you figure out a way to deal with this one property?

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**Kelley:** We can certainly take that into consideration. You should hear the testimony, and I think if you want to direct us in that direction, that would be fine. There are a number of cases -- I mean, there's no clean way to divide the universe here. There are a lot of these kind of mixed patterns.

**Potter:** There's got to be some human application to all of this, Gil. It's not like we're slicing bread. We're dealing with people who have businesses. You know, whether that interferes with the feel of the neighborhood, I guess that could be an issue, but it's in use as a business right now, and as a residence.

**Kelley:** Correct. And that's legal to do right now. What he's talking about is the expansion possibility. And so that trips another set of issues. And the council can decide this either way. I'm just trying to describe sort of where the plan ended with the community conversation.

**Potter:** Ok. We'll listen to it, the testimony. Is there a sign-up list?

**Moore:** Seven people signed up. Come up three at a time.

**Potter:** Hello, folks. When you testify, please state your name. You each have three minutes.

**Robert Ross:** I don't have to go first, but Robert Ross. Address is 2631 southwest Sherwood Drive, Portland, Oregon, 97242. I'm not sure what I'm going to say here, but I currently own a half block along Division with partners right near the curve. It's between 43rd and 44th on the north side of the property. We're currently developing a portion at that site with a mixed-use development. Actually it's 11 residential condominiums with plans to develop the remaining portion of the site, which is about 15,000 square feet with a similar type development. And in general, I've been following this kind of on the periphery, and supportive of what's going on. Unfortunately this morning when I actually -- I was unaware of some of the I guess code changes. I was aware of the zone change issues and the transportation pieces, which I'm fully supportive of. Some of the code changes will have some significant impacts on some of the plans for that site that we have. And the key one is just the setback. It would be 33 -- what is it? 46310-b, which -- which basically -- for properties that abut residential zones, they want to have that stepdown effect. So that basically 25-foot setback, you'd only be able to go to 30 feet. And basically most of the lots along Division are only 100 feet deep. And if you're trying to do a mixed-use commercial development that leaves you 75 feet to work with because you're -- well, 75 feet on the upper two floors. So you're going to lose significant amounts of developable real estate. And I know that's probably not a whole concern of the neighborhood, but I think it's going to impact the -- basically there's a lot going on on Division right now. The economics of the price of land and the price of real estate have turned, and the commercial buildings that are a little obsolete are now in the process of being bought up with the idea of redeveloping them. And this regulation is going to put a -- really slow down the development of the Division street. And that's about -- I guess all I have to say on that. And then the only other item, this is more of a personal item, is anytime a regulation tries to I guess regulate good design, and this is referring to item c, which talks about exterior finish materials, I guess I think they should be very careful about limiting materials on a building, because writing one sentence on a piece of code is not going to be the difference between good or bad design. It has to do more with who's doing the development and things like that. That's all I'll say about that.

**Adams:** Do you agree, though, that given we don't have control over who does the design, that these materials should not show up on the outside of buildings, or did you think that they should?

**Ross:** Personally I recently did a project at 21st and Clinton, and I believe a picture of it is in your infill design project going on. And that was done. It has metal siding and other metal. And a lot of people, after it was built, have a lot of good things to say about the project itself. So, you know, I look at this, and I say corrugated metal. Is it only mean the corrugated profile or can you use other metal sidings that have, you know, ribbed profile? Because you can do a lot of great things with metal siding. I think it's just dangerous when you start banning materials. Concrete block is groundface concrete block not included? You know, materials that are being used for more modernlike buildings, a lot of them use plain concrete, concrete block, metal siding what this tells

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me this is a piece of code that is attempting to regulate nostalgic architecture, and this is less important to me. This is more of a principle thing to me. The other one is more in the economics of a current project that we're working on.

**Adams:** Thank you.

**Greg Dolinajec:** So you ready for me? My name is gregory dolinajec. The address is 3735 southeast clay. And first of all, i'd like to say i'm very much in favor of the division street plan. I think it's a great plan. And it will encourage a lot of development along division. I do think, however, that there are a couple issues that could be addressed. One is specifically in the plan and one is not. The first issue has to do with the setback requirement, the feasibility of building on these lots in light of this setback requirement. Because of the desire to get the properties to conform to the height limitations of the adjoining residential property, there is this element of the plan that requires the building to be reduced to 30 feet if it is within 25 feet of the lot line. There's already a significant setback requirement, four structures that are built next to residential zoned lots. So this is really not adding much to the existing setback requirement. I think maybe you're picking up maximum eight feet by the time you get done with it. And that eight feet is fairly significant for someone who's trying to develop a mixed-use type structure. Most buildings lie in the structure of the building. That's where the cost is. And when you're requiring a change in height over a relatively short span, you are increasing the construction costs and therefore increasing the ultimate affordability of the housing that's provided. So I would appreciate it if you would take a serious look at that setback requirement. I know it's difficult here to address all the details of it, but I would just ask you to -- to flag it and think about it when you're thinking about this plan. The other issue that I wanted to address, which is not in the plan, has to do with the concept of live/work. I'm living a live/work project on hawthorne, and hopefully now one on 48th and division. Live/work is sort of an open foreplay. There are no devising walls, no conventional bedrooms, open space, functional kitchen, functional bath. These have to be built as condominiums. They can't be built as rental housing. The economics are just not there. And any incentives that the city has for rental housing is determined by the number of bedrooms. At least it was. I know there's been some issues around the city tax abatement for rental housing. But i'd appreciate it if you'd also take a look at that, for live/work units that have open floor plates for rental projects, whether or not there could be some incentive for developers. Thank you.

**Adams:** And greg, if you could stop by my office and ask for jesse beeson.

**Dolinajec:** Ok.

**Adams:** We're putting together an r.f.q. For potential developers to partner with us on live/work development initiative, so I want to make sure we benefit from the work you've done thus far and the thinking you've done thus far. So jesse beeson in my office, if you'd ask for him. Give him your contact information.

**Dolinajec:** Ok, thank you.

**Linda Nettekoven:** Linda nettekoven. I wanted to ask you, mayor Potter, if i'm allowed to have five minutes since i'm testifying on behalf of the entire association in this particular instance.

**Potter:** I think that's reasonable.

**Nettekoven:** Ok. Thank you. The hand board would like to offer its support for the green street/main street plan, and we could probably spend the entire five minutes expressing appreciation to the many staff and volunteer hours that have gone into this process so far. Because of the detailed work, one-on-one work, in most cases, between planning staff and individual property owners, we came prepared to support the zoning package, and specifically we would be supporting the zoning package that went before the planning commission. The concern, I think, from the neighborhood perspective was that we try to create that -- the term string of pearls has been used, but the stretch of residential/commercial nodes, another stretch of residential, that sort of thing. I would hope that you would look at kind of the stretch of the entire corridor in making those kinds of

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decisions, because we've been trying to kind of avoid commercial creep, if you will, so the whole street kind of turns willy-nilly into a mishmash of things, if you will, and helping it to evolve gradually over time. Although the hand board is supportive of the urban growth boundary and the need to accommodate further density, I need to be honest and say that our neighborhoods are experiencing a lot of pushback currently about the mass and scale of some of the new buildings that the zoning allows. That speaks to therefore the -- the green street overlay, which tries to ask for the stepdown, and some way to accommodate both sides. We're very supportive of the development community in being able to do their work well. We also hear a lot from angry neighbors about the scale and the mass of things that are suddenly popping up. And maybe this is a transitional time, and it will get easier. The other pushback we're hearing also is around the parking issue. Again, we're supportive of transit development, but we need to be honest in reporting that there are concerns from some of the businesses and neighbors around these kinds of issues. Having said that, we basically are very excited and enthused about the plan and eager to carry it forward. I also want to raise some issues that have grown out of this process that actually have implications, perhaps citywide. One is our belief that density and historic preservation don't have to be natural enemies. We're losing the last vestige of historic houses on our part of the division street. Although historic preservation was one of our strong initial goals in this process, there weren't the resources to do any kind of inventory to help us meet with property owners, to help us explore incentives, and have conversations. We've lost this particular piece of property, the site, and it would be helpful, I think, in future corridor, main street corridor developments, to be thinking about the historic aspect of things before the big development momentum gets going, so that we can hopefully accommodate both things happening. Another concern is the -- we feel as though we've become our own worst enemy in terms of exacerbating gentrification. We want our neighborhood to preserve a mix of incomes, keep the small businesses that are there, serve as a incubator for new ones, keep our schools open. So again we're calling on more creative and innovative strategies for dealing with Portland public schools and also looking at, you know, tax abatements and other sorts of housing policy for the city so we can keep our neighborhood and others family friendly. Regarding transportation, we're really united, I think, on the need to make seven corners work well, and also be attractive. Our neighborhood association, I think with one exception, was very supportive of removing all the protime lanes at this point. I think we're perhaps a little less certain about what happens with the protime lanes actually as I should say east of 20th. So between 12th and 20th. Our neighborhood has been strongly in favor. I would mention the city working group that studied the issue for the entire time has been supportive of eliminating those protime lanes. As I said, we strongly support the design standards. The group that met many times was not in opposition to modern architecture or, you know, the mix of interesting designs on the street. The only thing we could think of was to list what are traditionally perhaps most objectionable surface materials. We were talking about materials that are sustainable, maintainable, and are also aesthetically pleasing. Those were the goals we were after. Maybe this isn't the best tool, but it's the best we could think of. We continue to want to be a model and magnet for green street development, both infrastructure and green building design, and we as a neighborhood association enjoy the role that we play in that.

Thank you so much for your consideration of our issues.

**Adams:** I have a question. So the way I read the -- the numbers, the letter c provision, it just says they're not allowed as exterior finish materials, except as secondary finishes more than 10%, it just says, not allowed, except for 10%. So that's one inch in 10, you know, and --

**Nettekoven:** Trim or something, you know, use it in that fashion.

**Adams:** Sure. So that leaves a developer with brick and wood and --

**Nettekoven:** Unnamed materials. And actually my testimony is longer than my time, but, you know, we talked about --

**Adams:** I scud a question, so now we have more time.

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**Nettekoven:** That's all right. In my testimony I was actually talking about the fact we wished -- we weren't trying to do something that would limit innovative materials and processes in the future. You know, again, it's the best -- the usual strategy that one can use within the framework of code is to kind of eliminate or limit certain kinds of materials that tend to be seen as -- I don't know, less -- less durable or lower end or less attractive. I'm not quite sure what term to use there, but I think the goal that we have would be in keeping with the development community, and it's just a challenge in terms of how to implement it.

**Adams:** So does that mean you really mean no concrete, no concrete block, no corrugated metal? I mean I understand plywood and sheet pressed board. You don't have strandboard in here. I'll ask planning as well. I mean, these are very specific material types, and I don't know that i've seen this before, but i'll ask planning about it.

**Nettekoven:** Yes. I think it's come out of other, you know, code experience, that is beyond my knowledge base i'm afraid.

**Adams:** Ok. Thanks for all your work on this. You worked really hard.

**Nettekoven:** Worked with a great team.

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

**Jean Baker:** Ok. I'm jean baker. I'm the president of the division/clinton business association. And on the whole we're in favor of the plan. It has restored the commercial properties on division and the restriction on the size is going to allow us to hopefully remain an incubator for new businesses come on, and they learn how to be a business. Some graduate and move across the river.

And we're really very pleased with them. Some of them don't make it, and someone else comes in and tries again. We have learned that we're facing some problems in the process of doing this, and one of them is how we are going to survive as a small, viable business district in the midst of an increasingly dense neighborhood, and increasingly congested streets, and that's something that this plan is not set up to handle, but it's something that we, as a business association, are now beginning to face and to figure out what our niche is going to be so we can continue to live and serve whoever the new neighbors are. And I am pleased that the problem of no net loss housing came up, because we have a real disconnect in our minds between what this is. If 150x150 lot, which had a house on it, and now is going to have 27 houses on it, only counts was one unit, that doesn't make sense to us.

I mean, why don't we get to count 27 houses on that corner and 39 condos on this corner, and 42 condos on the other corner, and that's only three pieces of property that we could negotiate to have, you know, more pieces of property turned commercial. No amount of explaining by planning has managed to work this one out. We still have some problems on transportation. We still have problems on managing to get across the street, but we are hopeful that next year planning details will take care of that, and like the idea of what the city is planning to do for division. Thank you.

**Ray DiCarlo:** Ray dicarlo. I'm talking about a business at 2729 southeast division. Mostly I wasn't sure how much of the information from the planning commission meetings you guys -- the council would have access to. So I wanted to make sure that if you didn't have access to that, that I left some paperwork, some letters that I had sent. Also, I was -- the zoning that I was looking for was approved at that meeting. So I don't know how it moves forward, but I know that in that process there was some testimony that happened after we were allowed to write our letters. So I just want to on the process side make sure there's time, if there's testimony that comes in, that we're allowed, at least, to talk about what we think on it. You know, it's amazing that anything gets done in the city, because it's really -- you know, I live on that street and I have a business on that street.

As homeowners you have different interests and wants than you do if you have a business. If you have employees, or even if you're just developing property. I do think that the setback rule that was being discussed today, i've researched this whole proposal quite a bit, but one of the problems is that there are a lot of small complications. When you look at whether you're getting -- going after a

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c.m. zone or c.s. zone, or r-1 or r-25, you look at that code as written, I had no idea there was that setback on the first 25 feet. How does it affect me? I'm not exactly sure yet. But as somebody testified earlier if you're going to tie to develop something it's a lot more expensive to step it in because your superstructure isn't going straight up. I was also going to just quickly talk about the -- the ideas of materials, which isn't specifically related to my problem, but i've seen the development on 21st they're talking about. Although it's not my particular taste, it's a modern taste, it's really well designed. You know, innovative people figure out how to use stone and block and metal for all purposes. If you're an artist, you'll find that nothing is stone out, however on the other side you get t-111 siding stuck up there and it looks terrible. I'm kind of in that same boat of how do you regulate art or how do you regulate what's -- you know, how it's going to be used? You know, you can put diamonds on something and make it look bad if you really try. The only other thing about my specific property, like I said, I live on that street, we're creating jobs on that street, I have quite a few employees who ride their bikes to work, and we just want to try to be able to stay in this area and not have to move, you know, outside of where we are.

**Adams:** What kind of business do you have?

**DiCarlo:** We have an animation production company.

**Adams:** That's great.

**Potter:** Yes, sir.

**Charles Kingsley:** I'm Charles Kingsley. Have lived in the neighborhood for years. Also have a business in the neighborhood. And first thing I want to say is I just support the plan. It's been great to see, when we started, some of you know, three years ago, I think division was doing a great job of modeling the name of the street. We were rather divided. The neighborhood associations didn't get along. The business associations didn't get along. Jean and I had a hard time having a conversation with each other. You know, here we are three years later, and it's been amazing to watch how folks have been able to come together. That's one of the tricky things about this testimony is we've had a number of workshops. We've spent with the technical advisory group and working group, hundreds and hundreds of hours working out the balance of these things. It's always hard when a few people come up at the end and make requests for changes, because it's hard to appreciate how much we struggled with maintaining a mix, for example, in terms of changing zoning. This request you heard, Mayor Potter, because we really worked a long time, and we had hundreds of people in the neighborhood saying we want to try to preserve a mix of residential and commercial. I think as Rob Ross said earlier there's such a hungry for development on divisions, whether it's setbacks or something else, as soon as the property changes from residential to c.m. Or to c.s., it opens the door to lots of people that are going to come with a lot of money and develop that property into something else. So we spent a lot of time trying to figure out how do we stay focused on balancing residential and commercial. The string of pearls is a concept that has had broad support for years and had a lot of support at the community meetings. So I want you all to consider that issue, think through the exceptions that are being asked for I think even Mr. DiCarlo's exception was kind of tricky, because that opens the door to a number of other people who could have come us with similar requests to keep commercial zoning or to make commercial zoning. I think in terms of the setback, once again Rob almost contradicts himself, because there's so much interest in developing property on division right now, to be able to make some small nod to the idea, and the whole initial intention of this project was to try and come up with an integrated approach that balanced economy and community and ecology. So the idea of having developments that are actually at least making some small nod of their head to trying to relate to the surrounding neighborhood, you know, Rob has the benefit of not living on division or along division, but a number of us do live there. It's nice to imagine there's some creative ways that we could start to think about developments that have the sort of scale that's going to provide the sort of mixed-use development that there's going to be, but that could also try and relate to the houses that are behind

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them and people who have lived there for decades. Hopefully will continue to. So this is a strong support for the setback requirement. I think development's not going to slow down, whether there's the setback requirement or not. I think there's creative ways that we can deal with that. Since I do redevelopment as well I know there's creative ways that we could do that. Just a quick note on the quality and the materials, we spent a long time working with the city on -- and telling horror stories of sitting across from one or two development projects along 39th and along division where we had very little power to prevent a very cheap building from getting constructed, because the value engineering, etc., worked very well for the developers. So what we're trying to do is come up with a high to encourage higher-quality development in buildings around a long time. This was the only thing that the planning group could come up with, that we could actually make a nod toward how do we encourage, in terms of sustainability and ecology, higher-quality development that's going to be around a long time. Hopefully we can start to think about where we're going to go, in terms hopefully we're trying to look at porous concrete parking lanes. At new seasons, there's creative things we'd like to do with that evershrinking to repave the street. Also the idea of having partially-raised sidewalks that could bring more emphasis to pedestrians, slow traffic down a little bit, still let emergency vehicles through. Those are the specifics we hope to get into in the next phase.

**Potter:** Thank you folks. Sir, you're here early. That's another hearing later today. This is on southeast division street.

**Chester Kruzet:** Oh, thank you. I was called, but I will excuse myself in that case, mayor. Thank you.

**Tim Shannon:** I'm dr. Tim shannon, the physician you were talking about earlier with the letter. And besides the letter that I wrote, which is essentially a request, I wasn't sure if there was something else that you guys wanted to ask me, if there's some other information you needed in order to make a decision.

**Potter:** Did you make this as part of the public process?

**Shannon:** To be honest, I got the letter about the hearing, and called jay, and got into a discussion with him. And it's just that I have this upper story that I don't have any use for the way it is now.

**Adams:** I understand. So you didn't participate or make the request to the process that came before that letter?

**Shannon:** I'm not aware of it. No, I guess not.

**Potter:** I think your letter is fairly self-explanatory.

**Shannon:** Sure.

**Adams:** Devil's advocate can he to you is, what advice would you give us to say yes to you and no to other people who have a house with one side abutting commercial zoning that I would assume you're not the only one in this process that asked for that. How would you -- you know, how do we say yes to you, and we've already through the process, the process has said no to other people?

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

**Adams:** Do you have any advice for us on that?

**Shannon:** Well, you know, I think -- it's a good question. I appreciate the question actually. You know, obviously you guys are in this role, because your job is to find a way to set policy that helps you so you don't have to make a new decision every time, but on the other hand you don't want to be so rigid that you don't consider individual circumstances. So the only thing I can do -- you know, I mean, if I was in your position, I would have to look at each instance on a case-by-case basis and see if it makes sense, not just for the individual, but for the long-term plan that you guys are doing. So I can't say anything more than what you guys are already doing, you know. I wish I could, but --

**Adams:** Thank you.

**Shannon:** Sure. Thanks, guys.

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**David Zagel, Tri-Met:** Mayor Potter and city commissioners, my name is david zaigle, and I work with tri-met as a project planner who was responsible for working with the citizens and the city bureau of planning and pdot on this plan. And i'd like to talk about just three things on the plan. First of all, i'd like to provide a little bit of context. Line four division, one of our bus routes that's one of our 16 frequent service lines, is the eighth busiest in our system, and 1/3 of the rides on this line occur within the planning corridor that you're considering today. Both the city and tri-met have already made some significant strategic investments for this route, one that I would like to specifically mention is transit signal priority. This is a joint effort between the city and tri-met that introduced priority signals on 26 traffic signals in the corridor. That's 81% of the total. What transit signal priority allows us to do is to extend a green cycle if one of our very smart buses happens to realize that it's 30 seconds or more behind schedule. You know, we get a few additional seconds of green time to get through the intersection. This is just one example of the investment that we've made along this line in order to make the service more attractive. We've also invested in more shelters, new bus stop sign poles, schedule displays, etc. And because it's an attractive line and it's one of the green elements that we already have in place along division, I would strongly like to encourage you to adopt the plan and implement its recommendations. And i'd also like to voice some concern about replacing all the protime lanes as mentioned in alternative four. Tri-met certainly supports alternative 2-a, which has strategic replacement of the protime lanes between 13th and 14th avenues and the seven corners area. We're a little bit more reticent to do away with the protime lanes east of seven corners to 28th place. We've made line four very attractive from a travel time perspective. It's competitive with the automobile. People are willing to take it, both east and west. And we're looking forward to working with the implementation team to make sure that we do not degrade transit travel times along this corridor. Aside from that, i'd just like to express my appreciation both to bureau of planning and Portland office of transportation staff, as well as the passion and dedication of the citizens in this corridor. 127 of whom showed up early on saturday mornings along with me and everyone else. It makes me happy to live and work here in Portland. So thank you. I encourage adoption of the plan.

**Leonard:** So david, it's come to my attention that you grew up with sam Adams in newport.

**Zagel:** That's correct.

**Leonard:** The mayor and I would like to meet with you later --

**Leonard:** Remember, you're not under oath, david.

**Zagel:** I would be happy to have such a meeting.

**Adams:** No, you won't.

**Leonard:** We're looking forward to it.

**Zagel:** Very good.

**Potter:** If you have pictures, it's even better.

**Adams:** No, no, he's too busy working for tri-met, i'm sure. Thanks, david.

**Potter:** Is that it?

**Moore:** We have two more.

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

**Timothy Kornahrens:** I live on 3524 southeast division street. And I was trying to get a rezoning to a mixed-use zoning, because I border the adult theatre on one side and dow columbia on the other. I felt that a business there would help clean up kind of what's going on out in front of the what little residential area is I guess on division. I guess I understand the whole losing residential portion of it. So I -- I really just don't know what to say. I've gone to all the meetings. It looked like a possible thing that might happen until the last meeting. So, you know, i'm just trying to live and work on division. I bought the house. I intend on living there the rest of my life. And if I



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could live and work there, it would be even better. And I would hope that it would make a better example for what's going on on that section of division anyhow.

**Potter:** What kind of work do you do?

**Kornahrens:** I'm a scientific glass blower, but I do art, glass art.

**Adams:** Is it a residence right now, a house?

**Kornahrens:** It is a residence.

**Adams:** A home?

**Kornahrens:** Yes.

**Adams:** Ok. So you have some home-based business there?

**Kornahrens:** No. I actually have a small business down in the industrial area, third and pine. This would be a retail place.

**Adams:** So you participate in the process, and you didn't sort of make the final recommendation, the final recommended proposal?

**Kornahrens:** I recommended it on what they had talked about, what would be beneficial for division.

**Adams:** Right.

**Kornahrens:** Working, living, you know, making it more user-friendly, which the very few residential that -- there's like three houses on my side and three houses on the other, or like five. So, I mean, basically I think that it would improve my section of division between 34th and say the hardware store, you know.

**Adams:** Right.

**Kornahrens:** Because it's basically all parking for the theatre.

**Adams:** Right. Thank you.

**Kornahrens:** So, I mean, I haven't had the street cleaned in front of my house in two years.

**Adams:** Two years?

**Kornahrens:** Because there's always somebody parked there. The street cleaner never, but that means nothing. I'm just trying to help make it more vibrant and be part of the business community. I would do anything to be part of it.

**Potter:** Ok. Thank you.

**Martin Eichinger:** My name is martin eichinger. I own a piece of property between 25th and 26th on division. It's one of those nodes that are being developed. It's 9,000-square-foot piece of property. I have a sculpture studio that i've just recently put into it. And I have plans to put an art school on second and third floor above it. And it's a phased approach, where i've finished the first phase and i'm now operating my business in the first floor. We were able to do it. It was a residential piece of property, but we were able to have that happen because we were grandfather cloused because it's always been commercial. The second and third floor has already been designed, and it's been seismically improved with foundations on the first floor to support the second and third floor. Having a setback at 25 feet makes that 100-plus dollar development and investment into the building somewhat irrelevant, to have a piece of property that goes from being in this confused residential zone and then turn it into a commercial zone, but yet you lose commercial ability in that zone seems to me to be counterproductive to the direction that this is generally going in. So I am not at all favor of having a setback at 25 feet. I believe that right now there's a setback of five or six feet, something like that, between an area of 30 feet off the ground and 45 feet off the ground. If you draw a line of what that would really represent in terms of the view from the ground of the residential people, having it step back an additional 20 feet, I don't believe is going to make a substantial difference in terms of those residential people's views or anything else. And so i'm just against that particular portion of this proposed plan, even though the whole plan I really like.

**Potter:** Thank you, sir. Thank you both.

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**Moore:** That's all.

**Potter:** Discussion among the council? Any information from our planning transportation folk?

**Adams:** We do.

**Potter:** Yes, commissioner Adams.

**Adams:** The -- you want to speak to the concerns raised about the height limitations and the prohibition on certain kinds of exterior finish materials. And then the policy issue around how houses -- housing units are counted, those lost versus those gained. And then how do we know if we're succeeding with this plan?

**Kelley:** You always ask the easy questions, sam.

**Leonard:** He's made my life easier. I sit here and am quiet.

**Kelley:** Yeah. I do believe that we have a work session scheduled with you next week. Isn't that correct, jay?

**Sugnet:** We need to schedule it, yes.

**Kelley:** Or we can have a work session. So I think today is get issues identified, if we could, to come back to you rather than try to answer these questions on the fly.

**Adams:** Oh, ok.

**Kelley:** I think the three issues that we were tracking in particular, and you've added a fourth about how we count the no net loss piece, were the stepback, the sort of 30-foot height for the 25 feet adjoining a residential property. The use of materials, which you identified as well, sam. And the one dr. Shannon's property, the sort of base zone question. Those are the ones that --

**Leonard:** Well, is there the ability -- I think, you know, in fact, he answered fairly well, I think, that question from sam, what is wrong with the thinking of, on a case-by-case basis, making these kinds of adjustments, given that I don't think in spirit it changes what we were attempting to do, if it's being used commercially now, notwithstanding it might have some residential. The other thing that I don't know if I just didn't know this or if this was mistaken testimony, but is it accurate that if we lose one single unit and a development is constructed with a number of units, that only counts as one unit? That's not accurate.

**Kelley:** No.

**Sugnet:** No. It gets extremely complicated, so I think that would be a good reason to come back next week and we can lay it out, the whole policy, no net loss, and how it's calculated. As I said, planning spent literally hours discussing this issue.

**Leonard:** But did you hear the testimony?

**Kelley:** Uh-huh.

**Leonard:** Would you disagree with how it was characterized?

**Kelley:** Yes.

**Leonard:** Ok.

**Adams:** So just to put a little meat to the bones on the success measures, I mean I would like to see this have some real success measures, and then i'd like to see a time certain when it comes back to city council for a report on those success measures, or not. So, I mean, one of the self-criticisms that I have for our work in this area is that we don't have -- we don't ever define success, and then we don't ever report on it. So i'd like to see you come back with -- I think you've got the elements here to potentially do that actually because you've done such a good process. I really want to commend you all in the neighborhood, having gone to two of those meetings, and the other agencies, like tri-met and others, you've done -- this has been great. And the meetings have been well attended and interesting and you've been open, but i'd like to distill it down so that five years from now, whoever's sitting here knows that things are going in the right direction or not.

**Kelley:** Good idea.

**Potter:** Get back to the nonconforming issues.

**Kelley:** Uh-huh.

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**Potter:** Is there a way to apply it so that it's an agreement between the city or the neighborhood and the particular address, if it's a condition upon the current owner he owe or strictly to the current owner and the current use.

**Kelley:** Uh-huh.

**Potter:** So that if it changes hands, if the owner decides to tear it down and build a wal-mart, is there a way to take care of that?

**Kelley:** Well, why don't we look into the possibilities for that. I think changing the base zone is a - - is a temporary, interim use would be difficult general speaking land use entitlements run with the land, not with the ownership, but we can see what other kinds of accommodations might be able to be made with him.

**Adams:** And just so that we have a fully-informed discussion, perhaps also if you could do reverse engineering, identify who else asked for that.

**Kelley:** Right.

**Adams:** It's very common for the first residential unit to ask for commercial designation, because they have the best possibility of perhaps getting it, and the other people that the process said no to that aren't here today.

**Potter:** At least one other one, the one by the theatre.

**Sugnet:** There was only one additional request. So you've heard all of them except for one.

**Adams:** For the whole process. Oh.

**Sugnet:** That were not granted.

**Adams:** That were not granted.

**Sugnet:** Tim's neighbor also requested it before he sold his house.

**Adams:** So could you replay that? You just confused me. How many requests for residential to commercial zone changes through this entire process were there and what in the plan was recommended with them?

**Sugnet:** All of them have been granted with the exception of tim's --

**Potter:** Who is the person who lives next to the theatre?

**Sugnet:** Jean-pierre made the request. He was not -- the planning commission disagreed, and tim shannon is the only other one that -- and I just received the letter this morning.

**Potter:** Ok. Yes?

**Sten:** Just a comment. This has never risen to the level where I know the planning bureau's workload i've actually argued, you should spent a lot of time doing it, but I want to reiterate something we've talked about from my point of view as the housing person. I think the no net housing loss policy is utterly out of date. And while I admire and respect that you enforce it because it's on the books, I don't think we should, on small decisions, make a bad policy decision because of that policy. This is coming from someone who's overly aggressive on housing policy issues. We've built so many units in so many places since we adopt that policy that add -- that are in places that weren't zoned housing when we put the policy in place, that I think it's -- I view right now more as the location kind of specific issue that even though it's kind of -- we've kind of reached it citywide, I don't think we're losing housing potential citywide. I think it's actually the opposite. You don't want to necessarily lose housing in a given area. I mean, it's not acceptable to say, ok, we've got a ton of new housing in what were industrial areas, in the pearl district, so we should lose all the housing on division, and you could get to that. If we had unlimited resources I would actually argue for breaking the city up into districts and rewriting the plan on housing potential in each district. I don't think, given all the things you have to do, that's on the top of the list. I think we can work with that policy at the council level once it gets to us as you think these issues through.

**Kelley:** Yeah. I would agree that the smaller the geography, the more difficult it is to try to make sense of that policy. It becomes very restrictive when you --

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**Sten:** You get down to one house, I don't care. I think there's other policy things in play. Just wanted to put that on.

**Saltzman:** One question. The external finish materials, is that a guideline we have in place for any other --

**Kelley:** Yes. It's citywide, part of the community design standards. So it's applied citywide, wherever those districts lie. So this is not developed specifically for division. It's essentially borrowing a chapter from the community design standards.

**Saltzman:** I thought Mr. Ross had interesting points about that.

**Kelley:** Probably worth revisiting those at some point.

**Saltzman:** Some of these building materials are state-of-the-art in terms of design and things like that.

**Kelley:** Uh-huh.

**Saltzman:** You said we'll have a work session to delve into this further? Although this would be I guess a larger issue.

**Kelley:** This is a much larger issue. That's what we'd say in the work session. You know, if you want to not apply these, that would be a clean choice. If you want to apply them and ask us in the subsequent work program to look at those again, because they really are citywide in nature, that would be fine.

**Saltzman:** Ok.

**Potter:** Thank you, folks, very much. You did a great job on this, really did, as well as the neighborhood associations.

[Commissioner Leonard needed to leave, discussion of agenda procedure followed for item 1543:]

**Sten:** The findings aren't controversial, but -- they're time certain, so --

**Sten:** If the two sides are agreed you guys can go. If one side is going to object -- if they both object [inaudible]

**Potter:** The point that commissioner Sten was making, if the two parties agree to allow commissioner Adams and I to vote --

**Linly Rees, Deputy City Attorney:** The problem is you've had other people -- if you have not reviewed the record we can't have you vote on it.

**Adams:** Even if both sides agree?

**Rees:** There may be other people who testified who might have standing to appeal it. So we need to figure out if we think we have all parties possibly here for that time certain, maybe we could -- but I don't know if we have everybody -- that's the 4:00 time certain?

\*\*\*\*\*: 4:30.

**Potter:** Are the people from the maplewood appeals here?

**Rees:** Is it unprecedented to begin the other hearing, take a recess in that hearing and could you stay until 4:30? Or just come back at 4:30?

**Leonard:** [inaudible]

**Potter:** We're up against 120-daytime limit? What is the ending of that?

**Rees:** I'd have to ask the attorney for the other side. They agreed -- they've waived it I think three times. They've extended it three times now and extended it another week to allow us to have findings adopted this week. And I don't believe Mr. Cox is here yet, because he's probably intending to be here at 4:30. It is just adopting the findings at 4:30. If you wanted to come in --

**Potter:** Could he do a voice vote over the phone?

**Rees:** We have provision for that in the code.

**Leonard:** [inaudible]

**Rees:** Let's try and do that.

**Leonard:** [inaudible]

**Rees:** Can that be done technologically?

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**Potter:** You could be on the phone too.

**Leonard:** I could.

**Potter:** We'll get him on the phone. Because he's a nice guy.

**Potter:** We have the 3:00 p.m -- we'll have Karla read it. 3:00 p.m. Time certain. Item 1542.

**Item 1542.**

**Potter:** Would the city attorney's office please inform us of the hearing procedures.

**Rees:** This is an on the record hearing. This means you must limit your testimony to material and issues in the record. During this hearing you may only talk about the issues, testimony, exhibits, and other evidence that were presented at the earlier hearing before the hearings officer. You cannot bring up anything new. This hearing is designed only to decide if the hearings officer made the correct decision based on the evidence that was presented to him. 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. I'll next talk about order of presentation and time limits. We will begin with a staff report by the bureau of development services staff for approximately 10 minutes. Following the staff report, the city council will hear from interested persons in the following order. The appellant will go first and have 10 minutes to present their case. Following the appellant, persons who support the appeal will go next. Each person will have three minutes to speak to council. This three-minute time limit applies regardless whether you're speaking for yourself or on behalf of an organization. The principle opponent in this case the applicant will have 15 minutes to address the city council and rebut the appellant's presentation. After the principle opponent, the council will hear from persons who oppose the appeal, meaning they support the application. If there's no principle opponent, the council will move directly to testimony from persons who oppose the appeal. Again, each person will have three minutes each. Whether you're speaking for yourself or on behalf of an organization. Finally the appellant will have five minutes to rebut the presentation of the opponents of the appeal. Council may then close the hearing, deliberate, and take a vote on the appeal. If the vote is a tentative vote, the council will asset future date for adoption of findings and a final vote on the appeal. If council takes a final vote today, that will conclude the matter before council. I would like to announce several guidelines for those who will be addressing city council. Again, this is an on the record hearing which means you must limit your remarks to arguments basessed on the record compiled by the hearings officer. You may refer to evidence previously submitted to the hearings officer. You may not submit new evidence today. If your argument includes new evidence or issues, council will not consider it and it will be rejected in the council's final decision. If you believe a person who addressed 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 either in your testimony or you may bring it to my attention. Objections to new issues. Finally, under state law, only issues raided before the hearings officer may be raised in this appeal to before. -- if you believe they were not raised before the hearings officer, you may object to council's consideration. Finally -- that doesn't apply. I think i'm done. Go ahead.

**Potter:** Do any members 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 gathered outside of the hearing to disclose? No council members have ex parte contact to declare. Do any members of council have questions or other preliminary matters that need to be addressed before we begin this hearing? None? Ok. We'll begin the hearing and first we'll hear from the staff, and they'll have 10 minutes.

**Kimberly Parsons, Bureau of Development Services:** Kimberly par sons, staff with the bureau of development services. This is the presentation to city council for an appeal of the hearings officer decision for an environmental review on southwest cardinell. The purpose of this hearing is to consider appeal of the hearings officer decision to approve with conditions a 36-unit condominium

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building, service improvements, and modification to building height and side setback. The appellant is southwest hills residential league. The applicant is erik ekhoff and his representative is peter finley fry. Just a brief summary of the decision that included an environmental review for a 36-unit condominium building, public street dedication and improvements, it also included utility connections from the new building to existing services. There's an environmental modification that was approved to increase the maximum building height from 50 feet to 75 feet in order to better protect environmental resources and also decrease the minimum site setback to zero feet. There's also an environmental review to change conditions related to an environmental violation review in 2003. I want to briefly go over the approval criteria. This review is -- the approval criteria are very specific to environmental impacts. So there was environmental review criteria e that relates to the disturbance area from the condominium building and public improvements. The approval criteria looks at whether development minimizes loss of resources compared to uses generally allowed by the base zone. The applicant's proposal is less development detrimental to resources than other tentatives. That there's no significant detrimental impact on areas to be left undisturbed and the plan compensates for significant impacts. The environmental modification criteria related to the high and setback modifications specifically requires development to resolve -- result in greater protection of resource and overall be consistent with the purpose of the regulation. The changes to the 2003 land use review planting locations, we uses approval criteria g, and that requires no permanent loss of resources on the site and significant improvement of at least one functional value.

I want to point out that the approval criteria for this environmental review are specific to those environmental impacts. The zoning of the site is a mix of single dwelling and multidwelling zoning. R10. R2 and r1 the site has a protection overlay. The site is adjacent to rh a. High-density multidwelling zone. This is southwest cardinell facing east, so the site is on the left side of the screen. And then this is southwest cardinell facing west, so the site is on the right-hand side of the screen, and it slopes down, and then on the other side the screen, the site -- the hillside slopes upward. This is the approximate location of the proposed building. This is also an area that was previously planted with native plants to reimmediate a violation. Since then it's been covered with english ivy. This is the approved site plan. So the red outline indicates the building footprint that's approximately 16,549 square feet. There's no storm water disposal on the site. Everything will be treated and detained with overflow to public system. The total disturbance area is approximately 31,000 square feet, but that includes disturbance for public improvements for right of way as well as the alley. For removal of 66 trees and the disturbance area for the condo building and associated improvements, the applicant was approved to plant 96 trees and 136 shrubs in the area outlined in green. That mitigation area is over 36,000 square feet, and that mitigation area will also be covered with a conservation easement or covenant not to build, which will maintain that area as a no-build area in perpetuity.

**Adams:** Does that road -- is that road or path or whatever really there in the real world, or just --

**Parsons:** That winds through? That's a proposed trail, and that is allowed by development standards, so it doesn't require environmental review.

**Adams:** Ok.

**Parsons:** This is the proposed building height. On cardinell the building is approximately -- will be 25 feet high, which is consistent with the r10 zone. And it will be six levels. Originally the height modification was for 98½-foot-high building. The applicant revised the proposal to reduce it to 75 feet high. The maximum allowed height in the r2 zone on rah downward slope is 50 feet. So it's a 25-foot increase. However, the height modification allows the development and disturbance to be clustered at the southeast corner with the remaining 36,000 square feet of the site undisturbed. Utilizing the base zone height would result in a larger building footprint, a greater disturbance area causing impacts on wildlife habitat, groundwater recharge and scenic valleys through tree removal at the site. In 2003 there was a violation review for cutting 20 trees so the area outlined in red was a

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portion of that remediation area. And the applicant proposed to remove the existing trees in that location, replant them on undisturbed areas of the property, and then plant shrubs in the new mitigation area.

**Adams:** Did the current owner remove those trees illegally?

**Parsons:** No. The applicant for the violation review was a different owner than now. So that change the building is located in a portion of that remediation area, and the remediation plantings are were required for removal of 20 maimles. The impact area is 9,000 square feet and the applicant will plant those elsewhere on the property. Also the previous review required a five-year monitoring period with annual reports. And we'll be requiring that five-year monitoring period for all the new plantings at the site. The southwest hills residential league filed an appeal based on height and environmental mitigation issues. The appellant stated the proposed 75-foot-tower does not meet the purpose of the height standard, which is promoting a reasonable building came and relationship of one residents to another. There are a number of reasons it was determined to be met. There's a mix of zoning in the area, there's r10 as well as r2, r1, and rh within this area. The building height is 25 feet at southwest cardinell, which is consistent with the r10 height allowed. The site sloped, the building will be 30 feet from the nearest adjacent house and 100 feet from the closest multidwelling building.

**Adams:** Do you -- your earlier slide indicated it's a 50-foot building?

**Parsons:** It's a 75-foot-high building. What would be allowed by the base zone would be 50 feet. So here's just an aerial photo of the surrounding developments, the approximate building location is outlined in red, so the property just to the right of that is where the existing adjacent home is that will be 30 feet, approximately, from that building. And then just north of the building is the apartment building and the rh zone.

**Potter:** I have a question on that. On your slide 12 you talked about the height modification. What was the purpose of setting it at a maximum of 50 feet on a downward slope? I assume applies at the top end of the slope it's going to be shorter than at the lower end, but fifty feet is still 50 feet.

**Parsons:** How high is hurt at the downward slope is that you measure -- you measure the distance 10 feet above what the grade is. So really the height, maximum height in the r2 zone is 40 feet, but because of the slope of the site you get 10 feet additional, and then you measure it from there. So overall it's 50 feet. And the reason is it's just to deal with that difference in grade change.

**Potter:** Is it for health and safety purposes? Does it increase the chances of soil slippage, or --

**Parsons:** I think it's more related to overall building scale rather than life safety issues.

**Potter:** So you are saying it's an aesthetic?

**Parsons:** I'm not clear on what the bureau of planning's intent was with the original justification for those heights. That is my reasoning.

**Potter:** Ok.

**Parsons:** So this is a zone map of a site. So what I want to point out here is that north of that red line is multidwelling zone, and it's a mix of low-density to high-density multidwelling. And then south of the red line is low-density single dwelling. So there's quite a range of zoning within this neighborhood as well as development types. The appellant questioned in their appeal the environmental mitigation remediation requirements. Just a brief -- the requirements, there were 66 trees removed, the applicants required to plant 96 trees and 128 shrubs. In addition, there are 13 trees that were required for remediation that were being moved out of that development disturbance area onto undisturbed areas of the property, and an additional 28 shrubs that were required for remediation also will be planted in the undisturbed area. The building footprint is over 16,000 square feet, and on the conservation easement and mitigation areas, 38,000 square feet. That again, this is the entire mitigation area that will have this easement or covenant to keep it undeveloped.

**Adams:** The parking is under the structure, access by cardinell drive?

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**Parsons:** Correct. There's two levels proposed for parking with action says from southwest cardinell. The appellant didn't raise these issues in their appeal statement, but they were raised during the hearings officer hearing, so I just want to go over them briefly because they may be raised here today. There are a number of testimony included -- related to transportation. I want to point out the environmental review is very specific as to what we have authorization to look at. And there are no approval criteria that consider transportation impacts as part of an environmental review. There are also a number of comments related to storm water and land hazards at the site. What the hearings officer found was that there was no credible evidence submitted or included in the record that the development would create a significant detrimental impact on resources. The applicant did submit a geo tech report and our site development section reviewed that and concurred with it. And then the hearings officer also went further to point out that the number of units being proposed and the building area being proposed are the coverage is allowed by the base zone.

**Adams:** Tell me why there would be no, or do you know the I don't know -- answer, why flow approval criteria related to transportation?

**Parsons:** The reason why this review is being triggered due to disturbance area. And that disturbance area is only a regulation related to the environmental overlay zone and the environmental regulations chapter. And so that is like the only reason why we're really looking at that. So any transportation issues or these geo technical issues, those types of requirements are handled at a building permit stage.

\*\*\*\*\*: By right --

**Adams:** By right of zoning, there are no additional requirements related to transportation?

**Parsons:** Yes. And I actually do have transportation staff here if you have specific questions about what they look at at the land use review stage for an environmental review versus building permit. I the have staff site development. So just a brief summary to end my presentation, the height is comparable to what's allowed on adjacent sites. The building has a reasonable relationship to neighboring residences, and then the plantings mitigate from the impacts found from that development. Council has alternatives that were laid out by the city attorney. I do want to point out the 120-day review period expires on the 18th, so we would need council to make a decision before that day, or obtain an extension from the applicant.

**Potter:** What is a disturbance area?

**Parsons:** A disturbance area is the area that would be required to construct the building, and so it would include the actual ground disturbance that occurs itself from grading or from digging up portions of the property, but it's also construction equipment, maneuvering, any stockpiling area. So any area that's required to be used for construction.

**Potter:** Ok. Other questions?

**Saltzman:** Yes. So the reason that the 75 feet is being proposed rather than the 50-foot, 50 feet limit is because of the conservation area? The environmental re-- the conservation area being established?

**Parsons:** Yes. The intent the is to reduce the disturbance area on the site as much as possible, so one way to do that is to build up rather than out on the site.

**Adams:** So they could build a lower, bigger mass dwelling on their property.

**Parsons:** They could, but in the environmental review when we look at practicable alternatives, you look at whether that shorter building with more disturbance area has more impact compared to this other tentative that the applicant is proposing.

**Adams:** Is it possible before we hear from the next person that kurt could just speak to the transportation very briefly?

**Potter:** Why don't we -- well, ok. How long will it take?

**Kurt Krueger:** Good afternoon, commissioners. Kurt krueger, office of transportation.

**Potter:** Continue the time.



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**Krueger:** At the time of building permit, that's when we make our determinations of the improvements that would be required with the developments, because the zoning allows this kind of density, we have no trigger that allows us to require traffic studies. At the time of building -- and we've noted this point for the applicant's sake that certain frontage requirements would be included, including curbs and sidewalks that would be appropriate.

**Potter:** Thank you. We'll now hear from the appellant. Please come forward.

\*\*\*\*\*: I'm anne --

**Potter:** Could you give that to the council clerk, sir? Thank you.

**Potter:** You have 10 minutes.

**Ann Turner:** Thank you. I'm anne turner and i'm representing the southwest hills league. I also wish to introduce jerry powell, who is the planning chair for the goose hollow, and is the consultant of the neighbors represented by swirl.

**Jerry Howell:** Hi. Mr. Mayor, commissioners, at the bottom of this appeal there are really four issues. If you want to look at it in terms of the applicable criteria for making a decision, there's really two things we're talking about. One is that the hearings officer was mistaken when he considered these three parcels were one site. Actually four parcels were one site. They are at least two different sites. They're separated by a half a mile of road, 100 feet of topography. At the preceding hearing we testified that it was a stretch to consider that this was all one site. To enlarge on that --

**Rees:** Mayor? I'm sorry, it's hard for me to hear you, but it's my understanding from staff that this is not an argument that was raised at the hearings officer level. If someone wishes to correct me, that's fine, I was not there. So I would ask the parties, I don't believe this was raised before, and therefore should -- you shouldn't use your time on it.

**Powell:** It most certainly was raised at the hearing, and I raised it myself.

**Potter:** We have to get a clarification on that. Is there someone who has the minutes or some way to verify if this was an issue or not? I also have another question. It says that this decision has been appealed by the southwest hills residential league, and you folks are the goose hollow foothills league.

**Powell:** That's true. It is an overlap area. Both neighborhoods are actually the -- representing the residents of the area.

**Potter:** Could you just move it over, sir? Now I can't see -- thank you. There you go. Ok. Excuse me.

\*\*\*\*\*: He's not ours.

**Potter:** No, he's not.

**Powell:** The two neighborhoods basically cooperate in these areas, and in this appeal i'm really representing the swirl, who is your appellant, as their consultant.

**Potter:** Ok.

**Powell:** The issue of the -- of two sides comes up because there are really two options. They are two different parcels, they are different in location, they are different in zoning. In fact, you couldn't build this building on the parcel that is being proposed for under the zoning rules. The base zoning rules that apply there. The way that it is proposed there is by virtue of borrow can a development right from a fairly different parcel. It's different -- in topography, everything else. It brings to mind whether this is really a transfer of development rights, and if so under the base zoning, no modifications of the development standards in the base zone are permitted. It's brought as a modification under the environmental zone, however, in there, the standards for modifications are as on the last page of your letter. -- modifications for lot dimension standards for site-related development standards as part of the review process. These are done as part of the environmental review process and are not required to go through the adjustment process. So far so good. Next sentence, the adjustments to use development standards, such as floor area ratios, size of use,

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numbers of units r. Subject to the adjustment process of chapter 33.805. Basically you can't confuse an environmental issue with a development issue and get away with it very well under this code. The rub for the neighborhood as you're going to find out, has something to do with transportation and access, has mostly to do with the fact that you have a building that is characteristically an rh building, it's a building that ordinarily would you find in an rh zone. It's actually a floor area ratio of 2-to-1 built on a street that is typically a street now is typically r10. There isn't any other multiple dwelling use until you get cloer to the bottom at southwest 12th. There is a 1953 39-unit building that has a floor area ratio in its rh zone of less than 2-to-1. It's something like 1.6-to-1. This project is, if it were considered as an rh project, only a little bit bigger than that, but it's not really, it's in an r2 zone on an r10 street and that's where the neighborhood gets a little concerned.

**Turner:** Are you going to continue, jerry?

**Powell:** I think you had one more issue you wanted to bring up.

**Turner:** Yes. My issue is primarily on the mitigation and remediation. What has happened is that swirl might have agreed with the hearings officers on the rulings if we were assured that the remediation would be properly monitored and enforced, and we would prefer it enforced for more than the five years proposed. The reason you have remediation is because the previous owner cut down 20 big league maimle trees without environmental review. He was required to plant 30 trees and destroy invasive species. This was never enforced, even though the owner was required to file progress reports over a five-year period. The hearings officer is requiring all these 150 shrubs and 96 trees to be planted, and various ground covers, and he's also having the five-year period, and a landscape professional to supervise it. But there is very little enforcement of any of these rules. They have to be -- they're complaint driven. That was stated in the previous hearing. You have to have someone come down and complain. Apparently the planning group doesn't come down and check things out or even check the reports that are sent in. Actually, swirl might have considered going along with the plan, except that this lack of enforcement and the fact that the building is going to be turned over to condominium owners who will have lesser concern with keeping the environmental zones is to us rather destructive to the whole program.

**Adams:** How is that, just so i'm not making my own assumptions, how is that, the nature being condominium owners, would make them less concerned?

**Turner:** Well, if you have ever lived in a condominium grouping, you you know that people argue about what they should do, they have maintenance rules, and I tramped all over that area, and so did my daughter, who has a degree in urban planning, and her concern was that it's all very clear that the landscaping around your condominium should be neat and tidy, but here you have -- you're going to have a little forest on the side there, which is somewhat removed, and there's a path going through it, and it isn't of great use to the condominium owners, and there's always a question of how much you do maintain forest land. I just -- we just think that it's going to be a problem. And it's -- sure, maybe it's done for five years and then what happens after that? Is the city going to check into it? Your forestry group is so small, they can do very little. Trees get cut down all the time. We just don't think it is plausible as the plan now stands, to have this all work out in five or 10 years. And also, all this cutting down of trees, they're being cut down or removed even in the forest zone, all this disturbance, you seem to be increasing the disturbance, at least immediately, rather than reducing it. And the -- because you're going to have a disturbance in the forest land. It seems to me to make the possibility of soil problems like slides, water, and all those other things. Do you want to speak to this?

**Powell:** I think the major concern is that the record of this property in terms of how it's been dealt with in the past, the remediation that -- that has been approved and failed, and the experience with - of the neighbors with slides, with very, very extreme hydrology, the fact that it's -- it is in fact a designated landslide hazard area, makes the neighborhood a bit apprehensive about any kind of

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development that occurs on the site. The applicant has alternatives to develop. Rather than 180-foot-long building, it could very easily be small buildings, it could be very easily developments that are compatible with the area, and economically feasible as well. That's not our concern to figure out what he could do. It is our concern to point out that this is not the only way to skin this particular cat, and it's probably the riskiest possible way to do it. There are provisions in the code for dealing with that risk in saying, come back again. We're out of time.

**Potter:** Do you have one final remark you wish to make?

**Powell:** I think you may hear from many of the neighbors who are going to amplify the remarks that we've made in the issues that we brought up. Most of the things that you'll find that they bring up will fall sort of into those boxes. One of the near neighbors and architect is going to point out exactly how big this building really is. I think that's something that really needs to be paid particular attention to. Thank you.

**Potter:** Is there information that you saw in the record as to whether this was brought up in the original hearing?

**Parsons:** Kimberly par sons, b.d.s. I haven't been able to find anything in the exhibits and the record that discussed a question of ownership or the transfer of density. There are comments about whether the height should have been processed as an adjustment rather than a modification. So maybe during the testimony mr. Powell can point out which exhibits refer to that item.

**Potter:** That item being --

**Parsons:** The comment about the site not being all in one ownership, and that this is a transfer of development rights. Although I would like to point out that the base zone does allow a transfer of development rights, so meaning these three properties involve, you can consolidate the allowed density and then put it on one portion of the property, and what the base zone requires is a covenant or -- I believe it's a covenant to be recorded against the property so that it -- that density isn't used again on the other portions. So that just helps explain some of that.

**Potter:** Ok. We'll now hear from persons who support the appeal. Is there a sign-up list for that?

**Moore:** Yes. We have about 10 people signed up. Come up three at a time.

**Adams:** I need a point of personal privilege.

**Potter:** Ok.

**Carol Gardner:** My name is carol gardner, and i'm a resident up in the area of interest. I am a register professional engineer in the state of Oregon, and i'm also a small business owner. I specialize in providing energy, design, and construction services to buildings, commercial buildings. My degree is in mechanical engineering, and I specialize in energy conservation, specifically performing the energy analysis part of the leadership and energy -- in environmental and design program, l.e.e.d., and my clients include developers, engineers, and architects and my projects in the last year have included at least three or four of the south waterfront projects. So as you can imagine, I am clearly not raw posed to development, my mortgage payment is paid for by the development of buildings, as well as my cat food for my three cats. So with that said, on this -- in this particular building in this particular project I have some real concerns. I would like to speak specifically today about the zoning code approval criteria, and i'm going to refer to the document to make sure I am not speaking out of turn here. And i'm going to speak to the approval criteria under 33.430.250e, specifically part 3. Which states, "there will be no significant don't remittal impact on resources, valleys in areas designated to be left -- and also 33.430.250 g part 2a which states the remediation plan demonstrates that after its implementation, there will be no permanent loss of any type of resource or functional value. With respect to 33.430.250e, the hearings officer found that there is no credible evidence that the development proposed in this application will result in earth movement. On the undisturbed area resulting in a significant detrimental impact on the identified resources functional values. And the specific functional values identified for this site are wildlife habitat, groundwater recharge, and seen -- scenic resources within the broad leaf deciduous forest

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habitat. The hearings officer did not dispute that the subject site is steep and contains swales which may slide in certain weather conditions, nor did he dispute there are landslides in the general vicinity of the subject site. But he did not feel he had anything more than anecdotal evidence and general information to support a finding that the proposed development will create significant detrimental impacts to the undisturbed area. This is where we get into a lot of these sites.

**Potter:** I'm giving you -- you're about a half a minute over, sorry going to have to wind it up.

**Gardner:** I'm over three minutes?

**Potter:** Is that correct?

**Moore:** Yes.

**Gardner:** That takes the wind out of my sails. Ok.

**Potter:** You're more than welcome to submit in the written information, but we do limit the testimony to three minutes. So we can hear all the people and still make it timely --

**Gardner:** I had no idea my three minutes were up.

**Potter:** You didn't notice that --

**Gardner:** No. No. Not at all.

**Potter:** The clock is for you to notice. You should be cognizant of that. You're now a minute over, so your testimony is done. Thank you. Please proceed, sir.

**Byron Swanson:** My name is Byron Swanson. I want to thank you for taking the opportunity, letting me do a little speaking here today a clarification on these two visuals we gave you. One is the summer months picture of our area, the Cardinell area, and the other is a winter month's visual of that. We've put a building print in the yellow to show you the actual size of that building on that project. And the red dots represent landslides that have occurred in our area over the past years. That one particular building, even though it's near a multi-structure, multifamily dwelling, which is that apartment building at the end of the overpass over the freeway, is between the third and the half a mile as Cardinell goes up the hill. So you are actually going through a multi-- a single family residence area to get to this proposed multifamily structure, which is not something that fits into the neighborhood as it's proposed. The height that they're proposing to be of 75 feet and they're saying only is going to be 25 feet above the surface of Cardinell Drive all signed -- sounds good and well, but when you're putting a structure of 75 feet high in amongst the single family residents, it just doesn't fit. What kind of door is that going to open if that kind of a height adjustment is allowed for further development? You can see all the area that doesn't have houses on there that those lots could be sold and then want to put 75-foot homes up there. I think it's a little absurd to think that just adding additional 25 feet on is ok when it will have a large impact on our area. Another issue I'd like to talk about is that of landslides. Most of the landslides that have occurred in the area of around Cardinell and on this side of the West Hills haven't occurred until sometime those -- that land has been disturbed. And that disturbance doesn't happen immediately to cause a landslide, it's in the years down the road, two or three or five, maybe even 10. But there isn't enough effort or thought put into retaining these areas at the time of construction because of what's going to happen down the road. They're proposing in that 22 -- in that construction of that zone there to put a rock stacked or boulder-stacked retention wall in to hold up Cardinell Drive, when in fact that should be a reinforced wall that will have a footing on it to hold that substantially in place. The last thing I'd like to mention is that the -- this area is impacted by the residents that you'll find here in the area don't want to see this building go up for the mere eyesore that it's going to be and the traffic problems that it's going to have as the 72 cars from this building have to proceed down that third to half mile on a one-way street to get over to where that overpass is. And it's going to impact that area tremendously. And I'd like to you take that into consideration when you're reviewing this. Thank you.

**Rees:** May I ask Mr. Swanson a question? I apologize these on the record hearings are challenging for everyone, but were these maps submitted at the hearings officer level?

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**Swanson:** No, they're the same maps that are in the back of all the report that's come out from the hearings officer. I just did a blow-up of them so --

**Rees:** But the maps showing the actual landslide locations, are those in the record anywhere or is there -- are these merely a depiction of landslide location that's were located in some other document?

**Swanson:** I don't know how much they've been documented.

**\*\*\*\*\*:** I believe they were documented in your report, mr. Swanson.

**Swanson:** Yes, that's right. I did submit one on the appeal as far as that goes, that's correct.

**Rees:** That identified each of these locations?

**Swanson:** Yes.

**Rees:** My recommendation, because these maps with this particular depiction was apparently not in the office of the hearings officer, there is evidence in the record identifying them, but the maps themselves should be rejected as part of the record.

**Swanson:** However, the ones on the board that are off the painted area where the actuarial view are are ones that are not in the report that I submitted or the evidence I submitted, but I documented them in the -- in support of the appeal that I believe, and I was asking ms. Parsons if that had -- she said all these reviews had been completed, and I think there's still one appeal that's still out that has not been answered to. And that particular appeals officer was going to try to extend the period of this issue from 120 days to 245 days. Is that correct? And we haven't heard a comeback on that appeal. I don't have that paperwork with me, but in november.

**Potter:** Thank you, sir.

**Gabriel Thorne:** My name is gabriel thorne, and I live in the apartments at the bottom of the hill. You can see them there. And i've just like to speak in support for the appeal. I feel it would be very -- it just wouldn't make sense to put something like that in an area like that. Yeah. I'm a full-time artist and I live in that apartment, and it would be real kind of sad to see all those trees be cut down, and it's a beautiful area that I think perhaps developing in the future that wouldn't surpass the height levels and things like that would make more sense than something that seems to be perhaps in this current rush of development Portland whatnot. It doesn't seem to make sense to me. I was wondering if I could give the rest of my time to this woman. She seems --

**Potter:** It's not transferable.

**Thorne:** Ok. That's all.

**Potter:** Thank you very much. Thank you folks. Who is the next?

**Potter:** Thank you for being here, folks. Please state your name, and you each have three minutes. There's a timer on the front -- please go by that.

**Philip R. Siegelbaum:** Philip siegelbaum. I've lived on cardinell drive for approximately 15 years. I'm about two blocks from this proposed development, so i'm very familiar with the area. The street is narrow, it's windy, and it's not particularly lit very well with the lights. It's going to be an unmitigated disaster, in my opinion, the amount of traffic that will be put on on the little narrow street. Two cars cannot cross the -- i've witnessed six, seven landslides that have blocked cardinell drive, taken a week to two weeks to clean them up. The soil is unstable there, and I really appreciate if it was an eight-unit condos, ok, but 36 units is going to bring over 70 cars into the area, and the area is just going to be overly impacted. It won't be able to take it. Thank you very much, gentlemen.

**Louise Kurzet:** Hello, my name is louise, and i've lived on southwest cardinell drive for 50 years. In fact, i'm familiar with a couple of landslides that mr. Swanson didn't get on his -- in his report or on the map, one of which was just above our house, and went into the neighbor's garage, which was the front of the house, knocked it out, they had to do a lot of rebuilding. I want to take -- I don't think it's been mentioned, although everyone -- 25-foot excess over the 50 feet, that's a 50% increase. It's a 50% increase in weight, and the additional weight is certainly going to increase the

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landslide problem bills. And these landslides have been coming and coming. Orwell said they say the west hills run stable. All animals are created equal, the west hills are all unstable but cardinell is more unstable than the others. That extra 25 feet, that extra 50% is much heavier, and that many more landslides, to say nothing about the traffic. And it is a residential neighborhood, there's just the one apartment at the foot of the hill. People living in that apartment don't have to go up cardinell. And this whole -- we feel it's out of line, and that the landslides are going to come. And you take the trees out, the moment the trees are out, so you plant 190 trees, assuming they do it, those trees are not large when you put them in, they're little trees. And the moment you take those trees out you increase the landslide. There's a lot of streams running down there, the streams will go through that property when you take the trees out, and as the streams go through the land goes down. And I think the city will be response for a lot of landslides, a lot of losses, a lot of heartbreak. It will be a little new orleans if they permit that to go up. Thank you.

**Harry Lee:** Harry lee, i've lived on cardinell for 24 years. I can attest to the instability of the hill. I've had to shore up my building at one time. There was supposedly fixed on a firm foundation. I'm just adding on that testimony. The thing about the size of the dwelling, this is not a one-way street. People were saying it's a one-way street. It's a two-way street with one way access. So if one comes down, one goes up, somebody has to back up. And the building, the picture that was shown of cardinell, not this, by staff, the picture was shown at a time when there weren't very many cars parked on it. You go up cardinell now, you'll see cars parked on the street most of the time, and somebody has to navigate up and the other guy throws wait until he gets -- if a fire truck comes down and he meets a car, somebody is going to have to give and I don't know where they're going to go. In days of a fire, a few minutes might make a huge difference. So the more you increase the height, the more bigger the building, the more the traffic on cardinell. So that's my say. Thank you for considering it.

**Potter:** Thank you.

\*\*\*\*\*: You just heard from my wife louise.

**Potter:** Wait until we get the other folks to sit down.

**Chester Kurzet:** Chester, I live on cardinell drive for 50-some years. I made the front page of the sunday Oregon the time hillside fell down between my house and my neighbor. And of course the traffic was backed up for two or three days before they cleared the mountain away from my house. So you have on the record testimony of some geologists, I think one professor of geology that the mountain is basically unstable, and with this record before you, you can see why it's unstable. It's not going to get any better. The fantastic weight to be placed on the mountain by a 36-unit structure is surely going to add an awful lot of stress. That's all I have to say. Thank you.

**Irv Altem:** I'm irv altem, I live on southwest cardinell drive. Cardinell drive is a very narrow road, probably accommodating just two cars wide. When you come off 12th onto -- over the viaduct on to cardinell drive, there's usually parking for about 300 yards up the street as you come up, mostly Portland state people that live in that area. And then coming down you have to wait for whatever cars coming up to clear the path to get through. And there are a few small pull-outs which are just more than a parking space to pull out into, and if we add this huge amount of cars coming through, it's going to be just horrendous there. Sometimes now you wait for two cars to drive by while you're pulled over to let them by. That's just as you enter cardinell drive from 12th thank you.

**Potter:** Thank you, sir.

**Stan Chesshir:** I'm stan chesser, i'm a neighbor, I live directly across on the -- to the northwest of this site. I've lived there since -- in that house since 1987, I lived adjacent to it for five years. I've been in the area for a long time. I'm an architect, and i'm -- i'm approaching 40 a slightly different angle in terms of just the building mass that's being proposed here. I'm not naive enough to think this area isn't going to get developed at some point. I just think pushing 100,000 square-foot building is really the equivalent of a half of a city block in the footprint, and it's a scale of building

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that's are being put into the pearl district where my office is, and that kind of thing. I just don't feel that this approach is appropriate for this location. I look directly at this site, my front door faces it. I'm approaching it, I see it from a different angle, in the downhill slow from the downhill slope side of it, we're look at a minimum of six stories from the backside of it in an area of all single family residences. We do have one apartment building, the footprint of which is half the size and it's completely down on the other end of the site. It doesn't really have that relationship. So I think the criteria for that in the code that talks about not significantly detracting from the livability or pah appearance of an area is very important. And in terms of the livability of our city, I do think there's an alternative in this type of area to develop something of a smaller scale, and for all the other reasons of soil and for traffic and all that stuff is relevant to that also, but I think we're talking about a building that's not appropriate for this scale of this area. It could be a nicely designed building, but it's not necessarily just the bulk of it and the square footage and the numbers of units, i'm not sure how -- if we're talking about 90,000 square feet plus, and 36 units, those are very large units, when you start looking at that size of footprint. So i'm not sure all the numbers with the parking and all that, how that has gotten calculated to equivalent -- to be an equivalent of 35 units. So that's what I have to say. I appeal from the livability standpoint.

**Potter:** Thank you, sir.

**Rees:** Mayor, since we have commissioner Leonard for approximately two minutes is what I promised him, it might be appropriate to entertain a motion to continue or postpone this hearing for two to three minutes to allow us to adopt finding in the time certain matter at 4:30 while we have him here.

**Potter:** Do we have a motion to -- postpone the current hearing for a very short period of time?

**Adams:** So moved.

**Saltzman:** Second.

**Potter:** All those in favor? [chorus of ayes]

**Potter:** So be it. Let's move on.

**Item 1543.**

**Potter:** I did not participate in the final hearing in deliberation. I did not review the record, so I will not vote on this appeal. Does anybody else need to be excused on this vote?

**Adams:** I do. For the same reasons.

**Potter:** Two members of council have requested to be excused from voting. Does anybody on the council object? Please proceed. Call the roll.

**Rees:** We need a motion to adopt the findings and decision.

**Sten:** So moved.

**Leonard:** Second.

**Potter:** Calling the roll.

**Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye. [gavel pounded]

**Return to Item 1542 (continued).**

**Potter:** Thank you. Ok. Now we'll return to the land use appeal hearing on cardinell drive. Did we have any more people who wanted to appear in support of the appeal?

**Moore:** Unless harry grottis wanted to speak --

**Potter:** Ok.

**Moore:** Jerry signed up again. Is he allowed to speak again?

**Potter:** No. Ok. The principle opponent, the applicant in this proceeding, could you please come forward? You have 15 minutes, peter. Please state your name when you testify.

**Peter Fry:** Peter fry. What i'd like to do is present a brief testimony and then get up and allow three of my experts to -- could you stop the clock while that takes place? For one minute? Ok. This area is a transition between the downtown area and the west hills. They've talked about this being an area, the area is literally thousands, 2,000 feet from Portland state as shown. There's direct trails

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and paths down to Portland state. What we tried to do is take a damaged area, this entire area has serious problems with invasive species, with trees, the makeuples look like alders, they're so spindly because they're growing so close together. It is true, we don't deny that there's slides in the surrounding area. All these issues were issues that we faced when we started this process. We worked with the city, the fire department, pdot, bureau of environmental services, we've worked with the neighbors, and I understand change is dangerous, change is difficult. I understand that there's a great deal of fear involved in all this process. But this is not a proposal that was half baked or came in in three to four weeks. This is something we've worked very hard to develop. I'd like to have some of our experts talk about the obstacles and how we approached them. Thank you.

**Potter:** Could you have the experts come at the same time so we don't --

**Fry:** We -- yes, I do, and then i'd like one minute at the end.

**Potter:** Ok. Thank you for being here. When you talk would you please state your name for the record.

**Gordon Dunthurh:** Gordon dunthurh, the environmental consultant for the proponents. I'd like to speak briefly about the existing conditions and a the bit about the proposal for the environmental space. Although the staff did a very good job covering those issues. Currently the property is in a degraded state. It's an upland forest community without any wetlands or screens. Tree canopy is dominated with large leaf makeuples. English i'vey and clematis have climbed virtually every mature tree and reached well into the branches, causing very poor growth conditions for all of the mature trees. While a few native shrubs and plants were observed in the ground cover, english ivy, morning glory and blackberries come nate much of the property. Under the previous ownership, the current ownership is completely different from the owner that engaged in the environmental violation that occurred in the past. He was responsible for a tree removal violation with an unsuccessful mitigation attempt which is not terribly unusual typically people who engage in environmental violations are poorly motivated to come back around and do the right thing when they need to mitigate for those. So as a result of that, that specific mitigation area and the rest of the property have an unchecked growth of exotic and invasive plants and in the rest of the property that's been going on for decades, so it's really in poor condition when it comes to the state of the vegetation there. Poor habitation conditions for wildlife exist due to that, and english ivy and the other exotics, blackberries and morning glory, etc., have really taken over, and so the native plant communities have been severely degraded. Without some kind of a natural event that would be capable of reversing this trend, such as a catastrophic fire or a mass land movement, there really is very little chance for any way for this property on its own to come back around and provide the kind of benefits to native wildlife habitat that could be seen. So the proposal on the table as far as the green space and the natural spaces is to relocate the failed mitigation site, allowing for the development of the site, the smallest footprint practicable. Create wildlife habitat that's improved, improved groundwater recharge capacity, the exotic -- preserving native trees, introducing natives likely to develop into a conifer upland forest climax community over time. Naturally this wouldn't happen in five or 10 years, but with a good jump start and a very good plan that's adhered to, that's exactly what will happen in time. Permanently protected -- to ensure the preservation of the improved habitat. That's all I have.

**Marcy Boyer:** My name is marcy boyer, i'm the geotechnical engineer for the cardinell drive project. My company p.s.i. Has completed a geologic hazardous evaluation and a geotechnical engineering report for this site. Those studies have included slopes -- slope stability analysis for the site during and after construction. The city of Portland website does show that the site is within a rapidly moving landslide. In addition, we do recognize that the site has a steep slope. However, during our studies we found no evidence of rapidly moving landslide movement on the site. There's a set of concrete stairs to the east of the property that have been there for tens of years that show no signs of distress. There's a concrete retaining wall in the lower portion of the site, again, tens of



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years old, that shows no signs of distress. Southwest cardinell drive shows no signs of distress that could be due to a rapidly moving landslide in our opinion, the site -- if the site were rapidly moving, some signs would be reserved somewhere. Subsurface conditions consist of weak soils over bedrock. The soils are called those. We assigned strength values to the slopes. We did observe signs of shallow soil creep, but the proposed retaining walls at the site would support the creeping soils. And the building will be supported on deep foundations so it won't be adding any load to the surface of the site. As far as temporary and permanent slope stability, we recommend construction occur during the dry season. Surface and subsurface water will be captured and diverted from the slopes which will enhance the stability of the on-site slopes. The wall holding up cardinell drive is not a bolder wall, it's an actual engineered reinforced concrete wall designed by a licensed structural engineer. In our opinion, the construction of the project will not have a detrimental effect on the site and the surrounding properties. The site will be more stable because of the grading and drainage improvements planned for this development.

**Adams:** Are you testified the improvements will be anchored into bedrock?

**Boyer:** The building will be set on piles that are driven into bedrock.

**Maria Cahill:** Maria Cahill. I did the civil site design for this project, a lot of the environmental coordination. Most of the design work I did is involving storm water management during the construction process and afterwards, so I'm responsible for the grading and erosion control plan and storm water management. The grading and erosion control plan was done with the steep slopes up to 70% slopes in mind. The wall that's been holding up cardinell drive is going in first, so there's a staging area to keep traffic out of that area. The trees that are being cut in -- on this site are all due to building footprint. I set a construction limit line to preserve within a reasonable amount of the building to preserve as many trees as possible. So the construction limit line is -- the building can be constructed without going too far into preserved areas. And for post-construction storm water management we are proposing a green roof and the public improvements would have a flow-flow planter. That's it.

**Potter:** Thank you very much.

**Saltzman:** I have one question. What's the definition of a rapidly moving landslide area?

**Boyer:** It is on the city of Portland website as a rapidly moving area.

**Saltzman:** What does rapid mean, feet per year, or --

**Boyer:** It's undefined as far as I know.

\*\*\*\*\*: A landslide a person cannot outrun.

\*\*\*\*\*: That's a rapidly moving landslide.

**Adams:** You mentioned the conservation easement, and this might be more suitable to Peter, but is there anything in the plan development and the associated conservation easement that will require the developer to remove the invasive species or at least the worse of the invasive species that exist on that and what assurance would we have as community that it would be maintained? By the condo association?

**Dunthurb:** That's part of the approval, is it not?

**Potter:** We did stop the clock for you, Peter.

**Fry:** I'm answering a question right now. The hearings officer's decision includes conditions of approval. They didn't just say go for it and build this, they've identified specific conditions that were required to meet the run with the land. One of the conditions is a requirement that the applicant of the contractor and the city staff meet and discuss the process of disturbance to this land in a practical and specific way. So we're not allowed to disturb the land until we have met with the city and come to a conclusion. There's a specific amount of trees that are required to be planted. This is condition c. Condition d is dealing directly with the permitted erosion control measures that we are required to do prior to construction at the time of construction. And finally, condition e is that the -- we are required to provide once a year a report to the city as to the status of what is going

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on in the property of the city then has the opportunity and in fact the requirement to dictate to us what needs to be fixed and what needs to change.

**Potter:** Excuse me. Are you done answering his question, or are you still going?

**Fry:** I'm almost done. I just -- i'm just answering that this -- these requirements are specific as conditions of the use. They're recorded in run with the land, and I am having a really difficult time explaining that, that this is a land use decision that's focused on environmental issues not a conditional use. And the last thing in terms of my answer, then i'll go into my testimony, that will be -- that will be it. Let's just end it at that. I'll use this as part of my testimony.

**Adams:** I have a follow-up question.

**Fry:** Ok.

**Adams:** My question is, I read the conditions and I want to clarify if one of the conditions is, or your comment on a possible new condition applied by us, that it would be the responsibility of the condo association to maintain the conservation easement area to a reasonable standard.

**Fry:** One is, there's -- we have -- I did not realize swirl had an issue, and I want to speak to that when my time goes. But when I met with them last week, there's no problem with having the condo association responsible, because that is our plan and our expectation all along. The second thing, and you can run the clock now if you want, but I have done this a lot, and recognize that five years is a short period of time. And we don't have a problem with having a 10-year report. I do a project in beaverton where we do in fact have five, seven, and 10-year reports. So we don't have a problem with you extending the reporting period as part of your deliberation. And I don't mind saying that as part of my testimony. I want to really clarify as part of the record shows that we've looked at all kinds of alternatives. We could split the building into two, and therefore avoid the height issue. Because the measurement of height is from the lower end of the building, so we had in fact two buildings we could stack one building separate it, and then measure the next building at the allowed 50 feet. We could move the buildings around on the site, put a building down on cloaj, a building up on cardinell. All these things we looked at, and in the sum of all this we felt the best solution in terms of three factors, one is to minimize the disturbance area on the site, allow the site to be a natural park within this high-density developed area, this is rh, r1, r2, we recognize it's a much lesser density to the south as you go up the ridge. We felt that consolidating the development in one building on one area allowed the greatest amount of the site to remain natural. The second thing we've attempted to is we're attempted to recreate a woodland northern forest exposure. These -- this area should be cedar trees and fir trees. It should not be maple and alder. The entire west hills has been disturbed and no one has restored it. We're trying to start to move the restoration back. We need a large enough area to do that. You cannot put buildings around and not create an evergreen forest. The third reason is we want to put the park inside the building, and not add surface parking. And so in order to put reasonable parking floor plates inside the build can, we need to have a single building and not split into two buildings to split them in two buildings we would have to have smaller floor plates, and we would be having inefficient parking. We've also met with the city and I want to be clear that we're trying to strengthen and we enforce the curve at cardinell. The reason we're using boulders at the exterior expression of our retaining wall is not a boulder wall, it's a retaining wall, as our experts have said, is because boulders are more natural appearing and look better from our opinion and also in my personal opinion, creates more habitat and more ability for the natural area to reinforce its relationship with this physical structure being cardinell. We're also planning on the stairway. We've met with the forester to deal with the trees that are within your right of way, the alleyway. And so part of our disturbance area is in fact your disturbance area that we're disturbing to your benefit. Meaning that we're disturbing area in the environmental zone to reinforce cardinell to expand cardinell to provide better fire access sidewalks, to restore the alleyway that's on the right of way, and effectually that's called disturbance area, that is part of our request. Our request is essentially maybe 60, 70% private disturbance area,

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and 30% public disturbance area, and we're taking that on as part of our requirement. I want to briefly discuss the -- my attorneys don't believe the swirl have standing to appeal, because the woman as part of the tape and -- did not say she represented swirl at the hearing, and did not raise any substantive issues. I basically felt as a planner it's important for people to have the right to be heard, and that's what swirl said at their neighborhood meeting. They felt in the vote that it was important that they -- the people have the right to be heard by the highest court of the land, which is you, so maybe i'm making a legal mistake in not making this objection at the beginning of the hearing, but i'm not threatened by people having the right to be heard by you. The last thing I want to say is about site. Site does have multiple ownerships allowed in it. It is one site, and we're developing as one site under one land use decision the house on the southern site of the site is going to be severed into a separate ownership, so that as the site will have two o.s.p., the -- most of the environmental conditions addressed northern portion of the site. The southern portion of the site has the pathway connecting cardinell and the retaining wall. And that's ally like to say unless you have questions.

**Potter:** I have one. I wanted to ask the city attorney, is the issue about traffic congestion in that area, was that an issue pa was raised at the hearing?

**Rees:** I don't know if it was raised, but the point staff made at the beginning, which is in are no approval criteria relating to traffic congestion, so it should not be relevant to addressing any of the approval criteria, and we can't impose any conditions of approval because there would be no nexus to the approval criteria.

**Potter:** This is an irrelevant question, then. How do you get those folks living in those 32 units off the hill?

**Fry:** Well, traffic is an issue, and we've met with goose hollow and i've met with the neighbors, and we've discussed traffic as a -- let's call it a political issue good neighbors. We're marketing this project to people that would have fewer cars. [laughter] I -- excuse me. This is no joke. This project is within walking distance of Portland state, it's within walking distance of streetcar, it's down town, it's not --

**Potter:** Folks, let's please remain quiet.

**Fry:** It's not up on vista, it's not deep in the west hills. So generally we're looking at a relatively low car split, however, we definitely recognize, and let's assume the worse case scenario, which would be two cars per unit, which would -- and recognize that we have allowance to build 39 units and we're only proposing 36. So we have 72 cars. And we have 72 cars leaving in in the morning going to work. I personally -- I don't want them to laugh, I don't believe that would be the kind of impact that they're arguing. There's already a lot of traffic on this street, and there's a lot of development going on in cardinell down farther south, and the street can sustain that kind of traffic, in my opinion. That's just a political -- we didn't have a traffic in-- traffic consultant. I'm just expressing a personal opinion.

**Sten:** I just wanted you to think about this as we get closer to debate. I'm not sure which way i'm going yet, this is a good argument on both sides. After we hear the rebuttal and think about this, I was encouraged to hear that the proposal for a 10-year period to mitigate this because I -- one of the things I did hear the other side vernon clifford allen, that was one of the concerns. I would be interested in knowing what you would be willing to do in terms of a bond or predetermined remediation or penalty actioning, because I have been in situations where the report comes in and the work hasn't been done up to par and we don't have much we can do about that. So I would be interested in something on the front end that said if the environmental report shows that something is not being done that was agreed to, is that there's a set course of action so we're not starting from scratch on how to enforce that. Bond is typical, but I don't think it's the only thing that's possible. If you could give some thought to that. I'm telegraphing, if I go that way i'm going to would be something there.

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**Fry:** I guess I can respond by saying it is our intent to have a demonstration project through this land use approval in this area. We have spent a lot of time trying to design this thing so it would work. I'm in no way opposed to a longer period of monitoring performance bonds. Frankly in my personal opinion, I'm speaking now as my personal opinion, I think that swirl is correct in that Portland does not have the same level of enforcement that I see in beaverton and the cleanwater sevens of Washington county, which I live with in other developments. So I'm not afraid of you beefing up your enforcement process.

**Adams:** I'd like to get your reaction to two possible -- I haven't made up my mind either, but two possible further conditions. One is that the -- to state a condition that it requires the condo association to pay for the maintenance standards described in section e, which is similar to what commissioner Sten said, but -- and not for 10 years, but for --

**Fry:** Forever. That's been always our plan.

**Adams:** The second is to provide possible access to a site for public storm water facilities on the site street storm water facilities on the site.

**Fry:** I may need my civil engineers. I'm going to try to answer that question. That was my intention, to use our water to recharge the drainageway to support the planning -- plantings, and that was rejected by bureau of environmental services, our civil engineer, because they stated that that would destabilize the slope and that the drainage system that exists there today is undersized and --

**Adams:** We don't want to destabilize --

**Fry:** We went another route, which is to deal with the green roof and the other aspects and move the water straight into your system with the facility to clean it at the southern -- northern edge of the building. Been to put it on the ground. But it was rejected.

**Saltzman:** Is the green roof part of the approved storm water control plan?

**Fry:** No, it's not part of this land use decision, it's our intention. It's part of our proposal, but it --

**Adams:** We could make it a condition to make sure it happens.

**Fry:** You have to ask starch, but it's part of our proposal.

**Potter:** The written proposal, peter?

**Fry:** Yes.

**Potter:** Any other questions? Thank you. We haven't actually had persons who oppose the appeal speak yet, have we?

**Moore:** We haven't had supporters, but I don't show anybody who has not already spoken.

**Potter:** Ok. So we now have rebuttal by the appellant. Please come forward, and you have five minutes.

**\*\*\*\*\*:** I'm very happy --

**Potter:** Could you please state your name? You have a total of five minutes.

**Ann Turner:** I'm ann turner, and I'm representing swirl, and I was very happy to have some of you recognize that we need better enforcement of the conditions that we require of developers. I also want to point out that in the original bureau of land development services hearing on october 4, that this area is characterized by intermittent stream beds and wetland, and forested wetlands, and I don't think enough has been thought about this. I realize that the developers are thinking about this some and are certainly getting into this, but it seems odd to me that this is not -- that this type of development would be placed in this area. I know it's very possible to build a huge building almost anywhere, but you do disturb the land around and you also change how the water moves and this has to be checked on at times. And I hope that the condominium association will also be involved in this as well as concern about the environmental aspects such as trees. Now, another issue is whether the boulders are enough support for the wall along cardinell. I've heard conflicting thoughts on that. Would concrete be better? Boulders fall down the hill pretty well on a slide, I would think. And I think we're still concerned about slides. Also, it would seem to me that the hearings officer did not think it necessary to consider other ways of using this land. And I think this

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also too is an issue I don't know how you're going vote, of course, but I think this should be thought out, that there would be other ways of using this land that probably would not cause so much general disturbance. Did you have something to say?

**Powell:** Sure. Mr. Mayor, I'm Jerry Powell. I'm a member of the American Certified Planners, and I am representing Swirl in this case as well as my own neighborhood association, Goose Hollow. We disagree with the hearing officer's finding that there's no credible evidence of an environmental hazard on the site. That's really kind of the icing. It happens to be, however, the icing that brings the issue in front of you, because it is after an environmental review. Now, what the environmental review does, it kind of shoves development over into one corner. Because otherwise the building would completely obliterate the area that is -- the remediation area that was the subject of the earlier environmental review. Well, we don't probably -- entirely object to development being shoved over into that corner. In fact, we don't really object to there being a modification of the environmental review. What we do object to is using a site that is fairly obviously I think in the exact words that I used in front of the hearing officer, too not very well related -- two not very well related parcels. They are separate parcels. To justify a development that is many times the size it would ordinarily be found on this particular site. With respect to control, the applicant said in his presentation that they would be willing to do reports over a period of time. That still doesn't reach the issue of who is going to enforce those environmental issues on the site.

**Potter:** Go ahead and wrap up, sir.

**Powell:** We still maintain that unless there's ownership in one party, preferably the condo association, of the entire site, that trying to gain enforcement over -- of the environmental rules that may go from here forward is just impossible. It will not happen. All of these issues address really under that one part of the code modification 33430.280, and that is the single criterion that we're contesting most loudly. Thank you.

**Potter:** Thank you. Commissioner Adams has a question.

**Adams:** Do you -- I understand the concerns about slope stability. And I understand that there are locations in this neighborhood and this area that have been subject to movement. Can you offer us any evidence that contradicts the expert evidence that we received by the developer regarding the stability of this particular site?

**Powell:** On this particular site, the site investigation that was conducted to our knowledge was done in the middle of a very dry summer. It was after three months of no rain. The problems that exist on this site in terms of its environmental stability have to do with when water is introduced to a place where there's --

**Adams:** I just have to -- my question is, can you offer any evidence of instability on this site during wet weather, dry weather, any weather, any retaining walls, they cited retaining walls that were in place, they cited stairs that showed no evidence of movement. I'm just -- I want to give you the chance to offer any evidence. I know rhetoric and I know the concerns and I know they're heartfelt, but we have to deal in evidence here. Can you offer any actual evidence?

**Powell:** No. There's surface movement, the area is sited as a fast-moving landslide area. There is not a burden on the soil at this time that would cause the kinds of difficulty that's we're speculating.

**Adams:** Do you agree or disagree with staff and attorneys' review that we the council cannot legally consider traffic impacts on this case?

**Powell:** I believe you can reach that through the modification paragraph in 33-430. I'll admit it's a stretch, but it requires you to look at the impact of the proposal on the neighborhood. Transportation is certainly one of those impacts.

**Adams:** Thanks.

**Potter:** Do you wish to bring anybody back up to ask additional questions?

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**Adams:** I'd like to know how long the zoning has been on this site, how long it's been there? More or less, a year, two years? 10 years, 20 years?

**Parsons:** I know it's been there at least since 1999. I don't have a specific date as to which -- when that zoning was established.

**Adams:** That helps. Thanks. Do you believe 33.430 is -- provides us with a latitude to consider transportation impacts?

**Parsons:** No, I don't. When you look at 33.432.80, the only section that states you can look at impacts on livability and appearance of the area is when you have a modification to a lot dimension standard that. Only comes up when you have a subcan I vision and your lots are not meeting the particular area with depth requirements. We're not looking at lot modifications here, so --

**Adams:** And who owns -- who ends up owning the natural area, who is the legal owner of it at the end of the day?

**Parsons:** Well, there couldn't be a different owner than who is established in the conservation easement as the responsible party. You could include provisions of that -- that a conservation easement is specifically tied to the homeowners association.

**Saltzman:** I thought that was already established, that that -- .

**Parsons:** It's not specifically written in the conditions. You could include that to make it more clear. You could also -- I wanted to point out, it seemed like there are a number of concerns about what requirements the homeowners association would be held to when subdivisionless review the cc&r's. We don't -- in this shall ever -- particular situation we wouldn't be looking at them, but that's something we could consider reviewing to get a better assessment or an idea of what the requirements would be.

**Adams:** If we were going to pursue requirements of the homeowners association, where does a citizen go in these people live nearby, and they'll have a trail to walk through to do site visits, where does one complain? I've never -- where does a person complain that a homeowners association is not following, if we do add those conditions?

**Parsons:** It would want to call the code services department of bureau development services, and they are the department that would be dealing with the land use regulations and zoning code requirements.

**Adams:** And it would be an environmental complaint?

**Parsons:** It would be a complaint that land use review conditions aren't being met.

**Adams:** I see.

**Saltzman:** Is the trail required to meet any kind of standard for pedestrian paths, or is it just --

**Parsons:** There's a standard in the environmental chapter 33.430. There's a set standard for development of the trail, so it can't be on slopes beyond a certain percentage, it can only be a certain distance or a certain width and so they indicated they'll meet the standards for that trail.

**Saltzman:** So the maintenance issue we were just speaking to, making sure the condominium association can include the trail?

**Parsons:** It would include any improvements, any vegetation required by land use review as part of their responsibility.

**Potter:** Other questions? Thank you. The council has three choices. We can deny the appeal, we can deny the appeal but ask that new information be considered or ask for amendment language, or the council can grant the appeal. Is there a motion?

**Sten:** There's somebody waving in the front row. I think we're past testimony, but --

**\*\*\*\*\*:** The evidence you asked for, it cost a small fortune to anchor that landslide. There's your evidence.

**Potter:** Thank you, sir.

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**Rees:** Prior to a motion there's somebody who has raised an issue and just to avoid a possible appeal issue, if we could pause for a moment as she's looking for something in the record very quickly. I apologize.

**Potter:** Ok. That's fine.

**Saltzman:** While you're look for that position, the letter that was just given to us by tim ramos to peter finley fry about the standing of the southwest hills residential league, does this have any bearing on our decision right now? I guess it may --

**Rees:** It does. It's my understanding that staff and the hearings officer reviewed once the appeal was filed, reviewed the record and based on the information they had at the time, determined that it was an appropriate appeal looking at this -- it clearly may be an appeal issue.

**Sten:** I would be prepared to make a motion.

**Potter:** Is the information still being sought?

**Parsons:** Yeah.

**Potter:** What is the issue at hand?

**Rees:** Which mr. Adams asked the question of whether there was evidence about this particular site, I was approached by one of the neighbors who said I submitted something to the hearings officer, and can I jump up and show it to them, and I said not unless you can show it's in front of the hearings officer and rebound then it may be out of order. So --

**\*\*\*\*\*:** I think the testimony is closed.

**Potter:** Just a second, please.

**Rees:** Given this is a question asked by mr. Adams, if you feel satisfied with the answer, there's nothing that prevents you to take any additional testimony at this time. I'm just giving you the opportunity if you wish to waive --

**Potter:** Your call.

**Adams:** Let's give her 30 seconds.

**Potter:** We're through with the testimony part, sir.

**\*\*\*\*\*:** I just wanted to ask a question.

**Potter:** We're through with the question part.

**Rees:** It appears there's nothing in the staff file that would indicate. So we can go on.

**Potter:** Ok.

**Potter:** Do I hear a motion?

**Sten:** I would make a motion for a tentative decision to deny the appeal but inject at least one potentially two new conditions and I would ask that the staff work with the applicant to prepare proposed conditions. I think these will take a little bit of work, but I think they're doable. The condition would be that the council add a condition that requires a longer term of at least 10 years that the monitoring reports be done the condition is designed to require that what's promised in the application get done for a longer period of time and to have an accountable method to enforce that. Beyond what's in place now under city code. So essentially i'd be look for a proposal that says -- that would be required as part of the approval that the monitoring go on for at least 10 years, there be a bond posted, that the homeowners association be responsible for making sure that happened, that the issue of ownership that's been raised be addressed in a satisfactory fashion so that that is not an impediment to the thing that jerry raised about ownership to proper tabling care of what was promised, and that swirl and goose hollow be required as part of this to be copied by mail with each of the yearly reports so they get is that coming to them and don't have to remember to go look for it. So essentially that's one condition requiring essentially adequate enforcement of the agreement, but I would actually make it a tentative motion subject to those findings coming back to the council.

**Potter:** Did that include a bond?

**Sten:** A bond or comparable mechanism.

**Potter:** Ok.

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**Rees:** Would inclusion in the cc&r's be equivalent to a bond? I'm just trying --

**Sten:** I'm not positive. I would be open to hearing from either or both sides once the staff proposal is developed, if they think it's adequate. I just don't know enough -- i'm not conversant enough in how enforceable cc&r's are to say if that's equivalent to a bond. I was something into effect once our staff determines they're not in compliance, which we don't believe is going to happen, but if it were.

**Saltzman:** Is that also confirmation that the easement is also the responsibility of the homeowners association?

**Sten:** Yes.

**Adams:** If you could accept a friendly amendment that we refer specifically to section c, k, and e -- c, d, and e, in the hearings officer, because she describes in detail --

**Sten:** I would modify my motion to include that condition. I'm now in search of a second.

**Adams:** Second.

**Potter:** I'd like to hear the entire motion.

**Sten:** From me?

**Potter:** I guess so. Did anybody write it down?

**Sten:** I would move denial of the appeal and uphold the hearings officer with an additional condition that stipulates in some detail with the characteristics that I just described how the plan that's proposed will be enforced for at least 10 years with clear penalties and remedies if it is not.

**Adams:** Second.

**Potter:** Ok. Karla, please call the roll.

**Adams:** I want to thank the neighbors and the appellants for your good work and heartfelt testimony. We have to make decisions based on the law, and I tried to give you every chance to provide some evidence regarding instability, and the ability for us to make decisions based on traffic impacts. I didn't get that, I know there's concerns, but I didn't get that for this site. There was no evidence on this site, and that's what the law requires us to look at. And because we are not adjusting lot lines, we do not have the legal ability to look at traffic impacts either. The fact that they will be doing the foundation into bedrock, the fact they're going to be mitigating storm water so that in some cases they'll be less rainwater going on to the site, e than now, the fact they will do dry weather construction, those -- and it's my understanding the boulders are not holding up the side of the hill, that the boulders are on the exterior of a retaining wall which the city would require and has specifications for, these are all things that lead me to support the motion that denies the appeal. Aye.

**Saltzman:** I think it's always somewhat of a dicey condition here, but the conditions we face here in terms of not being able to have transportation impacts, having geologists, registered geologist and engineers document the conditions of this site, and looking at the fact that it's probably better to have one taller structure than perhaps two structures of lower height of 50 feet or so, I think this is the preferable alternative within the parameters that we're allowed to make these decisions, so I also vote aye.

**Sten:** I wanted to thank both sides for an excellent presentation. Sometimes they're not so good on both sides, in this case I any both were fair in their issues. My take on this is that it's residentially zoned, they have a right to build. They have a right to disturb almost twice as much area by our seen can, though they'd have to prove that with the environmental zone. So it actually isn't clear-cut. If we turn this down I think they would be back with a proposal to do a shorter building that was much wider. I think they would probably have a good shot at getting approval. I can see an argument for tuning down the additional height. I don't think that's something we're forced to do, but I do think the additional height really isn't the issue, because the height isn't what's affecting the arguments that the neighbors are arguing b i'm not saying you love it, but in terms of environmental remediation and other issues, so i'm not sure a shorter building that's wider does any good. So my



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judgment, which you can't ever be 100% sure on, which is why these are tough, is that a smaller building that doesn't take up as much space on the environmentally sensitive area albeit taller, is the best possible way to develop this. Other than a very small development, but we can't force a developer to say you're not going to do it, you're going to do small development where you're allowed to do something larger. That leads me to I think that the testimony from both swirl and goose hollow is very clear on don't necessarily want this, but if you're going to do it it has to be done right. So before we take a final vote, I want to hone in on putting tougher conditions in place to make sure we get it right and to make sure this developer, who I do want to say has worked very diligently trying to get to something that actually meets the intent of the city code, not just the letter of the law, so I believe they will come back with something that works. So I think you strengthened a proposal and hopefully have set some precedent for a better way to get at discussing the longer term issues around environmental zone development. I also think based on the condition of the site right now given the types of species that are there that over time, assuming, which is the big issue, we didn't see anything to say it couldn't be done, that the building is built properly, that the site should be more environmentally important if -- with this type of replanting and remediation. It's -- the stuff that's there now isn't what should be there, so it's not a perfect trade, but I think given all the dynamics that this is a good proposal, albeit an imperfect one, so I will vote aye with the stronger conditions and subject to making sure the stronger conditions are actually enforceable. Which we'll see when they come back. Aye.

**Potter:** I'm disappointed that we could not look at the traffic issue, and i'm going to ask b.d.s. to come to us with a plan on how we could include that as part of the process. It just is common sense that with that many units in that small of a street that that should be a consideration. And so I would ask for a report from b.d.s. On what needs to be done to remedy that so that as this -- these appeal processes occur, that we can use that as one of the conditions. So having said that, i'd feel like the only choice left to us is to vote aye and deny the appeal. [gavel pounded]

**Rees:** Given that this is a tentative vote and we'll need to come back to adopt findings including the condition outlined by commissioner Sten, could we ask the applicant's representative to come up and talk about the 120-day clock? I'm not certain we could within the time frame allowed get that condition honed out and do revised findings. So --

**Fry:** I wrote down peter fry, applicant representative. December 18 is the 120 days, and we're obviously vigilant to address this condition, but I also am concerned about allowing your staff sufficient time to do it. So I -- can I pass that question on to b.d.s.?

**\*\*\*\*\*:** Yes, b.d.s. Will need to review them as will the city attorney's office, but under the code it's the responsibility of the applicant's representative to prepare revised findings. So if you'd be working with b.d.s. To do that, I would think an extension given the holidays, you need to tell us where you are. But longer than usual.

**Fry:** We're prepared to be back before december 18 with our findings. But I want to be gracious to your concerns.

**Sten:** How about a 30-day extension?

**Fry:** Ok.

**Rees:** What would be the date and time certain for approximately 30 days out?

**Potter:** 30 days out from december 18 or today?

**Rees:** From today.

**Sten:** We could get it back sooner, but --

**Fry:** We're willing to grant the extension, that's not the issue.

**Rees:** We actually have to set a date and time certain today.

**Moore:** January 4 at 2:00. If you need a whole afternoon, or --

**Rees:** If we don't have anything else in the afternoon we could do it in the morning.

**Moore:** Let's see. 10:30 on january 4.

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**Fry:** Ok. We'll grant the extension.

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

**Potter:** Ok. There's still one item. That's -- we concluded that item. So we'll go to the last item, which is -- could you read item 1544?

**Item 1544.**

**Potter:** Does anybody want to be recused? I need a motion to adopt the findings and deny the appeal and modify the hearings officer's decision to approve a preliminary plan for a six-lot subdivision related adjustments subject to conformance with the storm water management and tree preservation plan and subject to the amended conditions listed.

**Adams:** So moved.

**Sten:** Second.

**Potter:** Please call the roll.

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

**Potter:** Aye. [gavel pounded] that's the last item for the day. We're adjourned until next week.

At 5:35 p.m., Council adjourned.