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CITY OF  
**PORTLAND, OREGON**

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**OFFICIAL  
MINUTES**

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A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **7TH DAY OF FEBRUARY, 2007** AT 9:30 A.M.

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

Commissioner Adams teleconferenced from Agenda Item 108 through Agenda Item 125 from 9:52 a.m. to 2:53 p.m.

Council recessed at 12:55 p.m.

Council reconvened at 1:18 p.m.

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

At 2:00 p.m., Kathryn Beaumont, Senior Deputy City Attorney, replaced Walters as City Attorney.

At 3:19 p.m., Linly Rees, Deputy City Attorney, replaced Beaumont as City Attorney.

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

<b>COMMUNICATIONS</b>		<b>Disposition:</b>
<b>107</b>	Request of David Yandell to address Council regarding a project with Portland Police and elementary schools (Communication)	<b>PLACED ON FILE</b>
<b>TIME CERTAINS</b>		

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108	<p><b>TIME CERTAIN: 9:30 AM</b> – Refer amendments to the City of Portland Charter, Chapter 13, Charter Revision and Interpretation, to the May 15, 2007 Special Election Ballot to provide for periodic Charter review (Resolution introduced by Mayor Potter)</p> <p><b>Motion to amend Section 13.302 to add “all Charter Amendments proposed by the Commission, after of a public hearing process identical to those required of public bodies, then they can submit:</b>  Moved by Commissioner Sten and seconded by Commissioner Leonard.  (Motion was withdrawn with by Commissioner Sten and supported by Commissioner Leonard)</p> <p><b>Motion to accept amendment to add “all Charter Amendments proposed by the Charter Commission supported by an affirmative vote of at least 15 members of the Charter Commission, after a public hearing process prescribed by Council, shall be submitted to the voters of the City of Portland at the next primary or general election that is at least 120 days after the date the recommendations are presented to the City Council”:</b> Moved by Commissioner Sten and seconded by Commissioner Leonard. (Y-5)</p> <p><b>Motion to amend Section 13.302 to strike the first sentence in its entirety and add “all Charter Amendments proposed by the Charter Commission would be considered as recommendations to the City Council, the Council may but is not required to refer such proposed amendments to the voters of the City of Portland”:</b> Moved by Commissioner Leonard and seconded by Commissioner Sten. (Y-1, Leonard; N-4) Motion Failed.</p> <p><b>Motion to accept amendment to strike the language “the Charter Commission shall be reflective of the City as a whole” and replace with “in terms of its racial and ethnic diversity, age, and geography”:</b>  Moved by Commissioner Saltzman and seconded by Commissioner Leonard. (Y-5)</p> <p>(Y-4; N-1, Leonard)</p> <p><b>Motion to accept amendment to Exhibit B summary paragraph 4<sup>th</sup> line is changed to “the Commission will reflect the diversity of the City and will be made up of 20 residents”:</b> Moved by Commissioner Leonard and seconded by Commissioner Saltzman. (Y-5)</p>	<p><b>36477</b> AS AMENDED</p>
109	<p>Refer amendments to the City of Portland Charter, Chapter 4, Civil Service, to the May 15, 2007 Special Election Ballot to update language and provide for additional management flexibility (Resolution introduced by Mayor Potter)</p> <p>(Y-3; N-2, Leonard, Sten)</p>	<p><b>36478</b></p>

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<p><b>110</b> Refer amendments to the City of Portland Charter, Chapter 1 Corporate Existence and Powers and Chapter 2 Government and other conforming amendments, to the May 15, 2007 Special Election Ballot to adopt a Mayor-Council with Chief Administrative Officer form of government (Resolution introduced by Mayor Potter)</p> <p><b>Motion to accept amendment to put back the temporary appointments language:</b> Moved by Commissioner Sten and seconded by Commissioner Leonard. (Y-3; N-2, Leonard, Sten)</p> <p><b>Motion to accept a substitute Exhibit B:</b> Moved by Mayor Potter (after turning over the gavel to the President of the Council Leonard) and seconded by Commissioner Saltzman.</p> <p><b>Motion to amend the substitute Exhibit B to add the language “shall executive authority be transferred from Commissioners to the Mayor and Council exercise legislative and quasi-judicial duties”:</b> Moved by Commissioner Sten and seconded by Commissioner Leonard. (Y-5)</p> <p>(Y-3; N-2, Leonard, Sten)</p>	<p align="center"><b>36479</b> AS AMENDED</p>
<p><b>111</b> Refer amendments to the City of Portland Charter, Chapter 15, Portland Development Commission, to the May 15, 2007 Special Election Ballot to provide for additional City Council oversight (Resolution introduced by Mayor Potter)</p> <p>(Y-5)</p>	<p align="center"><b>36480</b></p>
<p align="center"><b>CONSENT AGENDA – NO DISCUSSION</b></p> <p align="center"><b>Mayor Tom Potter</b></p>	
<p><b>112</b> Appoint Marshall Runkel to the Portland Community Media Board of Directors for a term to expire November 30, 2008 (Report)</p> <p>(Y-5)</p>	<p align="center"><b>CONFIRMED</b></p>
<p align="center"><b>Bureau of Planning</b></p>	
<p><b>*113</b> Authorize a Historic Preservation Fund grant application for \$20,000 to supplement the City historic resources program for the federal FY October 1, 2007-August 31, 2008 (Ordinance)</p> <p>(Y-5)</p>	<p align="center"><b>180750</b></p>
<p align="center"><b>Office of Management and Finance – Business Operations</b></p>	
<p><b>*114</b> Pay claim of Michael Gemmet (Ordinance)</p> <p>(Y-5)</p>	<p align="center"><b>180751</b></p>
<p><b>*115</b> Pay claim of Brenda Parsons (Ordinance)</p> <p>(Y-5)</p>	<p align="center"><b>180752</b></p>
<p align="center"><b>Office of Management and Finance – Human Resources</b></p>	

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<p><b>116</b> Change the salary range of the Nonrepresented classification of Capital Improvement Program Planning Supervisor (Second Reading Agenda 94)</p> <p>(Y-5)</p>	<p align="center"><b>180753</b></p>
<p align="center"><b>Office of Management and Finance – Purchases</b></p> <p><b>117</b> Delegate authority to the Purchasing Agent to execute Intergovernmental Agreements in support of Intergovernmental Cooperative Procurements (Second Reading Agenda 95)</p> <p>(Y-5)</p>	<p align="center"><b>180754</b></p>
<p align="center"><b>Office of Management and Finance – Technology Services</b></p> <p><b>*118</b> Authorize an Intergovernmental Agreement with the University of Oregon for participation in the City Integrated Regional Network Enterprise (Ordinance)</p> <p>(Y-5)</p>	<p align="center"><b>180755</b></p>
<p align="center"><b>Commissioner Sam Adams</b></p> <p align="center"><b>Bureau of Environmental Services</b></p> <p><b>119</b> Authorize an Intergovernmental Agreement with the Port of Portland, Multnomah County and others to share cost of joint legal defense activities related to Phase I National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System Discharge permits (Second Reading Agenda 96)</p> <p>(Y-5)</p> <p><b>120</b> Authorize a contract and provide for payment for the construction of the Brownwood Floodplain Mitigation and Restoration Project No. 7335 (Second Reading Agenda 97)</p> <p>(Y-5)</p> <p><b>121</b> Authorize a contract with Parametrix for engineering services for the predesign and final design of a new wastewater pump station at 8333 SE Harney St. Project No. 8376 (Second Reading Agenda 98)</p> <p>(Y-5)</p>	<p align="center"><b>180756</b></p> <p align="center"><b>180757</b></p> <p align="center"><b>180758</b></p>
<p align="center"><b>Commissioner Randy Leonard</b></p> <p align="center"><b>Water Bureau</b></p> <p><b>122</b> Accept contract with Werbin West Contracting, Inc. for the construction of the SW Taylors Ferry Rd/Capitol Hwy Mains Package as complete, release retainage and authorize final payment (Report; Contract No. 36406)</p> <p>(Y-5)</p>	<p align="center"><b>ACCEPTED</b></p>
<p align="center"><b>Commissioner Erik Sten</b></p> <p align="center"><b>Bureau of Housing and Community Development</b></p>	

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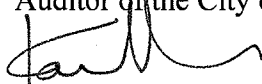
<p><b>*123</b> Amend subrecipient contract with Southeast Works by \$5,625 to develop infrastructure and group processes and provide for payment (Ordinance; amend Contract No. 36858)</p> <p>(Y-5)</p>	<p><b>180759</b></p>
<p><b>REGULAR AGENDA</b></p> <p><b>124</b> Urge Congress to remedy the inequality in the law that gives the Northwest the highest levels of benzene in the country (Resolution introduced by Commissioners Adams and Leonard)</p> <p>(Y-4; Saltzman absent)</p>	<p><b>36481</b></p>
<p><b>Mayor Tom Potter</b></p> <p><b>Office of Management and Finance – Human Resources</b></p> <p><b>*125</b> Authorize a labor agreement with Laborers' Local 483 for terms and conditions of employment of represented employees in the Recreation bargaining unit (Ordinance)</p> <p>(Y-5)</p>	<p><b>180760</b></p>
<p><b>*126</b> Authorize a labor agreement with the City of Portland Professional Employees Association for terms and conditions of employment of represented employees in the bargaining unit (Ordinance)</p> <p>(Y-4; Adams absent)</p>	<p><b>180761</b></p>
<p><b>Office of Management and Finance – Purchases</b></p> <p><b>127</b> Adopt findings and authorize an exemption to the competitive bidding process to the Bureau of Purchases pursuant to ORS 279C and City Code 5.34 and provide payment for construction of the Gabriel Park Skate Park Project (Ordinance)</p>	<p><b>CONTINUED TO FEBRUARY 14, 2007 AT 9:30 AM</b></p>
<p><b>Commissioner Dan Saltzman</b></p> <p><b>Office of Cable Communications and Franchise Management</b></p> <p><b>128</b> Grant a franchise to PacifiCorp for a period of 20 years (Second Reading Agenda 3)</p> <p>(Y-4; Adams absent)</p>	<p><b>180762</b></p>

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<p><b><u>WEDNESDAY, 2:00 PM, FEBRUARY 7, 2007</u></b></p> <p>Note: The Wednesday, 9:30 AM Meeting continued into the afternoon meeting time.</p> <p><b>129 TIME CERTAIN: 2:00 PM</b> – Accept Staff Report and Recommendation and Order of Council for Robert M. Boyl, Measure 37 Claim (Report; Claim No. PR 06-180160)</p> <p><b>Motion to adopt the Staff Report and Order of Council as Council's decision:</b> Moved by Commissioner Sten and seconded by Commissioner Leonard.</p> <p>(Y-4; Adams absent)</p>	<p><b>Disposition:</b></p> <p><b>STAFF REPORT AND RECOMMENDATION ACCEPTED; ORDER OF COUNCIL ACCEPTED</b></p>
<p><b>130 TIME CERTAIN: 3:00 PM</b> – Appeal of Goose Hollow Foothills League against the Hearings Officer's decision to approve the application of Cynthia L. Hilliard for a Zoning Map Amendment from R7 to R2, in compliance with the existing Comprehensive Plan Map designation of Low Density Multi-Dwelling Residential and four Adjustment Reviews at 1970 SW Mill Street Terrace (Hearing; Previous Agenda 45; LU 06-109528 ZC AD)</p>	<p><b>CONTINUED TO MARCH 15, 2007 AT 2:00 PM TIME CERTAIN</b></p>

At 5:04 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.

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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.

[ The following text is the byproduct of the closed captioning of this broadcast. The text has not been proofread, and should not be considered a final transcript ] \* \* \*

**FEBRUARY 7, 2007                      9:30 AM**

**Potter:** I appreciate you being here this morning. Before we begin the formal part of our proceedings, I ask the question of our community, the question is, how are the children? The reason that we ask that is that we know when our children in a community are well, the community is well too. Each week we have folks talk to us about issues involving youth and children. Today we have matthew. Could you come up, please? Matthew came to new avenues about a year ago after a series of events that led to his homelessness. He has worked at the new avenues for youth ben and jerry's shop and interviewed this week with kgw for an internship. So matthew, thank you for being here, and the floor is yours.

**Matthew Cottrell:** Thank you for having me. As you know, my name is matthew, i'm 19 years old. I graduated from high school in 2005 from the tacoma school of the arts. I went on to pacific lutheran university, studied for approximately six months. When I had a post-traumatic stress disorder episode. My episode, the severity caused me to miss about two months of school, and because of that the school asked me to leave. So I left. I got a job working at a gas station for six months. Got my own apartment, and was on the way of climbing back up into my life when some conflicts with my roommates and my employer led to me living in the woods outside of tacoma. I read about new avenues for youth on the internet in the library in tacoma, and saw it as being a way of getting out of the woods and getting back on top of my feet. So in august I came down here and since then I have -- i'm now living in a stable situation, i'm working part-time working on full-time. I have been studying, I have what's called discalcula, and I have completed two more grades of my math since i've gotten to new avenues. As you mentioned, I have a kgw interview this week. Wish me luck. New avenues has done some of the most amazing things to me in my life. One of the biggest things I want to speak on is that the support that it offers. At any given time we have approximately 400 youth on the streets of Portland. And as one of them, i'm not a very good representation. I got here in august, six months later I guess, i'm back on my feet and i'm already off the streets and working on getting out. So when those -- when I was asked to do this by new avenues, my immediate reaction is how am I supposed to talk on the things the youth need and talk about what is it they want in the world? When I myself don't really know yet? So I went to the youth on the streets and I spoke to them. I talked to some of my friends who are still in the shelter system, and I asked them, what is it that you want from the city? What is it that you desire and need? And the biggest thing was a home. I guess that's what homelessouts would say. But I think that holds true. Right now the biggest thing we can give to youth is the support to be able to climb back up on to their own two feet without enabling them, but still giving them strength and knowing there's people here who are trying and who are caring and who are welcoming and who can be friends. That's my spiel. Thank you very much for having me.

**Potter:** Thank you. We do wish you good luck at kgw this week. If you ever need a reference, let me know.

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\*\*\*\*\*: I will. [laughter] let's give this young man a hand. [applause] [gavel pounded] city council will come to order. Karla, please call the roll. [roll call] [gavel pounded]

**Potter:** Commissioner Adams is not with us today because of an emergency operation he had yesterday. He will be joining us by telephone. Are there any objections?

**Leonard:** Mayor, I would like to read the code that speaks to attendance by electronic communication, and then have you respond. Code section 3.02025 says at the beginning, "members of the city council may attend and be present at public meetings by means of telephone or other electronic communication allowing voice transmission provided that all the conditions in subsection a-d are fulfilled. Subsection a says -- and this is a criteria the code requires have fulfilled before any of us can vote electronically. An emergency exists such that failure to allow participation of city council members by electronic communication would jeopardize the public interest, health, safety, or welfare." subsection c is "wherein -- the language that allows for an individual council member to object. I guess i'm asking for you to tell me how you conclude that something that is occurring here today requiring commissioner Adams' attendance electronically that would kick in the term public interest, health, safety, welfare.

**Potter:** That particular language is from the charter if i'm not mistaken, and we are here today to discuss the charter, which does involve the public interest, and for that reason I think that it's within the bounds of 3.02.025. And I also at the commencement of the meeting described the situation in regards to why he was not able to attend.

**Leonard:** I understand, but this is pretty clear that what is required is that there has to be some jeopardy of the public interest, health, safety, or welfare. And I need for you to explain to me why that condition exists.

**Potter:** Since that's from the charter and our job is to be care takers of the charter, I think it does jeopardize the public interest by not being able to discuss the appropriate charter changes that are being offered today.

**Leonard:** Thank you.

**Potter:** Any other objections? Do you have sam on the phone?

\*\*\*\*\*: [inaudible]

**Potter:** Oh, ok. Please read the first communication.

**Item 107.**

**Potter:** Good morning.

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

**Potter:** Please state your name for the record. You have three minutes.

**David Yandell:** David yandell. Number one, thanks for having me again. And commissioner Saltzman, thank you for joining the bike distribution. You guys might seen part of this on the news, but I thought i'd bring it to you guys. It's funny were you mentioning kids, because we have a big project with kids. We're bringing Portland police into the schools under the auspices of having a pizza party. Which initially might sound inl8, but it's a catalyst for bringing the police and the kids together. We've also kind of incorporate add few other dynamics. This might sound silly, but the kids love to get autographs from the police. And again, it becomes very interactive. At recess time the kids are -- the guys are showing the kids the sirens, so this is three different ways. How i'm doing this, i'm getting different businesses and people to fund the pizza parties to bring the police in. We have greatu some great guys, I know you know some of them, bob ball, he's here, he's doing a school for northwest natural gas, there's not a company i've went to yet that said no. We're doing one school a week, 10 weeks, and at that time we will have touched over 4,000 kids. The police that are involved, they're not on the clock, they're not being assigned, these guys want to be there. There's a great guy, matt, he's playing point guy and he's getting a lot of the guys that are at graveyard central n part of our incentive, we're so tired of hearing what's bad and seeing what's bad. We're going to create what's good in the schools, we're going to show what's good with the kids.

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And also the Portland police. These guys love to be there. They tell me that they see a lot of bad at nighttime, and they're very, very happy to be involved in something that's good. And they also asked me a couple of them asked me to ask you guys how come there's not a p.a.l. Program anymore, or a p.a.l. Officer. They were asking about that. I think we're being very impactful with the kids. And in my world a lot of things change, and the goal is to do 10 schools. I think we're going to up to doing 12 or 13. We're took high-risk schools. The real thought is for these kids at a young age, to understand that police are their friends, that they are safe to go to. These kids will be teenagers before too long, and so if we can provide a positive contact -- context for interaction with the police and the kids, I think we're doing our job right. I'm pretty sure that's about it. There's some really great businesses. Also northwest natural gas, they're pro-police, they're paying for these parties to happen. And i'm pretty stoked about it. I think we're really bringing some good stuff to the able. -- table. It has been in the news a few times, but I know the police are under your bureau, and that's why i'm doing it. I also have a list of names here, and i'm hoping that you somehow, I don't know what protocol is, may be able to recognize these officers. Time and time again they're coming out on their own time. Not once, not twice, but continually. As a core group, mainly graveyard central, but these -- I don't know whales to say. We're just doing a really good project here. And it's because of guys like homer and bob, the other people I mentioned that this can happen. Anybody that knows me nosy don't have an off switch, so if we can do it all the way through may i'll be more than --

**Potter:** I was going to remind you your off switch should be off now. You're over your time, david.

**Yandell:** Oh, ok.

**Potter:** I wanted to thank you first of all. I read in the paper what you did with the police. I think it's great. I do want to lend my support to that, david. In terms of the p.a.l. Program, there is a p.a.l. Program in Portland, and it's a very alive and well. And they do have dozens of officers volunteering to help out at the various youth camps around Portland. So it is still going.

**Yandell:** Oh, ok. Apparently the guys that asked me were not aware of it.

**Potter:** You could give the officers' names to the council clerk, I will take care of the rest.

**Yandell:** Thank you very much for your time.

**Potter:** Thank you, david. [applause]

**Potter:** That was the only communication? Ok. Commissioner?

**Potter:** Sam, are you there? I talked to sam earlier. He said that he would -- he has to limit his speech, that he has set up, and tom miller, where are you? Right there. He's communicating with tom miller by email. [dial tone] and that he will limit his talking, but he will participate in the conversation as well as the vote. He's communicating electronically by phone, and that because the surgery involved his throat, he has limited capacity to talk, he is -- can email, and he's emailing tom miller, but he will participate in the discussion and he will participate in the vote.

**Leonard:** Via email?

**Potter:** No. Voice.

**Moore:** Sam, are you there?

**Adams:** I'm here. Hello?

**Potter:** Yes, sam.

**Adams:** I'm here.

**Potter:** Thank you.

**Leonard:** I was just confused about the email part.

**Potter:** It's just so he doesn't have to spend as much time talking, he was going to email tom miller with some things that tom miller could relay, but in terms of participating in the conversation, sam is there, and he will be taking part in the discussion over the phone, and he will be taking part in the discussion on the vote.

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**Leonard:** We're not going to have tom miller read to us emails --

**Potter:** No. Sam will do that yourself, won't you sam?

**Adams:** Yeah.

**Potter:** Ok. Ok?

**Leonard:** Yeah. Sure.

**Potter:** Sam, we're just at the consent agenda part. Do any council members wish to pull any items from the consent agenda? Does any member of this audience wish to pull any item from the consent agenda? Hearing none, please call the vote.

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

**Potter:** Aye. [gavel pounded] proceed to the 9:30 time certain, please. Read item 108.

**Item 108, 109, 110 and 111.**

**Potter:** Read the others too, but we will take testimony individually.

**Potter:** Would staff, david wong, carol williams, mayor katz, and roy jay please come forward?

**Leonard:** Are we considering all four simultaneous?

**Potter:** We're going to get the overview, and then we'll discuss them one at a time. We had separate sign-up sheets for each one.

**Sten:** Somebody to testify separately on each item if they'd like. Is that correct?.

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

**David Wang:** David wang, chair of the charter review commission.

**Harold Williams:** Harold williams, member of the charter commission and a citizen.

**Vera Katz:** I'm vera katz, I was an advisory committee member to the commission.

**Roy Jay:** Roy jay, I was on the subcommittee of the charter review commission.

**Potter:** David?

**Wang:** I'd like to confine my comments I think to the form of government recommendation, if it's all right with the city commissioners. There are just two points i'd like to address today. The first is whether the form of government recommendation should be referred, and second, the form of the public debate if the form of government recommendations are in fact referred. First question -- should the form of government recommendations be referred? As noted in our presentation to you on january 18, the citizens charter review commission believes they should, although we take no position as to timing. A little historical background may prove useful. On november 9, 2005, city council unanimously adopted council resolution 36346. In it, you created the charter review commission and asked it to recommend revised charter language by july 2006 for a ballot measure four months later. You are careful to appoint a diverse citizens -- group of citizens to the commission and you noted that the mayor and council have determined more effective government and better delivery of service, its key priorities. You also asked to us make recommendations that would, quote, improve service to the public, enhance collaboration, and improve fiscal responsibility. The members of the charter review commission have carried out that charge. We've submitted a package recommendations that we believe promote the core values identified in resolution 363 -- now the question is whether the product of this group's work should be referred to our fellow citizens for consideration. We believe that they should. Well well aware -- as I mentioned on january 18, the charter review commission itself was not unanimous in each of its recommendations. There were healthy differences of opinion, just as there are on city council and just as there will be in the city at large. But those differences of opinion should be aired and debated in the public forum of an election, and access to that public forum should not be stifled here simply because of personal disagreement by city council members with the particulars of the recommendations. We elect our leaders to make decisions that we are unwilling or unable to make individually. Like how to budget amongst our competing priorities. How best to ensure the safety of our citizens. Where to place parks, build roads, place street lamps. But we do not elect our leads to make decisions about the scope of their own powers. That is a right reserved for citizens alone.

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That is a right exercised only through the ballot. You're now asked whether to refer the recommendations and if so, when. With regard to the first question, we note that at the direction of city council the charter review commission, 14 months, researching, parsing, analyzing, and debating these issues. The work product is now before you. We respectfully request that these recommendations now be given the opportunity to be tested by citizens exercising their inherent rights. As to the question of when, that is a difficult political question that the charter review commission is not equipped to answer. We note only that there are legitimate competing conversations well van sant to the timing of the decision. Now, if the question is referred, we all must exercise vigilance to ensure the discussion does not turn wayward. The question confronting us will be as follows -- what form of government will best enable Portland to overcome the challenges and seize the opportunities that the city will encounter in the coming decades? This is a discussion not suited for idealizing ons. We should be wary of those who clasp on to the commission form of government as some sort of sacred cow or those who insist alternative forms of government will be a panacea for all our social ills. There's nothing magic about a form of government. Instead, good citizens are the riches of a city. At the most basic level, a city succeeds not because of its form of government, but because of the tenacity, integrity, commitment, and talents of its citizens and its leaders. In other words, Portland's success arises first and foremost from the quality of its people and not its form of government. The culture and face of Portland will not become that of atlanta or Washington, d.c., or san diego, simply because we adopt the mayor-council c.a.o. Form. But the form of government we choose does have relevance because it is a vehicle by which a city and its citizens pursue their collective dreams and objectives. The question is whether the vehicle will tend to help or hinder us as we face the challenges and opportunities of this next century, and as we strive for greatness. Does the commission form of government facilitate our collective efforts to be the greatest city we can be, or will it tend to work against us? A majority of the charter review commission concluded that the commission form of government forces Portland and Portlanders to work harder than necessary to achieve greatness. The commission form of government contains inherent structural weaknesses that discourage coordination, dampen oversight, diminish accountability, and erect obstacles against holistic policy making and long-term planning. The mayor-council c.a.o. Form of government we recommend is intended to address these and other weaknesses. And a better enable Portland to more easily reach its potential with the resources that will become available to it. We believe that adoption of the new structure would, among other things, improve service to the public, enhance collaboration, and improve fiscal responsibility. Like any other form of government, the mayor-council c. A.o. Form is not a magic possession, but a majority of the commission believes it is the optimal vehicle to carry Portland into the future. Thank you.

**Williams:** I believe that Portland is the greatest city in the world. We've been blessed with five distinguished men to lead the city. You, in spite of the factor that all men of one pigmentation has brought us to greatness anyway, because out of your hearts you have allowed diversity to be the framework of this discussion, allowing this commission to come into existence in the first place. Randy understands our community, he was raised there. Erik was raised in our community. Dan has been involved in every phase of youth involvement. The mayor is compassionate to the things that he wants to see the stir move in the future. Sam is committed to the betterment of those who have been disenfranchised. The question then, because of your greatness and your compassion for diversity and understanding human kind, why are some challenged by this being referred to the voters? You have a heart of compassion because all of you know that the city of Portland is a great place. We talk about the city of roses. What great things did you in bringing us all together. The rainbow coalition, the bouquet of roses of people represented on this charter commission to bring these attitudes together, to move it forth to the people. You allowed us to include everyone in the city to be a part of this mainstream of hope as we lay out a map for the future. Now the question,

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because you have the soul and the vibrance to move it forward as great leaders, why do some question it now? Your greatness is in the fear to move forward in spite of your fear and concern. Let that be your desire and your compassion within, not for power in itself. Because that deludes your greatness. It is important that we move to a higher ground. I respect every one of you because you bring uniqueness, creativity, and compassion to the city where diverse city not heard, I brought it to the forefront in spite of the picture. It is important that you allow it to go forth now and let the people decide what form of government we should have for the city. In respect to you, you're great men, you're great leaders for the city. You cause a great charter to come together of diversity. It's never been in my 47 years in the city, seeing such a committee come together. We worked hard for 14 months to give the city the best of our minds, hearts, and souls. Now we come to you and ask you the challenge, the difficulties of life, you can handle with ease. The impossible takes a little bit longer. We are asking you to deal with the impossible, because you deal with difficulties every day.

As we refer this to the people, let your greatness show in your compassion, and not fear for anything that would be removed that would take away from you. Because in showing compassion, your greatness has brought forth and people will have a voice to move us forward into the future. I thank you for this opportunity. C.a.o.

**Vera Katz:** Good morning. Mayor, thank you for appointing me as one of the 26 members of the commission. I attended almost every meeting until they got to the process in putting the issue on the ballot. I watched and listened, and sometimes when they allowed me to participate in the discussion of the commission. They worked diligently, they were very thoughtful. They reviewed the academic literature, they invited experts in government to come and testify before the commission. They worked as you know for over a year and a half. And I think their product is worthwhile to take out to the public and have the public have -- and go through the same kind of conversation they did. Now, with all due respect, Randy and Erik and you, I think unanimously amended a section of the charter because you wanted it to go out to the public. That was the Portland development commission. I'm not going to argue with you on, that you didn't agree -- I didn't agree with it, but you changed it and you're going to send it out for the vote of the people. Members of the council, this is your mayor. He ran on this issue, he worked hard on it, he feels great passion about it. Give him the respect and the due and extend the courtesy to your mayor, to our mayor, and send the entire package out to the voters.

**Roy Jay:** That's why I like to show up last, because they've already said everything I wanted to say. Mayor and council, I just sort of want to reiterate some of the things they've already said. 14 months of long work, 14 months of volunteer time. 14 months of giving you the recommendations, and I would hope that you would move forward and follow these recommendations. Send it out to the voters. Because it is, our city. Real simple. Thank you.

**Leonard:** Mayor Katz, it's great to see you.

**Katz:** Thank you.

**Leonard:** Let's assume these proposed changes were in place for the 12 years that you were mayor. What would have been different for you as mayor if would you have had a charter to work under such as we're contemplating?

**Katz:** Let me answer it two ways. We can make any government work. It's working now. But it's very, very difficult. And it gets very, very confusing. And the authority of the mayor is undermined on very important issues. I give you one example. Columbia sportswear. Those were decisions made somewhere in the bureaucracy, and never got to my office. So I could begin solving some of the silo problems that we face in this city. When that issue finally bubbled up and it was too late, we then developed what I call the s.w.a.t. Team to come together when there were difficulties with the development process. With the permit review, land use issues, and transportation issues. That never got to me and it should have been in the mayor's office. And it got hidden in the bowels of the bureaucracy.

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**Leonard:** How would that have been different in this form of government?

**Katz:** You would have had a chief officer who would be monitoring some of these major issues, and the responsibility of the bureau managers would be to report to him when there's that kind of difficulties occurring in the city of Portland. When we were on the verge of losing a major employer.

**Leonard:** You don't think that employees following the strict rule of the code would happen under a strong mayor -- because that's what happened in that instance, and as you know, as I soon found out, the employees felt they were just applying the code precisely as it should be applied, but you think that if they report to an unelected person versus an elected person they would have somehow not made that conclusion?

**Katz:** Under that ideal situation, the mayor hires with the approval of the council the officer, chief officer. Chief officer would have called, I would have required that they call the mayor into the office with columbia sportswear and the bureau managers, identify the problem, and if it meant a code change, make a commitment in front of columbia sportswear that you're going to make that code change to allow them to locate on the central eastside. That didn't happen, the mayor was ignorant of what was going on, and that's a major issue. I can give you several minor ones, but I'll save those until the campaign. [laughter]

**Sten:** Though I do love working with mayor Potter, I miss working with you as well, and I would not fear either of you having lots of power. But I don't support the measure and chair wang and I did a great debate on that twice in the last couple weeks and I don't intend to repeat it. I'm strictly interested in the question that's before me now whether this should be referred, and I think you made a very compelling argument today, and I appreciate it. I guess just sticking strictly on process, I would be interested in your thoughts on this, I do see a bit of a disconnect between the strong argument that I think is really good that you work diligently for 14 months, and the publication of these measures in their full two weeks ago and their ballot titles five days ago. Because I think how you word it, what I word it, and unfortunately I'm going to have to ask more questions about the civil service things, because I didn't fully have a chance to take it in in the last two weeks, and I fear some of the details are not as I hoped they were. So it seems to me you've got a little bit of a disconnect between standing on a platform of the process justifies the election, but we ought to refer it today when I think what you're going to hear today from a ton of diligent citizens, many of whom I think may actually unlike me vote for your measure, had they more time to take it in, will say, we haven't even seen the ballot title yet. I know your commission didn't take a position on that, so that was clear. I'm asking your personal thoughts on that.

**Wang:** In terms of the public process, this is all I can address, because we're not -- we don't have a position with regard to the timing issue, with regard --

**Sten:** I'm asking your personal opinion a the timing, not the commission's. If you don't want to share that, that's fine.

**Wang:** In terms of the personal -- timing, I think mine is the same, which is recognizing there are several competing considerations in place. Have you considerations of voter turnout, education, at the same time you want to be fair toe those running in 2008 to know that -- so they can know what office and role they're running for. You want to maintain the momentum that's been generated over the last few weeks. At the same time I know there's been talk about justification, purported justification for holding it in 2008 so you can ask candidates what their stance on the recommended changes are. I find that to be a false argument, because to ask those with the most personal vested interest in the outcome, it seems like the responses would you get would not be the most productive. Those are all competing considerations, so I don't know. It's a tough political decision. It's really up to you five.

**Sten:** I have -- with all due respect, it sounds like your position is it should go in may but you don't want to say that.

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**Wang:** I think my position is, my personal position is it should be soon era they're than later. Whether that's may or november --

**Sten:** I guess the other problem I have, it's to mayor katz's point, mayor katz basically said, look, you're going to send something that you think is right on p.d.c. To the ballot, well, here's the situation as I see it. We got your recommendation back on p.d.c. You said because of legal interpretation, I think we can all agree was kind of a circular catch-22 thing, that you weren't really empowered to look at things that didn't need state authorization. And so what we said is, why don't we send it out to our voters first and then seek state authorization. The state authorization, after going around and talking about it, doesn't make sense. So we wrote up a proposed amendment that had a unanimous support of this council, and in my -- from my individual dealings has fairly high likelihood a chance of being supported by your charter commission based on my conversations with many of your members who think the idea of an annual city council budget review p.d.c. Is in line with what your principles were. I then asked to you take it back to the charter review commission, and the response was the commission sun willing and doesn't have time to look at any amendments whatsoever to our work. So you are basically saying we brought your recommendation two weeks ago, and -- but we're not going to look at anything you have to recommend to -- that's your power, and mayor katz is using it as political argument against the measure to say, look, the charter commission didn't sign off, you guys are amending this, so it argues that you cut off the process before the council could get back to, let alone the citizens. So help me with that.

**Wang:** Let me go back to the process the charter review commission used. Going back to the summer of 2006, you gave us -- city council gave us a directive to consider providing city council budget authority over the p.d.c. And we went back to the table, the charter review commission did, and we considered that issue. And we talked with legal experts, and I think we carried out our charge because we determined after consultation with legal experts and looking at the state, and the state law, and it was not possible. Under existing state law to give city council authority over the p.d.c. budget. I think the distinction to be made here is the recommendation that we made to city council was that the recommendation in the charter review commission was limited by the current state of state law. Certainly you had authority and the right and prerogative to go ahead and add on to it, which you have. But I think -- I just -- I want to make sure that the -- that the decision of the charter review commission in response to that wasn't that we were -- it's not that we were -- we didn't have time, it's that we had made our final recommendations and those were our recommendations. I think perhaps the best way to say is the charter review commission is unwilling to -- we don't feel comfortable getting involved in these political add-ons. We've made our impartial recommendation as the citizens' commission where do you from there, those are political questions. We're an apolitical body.

**Sten:** With all due respect, we're make -- you're making dramatically political recommendation and it's not going to hold up to changing the political structure as a nonpolitical recommendation. But the question was, if the commission is saying process is the reason, which is what you're saying to me, you're saying the reason that I should vote to put what I think is a bad idea on the ballot, is that it was a good process. That's your argument. That's what it boils down to. I think this is a bad idea. I don't think elected officials should put bad ideas on the ballot. It's my opinion, you don't have to agree, and it's a tough position to be in. I think the ballots -- it should be hard to get on the ballot. You can get there any time with an initiative process and you can get there by a referral by a body. I've talked to tons of people about this just like your process, and I don't believe the bartha an official should do to take something they think is a bad idea and put it out to the ballot should be very high. You're saying I can get over that bar because it was a good process. And i'm saying it seems to me like your argument would be stronger if you were willing to send your final recommendations out for input from snot only the council at a minimum, but citizens and then take a look at it. And you're saying the process of having the council look at our recommendation and

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citizens look at our recommendation assist political. Therefore we don't do it. And I just -- i'll stop, but it's hard to figure that one out.

**Wang:** Let me back up and go back to the short history primer I gave at the beginning of the presentation. Which is back in november 2005. City council adopted resolution number 36346. In that, at the very top of that resolution, you directed the charter review commission to recommend revised charter language for a ballot measure. Now, in terms of process, we have to be careful here. City council did not simply come in to this process at the very last minute. There was a very million process. This is -- a very public process. This was 14 meetings that were televised, announced --

**Sten:** You characterized the p.d.c. amendment as a last-minute political move. Not me. That's your characterization. I sent a memo last summer asking to you study it. I ran on this thing three times. I don't think there's anything last-minute about my view that the p.d.c. needs a budget review by the council. You characterized it that way.

**Wang:** You asked us to study -- you asked us to consider giving city council budget authority over the p.d.c., and we did consider it. We looked at the options that were available under existing state law. We weren't in the business of looking at hypotheticals of -- there's a difference here. There's a distinction. In recommending changes to the city charter, these are things that the city of Portland, by itself, can change, can amend. When you start talking about the p.d.c. And giving city council authority over the p.d.c. Budget, sure, that's something that requires a charter change within Portland itself, but it requires a third party. In other words, the state to also make a change. So what we can find ourselves was the reality of the current state of affairs, rather than some hypotheticals which we can't be sure, would the state amend state law, or -- and when would they amend it. Those are hypotheticals.

**Sten:** That's fair. I didn't mean to get back into the substance, because I think we've debated and you're very articulate on it. What i'm trying to say is that i've never seen, and I have been in this role for a while, a public process that ends -- and this ended. We're talking about filing deadlines, to send it to us to the ballot, that basically end and closes down discussion by the body that was appointed on the day the body makes its recommendations. I've never seen that happen. What i've seen on every plan, whether it's the albina plan, under mayor katz, I could go on and on, the central city plan, is the key advisory body makes its recommendations and sends those out to the public. It then hears from the public and then says affirmatively, we agree with the public or we don't, and then sends it to the council. And I think you missed that step, and I think it's -- I think it's close to fatal to your argument the process is so good, that it should override substance.

**Jay:** Commissioner, under your scenario, when does it end? When does it end? We can go back and forth. From you, when does it end?

**Sten:** It would end in Portland when the process was full, and when I was able to say to a citizen who disagree was any of your language, you've had a chance to affect that. And since this was published two weeks ago, I don't think you can get there. I think you can get there very quickly in a couple of months, I think you can get there in different ways, but at some point it's just the ballot title was published last thursday. The final recommendation came out a couple of weeks ago. And the commission's taken the position it's not open to input. That's not the Portland way. That's not mayor -- mayor katz would not have let you get away with that.

**Williams:** Commissioner Sten, in all due respect, you moved us to a higher level when you put us in place. As I said earlier, never in my time in Portland have you had such a diverse commission as you had with this commission. We speak for those who have never been at the table. When you put us together, that was the concept to be the voice for those who would disenfranchise. So how can it be now since we spoke for those who were disenfranchised and had a voice at the table, that the public did not have involvement. You know, that dog doesn't hunt. What i'm saying to you, in all due respect, and I respect you immensely, the point is, you involved the -- you say Portland is

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about a fragrance of positiveness. That's what we brought to you. And to say that we -- you -- that we usurped the involvement of the city in having everybody involved, that is a touchy situation and is very sensitive in the fact that it says to me, those you put together, you really didn't want to hear them. And if that's the case, may the joke of our efforts for being here for 14 months.

**Sten:** I was -- I can't not share what i'm thinking, because it appears i've been inarticulate on what i'm saying. I have never -- if i've implied or stated that you did not involve the public, I apologize for that and retract that. I have not intended to say that. What i've said and will continue to say is that if the work is strong, it should go out for more than two weeks so that those -- if everybody who is disenfranchised believes in this, you shouldn't fear people reading it. We should be able to do that and look at it, and you should take the position that you would take -- you wouldn't come in and say the council did political things in the last week. We have no choice if this is going to go out and two weeks after you publish it, but to move quickly. No choice. And so I think you involve the public, but I think the public really gets involved when things become final and real. I may be the only one in this room who thinks this, but I doubt it. I don't think people care about draft recommendations in this sort of process. They care about finals. And it's after the final comes out that people form an opinion. And that was two weeks ago.

**Wang:** Commissioner, I just want to make clear here, I don't think that our recommendations were necessarily a surprise to anyone sitting behind a lectern today. When I became chair I sent a written invitation to each commissioner inviting each commissioner and/or their staff to attend. I believe I even provided each of you a calendar with the specific topics we would be discussing at each charter review commission meeting that was on schedule. And some of your staff did in fact attend. Commissioner Sten I believe your former chief of staff at the time came and actually actively contributed to our discussions. That's not to say he or you agree with the ultimate recommendations that the charter review commission came out with, but what i'm concerned about is that there's somehow now implication that the process wasn't open or public, or complete, or comprehensive. And that there wasn't an open and fair one.

**Katz:** One of the young ones made it very clear to us almost every time we had a meeting, you've got to go out to the public. You've got to involve the minorities. And the disenfranchised groups. You've got to go to north Portland and southeast, and the rest of the city. And the group did. They went out to the community, they heard from just a few people, but they did spread the message throughout the city after, what over 70 meetings that the group had. And it's the intent of the individuals who are going to campaign to repeat that and go out again and explain why the change is necessary.

**Leonard:** Before I get to that, this council has spent considerably more time debating whether or not parking garages should go in northwest Portland than we have these changes. And -- there's one person right there that will second that. So I --

**Sten:** Mayor katz and I were right on that. [laughter]

**Katz:** The rest of you were wrong.

**Leonard:** Ouch. Ouch. And I would also, before 60 my question, I would also close the loop on the columbia sportswear discussion. Your recollection and mine are quite different about those events. When I arrived here in november 2002, the very first thing I did was have a briefing from the b.d.s. director and her managers, who were reporting to you, if you recall, for six months after I got here. And their analysis, what I asked specifically to explain to me how we lost columbia sportswear, and their analysis, which was actually backed up by your office, was that there are too many codes, too many conflicting codes and we need to change the codes. My reaction to that was that's not accurate. It's how you apply the codes, if you are looking for a solution, you can make a conclusion solution. And based on that we've made changes at the bureau of development service, but I think your point makes my point. It took a separately elected official to go in and grab that

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bureaucracy by the lapel and shake it. Because that had not happened, even when you had it underneath your portfolio.

**Katz:** Commissioner, let's not revise history. It never made it to my office or to me, and when it became clear that we are still operating in silos with your help and others on the council, we began pulling the staff together of a variety of the bureaus and say, we have a problem, solve it. But that came after columbia sportswear.

**Leonard:** We do have different memories of that. So the question that I want to ask -- actually anybody can answer, comes directly from the proposal, and i'm referring -- if you want to look at it, i'm referring to chapter one. It's page three of the handout. Section 1-1045. I want to read section including the part that's deleted and the parts that add -- to give me a response. "the city may sell, dispose of, or exchange any buildings, structures, or property, real or personal, which it owns or may acquire not needed for public use by negotiation, bid, auction, or any other method the" and the word "council" is struck out and "mayor" is inserted "by any other method the mayor finds appropriate." the following line is struck out, "favorable vote of at least four-fifths of all member of the council shall be necessary for any ordinance authorizing such saying, disposal or exchange." that language is struck out. In its place, "the city may sell property on contract for such term as the, council struck out, mayor is put in, so it reads "the city may sell on contract for such terms as the mayor finds appropriate." explain to me your reasoning behind removing the council from being involved and selling, say, just i'll throw out a wild example, mt. Tabor maintenance yard. Why under in language couldn't the mayor unilaterally sell the mt. Tabor maintenance yard if he deems it a surplus property with no authority of the council to stop that?

**Wang:** I think it's inaccurate to say the council would have no authority. The city council always - will always retain authority to either legislate or reign in or put in processes by legislation.

**Leonard:** This is the charter.

**Wang:** Correct. And I understand an ordinance is -- ordinances come on top of the charter. The charter is the foundation.

**Leonard:** No, no. The ordinance comes underneath the charter. The charter is the -- are you an attorney?

**Wang:** They are layered on top of the foundation which is the --

**Leonard:** They have to be consistent with the charter, or they're unconstitutional.

**Wang:** That's correct.

**Leonard:** This explicitly gives the authority that currently resides with the council, four of us here today have to agree to sell mt. Tabor yard. Under this language it is geared that the mayor unilaterally without council approval can sell mt. Tabor yard. Explain to me how any ordinance to change that.

**Wang:** I'm saying the city council can adopt processes by which the mayor and c.a.o. must follow in order to carry out that sale. Considerations -- issues to take into consideration before selling the yard.

**Leonard:** So i'm clear, this wasn't a mistake, you consciously deleted the section given -- removing the authority from a council to stop the sale of land and gave it to the mayor.

**Wang:** I don't recall whether we considered this specific item in our full commission meetings, but I think what it shows is that the mayor and the c.a.o. have executive authority over the administration of the city, and the city council retains power to oversee that situation through legislative oversight.

**Leonard:** So i'll have you go forward to section 2.105 in the same chapter. The language that required the council to approve any contract that the 70 enters into is struck, and the language in subparagraph three under 2, 105 says that the city has power and authority, which is language that occurs after deleting the council's authority, to provide for entering into contracts by the city for a period not exceeding five years and the extension or renewal thereof by option or otherwise for not to

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exceed an additional five years, except as to -- which may extend more than five years or otherwise permitted by the charter or statute. My reading of that says where the council had to be involved in long-term contracts which we do routinely here now, that authority is removed from the council and unilaterally the mayor can enter into contracts that obligate the city on a variety of subjects. Why did you do that?

**Wang:** I'm still reading, i'm sorry.

**Potter:** At some point i'd like to go back to the first issue, which was a periodic review, and take these on. And as they come up for the specific areas, if you could ask the specific questions of those areas. Then we could get through this thing without --

**Leonard:** I frankly don't think there's going to be the questions on those that there are on this.

**Potter:** That's fine, but I would like to, since we gave people a chance to sign up by each one, i'd like those folks to have the chance to testify.

**Leonard:** Right. But this is a group that's making the recommendations, and I think it's important for us to ask them --

**Potter:** I think they intend to be here through the duration of this hearing.

**Leonard:** So are you prepared to --

**Wang:** I don't have a specific recollection of this section.

**Leonard:** Linda, did you hear what it was I was referencing?

**Linda Meng, City Attorney:** Yes. And I believe the answer is similar -- is the same answer that david gave before, and that is that in dividing the executive and legislative functions entering contracts was considered to be an executive function, selling property was considered to be an executive function as opposed to legislative function.

**Leonard:** So that was a conscious decision, it wasn't a mistake?

**Wang:** That was a conscious decision of the charter review commission to separate the powers and the different branches of government.

**Leonard:** Although interestingly you have the mayor sitting on the council, and voting.

**Wang:** That's correct. And let me go into --

**Leonard:** Don't --

**Wang:** Let me deliver a little bit of the deliberation we had there. The mayor essentially could have two roles. The mayor could be off council or on council. If the mayor was off council, then in order to provide the proper checks and balances the mayor would need a veto power. What the full commission did not like about that structure was that it was too adversarial in nature, it didn't fit with what we believe the culture of Portland to be. So in looking at our six core values, one of which was accountability, but another of which was leadership, we felt that when citizens elect their mayor, as well as their city commissioners, they expect that mayor to lead and have a firm and active voice in setting the direction of the city. If the mayor is not to have -- is not to -- if the mayor -- if the decision -- the decision was made not to have the mayor sit on council in order to achieve that leadership capacity, that the leadership value, but at the same time to create a strong check against the mayor's power by the other four commissioners, so the mayor, for example, so just to sum rise, the mayor does not have to have veto power but does sit on council, but the policy making power of the mayor is checked by the other four council members.

**Katz:** I felt it was important for the mayor to be involved in the policy discussions with the rest of the council. However, if we wanted the mayor off the council with a veto, would you have to expand the council. It would be very difficult to operate with the size of the council without the mayor being there. And that's a discussion that I hope will continue with the citizens, because the job that we started really hasn't been completed there. Was a discussion by the commission to delay the conversation about the expansion of the council, or making the council representative of geographic, or economic, or social areas, or wards, as some communities call them.

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**Leonard:** So linda, back to the original question I asked with respect to the current charter requirement that four-fifths of the council needs to vote on the disposal of any public land and using the mt. Tabor maintenance yard as an example, my reading of this, were this the charter now that the mayor would have the authority to unilaterally sell that without bringing that before the council. Am I reading that correct?

**Meng:** I believe under the charter that is the case. I do agree with david, that there may be things that the council could do as a legislative body that would impact that, but I can't tell you at this moment exactly what they would be. The charter obviously is the foundation, but the council implements the charter through the city code.

**Leonard:** But, for example, the council couldn't say, pass an ordinance under this version that says notwithstanding section 1-1045, the council requires that any disposal of property be passed by four-fifths of the council.

**Meng:** No, I don't believe they could.

**Leonard:** So basically they could pass ordinances around that process, but the mayor ultimately under this language unilaterally can dispose of that property in any man are he sees fit.

**Meng:** I believe that's right.

**Leonard:** Thank you. And i'm done.

**Potter:** Let's go back to the order of events starting with testimony 108, which is a periodic charter review. Thank you, folks, for coming. David, did you want to stay to testify on the issue of the charter review?

**Wang:** I don't believe so. I think we're happy to listen to the public testimony.

**Potter:** Ok.

**Potter:** Please state your name for the record. You each have three minutes.

**Audra-Shayne Ambrose:** I guess i'm going first. Good morning. My name is audra, i'm 19 from north Portland. I'm here speaking on behalf of the Multnomah youth commission. As you know, in june of last year the Portland city council passed the youth bill of rights, or bill of rights for children and youth, with the expectation that the city of Portland will involve children and youth and local decision making and review processes. We believe this was an important step in establishing voice for local youth. However, the Multnomah youth commission would like to go on the record to voice our concern that there was no mention on the current charter and code of the city of Portland pertaining to the involvement of youth in local politics. And we believe that there's no better opportunity than right now as the charter undergoes editing to correct this error. In fact, the nyc support one of our members on the charter review commission and she recommended many a time, including youth engagement in the carter, that recommendation is not included in the package you see before you today. In marrying the success of the city and county of san francisco which has three separate sections in their city charter devoted to issues relating to children and youth, we urge your support in our endeavor. Their charter encourage a partnership between the city council and youth commission through involvement of local teens in decision making. The charter review commission's own guiding statement encompasses inclusiveness as one of its priorities. It states that they hope their citizens will always have a voice and those voiceless always be heard. Recognize that these voices include the youth in the community. The Multnomah youth commission requests the inclusion of a section which allows the youth of the city to participate in the decisions that impact our lives. Respectfully submitted, the 35 members of the Multnomahouts commission. I have with you here letters that was written and signed by our cochair, and also a copy of the san francisco city charter for to you look over.

**Amanda Fritz:** Amanda fritz, speaking only for myself. I'm really concerned about the process for future charter reviews as specified in the charter review commission's language for the ballot measures that we're talking about. Citizens must understand that future charter changes may be sent directly to the voters without this productive discussion that I feel we're having today and had last

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month. There is no mechanism to ensure that the 20 members of future commissions reflect the city as a whole. Only that stated goal. There is no language that specifies what that means, including having a youth participant on there. The language says that the five commissioners, or five mechanics of the council, the four council members and the mayor, will each propose four of the members. But there's nobody who's designated to make sure the 20 members adequately reflect the city as a whole. I suggest that the language should be changed to include the city auditor who is an independent elected official who would be designated to review the four nominees of each council member and make recommendations to ensure that adequate geographic, age, occupational, cultural, and general surrender diversity has been reflected in the candidates before a slate is presented to the council for approval. The proposal also states the commission will set its own rules for procedure. The process by which the current commission is pressuring you to send their recommendations directly to the may ballot has been woefully inadequate. At the very least the charter should specify the commission must hold a public hearing for feedback on its draft recommendations before forwarding them to council. Since this very basic step was omitted by the current commission, it evidently needs to be written into the charter. I'm concerned that there is limited capacity of the city council to direct the charter review commission about which part should be addressed in each update. I'm particularly concerned that the small parts of the charter in the current four proposals will not be revisited for a long time. They are seriously flawed and will need more work if passed as written. We need to be able to have the council who are the -- who are and will be the elected officials responsible for policy, be able to direct the charter review commission and I think we're seeing today the problems with the charter review commission that even currently seems to have too much independent authority.

**Linda Nettekoven:** Linda, speaking for myself. I simply wanted to ask you to please not refer these measures to the may ballot to give us more time as a community to absorb them, digest them, perhaps come up with modifications or enhancements that will make it more likely that the hard work of your excellent commission and its excellent staff would actually go forward and be approved by the community. I can cite -- I know the commission has done the very best job it could possibly do in the limited time it had to involve the public, but I know from the neighborhood coalition perspective, for example, there was one opportunity to hear the recommendations still in draft form before our final had even come out, and people were very interested and began to engage, but after those meetings are over, then the conversations started about, what about this and what about that, and could we do it this way? The other puzzle piece I think is missing here is you have another paralleled community group working your community connect bureau innovation project team eight that's look at community governance, which I know mayor Potter you have championed so strongly, and that group's recommendations, whether they end up seeming to be appropriate to include in the charter in some way or whether they are merely adopted as some sort of ordinance change, people need to have that piece in place. That end of the bridge to know how these kinds of community governance structures are going to work together. And it's hard to vote on some of these charter changes when you're not quite sure, is there going to be a neighborhood system, a coalition system, what method are we going to use to involve our grass-roots citizenry in the ongoing work of our community. So for these reasons I would ask that you please wait until at least the november ballot where there's likely to be a greater turnout and we have an organized way for community members to discuss this in more detail before they actually vote. Now it's in -- we only have the chance to go yay or nay, even though we might like 90%, but we end up voting nay because there's 10% we can't modify. Thank you.

**Potter:** Just to clarify, did southeast uplift send a letter of support?

**Nettekoven:** They did. And I was not at that meeting. I did work ahead of time to try to draft questions, to try to get more background information out to our members before the discussion. And I was out of town that night so I could not be there. But then in talking with people after the

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fact, there's the question of, well, as far as our conversation went, it was a good conversation. But it was a half hour time on a crowded agenda, and it's the first -- a lot of us were waiting for this excellent commission to come up with this recommendation before we started to try to track it very closely. I went to one of the public meetings along the way, and sat in and contributed my input at that stage. But a lot of us were just waiting for this final before we really started to kind of read every line or try to get into the details.

**Leonard:** So did southeast uplift send a letter of recommendation before the recommendations from the charter review commission came out?

**Nettekoven:** Yes.

**Leonard:** They hadn't had a chance to read the charter review?

**Nettekoven:** No. They basically were being supportive of the process. Because they're a group of citizen who's also work very hard on a very variety of advisory committees along the way, and they could tell how thoroughly the commission had worked on this, and what a good job they had tried to do. And were supportive of that process again.

**Leonard:** Who asked them to make a recommendation had they not even seen the --

**Nettekoven:** The charter -- this was part of the outreach that the ctlh review -- charter review commission did. I believe they approached all the coalitions as one of their stakeholders sounding boards, trying to get some preliminary response to what they had before the final came out. So we have had obviously not a chance to respond to anything in final form.

**Leonard:** I'm guessing southeast uplift wouldn't really care for this change that I read to the city attorney that allows the mayor to unilaterally sell property.

**Nettekoven:** I think that would raise concerns in some people's minds. But I can't speak for southeast uplift officially.

**Potter:** Thank you, folks.

**Irwin Mandel:** I'd originally planned -- irwin mandel. I originally planned to deal with this issue as part of my overall testimony later, but apparently you're going to separate these things here. You're running with this particular part of the resolution where an independently a.ed by the mayor, charter commission in two years, in only two years, will make further recommendations to the charter without public discussion, without any input from the council going to the ballot is a total violation of the way things have been done and should continue to be done in Portland. Is it a totally antidemocratic process. These recommendations will automatically be placed on the ballot, bypassing our citizen input and our citizen elected city council and effectively usurping their power. The council will be rendered -- if the gentleman is still there, amass calculated.

**Potter:** Let me correct a point you made. This charter commission will have appointments from each of the city council and the mayor of four members each and it's very specific as it's supposed to be reflective as the city as a whole. It's appointed by the council, not the mayor. Thank you.

**Sten:** I'm going to have to work a little bit on the fly. The timing of this pushes us into a position that you really have no choice on the council to vote up or down or do what your chair was concerned about, which is try and fix things. Would I like to get to a yes vote myself on this one. So i'm going to work a little bit at it. I actually found ms. Fritz's testimony compelling, I think we need to add in here maybe in section 13.302, all charter amendments proposed by the commission, comma, after of a public hearing process identical to those required of public bodies, comma, then they can submit. I'd ask the lawyer to work on the language. If we are going to ask the voters to give a future -- the possibility they could do that without public hearings on their final recommendations as this body is doing by basically using our power to get there is unacceptable. So would I move an amendment that would I ask the attorneys to wordsmith for me, but with that notion in mind. And i'll make that motion.

**Leonard:** Second.

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**Potter:** Did you folks discuss the public hearing process? Did someone come up to discuss that? Please come up and sit and testify.

**Wang:** I don't believe the charter review commission discussed whether to engage in a formal public hearing process like commissioner Sten is recommending. I think it was contemplated the process would be open and public and open for public comment.

**Potter:** The intent was there, so the commissioner's suggestion would just add detail to what you folks had considered to be part of it, but just hadn't stated.

**Wang:** It would seem to be in the spirit of it.

**Potter:** What was the wording again?

**Sten:** I'll have to work my memory banks. It was -- section 13.302, which is the submission to voters language under article three, title provide for periodic charter review, I might add, all charter amendments proposed by the charter commission's, comma after a formal public hearing process identical to -- whatever the language s. I want to prescribe it's identical to public body, comma, supported by an affirmative vote. So just put a clause in there requiring that they have a public -- the commission itself. I want to be clear when i'm saying this, I believe the commission's intent was to have that public hearing through this council. I want to say to the critics of this process of whom i'm one, that I do not believe that the process was designed to not have a public hearing. I just think that for whatever reasons that were human, that the mayor's time line is has become so condensed the public hearing process is not meaningful in this case. So I would want -- it's a council debate process that we're in over this 2½-week period. So I think we need to fix that when we give this charter review commission proposal to the voters.

**Potter:** I'll agree with that but disagree with your assessment of my process.

**Judy Tuttle:** And I wanted to add to that. I've been staffed to this commission and have been at every meeting. To commissioner Sten's point, I don't think it's inconsistent, the language, the commission did discuss that the referral would be after a report to council and I think the intent was that that report to council would be a formal hearing process.

**Sten:** What i'm saying is they need to hold their own hearings. If you're going to refer directly you're going to have to have your own hearings.

**Potter:** I don't think that's unreasonable. Could the city attorney's office provide the wording for that?

**Sten:** I thought it might work as part of the first sentence in section 13.302 where it describes that essentially 15 members of the 20 have the authority to send something directly to the ballot. I was trying to say maybe -- amendments proposed by the charter commission supported by a vote after a public hearing process.

**Meng:** After public hearing process --

**Sten:** I want to make sure the public hearing process is described to be the same as would be expected of us or any other public deliberative body. And i'm guess can there's some legal cite that would do that, but maybe not.

**Meng:** I don't have language on the tip of my tongue that says that.

**Saltzman:** Dealing with some of the testimony we just heard, I would like to throw out for consideration, it says the charter commission shall be reflective of the city as a whole. I propose just deleting the words as a whole, reflective of the city in terms of its racial and ethnic diversity, age, and geography.

**Potter:** Do we have a motion?

**Saltzman:** Judy or david, do you have any --

**Wang:** I think it just details what the general statement was.

**Ben Walters, Sr. Deputy City Attorney:** Commissioner Sten, what we would offer up is on the third line, all charter amendments proposed by the charter commission supported by an affirmative

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vote of at least 15 members of the charter commission after a public hearing following procedures prescribed by council.

**Sten:** Would I say after public hearing process, because i'm not sure one hearing --

**Walters:** Following procedures prescribed by council.

**Sten:** I think that's fine. Would I subject to the consent of my second, who is not here, I would amend my motion to reflect the language ben just read.

**Walters:** One -- we're offering up an edited version of that. After a public hearing process -- after a public hearing process prescribed by council.

**Sten:** That's fine with me.

**Potter:** Perhaps we should put a monitor in the bathroom? [laughter] and a telephone. I'm not sure it could constitute an emergency, but -- [laughter]

**Leonard:** That was an emergency. Roy jay was standing next to me, he can verify.

**Potter:** That's enough detail on that. [laughter] ok. So would you please read the change and where it's located for -- commissioner Adams, are you still with us?

**Adams:** Uh-huh. [laughter]

**Leonard:** Barely.

**Potter:** Do you see where the change is being recommended?

**Adams:** Yes.

**Walters:** On the third line, following -- all charter amendments proposed by the charter commission supported by an affirmative vote of at least 15 members of the charter commission after -- comma, after a public hearing process prescribed by council, comma, shall be submitted to the voters of the city of Portland at the next primary or general election that is at least 120 days after the vote -- after the date the recommendations are presented to the city council.

**Sten:** I would, with commissioner Leonard's support would I withdraw my motion and substitute the language as read by city attorney walters.

**Leonard:** Second.

**Potter:** Seconded by Leonard. Please call the vote on that.

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

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

**Leonard:** And I actually was going to make a motion myself. And it's to that same section, same second line. Strike the words "at least 15 members of the charter commission" and insert the words "a majority of the city council."

**Potter:** Affirmative vote of the city council members?

**Leonard:** Of a majority -- so that --

**Potter:** Is this on 13.302?

**Leonard:** Yes. It would read "all charter amendments proposed by the charter commission supported by an affirmative vote of a majority of the city council shall be submitted to the voters of the city of Portland at the next primary general election."

**Saltzman:** Doesn't the last sentence in that same section say the council has to refer --

**Potter:** If there's less than 15.

**Leonard:** We may need to delete additional language to make it work. But the point of my motion is to say that anything that goes through the voters should be considered by the city council first.

**Potter:** How did you folks come to use this language?

**Wang:** Commissioner Leonard's proposed amendment is counter to the recommendation of the charter review commission. We recognize that members of city council may have conflicts with regard to certain proposed amendments. For example, with our current form of government recommendation, there are inherent conflicts that may arise due to city council members --

**Leonard:** What's the conflict?

**Wang:** It affects the powers of the various players in government, including the mayor --

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**Leonard:** You define that as a conflict of interest?

**Wang:** Yes.

**\*\*\*\*\*:** Very much so.

**Leonard:** That's absurd, i'm sorry. That's not --

**Wang:** Regardless, that's the conclusion of the commission. The thinking was that the city council by appointing an independent charter review commission would be able to, by now three-quarters vote and approval, recommend amendments to the ballot.

**Sten:** I'm going to second it for purposes of discussion. I'm not sure i'll vote for it. I'm going to be a little pointed. I find it odd the commission takes umbrage at the council making certain changes and nobody has mentioned this 15-vote super majority is a council idea. Did it not come from the charter commission? And it's something that I suggested to try and make this to the point where could I work with it. And my issue is this. On the form of government recommendation, it's a factual matter that 13 of the 26 members we appointed voted affirmatively to move forward on that. And some had quit, some had quit for reasons of disgruntlement, some couldn't do it. I know both stories. At the end of the day, not even a simple majority of the starting 26 members voted affirmatively to move this forward. Never, never when I voted to appoint this commission did anyone ever even intimate the argument which you're coming at with moral force and accusing me of after conflict of interest by voting my substance view on the issue that it would be argued that it was my duty to refer something when in fact this was set up as an advisory council and I would be asked to do something that I don't remember elected officials doing, which is essentially saying to people, never mind I sent this to you, make sure you know that I don't support it. You guys have really moved this position, and I just find it odd that nobody is saying your original proposal was not this 15. So it just seems to me we have to get this balance right. How is it when the council makes a change to your language that you guys support, it suddenly appears that came from you and when we make a change that you don't support, it's per politically meddling late in the game.

**Wang:** We started with 26 members, and as I mention order January 18, we ended with 20. The six that did not serve the second part of our term, as far as every member of this commission knows, didn't resign because of disgruntlement, they had health problems, they had job and time conflicts, if you are aware of facts we aren't, i'd be happy to discuss those with you. But --

**Leonard:** I am, and I will discuss it with you.

**Wang:** Very well.

**Potter:** I want to ask a point of -- is the -- is this recommendation based on other charter commissions that are found in this area? Or around the country?

**Wang:** I don't recall precisely, but we did look at the periodic charter review provisions that are used by other cities and other municipalities.

**Potter:** Did you look at Multnomah county's?

**Wang:** I believe Multnomah county is similar to the one that we've proposed.

**Wang:** It was unrelated to the charter review commission's recommendations. In other words, it wasn't part of the -- it wasn't -- the recommendations that we made were specifically constrained by the current state of -- state law and what were you adding on was, well, let's make a change to state law. So in a sense there was a disconnect there. This was the -- the change with regard to a super majority vote with regard to periodic charter review, those are related items.

**Sten:** But how would you be -- how would you have any sense of knowing whether your members agreed with it or not based on your process that it doesn't go back to them?

**Wang:** I didn't say they necessarily agreed with it. I said it was probably in the spirit of our recommendations.

**Sten:** It does appear that you're comfortable speaking to the view of the majority on some issues but not others. I think we would be better served to have you guys discuss the changes to your work to

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have the citizens discuss the changes to your work than -- and nobody would have known until today this wasn't your work. It was never mentioned when this was brought forward by the commission, by the mayor, by anybody that this proposal is not the work of the commission. It's my work. I wrote it.

**Wang:** Right. Actually, I think they would be able to find out, if they went back to January 18 and saw the recommendations that were contained in our written report, they could see what the recommendations are. And it's the position of the charter review commission that those are our recommendations. If things are added on, fine, but understand those are not -- there's additional recommendations not those endorsed by the commission. We don't have an opinion one way or the other on them.

**Sten:** Is it your opinion the process that you trumpeted is not violated if you agree with my amendment, and it is if you do not.

**Wang:** I don't understand.

**Sten:** You don't seem to have any process problem with me amending this. I think very substantively. Under this recommendation your entire argument on the form of government would not work. But you and the panel have taken great distinction to disagree with other amendments of that proposal, and I'm having a hard time finding the threat between those two. It seems the process is fine if you agree with an agreement and it's not if you don't.

**Wang:** No. I disagree with what you're implying. What -- the decision made by the charter review commission in our meetings was that our final recommendations are just that. Those are our recommendations. We've always acknowledged the city council has the right and maybe even the obligation to make changes they feel are in the best interests of the city and are in the spirit of our final recommendations. But understand those are recommendations, those are additional recommendations and amendments made by city council. And the charter review commission doesn't take a formal stance one way or the other.

**Sten:** If I read your recommendation correctly, I just want to make sure I'm correct on this, what you are asking us to send to the voters was that a simple majority for whoever showed up at the final meet would go have the power to send things to the ballot. Hypothetically if 11 of the members showed up to the final meetings, six could send something to the ballot without any further process.

**Wang:** I believe it was the majority of the 20.

**Sten:** So you could get 11 votes.

**Saltzman:** It says at least 15.

**Sten:** That's the language I proposed. It was 11 of 20?

**Wang:** Yes. Our recommendation was that the city council appoint a citizens commission that was reflective of the city as a whole and that they direct the charter review commission to consider a certain issue related to the charter, that the charter review commission would consider those issues, they could consider additional issues as well that came to their attention from fellow citizen and they would make a report to city council, make recommendations. If the majority of the commission recommended an amendment to the charter, then those amendments, those proposed amendments would be referred.

**Wang:** The language that appears before you now has been added on to subsequent to our -- the presentation of our final report. City council has added some additional language to add on to our original recommendations.

**Tuttle:** If I may, I want to make sure to David's point as well, what are you adopting today are the resolutions which are based on the recommendations but the resolutions do contain some of the changes that have been made by council members. So -- I just want to make sure people understand we're looking at resolutions and we're looking at the final report. Those are not the same.

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**Leonard:** Before we vote on my motion, i'm intrigued by the -- what appears to be a creative definition that there's also apparently enthusiastically supported by -- the charter commission members definition that conflict of interest would be anything that the council might consider to put on the ballot. Can you explain that a little more? What the conflict of interest is? As I understand the definition of conflict of interest, it's where you have a pecuniary interest and you recuse yourself.

**Wang:** Perhaps I should be clear. I'm not using that in the legal or formal sense. What we have is potentially a conflict on behalf of a city commissioner because of his or her role as a city commissioner, and being asked to consider proposed change that would alter that role.

**Leonard:** So I proposed change that for example would require that the p.d.c. Have votes on its urban renewal areas before any renewal area could occur would go directly to the ballot circumventing the council, because somehow the council has a conflict on that question? P.d.c. Has a section in the charter, there's a lot of people in the community that have said I think every urban renewal area ought to be subject to a vote. Gresham does it that way. This commission gets together, writes up a proposal to send to the ballot to amend the city charter the provisions of the p.d.c. Section that says all urban renewal areas must be approved by the voters of the city of Portland before they're enacted. What is my conflict in voting on that.

**Wang:** I respectfully -- I think you're missing the point. What we --

**Leonard:** I've got the point pretty clear.

**Wang:** What we had in mind was there may be certain instances in which city council -- under the current systems all recommendations have to go through city council before the ballot, that there may be instances and specific proposed amendments which may raise a conflict in a broad sense. But --

**Leonard:** Respond to my example.

**Wang:** There are other situations where perhaps there is not a conflict.

**Leonard:** But is my example accurate? Can that group get together and say, it's about darn time is that voters vote the on urban renewal areas right up a charter amendment, circumvent the council and go straight to the ballot? Isn't that the way this reads?

**Wang:** Under the literal interpretation it would be possible --

**Leonard:** What other interpretation would that not be the case?

**Wang:** If you'd like, economics Leonard, under the recommended language, if -- are you responding to the recommended language or to the -- to the language today?

**Leonard:** Either.

**Wang:** Either way if a majority or three-quarters of the charter review commission that was appointed by the city council recommended an amendment to the city charter, that would be referred directly to the voters.

**Leonard:** Even if it included having urban renewal areas voted on, could exist?

**Wang:** I'm having a difficult time following, but yes, I suppose so.

**Leonard:** I don't know why you're having a difficult time following. That's actually an issue in the community. My concern is that this is a very, very dangerous provision to the future stability of the city of Portland. That you could have a group of citizens gone wild if you will, that refer things to the voters that popularly sound good, but in effect could destroy the economic engine of the city without the appropriate oversight. I think that's a real concern.

**Wang:** That's certainly I think of you that you should detail in your opposition to the proposal. But with regard to the recommendation on the table right now, perhaps the voters of the city should decide whether charter review is something they want to implement.

**Leonard:** But what i'm struck with, I don't mean to keep going on about this, is that the reason you gave and the gentleman sitting behind you gave is that this is a conflict of interest by the council to

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weigh in on a matter such as that. Therefore you decided as a group to circumvent the council. I just actually find that mildly offensive.

**Sten:** Mayor, I would be prepared to make a motion to cool the question on commissioner Leonard's amendment.

**Walters:** Mr. Mayor, commissioner Leonard, before the vote, just a point of clarification as to what the motion amendment is.

**Saltzman:** I'd like to hear it again.

**Leonard:** What I have done, I think probably we're going to have to word smith the last part of that section, but what I have done in section 13-302 is strike in the second sentence "supported by an affirmative -- " excuse me. That's not right. Strike in the second sentence, "at least 15 members of the charter commission" and insert the words "a majority of the city council."

**Meng:** You mean in the second line, not second sentence?

**Leonard:** I'm sorry, yes.

**Sten:** I can probably offer a friendly -- I think what I intend to do is change the sentence to say all charter amendments proposed must be referred by the city council and strike the rest.

**Leonard:** Yes. That's exactly what I want to do.

**Sten:** I may vote against the motion I seconded, but I believe that's what you're doing.

**Saltzman:** Whether it's by majority or three-quarters, it has to go through the city council.

**Leonard:** Yes.

**Leonard:** Any proposed amendment to the city charter would come to us through the commission, but we would be required as a council to actually refer it to the ballot.

**Meng:** Would it do what you wanted to delete the first sentence?

**Leonard:** And then --

**Meng:** All charter amendments proposed by the charter commission and delete down to shall be considered as recommendations to the city council?

**Leonard:** Yes. Yes. That would.

**Potter:** Please read the amended 13-302.

**Meng:** The first sentence would be stricken in its entirety. The second sentence would read, "all charter amendments proposed by the charter commission would be considered as recommendations to the city council, the council may but is not required to refer such proposed amendments to the voters of the city of Portland."

**Leonard:** That captures it.

**Potter:** Call the vote.

**Adams:**

**Potter:** Sam, are you still there?

**Leonard:** I think he took another pain medication. He's sleeping right now. We shouldn't disturb him.

**Adams:** Hello? Sorry. Can you read the amendment again?

**Walters:** The motion that is on the floor now would be to amend section 13-302 to strike the first sentence in its entirety and then in the second sentence amend it to read "all charter amendments proposed by the charter commission" and strike the language "supported by an affirmative vote of a majority, but less than at least 15 members of the charter commission," then continue with, "shall be considered as recommendations to the city council." so it would read "all charter amendments proposed by the charter commission shall be considered as recommendations to the city council." and then continuing on with the remainder "the council may but is not required to refer such proposed amendments to the voters of the city of Portland."

**Adams:** If I could ask you a clarifying question, what is the substantive change, that the original language would have the charter commission under qualified majority could go directly to the ballot, and this has everything going through the city council, is that correct, ben?

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**Walters:** That's correct. The original version had a -- two ways by which things could be referred, one would be where there was a vote of merely majority, but not three-quarters. Those would be considered as recommendations by the council which the council would not necessarily be required to refer. And then if things pass by at least 15 members, the super majority, those would go directly to the voters of the city. This would take out that super majority provision and have everything approved by the commission by a majority be referred -- regardless of the number of the majority be referred to the council for consideration, and then the council have the final say as to whether or not that went forward to the voters.

**Adams:** Thank you. I understand. No.

**Leonard:** Aye.

**Saltzman:** No. **Sten:** No.

**Potter:** No. [gavel pounded]

**Saltzman:** I have an amendment to offer. I'll read it. It strikes "the charter commission shall be reflective of the city as a whole." strikes "as whole" and replaces it with "in terms of its racial and ethnic diversity, age, and geography."

**Leonard:** Second.

**Potter:** Discussion? Please call the vote.

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

**Potter:** Aye. [gavel pounded] now we'll vote on the entire package of periodic review. Excuse me.

**Adams:** We're voting on what exactly again?

**Leonard:** This is a no vote, sam. [laughter]

**Roll on 108.**

**Potter:** It's to take everything else in the periodic charter review and either vote it up or vote it down.

**Adams:** Aye. **Leonard:** No. **Saltzman:** Aye.

**Sten:** I want to take a short minute and explain my vote here and my thinking. I am going to support this. I do believe as i've shared with many of the charter review commissions in personal conversations, that's that there's an important role for regular charter review, and I think this will give us that. I think that while it may not be purposely inflammatory, it's hard to escape it that it may be the term "conflict of interest" is appointed one, and I think it's inaccurate. I have found from talking to many citizens that they believe that they want to know my view on my job. And they want to know what I think about whether or not the commission form of government works, and I think i'm fully capable -- I actually get paid the same amount for less work under your proposal. So i'm fully capable of making that determination myself, and I don't believe there's a conflict of interest there. I also believe that it does make sense to give the charter review commission the ability to go directly to the ballot. Because I think there are circumstances where the charter review commission may disagree with the council and it may be something worthy of a vote. And that's why I proposed a higher standard than frankly you've met through your process. You would not have met this standard, would not be going directly to the ballot based on your vote. Would you not get there with what you're telling me I should send to the vote. You didn't get there, you didn't have a public hearing and you didn't get to three-quarters. But if did you, I think that's saying 15 citizens who were duly appointed, I have all faith future councils appoint good citizens, just like all of you, could have that and could make their own decision whether something should get there or not. I think this is a process that could you defend bypassing our role in this. I don't think the process you've set up defends that and I don't think the process that you've set up was expected to. And the process we've set up now that you all agreed to serve on is one that's advisory to us, and this to then say if I use my judgment on the advice you've given me on a substantive matter on which i'm knowledgeable to say I don't think this idea is ready or appropriate is a conflict

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of interest, I think shows the flaws in this process. Not because it's bad people, not because it's not diverse, but because it isn't set up. It wasn't set up on the front end to be an automatic referral. And it wasn't set up to give you that authority. If we do it this way, the next charter commission would have that ability if they can get to a consensus that you did not reach on the form of government. So I will support setting this up in the future, and I think it's the appropriate bar to get over to be able to make the case you're making that automatic referrals without council approval are what's right. In this case we'll talk about this later, but i'm very supportive of getting a mechanism in place that I can support that solves the problem that you feel yourself in, which you feel you shouldn't have to come to us to get to the ballot. That's essentially what you're saying. This would give you that authority in the future whoever serves out, maybe some of you will do it again, but you'd have to reach a consensus, you'd have to have public hearings and viewed to have a process that was not followed this time. Aye.

**Potter:** Well, I support this, and I told the charter review commission I support this, because I do believe it is representative of our community. I like the addition that I felt added to it was not different, but added to the charter review's recommendation in terms of having a super majority of 15 people. I don't think that's unreasonable. Fit wasn't met, it wouldn't go to the city council for decision. So I think it's entirely within the framework, and I just remind commissioner Sten that the charter commission was established by the full city council. So I vote aye. [gavel pounded]

**Walters:** Mr. Mayor? We need to -- as a result of the amendments that have passed, the summary of the ballot measure will need to be revised to reflect those changes. So if you turn over the document, exhibit b, the summary paragraph, the fourth line, the sentence reading "the commission will reflect the city as a whole and will be made up of 20 residents." we would recommend you change that to read "the city -- the commission will reflect the diversity of the city and will be made up of 20 residents." that will then reflect the changes that have been approved.

**Leonard:** I so moved.

**Saltzman:** Second.

**Potter:** Discussion? Call the vote.

**Roll on amendment to Exhibit B.**

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

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

**Item 109.**

**Potter:** Does the council wish to have staff or charter review folks discuss this?

**Sten:** I have a question I need to ask somebody.

**Potter:** Ok.

**Sten:** Whoever is an expert on what this actually says.

**Potter:** Judy? Come on up, bruce. Please state your name for the record.

**Bruce Harter:** Bruce harter, I was chair of the subcommittee on civil service.

**Sten:** This, I apologize because would I have liked to have gotten this question worked out and this didn't come to me until about two days ago, so I wasn't able to ask you when we met in person, I think the stated purpose of this charter proposal which I do support is to essentially move some number of management people into more of an at-will position so there's management flexibility to make changes. I'm saying this for the audience, not for you. The council based on a vote of the people has the ability to -- the commissioner ofn charge has the ability to hire or remove bureau directors that were hired after 2000 at their discretion. I believe the point of this is to broaden that a little wider than bureau directors, and i've heard said, and i'm repeating this, that there's about 25 people that are affected now in terms of bureau directors and the intent on this is more like 50 more people or something like that. Is that right?

**Harter:** I probably -- I think the current number is more than 25. I think it's more like 35 or so. And this would expand it potentially by about a like number. Remember, the charter here doesn't --

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the language proposed does not move positions to at-will. It merely is permissive. It does not expand the current movement to those positions at all without council action.

**Sten:** I am supportive of moving some number more to at-will, and if the concept is doubling them out that there there now sort of thing, i'm completely there. I've had arguments of people that are not at-will that it's a good idea. What's come to my attention the last couple days, there's been some analysis and memos people don't want to put their name on, I think this gets right at the issue, is that people are reading this language to mean if a council wanted to, they could go way farther than that. And they could put hundreds of people into the category. I have to find the language, but I wanted you to either --

**Harter:** I'll give you an overview.

**Sten:** Make sure that's not true --

**Harter:** It's not true. I think the point of departure is if you read the chapters in not tell language, like from the league of Oregon cities, they would deal with all of civil service in about five lines. National league of cities would have model language that would be 10 lines. We -- that's for the whole chapter. Within this specific purview here, notice that -- as a point of comparison, the Multnomah county commissioners -- our language is very, very much more narrow. Much, much more restrictive. In fact the language that we have is that it has to be limited to classifications. Not individuals, but classifications. Where people have a major role in the formulation of policy and the exercise of independent judgment. That is -- has moved into a much narrower band which we believe would be no more than about 50 individuals. If fully exercised, and it would be done in a classification by classification basis, if you desire.

**Sten:** I guess my question would be, this is not surprising, people who -- I don't think there's any reason to believe would be in the next 35 or 50 that you're talk about, do formulate policy. And do act independently. I try to structure my bureaus to give people more independence. When possible.

So what i've heard from exactly those people is the question of, ok, it wouldn't be retroactive, but let's say I went for a promotion to one level above where I am, would I then have to be put into an at-will position? That does create a conflict. So i'm curious why we don't limit your language to make it a little more clear what you mean by -- because I agree with your approach, i'm just not able to defend it to people who say how I do know that's not going to be 400 people? Because I think could you draw a circle around 400 people who could do policy work, that wouldn't be hard.

**Harter:** That would have a major role in the formulation of policy and exercise independent judgment? You can quibble about those words, but this is very, very restrictive already. The protection is there. If in fact they would at that point say that I would not like to apply for position, because it was at will, I think that's a choice to be made. My independent judgment on that would be that wouldn't curb anyone from applying for the position. But that's a personal opinion.

**Sten:** I guess my question would be why -- what would be wrong with tightening it up a little more so you don't even have the argument about --

**Tuttle:** If I could jump in, commissioner, I think one of the things, because we had a lot of discussion about this at the commission, so -- it's one of the things we were looking for, the checks and balances issue. So part of the protection that is built into this, I think, is that it requires both council's action and the recommendation of the human resources director. So you have both the professional people looking at this on the human resources side, and making the determinations about appropriateness of those classifications, those would also be dawes we're talking about future into the future, those would be written into those job descriptions for those classifications. So you have first of all those have to be determined by the human resources professional as to which meet that criteria, and then action by council to move it.

**Sten:** How did you get to the numbers you're using in terms of saying it's -- it would be another 35? What -- there must be some basis. That can't be a number you pulled out of a half.

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**Harter:** We discussed it with staff. Which ones, how far would it extend. That was the professional judgment.

**Sten:** I might support more than -- I am having a hard time thinking there's only 70 people in an organization of 6,000 that work independently and formulate policy. I bet there's 20 in the police bureau that do that.

**Potter:** I don't think so.

**Leonard:** If I can take this, if you're done. I am absolutely convinced, not in any sense questioning the veracity of your comments, I know you believe exactly what you're saying, you think it's going to accomplish, and I appreciate that, although i've been on the council a little more than four years, i'm in my 30th year of continuous employment with the city of Portland, almost half of which was in representing firefighters in just these kinds of disputes. I promise you, I -- this is a guarantee -- future personnel directors and mayors will read this different than what you intend for it to be read as. In my own portfolio, the 30 portfolios that I have, I am convinced that this language could be used to go down below the director to -- two layers. Maybe even three. At the bureau of development services, absolutely. Each of us that are up here -- I suppose if I really had a conflict of interest I would vote to this. And I don't right now. They have to take an exam, they have to end up on a list. And sometimes they come into my office and they disagree with me. And they feel comfortable doing that because they know they're protect by civil service. And that is a healthy dynamic. And I encourage it. I like it. I work better in an atmosphere where there are people who are challenging each other all the time and not fearful for their jobs. I'd appreciate that. This language puts on its head in my view that long tradition we've had in Portland of civil service, you take this in combination with the changes that are being proposed for the mayor, what will happen, and I first of all want to make clear, tom Potter would never do this. I absolutely know that. But future mayors will view this as empowerment to not only control completely, every arm of the city, but to hire two or three people deep in every organization their own people. There's no question in my mind.

**Potter:** Is there a way to get to I think it's article three that we're discussing --

**Sten:** That's what I was trying to get at. If there's any way to just make this. I honestly think that based on what i'm hearing from people who don't actually dispute bruce, your argument, i'm one of those people, that I think it's almost certainty in my mind that you will lose voters who would otherwise support this without a little bit of clarification. Because I just -- no matter what we say, maybe it's just the people think they do major policy independently. [laughter] certainly we have more than five people in the housing department who think that. I'll take the police example back. The mayor doesn't have that, but I do.

**Yvonne Deckard, Director, Bureau of Human Resources:** Let me try to see if I can answer your question a little clearer, commissioner Sten. In each of our classifications we have a job specification which actually does define out what major policy roles are, and they fall within a certain e.o.c. category as defined by the feds the federal government. But if I understand this language, it would mean that the bureau director -- when you look at these positions now, you're looking at a limited amount of positions, most of them are probably single individual classifications. They would be at, for example, major policy role on a citywide basis, so it would be -- I would use h.r. as an example, it would be like the deputy director of operations manufacturing, but you're not falling below that. And I think what part of this language was was to have the director to be able to sit with their elected official and talk about if they -- if there was a position that they felt was a major policy role that if a new -- that they could talk with you about whether or not that position would be at will, we would look at the job specification, they would then talk with h.r. about it, whoever the h.r. director is would then have to be willing to agree with those concepts, make the call to the council, work with the council on it, and then bring forth an ordinance for the council to hear. And so it wouldn't be that we would just be able to take various layers and come in and --

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**Sten:** If you don't -- what -- I want to support this and I want to make it stronger to do to the ballot. I'm very serious about that. I just -- what commissioner in their right mind wouldn't want as many positions as possible in a policy top policy job to be at will? You want to talk about a potential conflict on this council, I mean, you got one right there.

**Leonard:** And where is it exactly in the language in the proposed language that would give the council the authority to vote on classifications? I'm not talking about it currently --

**Deckard:** In this language council has to -- we would have to move forward with an ordinance to the council, and council would have to then vote -- be an ordinance --

**Leonard:** I'm asking why would in only that example would the council be involved when in every other one the authority transfers to the mayor? I'm asking you to show me where in the proposed language either in this section or the one that we're going to come up to discuss, that the mayor wouldn't unilaterally be able to agree to classifications. And I think -- I would argue that he could, unless you can show me a provision in the proposed language that gives the council the authority to vote, I haven't seen that.

**Harter:** In chapter four?

**Leonard:** Anywhere. In the entire menu of issues that we're proposing, my read is that in fact the council wouldn't vote on classifications that the mayor would be the person as the executive to make those decisions unilaterally. If i'm wrong, points me to the section. Or point me to the section that says --

\*\*\*\*\*: Article three. The approval of the council by ordinance.

**Potter:** It starts from the fourth line from the bottom. And with approval of council by ordinance employees may be excluded.

**Leonard:** Ok.

**Saltzman:** Would that apply to an incumbent in a position?

**Deckard:** No. No, it wouldn't. So it would be similar to when the charter was amended for bureau directors and it was every director hired after January 1 of 2001, so any director that was in place before then was still protected. So even if council voted to change the classification, if that classification is currently occupied, then the person in it is not at will. It would be for a new employee that would be hired.

**Sten:** Let me try -- let me -- I think you get what i'm get can at, if not, tell me and i'll try again. Is there any -- anything you would be supportive of adding that might clarify this a little bit to get at my concern? I'll be completely blunt. I think you're going to see a paid opposed opposition to this measure by people who you're not trying to -- try to incorporate. This is going to the ballot, and I think this major policy piece is broad enough that people are not going to take comfort in your assurance that you wouldn't do that. So i'm actually thinking it makes sense to pass this, and i'm trying to figure out if there's anything we can do that might make it a little tighter.

**Harter:** Well, all I can say is we did work -- let me assure you one thing. The intent was not to open floodgates. In fact, most -- I vote the other model charters, they're quiet languages like this. The county charter is much, much broader. We in fact have tempted to make sure there's a little more flexibility for the exercising of council prerogatives and judgment, and implementing policy. At the same time, we have in fact, when we talked to staff we took some valuable council from -- counsel from them. The word "management" was even in there for a while, effective -- the formula -- formulation and management formulation policy. The management one was a word that one would agree with commissioner Leonard, that could have been interpreted more broadly. We moved it out so it tightened it up. Sooner or later you get down into that tightening up process which we believe in discussion with professional staff, is ratcheted down pretty tight. If in fact there are forms of art, words of art that might be added, I can say the same thing I would have said to the prior discussion. This is the recommendation of the commission. But if there are more artful words that might help in moving this forward, my sense is that number one that's your prerogative,

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and would be within the spirit of how we tried to craft these words. If better craftsmanship is possible, that is your prerogative, and while it will not be a commission decision, I suspect would be within the spirit of it.

**Sten:** I appreciate that. I don't know, I just want to bring it up. I have an ongoing frustration that the council work on this -- on these referral assist very condensed. And so this is a chain of discussion that it's been raging through bureaus that have access to me pretty wildly. Once people took a look at this, which is a couple days ago, so I just am sensing that there's going to be opposition that is not necessary because of this. So is there any reason to put a -- we have grades. We have classification grades. Your argument is a very high grade that this appears --

**Deckard:** Correct. Initially when the commission talked with me, we actually looked at whether or not we could limit this to certain pay grades, and what we realized is that for some of our smaller bureaus, just by the sheer nature of the size of the bureau the pay grade may be smaller, use cable, for example.

**Sten:** Director of the small bureau makes less than the fifth layer after big bureau.

**Deckard:** Right. So it wasn't as clear-cut as this to say grades -- as if to say grades 14 and above, because you actually do in some of your smaller bureaus, but because of how you do classification work --

**Sten:** On the other hand you already have the director of all the small bureaus, so you are really talking about in a small bureau, if you use the cable example you're saying i've got to get to three of the other five people that work there.

**Deckard:** No. You may not want to do that.

**Sten:** The small bureaus may or may not be the issue.

**Deckard:** May or may not have a policy. There are very few jobs in the city that really formulate policy. I know there is a lot of employees we have that believe they form late policy, and they arbitrate in how policies are developed. But the actual true formulation of policy --

**Sten:** You're drawing a line on the formulation.

**Deckard:** And that's why we use that term because we can actually go back to job specs and really decipher where that is and where that isn't.

**Sten:** Policy development is different --

**Deckard:** Policy development is different than policy formulation.

**Leonard:** But aren't job specs under this provision notwithstanding the council being involved in saying somebody is excluded from classified service, but aren't the specs of a job class uniquely the mayor's authority in this provision? In other words, couldn't the mayor say to you, evonne, in my view, in my style of governance, I want to go down not just to the second in command, but down through the third in command, or the 4th in command? And I want you to write specs that give them the authority that this says they have to have to be excluded from civil service protection. In other words, would you write a spec that said they have the ability to majorly influence policy. That's just a matter of writing it in a way that conforms to this provision, and then that has to go to council. The draft -- the actual speck of a class is not something that goes to council in this provision.

**Deckard:** When we create a classification and we create a job that's based off that spec and what -- and the pay grade is also tied to the beauties, and council does adopt the classification, the job and the duties, I guess if sitting in the seat at this time if a mayor came to me or a commissioner and said, you know, I want you to write a different spec, I would be in the position of saying, mayor, I can't do that.

**Leonard:** He would say "have a nice life. I have another person that just took your job five seconds ago." but tell me were that wouldn't happen.

**Deckard:** Why he wouldn't -- .

**Leonard:** You're at will, rite correct?

**Deckard:** No. I was actually hired before --

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**Leonard:** Your position is at will.

**Deckard:** Yes, my position is at will.

**Leonard:** When you leave the next person will be able --

**Leonard:** Your answer is actually -- makes my point. Currently because you are civil service protected, you could say to the mayor, that's not going to happen. I'm not going to do that. And if he tried to discipline you for that, or discharge you, he'd get -- you'd get your job back. Is that right? If you are doing --

**Deckard:** I guess commissioner, whether I was at will or not, if I thought the mayor was asking you to do something that was professionally unethical, I would say no.

**Leonard:** What if he says i'm a more collaborative kind of mayor, I want to involve three people down from the top management -- this isn't as you know, this is not necessarily hypothetical. Other cities with this kind of government actually run this way. We're a new administration comes in and there's a clean sweep of professional employees, your position included, and replaced with what they call political hacks. Why doesn't that happen in this scenario? I'm not saying it doesn't happen, why can't it happen?

**Deckard:** I think anything is possible, but we have directors that are at will now. I've not worked with the council in this city that's functioned that way. I think the system does work. All of our classifications are really tied together and so in order for an elected official ask will one classification to be rewritten in a way really does impact our compensation and classification system as a whole, and it has the potential of dominoing to other positions, and that's when I would have -- I would advise the h.r. director to not only be dialoguing with the mayor, but the rest of the council and the bureaus to what the operational impacts to your compensation and classification system as well as to the bureau would have. In that situation.

**Leonard:** And I would argue --

**Deckard:** We're going to be dealing with reasonable -- a reasonable mayor and a reasonable council.

**Leonard:** I would argue that's the ideal, and that you should be in a position to do that and you should do that. As a matter of fact, you can do that. Because you're civil service protected. You're not going to be here forever. We're not going to be here forever. Why -- it seems to me that if the mayor comes in and says, I want my people in key places that I know are going to reflect my policies, he would go to the personnel director with this rule and say, why don't you write the class this way, by the way, personnel director that he appointed, and if that person didn't do that, he would replace him.

**Potter:** Actually that has too do to city council.

**Leonard:** Not the job class.

**Deckard:** In order to change the job class, the spec, more than likely once I do that we're also looking at having to change the compensation. That does have to go to council. I mean, I think when I look at other municipalities of governmental agencies like Multnomah county that have broader language, I understand what your point and those are potentials. I just haven't seen it happen.

**Leonard:** I'll go -- new york.

**Deckard:** I've not been in those cities. I haven't seen it happen here, and so maybe i'm naive.

**Leonard:** We have --

**Deckard:** I have more faith in the system here.

**Leonard:** I have faith in the human condition to do exactly what it is that I am predicting what will happen.

**Harter:** I think that just as a way of reflection in terms of our task, we see the charter as kind of the constitution or the foundation by which the governs the city. And hence it's strong in values, it's strong on policy, but it does not bore down into that kind of detail because quite frankly the public

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would say, we can't understand all those nuances. But the values and the principles need to be clear. Our second drilling down then was that for the execution of policy, such as the flexibility provided, the limited flexibility provided by this language, is still in the hands of elected officials. It is not in the hands of the h.r. Director or administrative staff. So -- and we have to move forward in faith and trust that the voters will adopt the policy, first of all, and that we move forward with some comfort that our elected executives will make good policy decisions. That is a fundamental belief that -- on which it's base and that in fact the decisions and the policies of elected officials do need to be executed. Administered. You all know what our intent was. Is limbed in scope, it's meant to be carefully drawn f there are words of art that would strengthen that, we would be open to those. I would be open to those.

**Leonard:** To be clear, I would support -- I agree that this doesn't reflect your intent. But if you had something here that was restricted enough that it got to what I understood originally you're trying get to, I would vote, to be clear. But that's not what this does. This is -- this gives a lot more flexibility than what I think you intended for a mayor.

**Harter:** Or a commissioner.

**Leonard:** Well, no, because to be clear, what the council votes on in this language that is here, the council votes as to whether or not that person is subject to civil service. That's what the council votes on. The job specs are written by the mayor through his personnel director. That does not come to council. You said that the compensation meant, but the job spec itself under this language is drafted in the chain of command of the executive. And does not go before council. So what i'm saying is, the mayor could come in and say to the personnel director, madam personnel director, I want you to write job specs down three layers that meet the criteria for having people exempt from civil service. Then when that's done, the mayor would have to go to the council and have the council agree or not. But not in the job spec itself. He could lay the ground work to go to the council with the language he chose unilaterally.

**Deckard:** He would be in your -- and you're correct, commissioner, except he's also going to be impacting the compensation levels that's going to have to go to council, it's going to get into budgetary issues. So --

**Leonard:** I understand. I was trained by the bureau of personnel a long time ago to think like this. Because that is -- but I have just seen much weirder things happen.

**\*\*\*\*\*:** Would I have tried to train you differently.

**Harter:** Having worked in large organization there's are internal checks and balances. If one bureau sees something being approved at a certain classification level, be sure the -- it would communicate bureaus very fast, so the interconnectedness of the system in terms of what that means for one bureau versus another, there is a check and balance.

**Leonard:** Today I agree. In this proposed language people would scuttle and be quiet because they would be afraid they would be next.

**Potter:** So, Commissioner Leonard, under article three under classified service, do you see the wordsmithing that would satisfy the needs of ...

**Leonard:** I would try to approach it in the way Commissioner Sten was talking about—tie it to a number or something objective. And I frankly can't think of a way to do that, understanding that we're doing this as a document that could be around for another hundred years that would withstand the test of time.

**Harter:** In fact that was our challenge. You could go to the current classification system of pay grades, but that's not charter language. It has to be responsive. We did talk about that and the classification systems can change every other year. And it just didn't work.

**Leonard:** Exactly. And I guess I have to go back to—although I'm sympathetic to the intent, I have to go back to what is it that we are trying to fix. Have we defined what it is that is a problem that needs fixing? Frankly in the Bureaus that I manage, I don't have a problem. And working

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Yvonne who has been of great assistance to me in dealing with people who are in civil service positions. If individual commissioners took their role on, I have certain expectations—here they are and if you don't meet them, you are subject to the disciplinary process. And I've done that. This just seems like a cop out, saying I don't want to go through that documentation and warning and the discipline. I'd just as soon fire the person, not working out. I guess I would have a fundamental problem with that. I don't think the current system doesn't work. I don't agree with that. You have to work at it, as you know Yvonne and it's difficult. I think it's designed employees certain minimal rights and apparently I agree with that.

**Sten:** I appreciate your work and think it is very important. I've got what I need to move forward, Mayor. The other thought I had as we look at this is there is no way we could do this at this point—but the other way to get at this is to work on a different standard of cause for termination for people above a certain rate of some kind. So you could say if you are at a certain level it's easier to let you go, but there should be a cause. I'm not asking you to comment on that, I'm just trying to think about what is the problem we're trying to solve. The problem we're trying to solve is managers not being able to move out people who aren't serving the good needs of the citizens and they are in key roles. That's the problem.

**Deckard:** I think that's one of the problems you are trying to solve. I think the other is that as the city faces what I call above critical issues and problems, we're finding that we're creating policy level positions. Some of those are short-lived, some are long term. We also have individuals that come in—I'll just use myself as an example. I have a style of management in how I run bhr. I have a deputy director that I have chosen and that certainly works well for me and I think it has worked well for the city. The next director who comes in hopefully will be able to take the system to the next level. At the deputy director level, that person should be able to choose that critical policy person second in command in a way that will help move the bureau forward that will help. That they can work together and work with the council and the mayor. That may be the person I chose, it may not be. So when you look at a progressive and a flexible system, it's like you're coming in and you choose your chief of staff, you don't want to inherit someone else's chief of staff.

**Sten:** What happens now is you keep the person, move them to a different place and hire the person you want. Or you take your true right hand person and give them a different title than deputy, but that's how they function.

**Deckard:** You wind up creating another position or try to maneuver through.

**Sten:** Especially with high level top paid people, it's much better for the citizens if you say you're terrific, but you're not my person, we're letting you go.

**Leonard:** The way the police bureau's dealt this and fire is all the deputies are at will in terms of the position, but they have civil service protection.

**Deckard:** Right.

**Leonard:** When you get a new chief historically, those former ones go back to their previous classification and then the chief gets to appoint their own people. If we had something like that here that applied across the city I absolutely would support that. I guess I just have a fundamental problem with you have a career person working as a deputy director of personnel, for example. Your replacement comes in and says, Anna, it's not working anymore you're gone. And she loses her job? I have a problem that she doesn't do what happens in police and fire, revert back to some other position she held prior to that.

**Deckard:** Generally though with the exception of police and fire, the people in the other bureaus, there is not a position for them to divert back to. So generally we're either having to redeploy them anyway because they are hired at that level. So they really don't have a place to revert to.

**Leonard:** Well then the police bureau has done that as well. Didn't they hire someone

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from Vancouver?

**Deckard:** Yes, we for the first time hired an outside ac.

**Leonard:** So what happens when the next chief comes in?

**Potter:** He's at will

**Deckard:** He's an at will position.

**Bruce Harter:** Surprisingly a large number of these classifications are occupied by a single person.

**Potter:** Is it possible with the both existing and proposed authority of the city Council to set the city policy of classification so that this broad description could be more narrowly defined by the Council?

**Judy Tuttle:** I would think so long as it doesn't conflict with the charter language, that's certainly possible. I think that's one of the things this commission was looking at as Bruce said. We were looking at a foundational type of document that laid out an opportunity for council and human resources to work together on the management of this type of program. So long as it didn't--

**Potter:** The establishment of the policy--

**Harter:** It seemed to me--

**Tuttle:** that may be more appropriate for the city attorney to answer.

**Harter:** First of all the language again, to repeat, is permissive. These classifications would not become at will just by the Charter. They need the Council action. It would also seem to me that in fact this is where the attorney would be helpful—if in fact the moving any of these positions to this new classification there might be provisions attached to it.

**Leonard:** Yeah but and I agree with you that positions have to be recognized by council as exempt. My point is that the Mayor can direct what the job descriptions are unilaterally so that what ends up before the council is language and a job description that perfectly fits the definition that you have here of employees that would lose civil service protection.

**Linda Meng:** If I could point out and I'm not trying to take a position one way or the other here, but in article 2, the council actually has a fair amount of authority there to provide by ordinance for the establishment, regulation and maintenance of the merit system rules necessary for effective administration including but not limited to classification and pay plans and disciplinary actions. So I believe in there in that authorization of council there is a fair amount of authority to define. I'm not certain what would happen if council decided it was going to try by ordinance to actually do the job descriptions. That would be unusual, it would not be an ordinary role for council, but there is some authority—significant authority—in article 2 for council.

**Leonard:** Right and I understand and I agree w/ that and this may sound like I'm being a little nit picky but believe me, I'm not. This is real world stuff I'm describing. This language does say that council does have to approve classifications. But the people who are in classifications, individually can have job descriptions written in those classifications that meet the definitions of article 3 to make them be exempt. So in other words, the council would say we are approving a job class for every employee at the level 10 and here's what it says. And here's the compensation. The mayor gets elected, comes in and says hmmm, this person is at 10, I can't exempt them from civil service until they are at level 11. Yvonne, I want you to write a job description for this individual person that we want to be exempt from civil service that meets all these criteria. Exempt them. That is a unilateral power under the proposed charter that only the mayor has.

**Deckard:** Well in order to do that if you created a new job spec based on the critical elements and the critical duties, in essence what would happen, and we wrote a different job spec, the classification would have to change and the compensation would have to

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change. That means that all of that then has to come to council which then opens the door for council to ask questions about how this is happening, what are those critical issues, policy formulation before they actually vote to make that position exempt.

**Leonard:** That's not my point in my view they don't in my view they don't vote on making a position exempt, they simply have to have a person in a classification that may or may not have a pay grade appropriate for that classification to meet this definition in article 3 to be exempt.

**Tuttle:** Only by action of Council.

**Deckard:** Right only upon action of council can that happen.

**Leonard:** But the job description they wrote is what the council is looking at to determine whether or not that person is exempt. In other words, I get a sheet of paper, I'm on this new council, and it says Anna has these job duties and that's what I look at and I vote yes or no on that. And artfully that can be crafted in a way that can meet the definition of the charter so that I would vote yes. I don't necessarily need to vote on what that person's being paid. The class I do. Or what the job description is, but I would be handed a book with the number job descriptions in it and I would be asked to vote on that.

**Harter:** There's so many opportunities for council involvement it seems to me of the establishment, regulation, maintenance of a system then meeting the additional tests of major role and (intelligible). Can in fact these provisions be violated? I assume they can, but this is obviously based on matters of faith and trust and seeing how it works and that they will not be abused. It's based on that kind of foundation.

**Leonard:** Well I will tell you this, that my experience with mayors is they are very intelligent, creative people and they would never come and say we want to do this to make these classifications exempt without a really good public reason. For instance I have a vision for the city and I have determined that 3 deep in every organization is blocking my vision for the city. Therefore I am coming to you council to allow me to fulfill the mandate I was given in the last election, and pick people that reflect my views.

**Potter:** What would the council say?

**Leonard:** What I'm saying is, the council then would look at what the job descriptions say and they would be written in such a way as to meet this criteria.

**Saltzman:** They would say yes.

**Potter:** Lets just say that one council member was a former union leader. [laughter]

**Leonard:** How about a former police chief [laughter].

**Potter:** Lets say that too we've got it solved in the police bureau. That would beg the question, what is the role of the council in overseeing that.

**Leonard:** Which is my whole point.

**Potter:** Oversight is one of the areas that the current and proposed form of government changes provides to city council. Oversight.

**Leonard:** I've got to disagree. I've read this thing and it's not the sense I get.

**Harter:** The only part that scares me is I have more faith in you than you seem to have.

**Leonard:** That's because you've never sat up here.

**Potter:** Further questions. Thank you folks.

**Rob Wheaton, Laborer's Local 483:** I heard at the very beginning of this process the commission talk about the 14 months that they spent working hard on this project. And not to diminish their efforts, but to put it in perspective, I'm here to address the concerns of some of the city employees that have been working for you for years. 10, 14 years. These employees also do not enjoy civil service protections they are employees at will. The current charter under 4-302 places strict restrictions on where these employees can be used. Of course I'm talking about temporary employees. Specifically seasonals who

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being at will is so far down on their list of concerns and their hierarchy of needs they are not concerned about it. They are concerned about paying the rent, health care. The revision to this charter grants management more flexibility to use these seasonals beyond the 860 hour limit which is 5 months interpreted to be 860 hours. And establish a class of perma-temps, which is what we're seeking to avoid. I find it the ultimate of hypocrisy that this city council, members as individuals have criticized walmart, demanded their contractors as a body provide domestic partner coverage, when they themselves are not providing health insurance at all to a large group of their employees. They've talked about endorsing sweatshop free type of measures. I don't believe any of this is malicious, I understand that citizens demand a level of service, particularly from parks, that bureau directors with their budgets are trying to meet through utilizing seasonal workers. However I would point out that walmart makes a similar argument. They state our customers demand low prices, so that's why we pay low wages, don't provide health insurance. Like I said, I don't see the budget getting any better, however I would quote ben westlund who I recently heard at a health care gathering state that if providing healthcare to your employees isn't within your business plan, perhaps maybe you shouldn't be in business, if it's not that financially soluble. We would propose that the 860 hour restriction remain and a body of workstudy be done as described in par 3 of the current charter. I don't think that's been done. We would also, if nothing else, we propose that the city look at what the Washington state code is which requires that the employees or the city not misclassify employees and perhaps that would address the concern that you raised regarding upper level managers as well. This thing needs work and I don't think it's ready to be referred to the voters.

**Amanda Fritz:** I'm Amanda fritz speaking only for myself. The civil service changes are the most worrying and wrong proposals on the docket today. Please vote no. Commissioner Adams asked the commission to publish a strike through underlined version of their proposals. Did you notice that they did that for the form of government chapters while all they did for the civil service section was to underline the entire new chapter and strike through the entire old chapter. This is supposed to be a serious process where citizens can comment on changes. Not a monty python skit. This is a dead parrot. The proposed changes to the civil service section are an insult to the people who work in the city and they do not serve the working people of Portland. It could send the level of at will employees deep into the ranks of the workers. This is especially dangerous due to the proposed change giving the mayor and cao all power over all the bureaus. It heightens the likelihood of nepotism and political patronage becoming the norm in Portland city government which are the very vices that the civil service chapter was written to reform. The proposed language says that any employee in a classification that requires the exercise of independent judgment can be fired at the whim of the mayor and cao. The US Supreme Court and the national labor relations board have used those very words to determine that staff nurses directing aides to help some patients rather than others can be classified as supervisors and not eligible for union protection. That was in the recent Kentucky decision. It not only can happen, it has happened and is the law of the united states. Trust me as a 25 year nurse and a 20 year union member I didn't think it would happen to us either. It makes no sense to send this proposal to the ballot until we know the form of government. A stronger mayor requires and stronger civil service, not weaker. The proposed chapter of the charter cuts 70% in volume. Seven pages reduced to two. The goal was to make it more like a constitution with fewer specific regulations. But new administrative rules aren't being proposed concurrently, so citizens are losing important safe guards with no assurance they will be replaced. Note that I said citizens are losing.

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The civil service code protects citizens as well as city employees. One of the main functions at the civil service regulations is to ensure fairness in city employment. We don't want a government where all top jobs are given to friends of the elected officials. If we move to a stronger mayor form of government, it will be even more important to have the checks and balances of a clear civil service code and a citizen volunteer civil service board with more power. Instead the new charter gives appointment and firing of its civil service board members to the mayor. This is dangerous. The auditor should appoint subject to confirmation by the council. And the council should vote to fire the civil service board members. The current charter specifies how to give public notice of rule changes. There is no mention of this in the new version. Also gone is the requirement that the chief of police must have served as a police officer for 10 years. I have a lot more details, but obviously there is no time to hear them.

**Potter:** Thank you. Discussion?

**Sten:** I would actually be inclined to not strike sec 4.302 temp appointments keep it in there I have not heard an argument from the charter commission that their work has anything to do with temporary appointments. What I heard—and I haven't talked to bruce about it, I would be glad to do it now—what I heard from some of the charter commission members I did speak with is that their belief was that the temporary appointments, while it may be sound policy did not belong in the charter. It was not a charter level issue as opposed to trying to change the policy. I think given the importance of temporary employees and to some of our represented employees of this issue and given the very short time they've had to react and be constructive on giving us some different solutions, I am not comfortable removing the temporary language from the charter. I would like to see it stay there. Even though I share some of Amanda's concerns—I am leaning toward sending this out—but I will not if it does not have the temporary appointment protection still in there.

**Potter:** Other discussion?

**Sten:** I won't make a motion until there is some discussion.

**Saltzman:** Well I guess speaking as the parks comm. we do have seasonal employees and under the current rule—I don't see 860 hours written anywhere, but I'm assuming it's in the temporary appointments somehow--

**Sten:** I think its in the interpretation of the 5 mos in section 2.

**Saltzman:** I think speaking as the parks bureau we need flexibility we can only hire someone for 5 months and then after that they have to work for a temporary agency and then we hire them back. And we have people who truly don't want—obviously some want to be full time—but others want to be 7 month employees to ski in the winter and teach parks and recreation in the spring and summer. So I'm looking for that kind of accommodation. I don't think we're talking about trying to take this situation that applies to parks and make it policy that will apply to employees in other bureaus where it doesn't make sense. We do have a seasonal workforce in parks that dwarfs our full time workforce 6-9 months out of the year. I think this change makes more sense for the majority of those seasonal employees than the current situation of having to go work for a temporary agency in order to work for us beyond 5 months.

**Sten:** Well I guess I have a question for commissioner Saltzman and the mayor in terms of how you do this. I believe we have a situation in which the charter commission has made a recommendation primarily around—I've never heard testimony from anybody about this issue that affects the laborers. I agree with bruce's answer on my questions. I can't come up with any way to get it more specific. I'm willing on the civil service to say I think there is more gain to having a few more managers at will than there is danger that it

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is going to be abused. Although I do think that danger is there. So I'm prepared to support that recommendation. My question for the council members as a discussion matter in how you would like me to do this is that this council passed a resolution that requires all of us to process major changes that are much much smaller than this with our labor unions. We have labor committees, all sorts of things and the idea that the temporary protections we're going to endorse striking a whole class of employees protections without even having a meeting with the affected union. How do we reconcile that?

**Potter:** We've had some discussions with the unions?

**Saltzman:** Yes I mean we have and I think the discussion intent to say that this is a meaningful way to deal with seasonal employees in the parks bureau and it's nobody's intention to make this a broader citywide approach to who we hire part time and who we hire full time. It's simply a means to work more efficiently in terms of allowing employees who want to work more than 5 months but don't want to become full time and not have to go through this Byzantine process of being hired by a temporary agency and then having us hire them back.

**Sten:** With all due respect I'm not arguing the substance I'm arguing the process. We really have held ourselves to a very high standard, mayor. You won't accept budgets I submit unless they have gone through a certain labor/management protocol. I'm not saying this to be dogmatic, how your employees feel about you is more important to how the city functions well than any of these rules. How are you guys arguing to me that it makes sense to do something. Have you guys done the work with the labor union that our resolutions that we have passed unanimously would reasonable imply to me that should have been done before I say to them, no I'm sending this out to the voters. Not do we think it's a good idea, because that's not how we operate in the city. It's not how Mayor katz operated. We say here's my idea, let's work on it with our employees and see what they think.

**Potter:** Seems like the issue here is the 5 mos? I understand the process question. Specific to the union issue, you're saying put the section 4.302 temporary appointments back in. And section 2 is the one that actually restricts it not to exceed 5 months in duration. What if that were taken out?

**Sten:** Well I just don't think I have a base of knowledge to negotiate this on the fly on behalf of the unions. That's why I thought keeping the existing language, and rob you're welcome to come back up, I can ask you a question—it's the question of how do we go about changing people's work rules because we are at minimum asking the voters to go this way. I still believe, despite good arguments with good friends, that a vote to refer implies a yes vote recommendation.

**Saltzman:** I was going to toss something out for collective consideration, and that is I found the discussion between commissioner Leonard and Yvonne Deckard and the panel to be very thought provoking as have some of the other discussion on the civil service portion of the charter reform. I even kept running through my mind, ok, if the strong mayor form of government passes, some of the concerns commissioner Leonard raised were underscored in mind. If it doesn't pass, I was wondering about is some of the language still relevant? Maybe this is part of the reform package we do put on the ballot, allows for more discussion with unions and really allows us to see what's the constellation we're really dealing with in terms of form of government and have this one voted on in the November election.

**Leonard:** You're helping drive this train if you want to go to November.

**Wheaton:** Can I offer—particularly at parks where we have this seasonal employee

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classification and we have a need that is beyond seasonal. It ends up, you are absolutely correct, the employees work 860 hours. They are laid off for 90 days and they are rehired by a temporary agency. What that tells me we need to do the study in paragraph 3 which I believe, section 302, we need to review this. Where are we using temporary appointments to fill a permanent need? And we have not done that as a city. I've met with commissioner Leonard, I've met with you as well to address this problem and we've not seen any movement on this yet. Now all the sudden it's before the commission. We're talking about removing this particular protection, and yet there remains protection under the hr ar's. However my concern goes to my fall back position perhaps something needs to be included that we shall not misclassify employees, we shall not create employees that are truly not seasonal employees but part time permanent employees that we're calling seasonal employees. Or for instance when it comes down to the higher end of the agencies and bureaus someone who doesn't have that authority to effect policy and change. And that would be my other suggestion that if we are going to remove it then perhaps we need to put in some restrictions into it regarding misclassifying employees to positions that they don't do by hours or responsibilities. What's described in the class specs or in the hr ar's. For reference I would say revised code of Washington, 49.44.160 and 170. They have it in their code.

**Potter:** Sounds like this was an issue specific to parks bureau. Was the fact that you could not go beyond the five months. That you had to lay them off and hire them back after nine days .

**Saltzman:** And not all seasonal employees desire to become full time. Some do.

**Wheaton:** We have 7 month, we have 9 month positions. Full time budgeted positions for mowing in parks and, fyi, it transcends parks. There are seasonal appointments in pretty much every bureau. For example, Commissioner Saltzman, I praise you for paying your interns. However what you ended up having to do was classify them as a seasonal position in order to fit that loophole. I don't necessarily think that is a seasonal position, perhaps there needs to be a casual classification—some other type of classification which should be addressed in hr ar's. However this seasonal thing is a restriction that at least needs to be monitored and controlled by Council.

**Saltzman:** Then we're putting this on the November ballot?

**Sten:** Then ask for some labor-management process.

**Saltzman:** We'll know what the results are the end of May.

**Sten:** You would have my vote for that proposal.

**Leonard:** And mine.

**Sten:** Thank you rob.

**Saltzman:** Any reaction from the charter review commission members?

**Bruce Harter:** This was we realize was an important topic and notice that in the proposed language we still talk about the need for definitions for classifications—full time, part time, seasonals. I think what moved us rather quickly to this position was when we heard from Mr. Wheaton—had a very good meeting with him—it's that 5 month deal. It's in there, there for 5 months and through a series of kinds of procedures that commissioner Saltzman talked about, they get back on. So labor doesn't like it by the representation. They'd like a better way. Management certainly doesn't like it for many of the same reasons. What we tried to do in a policy statement is to create the level playing field so that issue could be addressed. Every time we asked people about it—well, we can't do it because of the Charter—came up repeatedly. What we are trying to advance is a notion as a policy statement is let's level the playing field. Let's allow the issue to be addressed which the current charter just doesn't allow. We thought that was clearly a step forward

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particularly in terms of the future. What the requirements are. You've heard the stories that used to be in the summer, pools were a seasonal position. But with covered pools, they're more year round. I'm just picking one example. The terrain changes and at this particular non-reference to seasonal was definitely by design because I think everyone on the commission said this is an issue that deserves to be addressed. Rather than taking a position on how it ought to be addressed to level out the playing field over which those discussions could take place. It was that simple.

**Sten:** Bruce, Rob can speak for himself. I guess I'm interpreting their position to be they prefer keeping what's there even though they don't like it over not having any certainty over what will replace it. Is that your understanding where they are?

**Harter:** That's how I would understand it. I think that should not have to be a concern of the charter commission. It should state our principles and values and provide a level playing field over which issues like that could be discussed and resolved.

**Sten:** I agree w/you on that this one I hadn't thought about this, but in terms of commissioner saltzman's idea, what we might be able to do with a little more time would be to negotiate some kind of agreement with the laborers that would allow them to support this and solve both problems. I'm fairly confident they're going to oppose this with vigor.

**Harter:** In fact our language is inviting that to take place.

**Sten:** But if we do it before the vote then it's a political management consideration on how to understand that relationship. I appreciate what you are saying.

**Harter:** Yeah, need to be very clear about what our intent was. We're right down the middle on this one.

**Sten:** No and I think your intent is absolutely on the money and I agree with it.

**Saltzman:** Could Yvonne Deckard is she still here Yvonne I guess I'd like you to comment on the notion of how this might affect contracts if we were to postpone the vote on this one until November.

**Deckard:** comm. your right the seasonal issue is the biggest issue for the parks bureau. Part of the reason that this is such a big issue is that as recreation has become an area that the city has moved in to provide recreation for its citizens and youth, we didn't have those types of programs before. So when this language was written in the seasonal language was for 5 months, it was really envisioned that we were taking care of park lands and that during the certain time of year there was certain types of work that had to be done and it would last for about a 5 month period. At one point the city got challenged on it, a judge interpreted those 5 months as being 860 hours. As our recreation programs have grown, it's become a critical issue for parks. Now what we do have in our dcu and recreation labor agreements is still the language that governs and limits how we use seasonals. So even if this language changes, that does not change the labor agreements and how they are written. That would have to be bargained separately. Council has the ability to create seasonal classifications and put parameters on those with this new language. So it just remains a hardship for the parks bureau as far as recreation programs whether it's aquatics or rec centers or community schools as well as we do have the seasonal maintenance contract that does govern how that works a little differently. So a lot of this language is in our actual contracts. That doesn't change that.

**Saltzman:** So existing contracts we have with dcu and the seasonal still govern the terms.

**Deckard:** Right

**Deckard:** If this language passed until you changed contract language parks would have to sit down and have a collaborative process with the unions about how that happened. Until that contract language actually passed, or changed and was ratified, then how seasonals are used within those contracts still remain in place.

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**Saltzman:** It gets it out of the charter and into the bargaining.

**Deckard:** It gets it out of the charter and into the bargaining.

**Saltzman:** I think maybe in light of those explanations I'm inclined to want to move ahead with this charter reform in May.

**Potter:** I support that.

**Adams:** Mr mayor could you and dan repeat the last two comments you made? I couldn't hear.

**Saltzman:** I said in light of the conversation w/Yvonne and Bruce that I would now support keeping this as part of the package that we send to voters.

**Potter:** Because it would then be taken out of the charter and put into the negotiations.

**Adams:** So you would support keeping this moving forward for a May vote?

**Potter:** Correct.

**Saltzman:** Yes.

**Potter:** Do we have people signed up to testify on this?

**Potter:** Okay, further questions? Please call the roll.

**Linda Meng:** Excuse me.

**Ben Walters:** Mr. Mayor. Is this a vote on the resolution, or was there a second for commissioner sten's amendment?

**Potter:** I didn't hear a second.

**Leonard:** I did

**Sten:** Okay

**Leonard:** Could you state your--

**Sten:** My proposed amendment which I'm inclined to withdraw was to put back the temporary appointments language. The reason I'm inclined to withdraw it is, I drew the opposite of Commissioner Saltzman based on this last discussion. What I saw is a council that doesn't fully understand what the civil service proposal does. I don't think any of us can explain it. I don't think anyone up here can and we're going to put it on the may ballot.

So I don't see any point in amending it. I'm 100% in support of bruce's work in terms of what he's trying to do, but when we don't follow any of our labor processes when we've got the laborers who ought to like this having to go against it and we can't even explain why as a group, it does not belong on the ballot. I will withdraw my amendment. Can I have the consent of my second?

**Leonard:** I agree.

**Potter:** call the vote.

**Adams:** Aye

**Leonard:** Well, I'm a person that believes that actions speak louder than words. We've heard a lot recently about involving employees in decisions that affect them and that we value them and that we believe that they provide a tremendous service to us and the citizens of Portland, but the actions that we take today dispels that. No.

**Saltzman:** I think that in light of the discussion, particularly on the temporary appointments, I guess what I'm coming away with with a different read from commissioner sten is that we do have a bargaining processes, all sorts of collaborative processes with our unions and our non represented employees and the simple decision here by the charter review commission was simply to take this 5 month requirement and take it out of the charter. I'm not sure what it's history is—how it found its way into the charter, but all the issues around it—5 months, 7 months compensation—are still going to be dealt with in the bargaining process with our bargaining units. It's simply removing an artificial constrict that supercedes all those good faith discussions. That we will have and have had. That's why I support that. And I do want to say that the discussion between commissioner

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Leonard and Yvonne Deckard over some of the at will stuff does give me pause. Under a strong mayor form of government I do see a Chicago or new york type of thing happening. But I also think after listening to the discussion there are adequate safeguards council built into this. Although they still remain to be tested. So I will vote to send this to the may ballot. Aye.

**Sten:** What I'm hearing, and I respectfully disagree and people have a right to their opinion is essentially an affirmation from this council in a 3-2 vote that this is a good measure. I think on this one that the charter commission did its work well and I think that the council has not done its work. The most important thing to the functioning of the government is not the civil service rules, it is the heart and souls and both feet and spirit of our employees and that they feel they are ready to work. When you have the laborers coming in and saying we believe there's a problem and we're ready to fix it, and the council putting a fix on the ballot that they can't articulate what it is, it's sending a message to our employees. When I'm at my bureau yesterday talking about the civil service change and I can't explain for sure—this is me, I'm not criticizing somebody else—what major policy means, it's not ready. It needs more work and more discussion. We should treat our work force with more respect than to send out a measure changing the fundamental conditions of employment no matter how well thought out it is, if their managers and this council are not prepared to articulate what it does. No.

**Potter:** I thought the charter review commission did articulate it. They thought they were creating a level playing field in terms of the temporary employee issue so it can be resolved in another form. And that the other issue as far as, they left broad so it could be resolved by either city policy, or other means. Right now I see this as something that would work for our city, that it is broad, but it can further be defined by city council enacting city policy. I vote Aye. [gavel pounded]

**Potter:** I have to ask a question its been requested that we take a half-hour break. We have 2 more, we also have a 2pm time certain which is a land use,

**Moore-Love:** Measure 37

**Potter:** Measure 37. So –

\*\*\*\*\*: I have a doctor's appointment and I've signed up to testify

**Leonard:** I was actually going to suggest, can we just have the staff bring us something here that we can eat? And continue to work?

**Potter:** There are certain things the staff can't bring me [laughter].

**Sten:** Could I propose a 10 minute break?

**Potter:** OK, but I'd like to hear Mr. Meyer. Please state your name

**Paul meyer:** I'm Paul Meyer. I've been involved with city government form for over 50 years. I've been on every major city club committee that's studied it. I co-authored the city club report on the Portland development commission. When the city club in 2002 opposed the ball measure it did so because it did not come from a citizen broad scale citizen committee auspices. And so what the Council has done is taken the city club recommendation that it have such a report. And you now have it. I am concerned a little bit about the fact that when the commission completed its work last may and june in a temporary form, the outlines of virtually everything you have before you today was made public. The civil service commission report, the pdc report and the outlines of the form of government were all made available. Your representatives attended our commission meeting. I'm a little astonished frankly to have the council at this point state that suddenly at the last minute they've had these completed versions brought to them. Well the completed versions went through a lot of fire, went through public hearings, to the neighborhoods, to the extent we could get people to listen. Very hard to get people to

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listen, but to the extent that we could we did. And they had input and the members of this council had every opportunity to have input. I'd like to address briefly the issues of form of government because they are important. First of all, Portland remains the only city over 100,000 that still has this commission form of government. It's been deleted from every city that had it. And a whole host of them had it beginning in 1905 when the flood in Galveston caused this form to be created by the Texas legislature. We can thank the Texas legislature for a lot. In any event, what we have done, the citizens of this community perceived the mayor as a person who is running this city administratively, but that is not reality. It's perception. But it is not reality. What this does is bring reality into it for a lot of good reasons. Because every major city that has this form because it's more effective. The second thing is the council. I think the council this morning has demonstrated a real fault. That we're having the detailed discussion on this committee report that there have been no committees of this council that has vetted this matter in advance. That could have been done. What we have created in this form of city government is a council of 4 members that is more like a senate. That any mayor-council form of government anywhere, there's 9, 26, 19 members of council in other council-mayor form governments. We have a form of 4. What have we done here? We've said 4 people cannot create the numbers of committees that are necessary... [comment from audience]

**Potter:** Excuse me he's 12 seconds over, please finish up.

**Meyer:** The council will have the opportunity to do its legislative, investigative, planning and oversight functions through committees. Each of which a councilperson must be chair. But which may include citizens. So this group will be able to expand its abilities to function by involving concerned, talented citizens in a variety of things. Where it all doesn't come for the first time as it has this morning before the council for a first vetting. That is inefficient, it's not good government, and you've got an opportunity for a lot better.

**Leonard:** Don't leave Paul I. I want to ask you a question. I've heard a number of people say—it was in the Oregonian that Portland is the only city with Commissioner form of government.

**Meyer:** Over 100,000...

**Leonard:** Over 100,000. And implicit in that argument is that Portland isn't doing something or reflective of something that other cities that did change their form of government have. Can you point to a city that you look at and say we should be like that city because they figured out that this form of government doesn't work and they changed?

**Meyer:** Well, there's a lot of criterion

**Leonard:** I'm not asking criteria, I'm asking for a city.

**Meyer:** I'm not going to engage in that because I can't engage in that. Every city is so different and comparing cities to—you can't get into that.

**Leonard:** but that's

**Meyer:** I'd say Seattle is well run. I've heard people say Seattle's terrible, look at the transportation up there. That was an argument made by one of the members of this council in a previous matter.

**Leonard:** I--

**Meyer:** the fact of the matter is King County runs the transportation up there.

**Leonard:** that's not why I asked it. You said a premise for the change that you're proposing is cities over 100,000 have all figured it out and have changed their form of government. I'm asking you to tell me what is it that they have figured out that we haven't? What is it that they have that you are using as a bench mark that we don't.

**Meyer:** Mayor Katz has given you one example we could give some other examples of things that have happened in Portland.

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**Leonard:** I'm asking you to.

**Meyer:** I'll give you the water bureau. That wouldn't have happened under a strong mayor because the commissioner of finance and administration way back when, the commissioner of finance and administration in the Mayor's office opposed what the water bureau wanted to. But because the water bureau was an independent silo, the commissioner in charge at that point supported his people against what the mayor and the experts in the mayor's office thought. Now the city's lost \$40-70 million dollars because of that.

**Leonard:** Paul your aware of the current system allows the mayor to assign or unassign bureaus. And that at any point what you're saying was actually happening, the Mayor could have removed that commissioner from overseeing that bureau and taken it under her portfolio. You're aware of that.

**Meyer:** I'm aware. And I do want to answer one question you raised before about disposition of property by the mayor. The council can pass a law and say no property shall be disposed of except for fair value or after competitive bidding, or advance report to council. You can set up procedures that property can't be disposed of unless the disposal is recorded in advance to the council in such a length of time to figure out--

**Leonard:** So your position is the council can adopt ordinances--

**Meyer:** On procedure about it. It says the mayor is the one who makes the decision about whether to dispose, but the procedure does. And you have been in the state senate, you know that as well as anybody.

**Leonard:** I have been in the state senate, and that's why I know that a lot of what's being said here doesn't work. And doesn't work the way you're saying it.

**Meyer:** It would if you're full time. You didn't have a full time legislature down there.

**Irwin Mendel:** I need time for one brief response to an issue that he brought up?

**Potter:** We're going to take a 10 minute break first.

**Leonard:** hold on were going to get you next

[10 minute recess]

[Roll]

**Potter:** Please read item 110. Do you want to testify? Is it on the last issue?

**Irwin Mendel:** Paul Meyer said that 5 years ago the city club turned down a charter reform motion because it was not entered into with wide input from the city. Not true, I have a video tape of that meeting if you really would like to see what happened. He chaired the majority report, Chris smith chaired minority report. The City club overwhelmingly turned down the majority report endorsing a change in the form of government. There was nothing at all in their refusal to accept the report regarding how wide the input from outside citizens. They just thought it was a bone head idea and expressed that. Bob ball sponsored, as I recall my wife came up with a beauty she called it a foul ball. And that's precisely what city club thought of it.

**Potter:** OK. Please read item 110.

**Item 110.**

**Potter:** I have a substitute exhibit to offer. I'd like to turn it over to President of the Council, Commissioner Leonard. [ hands gavel over.]

**Leonard:** Mayor Potter.

**Potter:** it's listed as Exhibit B. I've given copies to Council and the clerk.

**Sten:** at this point are you distributing this for discussion, Mayor?

**Potter:** To move as a second and for approval.

**Saltzman:** second

**Sten:** I want to say I appreciate, mayor, your bringing these, basically for people who are watching, the caption that would go on the ballot, the questions, and the summary, and I do think that the first

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draft from our city attorney, although it wasn't, perhaps, meant to be, was quite misleading and did not say in the caption or the question, that this would change the form of government, and I think that everybody can agree that saying this changes the form of the government, a first step to clarity, so I think this is a much, much better thing. I wasn't expecting a motion before any discussion of this so as part of the discussion of your motion, I would like to submit an alternative set of language to the clerk and, and the council, and, and I actually did bring copies for the audience if people want to see

**Leonard:** Is you are moving to amend the motion? A second?

**Sten:** I think we are there. I would move to amend the motion to change this language. I think what we should do as a matter of process is explain to the citizens what the different things say and let the people think about it a bit.

\*\*\*\*\*: Commissioner Sten?

**Sten:** Yeah.

**Adams:** Is it possible someone on your staff could email it to me?

**Sten:** Sure. Ok. I think that that's happening. I guess probably, in terms of the discussion, a couple of distinctions in terms of my amendment to your amend works probe be the best way to focus on this to -- to start would be to look at a both the caption and the question. The caption under your proposal reads, amends 1930 charter, changes form of city government

**Leonard:** Excuse me. I think that's the wrong one.

**Potter:** Let me -- do we have another copy, please?

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

**Sten:** I think we are closer, which is wonderful, so that, that -- ok so, I was looking at the wrong one. The caption under mayor, your proposal, says amends charter, changes form of city government, the caption that i'm proposing just says changes form of city government. I don't have any problem with your version. And then the question, as you framed it, is shall mayor have executive and administrative authority and manage chief administrative officer and city council retain legislative authority. The question, as I worded it, is somewhat similar, but it says shall executive authority be transferred from commissioners to the mayor and council be limited to legislative and quasi-judicial duties, and my argument in favor of my language is that although it's not intended to be misleading in any way, shape, or purpose, I think that, that most people define the word "retained," to mean you keep what you have, and, and by anybody's definition, the powers of the council are being decreased dramatically, so if you use the word "retain legislative authority," I have a position on this, but I fear would lead one to believe that the council is keeping the authority it has, unless one really understands. I prefer the term "transferred" because in effect, what's happening under this measure is that the authority that resides with the council now, the executive and administrative, would be transferring to the mayor. And so I think that it would be more accurate to have a question framed as I have -- we would be more accurate to have a question framed as I would, and I have to take a minute to read two summaries

**Leonard:** Go ahead.

**Sten:** Whether they can be merged. Um, there is some minor differences. For purposes of discussion, if, if, if my version of the question were inserted into your proposal, I would be comfortable with your summary.

**Potter:** The issue for me is the use of the word limited. The use -- under, um, commissioner Sten's proposal, under the question, I think that we've agreed that the caption, there's -- there's no caption?

**Leonard:** Right.

\*\*\*\*\*: Shall executive authority be transferred from commissioners to the mayor, and council be limited to legislative and quazi-judicial duties

**Leonard:** You don't agree with the word limited?

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**Potter:** I don't agree with the word limited. I think transfers, transferred is, is, um, is redundant in the sense that it is captured in the question in the caption as to what's occurring. Linda, could you come forward, please? Tell us what the state statute says in regards to the use of these -- well, both the caption and the question and the summary, I guess, as to what the state requires that the city or, or ballot, anybody initiating a, a change in city government, what are the requirements and restrictions on the use of the language?

**Linda Meng, City Attorney:** The caption is supposed to be the subject of the measure. And I think, um, either one of these, I think amends charter would be helpful to have, and I think either caption, that caption would be fine. The question has to do with what is the, the primary change -- the question is, is to plainly frame the chief purpose of the measure so that an affirmative response core responds to an affirmative vote on the measure, and limited to 20 words. Plainly phrases the chief purpose of the measure is the operative language. And then the summary is a concise and impartial statement summarizing the measure and its major effects.

**Potter:** So I would --

**Leonard:** My read of this, of the proposal that the mayor brings forward, when it says in city council, retain legislative authority, the person reading that could conclude that, that before this change, all that council had was legislative authority versus commissioner Sten's proposal, which says and a council be limited to legislative and quasi-judicial duties, and I think implicit in that is there is a limitation being imposed that didn't exist before. It seems to me that, that, that using the city council retain legislative authority is misleading. As to what the actual ballot does.

**Sten:** Mayor, I would certainly be comfortable and perhaps recommend, although I am trying to think about it as I talk, that maybe we take the public testimony. Allow people to testify to the issue. It would be interesting to see what the citizens think about the quality of each proposal.

**Saltzman:** We would like to hear from the city attorney, on the last point, the thought about [inaudible]

**Meng:** It's my opinion that either one of these could be a fair statement of what the measure does in the question. I think that -- you can -- there's lots of ways you can write all of these pieces. There's not one single way that will work, and there are a number of ways to look at it. Deciding what is the chief effect may have some -- depends on your point of view, and I don't believe that I can say that one of them, one of these passes the muster of the constitution and one doesn't. I believe that it's my opinion that either one of these could hold up legally.

**Saltzman:** If you said only retain legislative authority --

**Meng:** It's not accurate because the council also is the quasi-judicial body, and so that would not be an accurate statement.

**Saltzman:** But there isn't any language that says that the council retains quasi-judicial responsibilities.

\*\*\*\*\*: There's --

**Leonard:** How does that pass legal muster if it does not include that?

**Meng:** I think part of it depends on what is the chief purpose of the measure. The quasi-judicial measure was there before, and it is still there, and it is not changed, so given the word limitation, I think it is probably legally acceptable to leave it out. When you are talking about 20 words, it's very limited, and you obviously can't write everything about the measure that's in the measure.

**Potter:** How many people do we have to testify? Eight? Ok. We can give some thought to this while we have the public testimony then. Thank you, Linda. Please call the first three.

**Potter:** Will you state your name for the record. You each have three minutes.

**Irwin Mandel:** irwin mandel. Why should we change our form of government? I ask the two proponents of the change, mayor Tom Potter and commissioner Saltzman, the question that was asked of the mayor at city club and left unanswered, had this change been in effect on January 1, 2005, what would have been accomplished in the last two years that has not been achieved under

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our present form? We elect our council members to govern the city for the benefit of the citizens. How would we have benefited had this so-called strong mayor form been in effect two years ago. The report that this council send from the charter review commission did not provide any justifications in terms of the benefits to the citizens from the change in form. The report states that the appointment of the chief administrative officer will be economically more efficient. How can the addition to the city payroll of a highly paid chief administrator and his necessary staff be considered an efficiency? How would this additional layer of bureaucracy benefit the citizens? Efficiency has been touted as a major benefit of the change. Let me remind you the Italian dictator, Mussolini made the trains run on time. Democracy is a messy form of government. We do not need a mayor, emperor who not only has total control of the administration of the city, but also has control of 20% of the legislative function, as well. One vote of five. Remember, if you refer these resolutions to the ballot, and by some strange quirk, they pass, in two years, another charter review by mayor of appointees will occur, and their recommendations will automatically be placed on the ballot bypassing our citizen elected city council and efficiently usurping power. The resolution changing our form of government seems to me to be an outright power grab and a dangerous subversion of Portland's democratic process.

**Lili Mandel:** Lili Mandel. It is preposterous to send the charter review resolution to the voters simply because the voter is well intentioned, hard working, and has spent many long hours producing it. Time alone did not produce a well reasoned, carefully documented report that leads them to the conclusion that we require a change to our form of government. This report is full of numerous verbiage, and couldn't stand up to the scrutiny of commissioner Sten and Leonard. I have read editorials in the Oregonian that there is a need to for change, but they fail to document the need for a change. The latest headline says, appraising Portland's unique [inaudible] and the subhead reads, we have a good city, but changing the form of government would make it better. Well, an antique becomes more valuable with age and is not antiquated. Their reasoning that we would rid ourselves -- I forgot to say about there won't be any mistake in the bureau. Their reasoning that we would rid ourselves of the possibility of any mistakes being made by any bureau under this wonderful new system is laughable. Commissioners should not send this resolution to the ballot box. It is your job to critically evaluate recommendations and make the difficult decision. If this, if this change were to take effect, we citizens would be rendered as ineffectual as the council of members in having any say as to the function of any bureau. I would not like living under the rule of an imperial mayor where I would have to curtsy to him. Having the form of government is not like changing one's underwear. Thank you.

**Ed Hall:** I don't think I can compete. [laughter] I am Ed Hall, the vice president of the Portland firefighters association, and I am also a member of the charter review commission until it gets dissolved, and before I go farther, I hope you understand that whether we agree with the changes with this report that the integrity, the diligence, and the purpose of each one of my fellow commissioners brought to this process is beyond reproach. It is not a personal matter. While my fellow commissioners, I may have been at odds with each other, there was never any question that the argument was always about what is best for the city of Portland. It was never -- no doubt, there was never any doubt that it was about what is best for me and mine, and I am deeply honored to have served on this commission with such fine and dedicated people. Also, the men and women, the Portland firefighters' association are just as deeply dedicated to the service of the people of Portland. And after 25 years, of working and living and arguing with them, I'm more proud and honored to be here representing them today. My comments are based on the firefighters' association. Portland firefighters' association is opposed to placing these far reaching and serious changes to the city charter on the ballot this coming May. We do not feel that the citizens of Portland, in such a short campaign, will have the full opportunity to objectively hear and debate the issues. I can't imagine that the critical dialogue that we have heard here today is going to appear in

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the 30-second television soundbyte. After serving on this commission, i'm convinced that there is a great story, a great and important story, and it needs to be told. It's a story of how this city came to be. How this form of government came to be, and it's a story if where we want to go and why we, we may need to change or why we do not need to change, but it is a story that must be told. It's got to be told in town hall meetings. It needs to be told in the coffee shops. It needs to be in our schools. It needs to be debated in the newspapers and our union halls. It fully needs to be debated.

The most important thing, it's a story about the people of Portland, and they deserve the chance to tell their side of it, and they deserve to be heard. There's probably no greater or important accomplishment in human history in the peaceful assembly of people for the purpose of determining how they shall govern themselves and how they shall plan for their prosperity and the prosperity of future generations, but it is not the form of government, in that conversation that is the prize. It's the process by which we will arrive at that. It's that process that gives government its legitimacy, and it's that legitimacy that allows the city, in this case, to govern, and for whatever faults that Portland may have, no one, no one has questioned her legitimacy s if changes are to be made, changes are to be made, that decision must come from the people and the process that is clear and convincing to a majority of the citizens. Not a process that is simply expedient. I beg of to you please give this the whole deliberation that it is worthy of. The efforts put in by these people and this commission deserve the time and the intricacy of a full public debate. I ask you not to put this on the ballot this may. Thank you.

**Potter:** Thank you.

**Carol Cushman:** My name is carol cushman, president of the league of women voters of Portland.

We ask you once again to give the voters of Portland sufficient time to learn about the charter recommendations. Offer suggestions for improvement or alternatives, alternative proposals and vote on them in an election in which we can expect a high rate of participation. Today's discussion shows the desire and need for a public hearing process. This is not possible if you choose to schedule the vote in just over 100 days in an election that two years ago saw a turnout of only 16.9%. Portlanders care about their city, relish opportunities for citizen involvement, and deserve better than this. It looks like you will send the recommendations for the ballot in may, so we urge you to insure that the ballot title language is crystal clear in its description of the changes to our form of government and the other measures. Clear for the changes for the way the council operates.

This is especially important in an offyear election when, when many voters will not realize that there's an election until the ballots arrive in their mailbox. For a good number of those, the information on the ballot may well be all that they will consider when they are casting their vote. The league is a long-time supporter of the commission form of government and will be opposing the form of government proposal. We base our advocacy on all issues on positions reached through study and member agreement and reaffirm them on an annual basis. We appreciate the work of the citizen's economics but think more attention should have been given to ways of improving our current system and of engaging the public in the decision making process. Thank you for the opportunity to offer our opinions and with that, I would like to add the other arm of the league, which is voter service, looks like it is going to be gearing up to prepare a voter's guide. Work extensively for the may election. We will have it out and available hopefully in the libraries and elsewhere. We already have a forum schedule for april 10, 7:00 in the evening at the Multnomah building, we had it penciled in as voter service knowing that we had school board elections coming up, but I think right now that forum is, is changing, and it is going to be looking at ballot measures. Thank you.

**Sten:** I have a question for you. Have you, in this short time, had an opportunity to review the proposed questions because that's what we are down to?

**Cushman:** We looked at them quickly, and, and that's why I say want to be clear and make sure that it shows what is changing, and I think instead of describing the new form, it needs to say how

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the new form is different from the old form. And, and with that, i'm not going to say -- i'll go totally with your proposal but it does do more in saying there's a change here, and let people see what the change is. I think that the change is the most important thing that gets through to the people.

**Potter:** Carol.

**Potter:** Did you have a member of your organization on the charter review penalties?

**Cushman:** Do I have.

**Potter:** Did the league of women voters have a member on the charter review commission?

**Cushman:** Yes, we did. And that member was, also, serving as an independent citizen. She was -- I gave, gave feedback to us as far as what was happening but we did not have any control over her voice or intent to.

**Potter:** Ok. Thank you.

**Saltzman:** One more question, carol fork amanda, so you said the league's opposition to the form of government is a long standing opposition? Is that --

**Cushman:** Yes.

**Saltzman:** So it's not based on the process or the date the election is being held, but a long standing position?

**Cushman:** We have objected to, to the fact of how quickly the process went forward but we do have a position that we feel we have, we have checked back with our board and we are ready to stand by our position for the commission form of government.

**Amanda Fritz:** Amanda fritz, speaking only for myself, as you know, I was the first ever candidate to qualify for Portland's progressive visionary public financing campaign system. Over the past 18 months, I have defended over and over your decision not to send a ballot measure on that issue until 2010. I believe we want voters to choose between a good voter-election system and one with huge holes as we discovered in march of 2006. I don't understand why you need to rush these proposals to the ballot. There are at least four elements of the form of government proposal which are illegal. Commissioner Saltzman, do you really want the mayor to have the authority to move natural streams and waters of the state? Mayor tom Potter, do you really want the power to punish paupers? I am shocked that you will even propose sending such language to the ballot in may. I admit to feeling conflicted in raising these issues because like the, the on opponents, I would rather you sent a deeply flawed recommendation to the ballot as they will be easier to defeat. But don't we want to know once and for all, or at least for the next 10 years, whether Portlanders like the current form of government or want to change? If you want to know that, you need to send a good proposal to the ballot and have a, have a public process that will have time to discuss it. You can't just send something, which is so obviously a problem, and we'll get defeated, and we won't be any farther forward and will have wasted all the work the charter review commission has put in. Regarding the ballot measure summaries, i'm, again, surprised there is no mention of citizen involvement under the bureau of directors currently hired by the commissioners. That should state, bureau directors and citizen committee members are appointed by individual commissioners, and the change is to allow hiring and firing of bureau directors and appointment of all citizen committees by the mayor. That needs to be made clear, if we want to let people know what they, how they are affected by this, it means instead of five members of the council appointing people to the planning commission, the parks board, the charter review commission, although that is specified, but most commissions for all bureaus will be under the mayor's authority to appoint those citizens. I think that's a problem. Secondly under the last issue where it says the changing of the process for filing vacancies in city elected office, what it does is take away the capacity for special elections. And that's a problem. It takes away that capacity for the city commissioners, it takes away the capacity -- the mayor it creates deputy mayor position, which would be the president of the council, who would automatically take over the functions of the mayor in the event of an

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unexpected vac section and since the election for the new mayor, it could only go on the regular elections in either march, may, september, or november. That means that possibly an unelected person, or somebody who wasn't elected to be mayor, could be in charge of all city bureaus and the budget and the c.a.o. for up to a year. I think that's a major problem, and it should have a special election both for city commissioner vacancies and the mayor vacancy.

**David Martinez:** I am david, and first of all, i'd like to thank the council for appointing me to, to the charter review commission. This morning listening to all the discussions that have taken place, and, and again, reaffirming the significance of the work that we did on the commission really, really, um, leads me to say thank you because I think as one of our commissioners already mentioned, one of the charter review commissioners mentioned, everyone on the commission took their responsibility very seriously, and were invested, and they were looking for what was best for Portland. My testimony today, um, i'm going to read, as a member of the charter review commission, I would urge you to allow Portland voters to consider the charter review recommendations. After months of intense discussions and deliberations, I am confident in the process and the outcome of the charter review commission. This is a sixth endeavor we undertook, and like my fellow commission members, I took my responsibility very seriously. I understood the impact, the recommendations we were considering would have to the city of Portland. Each of us on the commission has different constituencies and connections to the community. I know that I cannot represent all their views. However, I know that I did provide input and advocacy throughout the process. There is no question the form of government will determine the future direction of our city. So many times government finds itself responding to a crisis is, and then initiating a change. I feel that we have a unique opportunity to engage the community in this important discussion. Instead of posing this question in the reactionary mode, we are being pro active and asking ourselves to decide what we want our future to be. Thank you very much for your time and consideration.

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

**Chris Smith:** Good afternoon. Mayor and members of council, I spoke with, at the last hearing on my objections to the substance of this measure, so I won't repeat that. I will say that watching this process this morning and watching language be conceived, debated, and sent to the ballot in a matter of hours or minutes scares me greatly. I think it's proof we should have a longer process to do this. I will confine my remarks to the ballot title. I've been involved in two actions before the Oregon supreme court. One was about parking structures in northwest Portland. The other was about ballot title language for state ballot measure. I have been involved in the ballot measure wars against mr. Sizemore and mcintyre on other issues, like term limits so I know how crucial ballot title language is. In many cases, it is their only interaction with the question. I much prefer commissioner Sten's version of the title language. I think the concept of a transfer of authority is very important to capture in the question. I actually think it doesn't go far enough, and we should be indicating that in the caption. I believe some form of phrase should be added to the caption saying strengthens role of mayor or consolidates the executive authority. Those first 10 words should give a strong indication of the direction that these amendments would send our city in. Thank you.

**James Lee:** Mr. Mayor and members of the council, my name is james lee, and I thank you for hearing me here today. My first concern is to wish commissioner Adams a speedy recovery and prolonged good health. Last week I circulated a rather extensive letter to mayor tom Potter and the commissioners, and that contains the substances and my position on this issue. There's one particular question, after hearing all of this testimony, which still really concerns me, and that is embodied in section 2-402 on page 44, which states, rather innocuously, that the salary of the auditor shall be fixed with the council -- by the council. But as I look at all the other issues, like all the other offices, like the mayor, the c.a.o., the city attorney and the counselors, themselves, there is

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no such language. And I would like to know why, in particular, that article -- that sort of language applies only to the auditor. Also I noticed in my letter to the mayor that there is no specific section devoted to the duties of the commissioners of what I would call the counselors. Now, I tackled mr.

Wang on this by email last week, it was. I don't think that I got a responsive answer out of it. Something about it being in the elective officer's section 2-201 and so on and so forth. I find both of those issues to be, to be rather puzzling. In fact, I think I find the whole form of government in the two separate chapters to be really quite carelessly drafted, and I think I will have to echo what commissioner Sten and commissioner Leonard have said, that in many of the people who have testified here, that, that we really -- this thing really has to be seriously reworked before people can vote on it. I am in favor of, of modifying our form of government. I think it's important that we do that, but I think it has to be done correctly. And basically, that's all that I have to say.

**Potter:** Thank you.

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

**Potter:** Discussion?

**Sten:** I guess one question, mayor, is it -- I didn't realize, is it accurate that the mayor under this new form would make all the appointments to the planning commission, etc.?

**Potter:** I was looking for that.

**Sten:** As amanda testified?

**Potter:** I didn't see that. Mine doesn't have a page 42. Does yours? The charter review commission.

**Fritz:** - - the commissioner in charge, since there wont be a commissioner in charge the mayor will be in charge so the mayor will get to [inaudible]

**Sten:** Mayor, was than an intended - -

**Potter:** Where is that at? I want to make sure we're discussing the very same thing. Does anybody from the city attorney's office have the appropriate page?

**Leonard:** From what I understand amanda saying, that might not be in the charter. It might be a code.

**Fritz:** The practice

**Leonard:** Practice.

**Fritz:** The privilege of the commissioner in charge to make those appointments directly - -

**Leonard:** Is that found in the code somewhere?

**Fritz:** Yes

**Leonard:** Ok, so it wouldn't be in the charter. What her point is, with the mayor taking over responsibility for all bureaus, all codes that refer to the commissioner in charge would then actually go to the mayor. Right?

**Meng:** Yes, and the provision is in 301 under the duties of the mayor, sub c, appoint members of boards and commissions, subject to confirms by the council. That's the proposed new language. And if I might, I would like to point out that, that a number of the comments about language that has been of concern to people are current language that is in the charter now and not being changed, and in the report that came out from the charter review commission, the deletions and additions were not marked. They are marked in the resolutions so that the people can see what was current, what is current language and what is new language

**Leonard:** The bigger point is there is so much coming at people so quick that it is difficult to discern that. That's my point.

**Sten:** My question for mayor tom Potter or whoever wants to speak to it, is that is that a policy result that's being argued that, that the legislative and policy body should not even be able to anomalous name the people who draft policy, which is the planning commission and, and the housing community development commission and the design commission and the p.d.c., is that the intent because that would seem to be more under your for the purpose, it would seem to be more

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appropriate to have council be more involved in appointing policymakers as opposed to dramatically less than it is now.

**Wang:** If you don't mind me addressing this issue?

**Sten:** Sure. I would be delighted.

**Wang:** The intent of the charter review commission was to give the mayor power to appoint the cao, the bureau director, and the members of boards and commissions with the consent of council. So keeping those checks and balances there. In the recommended form nothing prevents city councilors from recommending nominees to the mayor.

**Sten:** I think a lot of what this debate is about is david is sort of how do things really work versus what does the text books say. Do you understand that political people don't like to vote against mayoral nominations of people they like? I mean if a mayor brings a balance committee as opposed to the committee is created - this is why I made the change on the commission form or on the charter review - charter reform proposal that went out and said the councilors, commissioners will each appoint four. Because what your basically equating with your argument is that in the real world there's equally a check and balance to say if you take the 20 or so commissioners that matter and we nominate not equally because we have very different bureaus, but each of us nominate to some number of those 20's and the council confirms all of them. That that's an equal check and balance diverse in those other things to one person nominating them all. And in practice the reality is that its very difficult once a job has been offered to somebody and particularly a full commission for a political body to turn around and justify not appointing that person. So the nomination power is an enormous way to shape it. And clearly not an administrative power, clearly not an executive power its clearly belongs more with the legislative body. So I jut want you to own that and not try and say that it's a similar check and balance.

**Wang:** Oh certainly. But there are - we believe that having the council approval would provide those checks and balances if the mayor was attempting to appoint members or bureau directors or a cao who is not qualified for the position.

**Sten:** I guess I'm getting at is if you want and I do and this is why I'm going to oppose your ballot measure, the city to be to value democracy and diversity over efficiency then you will have by definition and in practice and in the real world of politics a much more diverse set of actors working on things if their appointed by a wider group of people. Its human nature, its contacts, its who you know. So by shrinking he appointment process to one person and as a practical matter it really matters who is on a commission and this body does not and should not for the most part I believe turn down appointments because you'd rather have somebody else. We only turn down appointments when we think the person is not qualified. So basically what your now saying is rather than having 5 people provide names and contacts, through their networks for all of the commissions, your going to have one. So you certainly have a check and balance but you don't have its again a trade which is what I think your arguing for of sort of mini-streams flowing in at two to one.

**Wang:** I don't think that's what I'm saying. I think what were saying is that nothing in the recommended form of government prevents the city councilors for also participating in the nomination process and recommending names to the mayor. Its simply the power of the mayor to make those appointments subject to confirmation by council. But nothing prevents you from participating in that process in the recommended form.

**Potter:** So what is the current charter language?

**Sten:** Well its - there's two type of appointments in my recollection. There are appointments that are actually by code delegated to the commissioner in charge to nominate with approval. There's actually three kinds. There appointments that actually reside in the commissioners in charge and don't need city council approval and there are appointments by practice delegated by the mayor to the commissioner in charge. So to give you an example of what I mean by that I nominated housing

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community development commission members to the council and I can - housing authority members are done by the mayor but with both mayor katz and you its you've asked me to give you names first. So there's three different kinds and then there's actually formal official city committees that are - actually are appointed directly by the commissioner in charge. So I think it would take all three of those models and consolidate them into the mayor's preview if I'm understanding it right. Because the mayor is the commissioner in charge of all three right? All of those things revolve around the commission in charge role.

**Potter:** I need to hear what the current charter says. As opposed to --

**Wang:** Under the current section 2103 boards and commissions, the charter appears largely silent on it, but what it does say is the council may create and establish such boards and commissions as it may deem necessary. In addition to the boards and commissions established by this charter and may abolish or alter them from time to time.

**Sten:** That's the existing language?

**Wang:** That's the existing language.

**Sten:** What do you replace that?

**Wang:** That's replaced by section 2-301, now under the mayor's section, 2-301 subsection c, the mayor shall have the authority to appoint members of boards and commissions --

**Sten:** Do you from a charter that's relatively weak on that question and actually explicitly say the mayor gets all that power.

**Meng:** I'm not sure what section david was citing, but section 2601 of the current charter says The mayor shall appoint members of boards and commissions subject to council confirmation. Heads of other offices and bureaus shall be appointed by the commissioner in charge of the department in which such bureau or officer bureau is assigned. So it currently provides that the mayor shall appoint boards and commissions subject to council approval. So it's the same delegation there.

**Sten:** What would be consolidated is the ones that obviously anything the commissioner in charge appoints would be under the mayor, and the practical reality, one of the strengths of our form of government I believe, and we'll be debating this over the next couple months, is that you do have commissioners who develop some substantial expertise in areas, and as a matter of practice, the mayor does often look for those nominations from the commissioner in charge, and over time I believe this is not a legal question, I believe that that practice would very naturally deteriorate because you would not have a commissioner in charge to turn to in those cases. And it's a variety of reasons both political and substantive that a mayor would turn to a commissioner in charge to nominate members, and I think that would be weakened under this form, because you wouldn't have a commissioner in charge. The mayor would turn to themselves, in essence.

**Potter:** But a number of the requests that I get are from Commissioners are not areas under their legal purview. That it's their interest in the area. So it's a mix of those things, but I can only remember once in the last two years that I said i'm uncomfortable with this candidate. Other than --

**Sten:** I don't disagree with that. I think as you -- the language that's being proposed for the ballot measure is trying very hard to point out that our charter has been in place since 1913, which i'm not sure is relevant. Our constitution has been here longer. But in 213 -- 2 -- 2113 I have a feeling that the mayor would have long sensed -- long since dispatched with having an expert on each of these subjects, because you don't run for the council very often as expert on oh, utility rates. You you end up digging into that because you're assigned to do so. So when it comes time to appoint the public utility review board, the mayor tends to turn to the person who's expert on utility rates which tends to be one or two commissioners that are involved in utilities. I would make a thesis that the mayor will never be expert in utility rates because they won't have time, not because they're not interested, or capable, but they'll have so many other things to do, and I can quite surely postulate if I were elected to the commission that's proposed I would not dig into utility rates, as I go got to Pick what

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I was working on. What you'd have is a situation where you wouldn't have one to turn to on the board on the council nominations, which is kind of created in this case. So again, I'm not saying that's a legal issue, I'm saying that's a strength of this government, in my opinion.

**Potter:** Further discussion?

**Leonard:** Do we have a motion on the table relative to the --

**Potter:** The two amendments. What I heard from the city attorney is that both of these are fairly equal. That it's a political question as to which is preferred, and as the party supporting the form of government, I prefer to have the one that we crafted with the city attorney.

**Sten:** Of course I worked with the city attorney on my proposal as well, and does pass muster. I just think as the two undecided votes make up their mind, I don't think you can say that this -- that the -- the image that one gets in their mind correctly from the verb "retain" is accurate as to what this is doing. It is transferring executive and administrative powers from the city council to the mayor's office. And if that is a proposal that is best for Portland, one ought to stand by that proposal and champion it, and not say use language like "retain power" when you're basically saying you have a city council who has quite a bit of power now, arguably too much from the other side. That voting this form of Government will retain what the city council has. It will transfer it. And I just don't see how one can escape that conclusion and I would much prefer as we get out there and respectfully and vigorously debate these deals, that I don't have to land on the argument that it's a misleading question as well as a bad idea.

**Potter:** I think that the city attorney resolved the issue, whether it's misleading or not.

**Sten:** She resolved whether it's legal or not. It's my opinion it's misleading.

**Adams:** Mr. Mayor? Would it be possible for someone to read the two questions, one after the other so I make sure I've got the latest version of both? Commissioner Sten's and yours?

**Potter:** I'll read commissioner Sten's first. Question -- shall executive authority be transferred from commissioners to the mayor and council be limited to legislative and quasi judicial duties? My question -- shall mayor have executive and administrative authority and manage chief administrative officer and city council retain legislative authority? This is just below the caption which says "amends charter, changes form of government." so I think the caption --

**Leonard:** City government.

**Potter:** Excuse me, city government. I think the caption defines the issue and this says what it shall do.

**Adams:** Thank you.

**Sten:** There are some minor and perhaps important differences in the summaries, but I would be in the spirit of trying to get this thing done, comfortable accepting the mayor's summary.

**Saltzman:** May I ask our city attorney --

\*\*\*\*\*: [inaudible]

**Saltzman:** I wanted to ask you a question. Under the form of government proposal, is the city council remaining responsibilities truly limited to legislative and quasi judicial? Or is there something else out there that --

**Meng:** I believe it's -- it is certainly intended to be primarily legislative and quasi judicial. The concern I have in -- there's a lot of the charter that is not being primarily changed, but there are conforming amendments that being made, and the council has numbers of responsibilities in certain places that are going to stay there under this proposal. I have to say I'm not sure exactly where every single thing falls out. If something in the abstract might be considered some executive function which the council currently and will continue to have. Like setting the auditor's salary. I can't tell you I know for sure whether that's an executive or a legislative function. It's in the charter now, and it's staying that way, and so -- but it's clearly the intention of the proposal that the council be the legislative and quasi judicial body and the Mayor have the executive authority.

**Potter:** The more -- .

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\*\*\*\*\*: It's -- fundamentally that is true.

**Potter:** The expanded version is found on page 15 under chapter two, government, article one, the council, and it defines the council by charter in terms of responsibilities to include adopt legislation and set city policy in the form of ordinances and resolutions, develop and adopt a strategic plan that reflects the city's goals and vision, adopt the city's budget, exercise legislative oversight over the city's executive and administrative functions, establish such committees as it determines appropriate to facilitate the work and make appointments to those committees. Committees may include members other than council members, however the chair of each committee must be a council member. Represent the residents of the city and establish procedures to facilitate a. Says to city government and access by council members to all areas of the city, confirm executive appointments where provided for in this charter, exercise all other powers given this this charter. And it also refers to the quasi judicial powers. So it's broader than that, but in 20 words which is what we have for the question, I think you can't possibly get all this stuff on there. But it is found here in the actual charter change itself.

**Sten:** Is it your view that saying that power is transferred is detrimental to your cause?

**Potter:** Yours was transferred from commissioners to the mayor. The actual word that I have a problem with is "limited," because it's not limited, it has all these other duties as well.

**Leonard:** Those are legislative duties you just read. I listened to you read them.

**Potter:** Yes. But this is supposed to be written in plain language, and you can't get all of this on there.

**Leonard:** The term "legislative" encompasses all those things you read.

**Sten:** I would -- if we could agree on shall executive authority be transferred from commissioners to mayor and council be blank, I would be certainly open to the insertion of a different verb for "limited." my human thesaurus isn't getting it. Assigned legislative -- it's not quite assigned.

\*\*\*\*\*: [inaudible]

**Potter:** Retain is already there.

**Leonard:** What's in your version, what he's saying is he could live with having retain and his version -- that word and have transferred from commissioner to the mayor.

**Sten:** I guess I can't compel it, but we need feedback from commissioner Adams and Saltzman, because I don't know if there's three votes for either one at this point. Before you and I -- we might want to see -- I believe there's -- we're in the discussion part, so I think it's appropriate to talk about where people are. I believe there's two votes for my version, but I don't know if there's a third, and I don't know what it would take to get a third, and I don't know how many there are for your version.

\*\*\*\*\*: [inaudible]

**Saltzman:** Is the goal to get to five votes on this? Or is the goal still at best we're going to be 3-2?

**Sten:** I'd take three. [laughter]

**Leonard:** I'll second that.

**Saltzman:** In other words, by trying to incorporate somebody's suggestions we're still going to end up on --

**Sten:** If we could get -- i've just said if you want to -- I think, please don't let me put words in your mouth, I think you were saying you're comfortable with my first clause, and I would be comfortable to work on my second clause if that would get us to five. I do think it would be vastly preferable for there not to be a debate, which is what i'm seeking by this council whatsoever on the quality of the question that's going to the voters. I really believe the debate should be on the quality of the idea, not the quality of the questions. So that's --

**Saltzman:** If we went with the first part of the mayor's question, and then the second part --

**Leonard:** The first part of mr. Sten's.

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**Saltzman:** The first part of commissioner Sten's and the second part, and council retains Legislative and quasi judicial -- that would get us to --

**Potter:** Are you saying by doing that that you would support moving this forward?

**Sten:** I'm thinking about it. You don't like limit and I don't like retained.

**Leonard:** I think the question is are you going to refer to -- vote to refer this to the ballot?

**Sten:** No.

**Leonard:** Ok. You two were having different conversations.

**Saltzman:** Are we getting towards five votes to refer to the ballot?

**Sten:** You're an optimistic man, dan, but come on. I'm going to try this out loud and see if I think it makes sense. What about, shall executive authority be transferred from commissioners to mayor and council exercise legislative and quasi judicial duties - I get what you say about limited being a loaded word so if we say "exercise" that what we be - that's just what we do.

**Potter:** Let's get an opinion from the city attorney's office. They're conferring right now.

**Meng:** Is the question shall the mayor have -- shall executive authority be transferred from commissioners to the mayor and the council exercise legislative and judicial authority?

**Leonard:** Quasi judicial authority.

**Sten:** Duties is fine.

**Meng:** I think either is fine.

**Sten:** I would -- I think procedurally my amendment to your amendment is first up, so i'm going to move to amend my Amendment to say shall executive -- to say -- I want to be -- I would amend my amendment to move that the entire submission be the caption from the mayor's proposal, which says amendments charter, change the form of city government, the question to say shall executive authority be transferred and council examiner -- and the summary statement from the mayor's proposal as written.

**Leonard:** Second that.

**Potter:** I can live with that.

**Adams:** And mayor, what do you think of that?

**Potter:** I think I can live with that change.

**Leonard:** You trained him well, vera. [laughter]

**Sten:** She's speechless. It's never happened.

**Potter:** So that's the amendment? All other things are the same. Correct? On this ballot.

**Sten:** Yeah. I'm essentially just -- i'm essentially modifying your question and keeping everything else in your caption and summary the same.

**Potter:** Call the vote.

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

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

**Leonard:** And there the agreement ends. [laughter]

**Potter:** No more mr. nice guy, huh?

**Leonard:** No more mr. nice guy.

**Potter:** Ok. The -- any further issues or questions? Call the vote.

**Adams:** Aye.

**Leonard:** In my view this proposed change to the city constitution virtually eliminates accountability. Under the current system, each council member and the mayor are directly accountable to Portland citizens for the services our assigned bureaus provide. In my case, I have the bureau of development services, emergency communication, and the water bureau. Citizens contact me directly with approximate they have with each of those bureaus. I personally respond to each of those inquiries. I know that the performance of my bureaus in meeting citizens' needs is the measure by which I will keep my job on the council or not. Therefore, I am very focused on citizens being treated with the respect and solution oriented problem-solving that I expect of

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employees. No other city government I am aware of has the type of dynamic council as we have here with our elected members overseeing directly the services that are provided citizens. It is that direct managerial duty that each of the five of us has that keeps each council member directly connected to the citizens of Portland. It is my opinion that the current form of government is unique to Portland because Portlanders are unique. A couple of weeks ago the mayor was asked how the city would be different if these proposed Changes were in place the last two years. I thought I would actually take this opportunity to answer that question for myself. In the summer of 2005 at about 5:30 at night, the phone in my office rang -- did I say the wrong year?

**Potter:** I thought were you going to tell you about me calling you in the san juans.

**Leonard:** That's a good story too, actually. But it was actually about a month after the mayor called me on vacation to told me I had the water bureau. That I was in my office, 5:30 at night, 95 degrees outside, it had been pretty hot for a while. And on the other end was a woman. And let's call her ms. Jones for the purpose of the discussion. Ms. Jones lived at southeast 79th right off holgate. She told me over the phone that her water had been turned off. That she was a single mom, she had two children, one disabled child. Her water had been turned off and had been off for three days before she called. I asked her the circumstances of the turn-off and what she explained to me was her landlord had actually called from florida to the customer service section, which by the way, was under the mayor, including those that turned off the water were under the mayor, the water bureau did not turn the water off, at that time those responsibilities were under the office of management and finance. Her landlord called to pay the bill over the phone. He didn't want his tenant who had a disabled child to be without water during a heat wave. The folks that work in the office of management and finance said, "sorry, we don't take visa." so her water stayed off. However, when she called my office, I did have responsibility for the water bureau, I called the water bureau dispatcher and directed that a service crew go out and turn her water on, and we would figure out the details later. But I could not in good conscience stand by and allow the office of management and finance turn off this woman's water. If this proposal had been in place two years ago, I would not have been assigned the water bureau, and that woman's water would have stayed off. These proposed changes in my view eliminate accountability. The mayor has a c.a.o. who would oversee operations such as water turn-offs and does anybody really think that an unelected c.a.o. That does not even have to live within the city limits of Portland would deviate from his employee as written procedures for water turn-offs? I will tell you no. In that example the mayor does not have to claim responsibility. The city council does not have the responsibility and the c.a.o. is simply following the rules of the bureaucracy without deviation. This proposal removes the current checks and balances and changes that to check mates. Unless you are wealthy enough to have consultants and lawyers who specialize in navigating the complicated bureaucracy this proposed charter review will be sent -- that is going to the voters, then and only then does that make sense for you, which might explain why some of Portland's wealthiest have been quoted as saying that the proposed changes to the charter are a, and I quote, no-brainer. Well, for their interest it might be a no-brainer. They can hire attorneys and they can hire planners, they can navigate the system. But for the average working class Portlander this, proposal is a nonstarter. A c.a.o. will run the city that. Person is assigned the powers given to the four elected commissioners. The c.a.o. cannot be removed by the council and the c.a.o., literally responsible for everything from police and fire services, to issuing building permits, does not even required to live in Portland. I just wonder how Portlanders will feel having a person that lives in vancouver, lake oswego, or beaverton overseeing police, fire, 9-1-1, office of neighborhood involvement, water bureau, sewer bureau, building permits, or sustainability, parks, and on and on. I don't know if i'm more disturbed by the changes proposed or the fact that they're actually three people on this council that will vote for them. Finally, I urge Portlanders to mark their ballots like i'm about to vote. No.

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**Saltzman:** I want to thank the charter review committee and say that this is certainly -- I think it's very difficult for maybe all five of us up here to hold the mirror up to ourselves and not see perfection. And -- but what I've come to learn over the years is we don't have the perspective necessarily to judge our performance that well. We hear the polls, Portland is number one in this, in that, and we all love it. But I do think that there are perhaps better more efficient ways for this government to run. I'm not sure the proposal I'm going to support to send to the ballot is the perfect one. But I do believe it is worthy of the public debate and discussion that will ensue over the next several months, and I do believe we should do it in May, because momentum dissipates, and there won't be the quality of enhanced discussion between a November versus a May, I don't think will really materialize. People won't focus on things unless they're -- they have a deadline. So I do believe we should put this out there, have the debate. It will be a robust one, and as I said, I see pros and cons in the current form of government, I see pros and cons in the proposed changes, and I will be evaluating that over the next month or so, a couple months as I make up my own mind how I'm going to vote on this measure. Of but I do think the description of the world under -- as commissioner Leonard provided ignores the fact there are going to be still five elected people setting policy, not a C.A.O. The C.A.O.'s prime objective will be to make sure those policies get carried out. As determined by a five-person council. I also say that on behalf -- another way to support this measure is if we're going to get to the next round, which some people want, which are larger number of council members, district seats, this measure is a precursor, a necessary precursor to do that, because would I ever support any version of a council mix-up that would have us in charge much bureaus and also be elected by geographic districts. What part of town gets the best response to their sewer or water problems? We'd set up that whole dynamic. If you want to go to set up geographic districts a precursor is to have a C.A.O. and council members confined to policy issues. So I'm more than happy to have the debate and let the debate occur, and that's why I vote to send this to the voters. Aye.

**Sten:** Let me start by thanking chair Wang and your commission. I think you did very, very good work. And did stay with things and push it. I don't think that the failure to process this more and sort of push more is actually on your doorstep as much as it is this council for moving it forward so quickly. If it had moved more slowly I would not support it and today I'm going to -- I may have with the civil service and the others, but today I want to talk about why I think Portlanders should vote no on this ballot measure. I just can't buy, I think it gets ducked around by the proponents of this way too easily and quickly the notion that, yeah, we're better than just about every place else, where more unique than just about every place else, but we're so darn good we would be kicking their butt if we had the same form of government as them. I think that when you look at Portland's triumphs it's because Portland is different, and we have a lot of work to do. If you've ever heard my colleagues, myself, any of the activists, nobody argues the things are perfect in Portland, or that we haven't suffered high unemployment rates, we have kids dropping out, we have neglect on the streets, we have unaffordable housing that's partly because this has become a great place to live. We have lots of problems to work on. But at the same time I remain optimistic and proud of this community's successes. We have many things that have happened, we are now parentally the best bicycling city, the best walking city. People are flocking here who could live anywhere. Young people that are creative and bringing jobs and new ideas. Everybody recognizes we have become a place that internationally significant, That people want to come to and they're coming here from those place because it's different. They're coming here because it's unique, they're coming here and it's our job to make things work and make it happen. We have more green buildings than anywhere in the world. We have -- we are making progress on affordable housing, on homelessness. We are the only city in this country which is internationally significant to reduce greenhouse gas and make progress on global warming. We are the only city in this country that is making progress on transportation and we have led the way so streetcars are now federally funded. That had a lot of

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help from earl, of course, but we have put models in place. The river district is the only place in this country where you had this type of dynamic urban redevelopment and even if you don't like it and some do not, you have to accept the fact that 20% of the of housing units that have been built in the river district are affordable to the poor. Never happened in this country, has never happened before. It happened in Portland, Oregon. I can go on and on and on. I am so proud of this city, and to say it's because we're doing that with one hand tied behind our back just doesn't make any sense.

The burden is on those who want change to prove that it's necessary, and you're not even close on this argument. It's a theory that we could be even better than the rest by Changing something that makes us unique. It doesn't hold up when you look at it. The reason I picked the examples i've picked is that I think that one of the factors, and I want to be absolutely crystal clear, one of the factors that leads us to having the best green building strategy in this nation is that commissioner Saltzman is devoted to it and he has administrative and executive authority over the office of sustainable development. Yes, we would be doing well on green building if's commissioner Saltzman did not have that authority. But I do not think we would have made it as far as we have because I don't think the mayor would have had time to look at the codes to dig in the pieces, and I don't in my experience, policy recommendations coming from a council, a senate, or anything else, do not carry the weight of a directive from your boss. If any of you think you respond to a policy suggestion the same way do you to your boss calling you and telling you what's about to happen next, i'd love to hear about that. But that's not how it works. I also think the system is incredibly accountable. I will agree with you, i'm going to get back to accountability, that perhaps this other system will be more efficient. Perhaps it will. I don't value that over green buildings, over homelessness, over transportation systems, over a sense of democracy and a sense that we are different and special and unique. We see bumper stickers, keep Portland weird. Maybe this form of government is weird, but it seems to be a proven result. Let's talk a little bit about accountability. Hardest thing i've ever done in my professional life is be your point person on the water bureau mess. And people point to that, did I not see mayor katz nodding her head when she thinks that would have been stopped by a c.a.o. I can talk about it, that's not the point. The point is when that happened, I stood up and was count the. I took the calls personally, I went on the television stations, I never once asked the water bureau administrator, who I fired, by the way, asked him to resign, same thing, to take those calls. I went on myself. You find me a debacle in any city in this country in which a city council member whose legislative takes responsibility and fixes something and let me know about it. And you find me a city in which something as deep down in the bureaucracy as a billing system for a water has come up that the mayor has owned, and i'd like too see that too. I don't think it's a coincidence even though I understand your philosophical construct that not one person who proposes this will name a single city they'd take over Portland. And there's lots of fancy footwork about why it's not appropriate, but at the end of the day, we're a city, there's Hundreds of them out there and we're not willing to say one is better, but we are willing to say the dominant form of government that they all have would make us better. It doesn't add up to me. Flip side of the water bills, I have had the great privilege of working with tons of people on this. But I do believe that we would have not have made as much progress on homelessness as we have in the last two years. 1,000 chronically homeless people off the street. If I did not have the privilege and the authority to lead that effort, and had some administrative ability to change things and move things and make decisions. I will take the results i've been able to get on that, thanks to other people doing all the work, but me being able to lead it, to any amount of efficiency you might get from having a pointed person. I also believe that the system that you're proposing will err to less innovation. People innovate because they have the safety in their boss to do it. Political elected officials who are elected directly by the people in a progressive city, where people are honest and smart like Portland, are going to run for these jobs and find that they are rewarded and thanked and reelected even if they innovate and fail. Appointed officials will be scared to fail

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because they will want to not be fired. And so I think that one of the reasons Portland is so strong is that you have people like -- and legacies, is not just one person. Earl Blumenauer started the streetcar. Charley Hales built it and Commissioner Sam Adams is going to extend it all over the city, it appears. [laughter] That is not because they are the sole authority person, it's not because -- it's because they have the time and the special expertise to bridge -- somebody once put a picture of my teeth on Willamette Week and called it "bridging the gap." I think what this council is able to do is bridge those kinds of gaps. Maybe not my teeth. And what we are able to do in these jobs, and it's why I think it's such a form of government that I treasure, is that we are in a very unique position, admittedly does not exist in other places in the country, where we sit as a legislative body, directly work on things that we care about, and can actually make a few things happen from time to time. And making those few things happen assist not make you responsible for the change that is come in homelessness and be responsible for the change in green building, but it's empowered the people under us who know that if they innovate and take a risk, and do go that extra mile, they will not be punished. They're free to make things change and innovate. And I think that is what sets our form of government apart. If you think I'm passionate about it, you better. If you think we've debated process, let's debate substance. No. [applause]

**Potter:** You folks are getting a free preview of what's going to be happening over the next 30 months. I think -- three months. I think in a democracy this is healthy. And I also will look forward to going out and discussing this in the community. Because ultimately it will be the voters of Portland who make this decision. Just as they did in 1913, in May of 1913, did they approve the commission form of government. Of course what they were looking to do was to find experts in certain areas that they could bring in as the elected officials that would take care of certain parts of city business. So when you are through here, walk around, walk up to the third floor and look at the front of my office and find out what we are the commissioners of. That's what the commission form of government was designed to do. And it was from Galveston, they had a huge problem there with -- after -- I'm not sure if it was a tornado or hurricane, they had huge problems that weren't being taken care of. This form of government, the commission form, does have good things and it does have things I think need to improve. I really thought about this, I've been thinking about it for many years. I thought what if you could design a government that kept a lot of the good things that we have, but improved in certain areas? So if you were to sort of clean your mind for just a few minutes and think to yourself, what would you do in terms of creating a government that works well, that retains the spirit of Portland, that goes to the issue of accountability and transparency? What would that government look like? And, you know, I gave a lot of time to talk. Why don't you shut up while I talk. Good enough. Thank you. You folks -- why don't you be quiet. I'll rule you out of order if you don't. You better -- as you can tell, there's a lot of passion about this. What if you were to construct a new government? And what if you got around to talking about how do we actually implement the policies and the direction set by city council? What should that look like? You've got people with expertise or at least knowledge of areas that are bureau directors. Some of them have come from within the bureaus and some from outside. Basically there's two choices that the community would be presented with. The first choice is the current system. You have an elected official that was not elected based on their ability for any particular bureau, but on their leadership abilities in terms of developing policy and carrying out that -- ensuring the policy was carried out. The issue I have with the commission form is that we should change either how we elect the commissioners or change what their function is. By how we elect them is that we don't ask them what their areas of expertise are like that original commission form suggested, but they are elected and you can look at this group of people, you can look at the last group, Mayor Katz. You can go to any group. You can say, you know, those are good folks. And they did do a lot of good things. But in terms of who manages the bureaus of the city, is it better to have a person who may or may not have a particular skill for a bureau or for management generally? Or do you want a

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manager who is professional, who understands very clearly how to manage and get results? It's been talked about efficiencies. I think the new form creates the base for a more efficient and effective government. If were you to put a manager in charge, a professional manager and the qualified -- the qualifications in the charter and that they have to have the qualification and experience in order to carry out that job, and it doesn't really say where they live, you would know a city c.a.o. Position would be hard press first degree they weren't living in the city to get the job. But if you wanted to construct a city council and you think about what their duties are, in terms of setting the policy and having someone else implement it, and this new form is effective, it will be very effective at setting those policies, the council will have the last say when it comes to public policy. I want to read some of the differences that even though the mayor will be the top manager, the council will be charged with confirming or rejecting appointment, those appointments. The mayor will be accountable for the performance of every bureau, the council will exercise oversight to investigation and hearings. While the mayor will implement the policy, the council will set the strategic direction and hold a power of the purse strings with the city budget. Instead of -- all three branches of government, there will be some checks and balances between a policy and its implementation. I believe this is a healthier way for a city to operate. I believe that by doing that you can begin to hold people accountable. A phrase used a short while ago was that that would then have the mayor or the c.a.o. Have people more within the grasp and be able to punish them. I don't think it's about punishment, it's about accountability. This does establish accountability. If you want to know who -- if it's a function of not being able to carry out the public policy set by council, you know exactly who to go to. The mayor. The c.a.o. But the mayor is an elected official, and they will be held accountable. I think it puts an additional onus on a mayor by doing this, but I think it's the right approach. I think the mayor should be responsible for the administration and executive functions of a city. I also believe that the checks and balances in our society are important. I think there's another of reasons why cities moved away from this form that was so popular back in the early 1900's. I suspect, though I don't know, one much of those reasons had to do with the fact there was little checks and balances. Other than at election time. I think the checks and balances between the legislative and executive function will be stronger and that it will allow the passions and you heard some of the passion this afternoon from our city council members, to develop policy and to oversee the implementation. One of the council's jobs is the oversight of the implementation of public policy. They will be able to see whether that's being done or not. The example that commissioner Leonard gave of the woman calling is a good example, and I think these examples can be played either way. But you would have to ask yourself if that had not been commissioner Leonard that somebody else would have reacted the same. And if you had to go back and trace back to who is responsible for cutting the senior citizen's water off, I think that would be very easy to do. I do believe in the public's eye a lot of folks think the mayor has responsibility for the city. But they don't, I don't, and I think it is important to distinguish between the functions of the mayor and the city council. I looked at all of the elections or most of the elections. There's a couple I could not find, about when this should go to the voters. An interestingly of the seven I found that have to do with the city charter, six of them occurred in may or june. So it seems to be a fairly popular time. I'll tell you the reason why I think it's important that we do this in this may. Is that I believe that voter attention tends to drift off, and I want people to be engaged in the discussions about this, and the way we do it is by putting a time line in there that is certain and that by this date the voters will make a decision. I also think it's important that for the next mayoral election and council election that people have adequate notice of what they will be running for, and I believe by having this go to the voters and if it's approved, then every person thinking about the mayor's job or a city council job has a very clear set of what they will be required to do and then leave it up to them as to how they're going to do it. On may 15, the voters of this city will make a decision. And I can live with that decision because I know that between

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now and the next 30 months they're going to be getting a lot of opportunities to learn from this and to develop their own positions about whether this is a good idea or not. And i'm looking forward to that discussion, i'm looking forward to working with this council, going out and talking with the community, and ultimately our citizens making that decision. I think it was the right thing for this council to do today to bring this package of charter reform proposals before the voters. And let them decide as to the value of these particular proposals. I want to thank the charter review commission. You are probably very pleased to hear that this is your last day in existence, and that you won't have to come here to council at least for a long time, and talk with us. But you folks have just done a tremendous service, and the folks who came up to testify that had been on the charter commission, every one of them talked about the ethical behavior, the fact that everybody on that charter review commission's one goal was to do what was best for our city. And I thank them for that. And I support their recommendations and we're going to go out and have a great discussion in our community about this. So I want to thank all the Commissioners for your involvement, your words, and I look forward to us making our city a better place for everyone. I vote aye. [gavel pounded] I do believe there's a rest of the agenda. We do have -- we do have --

\*\*\*\*\*: [inaudible]

**Potter:** That's right, p.d.c.

**Leonard:** A housekeeping measure, mayor.

**Potter:** I guess I was getting ready to jump the gun. Ok. So please read item 111.

**Item 111.**

**Potter:** Thank you, mayor katz.

**Leonard:** Nice seeing you.

**Potter:** There has been a proposal which is in the hands of the council in terms of how to move this forward. Do we have people signed up to testify?

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

**Potter:** Are there questions that need to be answered by the council members before we move to this?

**Sten:** No. I don't know if you want me to describe it or not.

**Potter:** Go ahead.

**Sten:** We probably have an audience somewhere. Maybe not still. I'll be brief. I always like to explain what i'm proposing and the council is proposing. This charter amendment if passed by the voters, would make the city council the budget committee that oversees p.d.c., and that's a very specific term I've worked with the mayor and our legislative council, to figure out. Essentially what it would mean is that the Portland development commission would submit its budget annually to the city council for review and adoption. That would be a mandatory requirement. At this point, I will keep the explanation side very short and there will be time to talk about this. The development commission I believe should stay quasi independent. It makes sense for them to pick developers, strategies, but it is the only body in the state of any size run primarily by property tax in this case \$250 million that has no, and the mayor just gave I think -- we don't agree on that measure, an eloquent discussion of checks and balances. And at this point the development commission has no budget review of any kind required by anybody. It's simply an appointed body that spends \$250 million. Under this proposal it would come to the council for an annual adoption, the council would then adopt the budget and send it back, which is very different from the way we have bureaus that are under our direct control. And there has been proposals in the past. Commissioner Leonard has proposed having p.d.c. be a bureau of the city. This would not do that. The development commission which would continue to be nominated by the mayor and confirmed by the council, would get the budget back, they would finally adopt it, and they would have authority to move the council's budget within 10% in each fund. So essentially they would remain the implementing agency. I actually think, i'll say this relatively quickly, that when you look at all the good things

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p.d.c. has done and all the debates that have happened in this community, that both sides of this equation need this kind of change. Because I would -- i'm speaking about myself, not about others, the council itself doesn't own p.d.c.'s budget. So what happens is because we're not tied in to that budget, we often tend to get too into the details to come after projects, the development commission budget is not as well tied in the past to the planning commission, other place it could be. By having an annual adoption process, we would be able to run their budget through our public processes, which are much better attended than the development commissions, show it to the public, adopt it, align it with other things that are happening at the council level, and then I think the development commission and the executive director would be in a much stronger position between the July 1-July 1 fiscal year to say you've adopted this budget, so do not come after us and try and change the projects midyear, which happens all the time. And we're all guilty of. So I think this is a better structure and look forward to getting this debate out there in the community and just wanted to make sure we explained it a little bit so people knew what it was. Thank you, mayor.

**Potter:** It really is important, because for p.d.c. to know as well as the larger community, it really clearly defines the role and relationship between p.d.c. and the city of Portland. And us setting policy and approving the budget for the implementation, but p.d.c. having the authority to solely implement that budget, I think it will give them that flexibility and i'm pleased that we came to this agreement, and that this measure will go to -- with the rest of the package out to the voters for approval, and i'm -- I will be supporting this out in the community as i'm sure others on the council will as well. So with that, go ahead and call the --

**Leonard:** Anybody is left here now is officially a wonk.

**Potter:** What was the other name?

**\*\*\*\*\*:** Didn't we know that before?

**Moore:** Garland Norman. Ok.

**Amanda Fritz:** I'm Amanda Fritz, speaking only for myself. It is very sad for people who care about public participation in Portland that after six hours the only change to the charter review commission's recommendations has been to add a requirement for a public hearing before the next iteration of charter changes is rushed to voters. I am disappointed that the decisions had obviously already been made. So I will use my time first to wish commissioner Adams a speedy recovery and second to talk to the people of Portland. If you're watching this on cable, you have seen the power of the mayor under the current form of government. Despite the flaws highlighted by citizen testimony, two commissioners have supported the mayor in every vote taken today. We have -- we are now discussing the Portland development commission which for many people in Portland over the year has highlighted some of the problems that can happen when people who are not elected have authority over taxpayers' money as will be the case if the proposal for the chief administrative officer passes. Despite what the Portland business alliance and "the Oregonian" will be polling voters over the next three months, there is no compelling reason to approve any of the charter changes already sent to the ballot today. There is no urgency other than that created by people wanting more power for a single person rather than an elected group of five. The only Murray will support in May is this one to separate -- to make this Portland city council the budget committee for the Portland development commission. What we should do is pass that one then see what else needs to be done to reform the Portland development commission and to keep Portland Portland. Other than that, I urge citizens who care about public process and access of citizens to elected officials with the power to address their concerns to vote no on all of the other ballot measures.

**Potter:** Is that all the folks who signed up? Ok. Any further discussion? Please call the vote.

**Adams:** Aye.

**Leonard:** This is a very important change. And I think for those who think i'm being inconsistent, let me explain why i'm not. I voted against the other proposals because I think it will decrease accountability of elected officials. I'm voting for this provision because it actually adds

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accountability to the council for the behavior of the Portland development commission. I think it's - it is no surprise to anybody, this is a minimum change that I would be willing to make and it's something that has been discussed in the community a lot in the last two years. So I appreciate being able to support this so i'm not just a wet blanket on everything coming before us today, and I too will join the mayor in vigorously, and amanda fritz and others, in vigorously campaigning to pass this really needed change in how Portland's economic development future is crafted. Aye.

**Saltzman:** It seems like a good measure, and I guess I just want to remind everybody since it's been six hours, we're voting here today to take the body of work, a group of citizens spent 14 months on, and Let another debate occur with the broader public. We're not voting here today to express our positions on these issues, though that's clearly evident, people do have positions on these issues. The fundamental test is here, do these questions deserve the input of voters? And that's what we're doing. That's why I along with everybody is going to vote to send this one to the ballot, even though we've had mixed accounts, mixed votes on the others, it's a fundamental test, should the public get in on this despite what I believe they should. Aye.

**Sten:** I've said enough. Aye.

**Potter:** So have i. Aye. [gavel pounded] please read item 124.

**Item 124.**

**Leonard:** Most of our gasoline comes from alaska, where oil is naturally rich in benzene. With as much as 10 times more benzene in the oil than from other parts of the world. Benzene is known to cause cancer, such as leukemia, the -- and it causes immune system disorders and other life threatening health problems. Gasoline in the northwest contains about twice as much benzene as the national average. And much of it ends up in the air along major highway and urban centers. Some Portland residents especially in and around downtown where we are right now breathe more than 40 times the concentrations of benzene that is considered safe over the long Term according to an analysis done by the department of environmental quality. Big oil companies are unconscionably leaning on the bush administration currently to ease rules requiring limits on benzene for northwest refineries. Instead of requiring refineries to buy equipment to reduce the levels in their products, a new proposed e.p.a. rule would give -- allow big oil to buy or trade credits from other refineries that already produce fuel with lower benzene contents. Senator ron wyden has accurately described this practice as a regulatory shell game. The e.p.a. should quit listening to the big oil companies and should enact uniform national limits on benzene and fuel that are applied equally to every region in the united states, including Oregon. Thank you.

**Potter:** Has anybody signed up to testify?

**Moore:** No one has signed up.

**Potter:** This is a resolution. Please call the vote.

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

**Potter:** I want to thank commissioner Leonard for doing this. This is really important. If you look at the benzene cancer rates a-- in the freeway system in Portland, it's higher than the national average, and I think that is just abominable. When i'm back in d.c. This next week i'll be taking this information back to our legislators. I vote aye. [gavel pounded] please read item 125.

**Item 125.**

\*\*\*\*\*: Can we read 25 and 1 -- 125 and 126?

**Yvonne Deckard, Director, Bureau of Human Resources:** Good afternoon. It's been a long day today so i'm going to try to make this very quick. Today I want to present items 25 and 26 regarding ratification between the city of Portland and the racc employees union, represented by local 483 and the city of Portland professionals employee association. I'll refer to them as recreation and copee a from this point forward. The tentative agreement with these bargaining units are were obtained through a combination of preassociation dialogue and good faith bargaining. The terms of the agreement are these are both three-year agreements, that will begin july 1, 2007, and

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expire june 30 of 2010. The current agreements expire this june of 2007. It calls for a c.p.i. Increase on wages effective july 1 of 2007, 2008, and 2009 with a floor of 2% and a ceiling of 5%. Concerning health care and benefits, the city shall contribute 95% of the combined total of medical, visual, and dental rates as adopted by council, and employees should contribute 5%, the level of benefits shall be retained in effect for the duration of these agreements. These are the same conditions in which we have offered other bargaining units to date. The unions have also agreed to continue to work with the city, With the bureau, with the council on wellness, health, and disease management strategies. They have signed off on our wellness strategy, they are -- they've agreed to continue to work with the rest of the unions, the rest of labor and council in representing city employees by meeting annually with the council to discuss the programs and review progress to date, and to continue to work in the labor management labtive effort -- collaborative effort to have bureaus identify work processes systems and other requirements that could result in savings and/or efficiencies that can help offset costs. It's important for the council to know that each of these unions -- in signing off of on these agreements have agreed to those things. We work collaboratively to achieve these agreement and look forward to a long-term approach aimed at resolving our health care costs containment. I recommend council ratify these agreements, they've already been ratified by both recreation and by copea. Council -- in doing so the city will have agreements with all of its bargaining units with the exception of pffa. We're scheduled to meet with pffa to establish ground rules both march 7 and 22 and we will begin formal bargaining with them on april 4.

**Potter:** Questions? Good job, folks. Was there anybody signed up to testify?

**Moore:** No one signed up.

**Potter:** Ok. These are both emergency votes. Please call the vote.

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

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

**Leonard:** Is in any reason that commissioner Adams has to stay on the line?

**Potter:** No.

**Leonard:** There's four of us here and I actually out of -- for humane reasons would like to see him hang up.

**Potter:** He feels guilty, sam, that's his way of saying that.

**Adams:** Thank you.

**Potter:** Thanks for hanging in. Ok, so do we need to vote on each one separately? So that was the vote for 125? And then 126.

**Item 126.**

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

**Potter:** Aye. [gavel pounded] item 127 is being held over until next week.

**Potter:** Please read item 128.

**Item 128.**

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

**Leonard:** Aye.

**Saltzman:** I just want to thank the staff of pacific corps and the office of cable and franchise management and many other people in the city, city attorney's office who labored long and hard over this new 20-year franchise. Aye.

**Sten:** Aye.

**Potter:** Aye. [gavel pounded] we'll now proceed to our 2:00 p.m. I'd like to remind folks prior to offering public testimony to city council a lobbyist must declare who they are authorized to represent. Please read item 129.

**Item 129.**

**Potter:** Staff?

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**Chris Dearth:** Sorry for the delay. My name is chris, i'm the city's measure 37 program manager and we have a very quick and easy claim for you this afternoon. Brought by robert boyle and jayne justina boyle. The claim is in the southwest hills neighborhood on the map there. You can see. This is a zoning map of that neighborhood. You can see the boyle property in pink in the center of the zone map there. It is in the r-5 zone, that means one residents per 5,000 square feet. The boyle property is 8400 square feet. You can see the neighborhood surrounding the boyle property is mixed with larger properties like the boyles' and smaller closer to 5,000 square feet. The boyles are seeking an entertainment review to allow greater density on their property and a partition of their lot, which is currently prohibited under the current code. This is an aerial photo of the boyle property. You can see in the center of the photo in yellow the boyle home is on the northern end of the lot fronting high street. The southern end of the lot, which they would like to partition into a second lot, fronts on terrace drive. To summarize the claim for you, It's brought by robert boyle and jayne justina-boyle, 1826 southwest high street submitted in november of last year. The compensation demanded is \$129,915. The preferred resolution is either compensation or waiver of the regulations. These are the six criteria that we consider when analyzing a measure 37 claim.

You've seen them before and I won't run through them for you. The two regulations challenged by the boyles are those that you see there. They're challenging these regulations which prohibit request for an adjustment review to allow them to exceed the maximum permitted density on their property.

These are indeed land use regulations under measure 37, and they have been enforced simply because the boyles are not allowed to apply for an adjustment review as they would have previously. We judge this to be adequate enforcement on the property. To analyze the -- whether there's has been restriction of use, we look back to when they purchased the property in october of 1991. They could have pursued a land division review and an adjustment review at that time in 1991. In july of 2002 the city adopted a zoning code change that eliminated that ability to request an adjustment review to exceed maximum allowed density. So therefore at the time of purchase in 1991 the boyles had an avenue to request relief to the density standards on their Property. That avenue has been closed and the use of their property has in our judgment been restricted. And similarly, because they can't apply for an adjustment review to exceed maximum allowed density, it's more likely than not in our analysis that the value of the boyls' property has been reduced by at least \$1 as required under the measure for a valid claim. So in summary, in conclusion, the use of the subject property has been restricted and the value has likely been reduced. And therefore our recommendation to you would be to approve the boyls measure 37 claim to allow them to request a density adjustment review, and I should point out that this doesn't prejudge what the outcome of that review might be. I'd be happy to answer any questions.

**Potter:** Thank you, chris. Could the claimant please come forward? Good afternoon, folks. Have you a total of 15 minutes. And you can use it as you see fit. When you speak, if you would please state your name for the record, we would appreciate it.

**Gary St. Louis:** I'm gary st. Louis, attorney for jayne and robert boyle, with me is jayne. We did not intend to testify today, but we would like to state we concur with the staff recommendations and -- as stated, this is no guarantee that this lot adjustment will occur, it's only giving us the opportunity to be heard, which we formally have the right to, and now no longer have.

**Potter:** Questions from the council? Thank you, folks. Did you wish to make a statement?

**\*\*\*\*\*:** No.

**Sten:** I appreciated your succinct argument.

**Leonard:** You won my yes vote with that argument.

**Potter:** I need a motion to adopt the staff report and order as the council's decision.

**Sten:** So moved.

**Leonard:** Second.

**Potter:** Is there people here signed up to testify on this matter? Thank you. Please call the vote.

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

**Potter:** Aye. [gavel pounded] thank you, folks. 3:00 p.m. Time certain. Please read item 130.  
**Item 130.**

**Potter:** City attorney please describe the process?

**Linly Rees, Deputy City Attorney:** This is an evidentiary hearing, which means you may submit new evidence to the council in support of your arguments. This evidence may be in any form such as testimonies, letters, petitions, slides, photographs, maps, or drawings. Any photographs, drawings, maps, or other items you show to council during your testimony should be given to the council clerk at the end of your testimony to ensure it becomes part of the record. 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 his or her case. Following the appellant, persons who support the appeal will go next. Each person will have three minutes to speak to council. The three-minute time limit applies regardless of whether you're speaking for yourself or on behalf of a neighborhood association or business association. The principle opponent usually in this case the applicant. Have 15 minutes to address council and rebut the appellant's presentation. After the principle opponent, the council will hear from persons who oppose the appeal. If there is no principle opponent, the council will move directly to testimony from persons who oppose the appeal. Again, each person will have three minutes each. Finally, the appellant will have five minutes to rebut the presentation of 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 set a future date for the adoption of findings and a final vote on the appeal. If council takes a final vote today that will conclude the matter before council. There are several guidelines for presenting testimony and participating in the hearing. The guidelines are established by the code and state law and are as follows. One, testimony must be directed to approval try year ya. Any testimony and evidence you must -- present -- that you believe applied to the decision. B.d.s. staff will identify the -- two, issues must be raised with specificity. If you fail to raise an issue clearly enough to give the council and the parties an opportunity to respond to the issue, you will be precluded from appealing to the land use board of appeals based on that issue. Three, the applicant must identify constitutional challenges to conditions of approval if the applicant fails to raise constitutional or other issues relating to proposed conditions of approval with enough specificity -- the applicant will be precluded from bringing an action for damages in circuit court to challenge the conditions of of -- approval.

**Potter:** Thank you. Do any members of council wish to declare a conflict of interest? No council members have any conflict of interest to declare. Any council members have ex parte contacts to declare? Do any members of council have questions or other matters that need to be addressed before we begin the hearing? Staff, please come forward.

**Kathleen Stokes, Bureau of Development Services:** Thank you, mayor Potter, commissioners. Kathleen Stokes, b.d.s. staff for this case. It is review of the appeal of the hearings officer's decision on a zoning map amendment and adjustments for the property at 1970 southwest mill street terrace. I will try to be as brief as possible, since time is running late. But if I gloss over any of the text in this presentation, then have you questions, please ask me to fill in the answers for you. As I said, it's a zoning map amendment and the request is to change the zoning map from r7, the medium density single dwelling zone, to r2. This is in compliance with the existing comprehensive plan map designation for the site. The r2 zone allows one unit for every 2,000 square feet of site area. Because this site has 4,081 square feet, there would be a maximum of two residential units that would be allowed under the zone. The existing zoning on the site, the r7, would allow one primary residential unit and also one accessory dwelling unit. So the difference here, you have two units, the difference is the r2 zone would allow the second dwelling unit to be larger in size than the

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second unit that could be allowed under the r7 designation. The approval criteria for a zoning map amendment is that in compliance with the designation is basically limited to whether the city services are adequate to support the density that's allowed under the requested zone. City service agencies in this case found that with some upgrades to the site that include installation of fire sprinklers, there would be no increase in the burden of city services. A development plan was originally proposed and this plan included renovations to the existing house on the site and also the construction of a second dwelling unit on the lower part of the site which would be over the street front garage and carport areas. Because the site has severe slope, there was a proposal to include an elevator that would allow access to upper stories of the existing house. Several adjustments were requested to allow exceptions to development standards for the r2 zone. Those included reduced garage entrance setbacks, increase in the allowed amount of building coverage, an increase in the allowed height, and reduced building setbacks from the front or east and south and north side property lines. The applicant appealed the hearings officer's decision of approval, noting the approval criteria for the requested zoning map amendment were met, but that the neighborhood did not agree that all of the approval criteria were met for the requested adjustments. Because the applicant signed a waiver to a final local decision within 100 days, this is what is termed a de novo hearing, this allows the applicant to make changes to the proposal and the development plans in order to address concerns that are raised in an appeal, and that has occurred. Some parts of the existing development that were constructed by the previous owner without review for building permit and not without going through the building permit review process, will be removed. Plans for the remaining development that was legally constructed or for the parts that are proposed to be legalized as well as the new improvements are considered part of this review. Because these reviews have been requested by the applicant in order to legalize those portions of the existing development that were built illegally, the illegal development is not part of this consideration. Due to the revised plans the applicant is now proposing, some of the adjustments that were originally requested are no longer needed and some of them have been amended because their request has been reduced. And so we'll talk about how that sits now, the status currently of the requested adjustments. The request to reduce minimum garage entrance setback for the carport and garage, the garage entrance setback was previously approved under a variance, but it was incorporated into this adjustment along with the carport. That one is still being requested. The -- the request to increase maximum building coverage from 50% to 67.4% of the site area has been amended. The elevator was eliminated from the proposal and some other small changes have reduced the building coverage somewhat, so now the applicant is asking for 62.7% of the site. The request to increase maximum height of the overall development from 40 feet to 54 feet 11 inches was originally requested because the proposal called for the two portions of the development, the low part on the lower half of the site which would be the second unit to be attached to the existing house on the upper part of the site. This meant that the way we measured height was as if it was all one structure, because it was attached, so it would be from the grade level at the street at the front of the lot, to the midpoint of the highest roof plane on the house. These structures are no longer proposed to be attached, so now the buildings are measured separately and each of them meets the code requirements in r2 for the height limits. So therefore this adjustment is no longer being requested. The final adjustment was actually -- there were three in one, the way it was written up, but those were for three different setbacks. Setbacks were originally reduced under variances for the existing development on the site. And the request for the adjustments were because the structure was going up above the garage and carport so there was new building wall within the setback, and also because we measure setbacks differently in the r2 zone than we do in the r7 zone. The applicant has amended the proposal by moving the living area over the garage back from the south property line so that that portion of the structure would meet the r2 setback requirement. The request for setbacks adjustments for the front and the north property lines are still being requested. For the

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record, the approval criteria for these reviews, for the zoning map assessment the, it's section 33.855.050. I was asked to include the text of these approval of approval criteria and adjustments in this presentation to save time i'm into the going to read all of that. The city council has a printout and is able to refer to the approval criteria text if they wish. Just briefly, criterion 33.855.050a simply asks that if there's more than one zone that agrees with the comprehensive plan map designation, is this the appropriate one. In this case there's only one zoning designation that agrees with the comprehensive plan designation. Therefore, this criterion doesn't actually apply in this case. As I said before, the main and only really approval criteria for the zoning map amendment is whether there are adequate public services. The text for this criterion is shown in this slide. Adjustments have several approval criteria, some of which apply in this case and some of which don't. One of the meatiest is always whether the adjustment that is being requested will equally or better meet the purpose of the regulation that's to be modified. And this residential zone we also look at whether it would approval of the adjustment was significantly detract from livability or appearance of the residential area. We also look at whether there are cumulative impacts that would be an opposition to the purpose of the zone.

[Captioner Change]

Which is shown in parentheses. Anything outside of that dotted line is not part of that comprehensive plan designation but has zoning and comprehensive plan designation which are in agreement with each other which, so there's no alternate designation shown in parentheses. This is showing what's proposed which is simply that this property would come into compliance with the comprehensive plan designation and would, if approved, be zoned r-2 in the future.

**Potter:** How much more do you have? How much will you need?

**Stokes:** I'll try hurry through it in a couple of minutes.

**Potter:** Ok.

**Stokes:** Next couple slides are showing the proposed site plan and building elevations. I will scan through those quickly. You can see the lower structure would be the second unit. I have a number of slides showing the existing conditions including the illegally built additions such as the metal decks that you see on the right right-hand side of the picture.

**Leonard:** The top floor was the illegal part where the glass is?

**Stokes:** Those are all illegal additions on to the house, which was the house itself was legally built, and it's at the distance of the back of the picture. There are some other slides that show the house without -- portions of the house that don't have these illegal additions on them. This is the carport on the right and garage on the left. There's a portion of the house. And the stairway going up to the upper part of the property. It's 37% slope. See looking down over the roof of the carport and the house across the street to the freeway below. There's an alley way that passes on the west side with simply a pedestrian walkway and the houses along that are all built to the edge of the property. This is the next door neighbor here. And this is the applicant's property showing their deck. And that alley way connects to vista above. And this is probably the best picture I was able to get actually of the original house. The slope being difficult to get very good perspective. Going back here again showing the garage entrance set back requirements, and again showing some of the illegal development here that would be removed, including the materials hoist that's on the left side of this picture. This shows the existing structure above the garage which was built illegally, and is being or has been destroyed and the new structure above the garage would be moved back further to meet the south side set back which is shown there. And then this is where this property joins the property to the south and showing what's typical on some of these steep hillsides in this area. I'm not going to go back over this slide because I have pretty much covered all of the zoning map amendments. Summary in my earlier marks. Excuse me. And I also talked about how the plans have been adjusted so they are meeting some of more of the r-2 development standards and talked about what is still being asked for. So I don't think there's any point in going over this part in detail

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either. I am hoping that council finds that the revised plans do attempt to address the issues raised by the neighborhood, and that the approval criteria can be found to be met and I would ask that city council approve the revised proposal with a return to council for adoption of staff's revised findings on this issue in 28 to 35 days, it will take about that long to revise them and get a review with the city attorney. The hearings officer -- I just want to mention finally that the hearings officer's decision approving zoning map amendment and adjustments strictly limited the approval to the proposal at the time that it was presented to him and so it would not encompass these revisions that have been made to address the neighborhood's concerns. Thank you.

**Potter:** Thank you. The appellant please come forward. You are normally allowed 10 minutes but because the staff went over almost five minutes I will grant you the extra time if you need it, Jerry. Please state your name for the record.

**Jerry Powell, Chair, Goode Hollow Foothills League :** Thank you, Mr. Mayor, gentlemen of the council, I am Jerry Powell. I reside at 1926 S.W. Madison Street. I am the chairman of the Goode Hollow Foothills League planning committee. And we watched this appeal out of concern for mostly the impact of the approvals by the hearings officer on this small neighborhood. It's a very small area that at the end of a cul-de-sac that's I think you would have to indicate the cul-de-sac primitively developed. The street rights of way are fine. The development of the street complies with the city code if you give it a little bit of leeway for a very difficult place to exist right over the freeway tunnel. That said, in 1980, it looked to the neighborhood, which weighed in on this particular site, to be an area that was probably ripe for redevelopment. And we placed it on the comprehensive plan as appropriate for an R-2 sort of rowhouse style development. At that time, the zone changes that were entertained all over the city did not happen because there was some question as to whether the services actually were available here to support the comprehensive plan designation. Remember the comprehensive plan is our view of what will some day be. But that vision hasn't been really realized and in this case, the neighborhood has come back. There are families, kids, what not on this neighborhood. If we were to look at the neighborhood now, we would probably not suggest that it's an appropriate place for the rowhouse development. Be that as it may, the hearings officer found probably correctly, that the zone change in compliance did comply with title 33. I bring up our concern about services only because the zone change is from R-7 which is a fairly low density single family residential zone, to R-2, which is a multifamily residential zone. R-2 carries with it development standards. Development standards that are appropriate for rowhouses, for a fairly low density multifamily development. To then attach to that further concessions, adjustments to the development standards that allow more intensity development basically makes this a low-density R-1 zone with respect to the development standards. Specifically lot coverage, height, and setback from the street. Now, setback from the street in this case is something we are not going to argue with you because -- it's very, very difficult to build a garage back into a steep hillside. What we will argue is that the side yard setback needs to be probably sent back to the hearings officer. In fact, we would request that you send this back to the hearings officer because the hearings officer did not have the necessary information to make a decision with respect to the side yard setback. There's an easement that goes down that sight lot line. That easement carries with it three sewer lines. One of them may or may actually be under the wall of the -- of an existing structure on the site. The easement -- actually two and a half feet on both sides of the lot line. There's a garage wall that's within a 1.75 or 1.9, depending on which lot plan you look at, from that same lot line. It's a private easement. It's probably not something that the city is going to be damaged by and encroachment. But it's certainly affects the at least two of the neighbors very strongly. The lot coverage that's permitted in our -- the R-2 zone is considerably larger than the lot coverage that was presented in the R-7 zone. It would permit a building that's something in the neighborhood of 25% larger than the R-7 zone, the way the lots around it are developed. To then increase that by another 12% permits a building that is 500 square feet in lot

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coverage larger than the building that would be permitted under the r-2 zone. That's a lot of extra lot coverage on a 4,000-square foot lot. Our concern in front of the hearings officer and what we would like to leave you with is that this redevelopment proposal is alleged to be simply to take care of the indiscretions of a former owner. Well, that would be -- that would be fine with the neighborhood. The neighborhood would love nothing more than to see this development made code compliant and, in the spirit of compatibility with the neighborhood. However, the applicant has also taken out a demolition permit for both of the structures on the site leaving us to wonder, what are we really addressing? Are we addressing a new development on a cleared site or are we addressing the existing development cleaned up and gussied up and made neighborhood-friendly? I don't know the answer to that. But our concern when we start looking at the possibility of new development is that with the adjustments that are requested here, a new development could be basically the duplex equivalent of a mcmanion on this site. We don't want to see that. All of this, awful these sort of theoretical concerns are compounded by the fact the information that went to the hearings officer did not include things as elemental as even a topographic rendition of what the site looked like. Hearings officer had no way to know some of these things. Our request is that you remand this, that we have a chance for the hearings officer to go back to this thing and do it right this time. Thank you.

**Potter:** Thank you. Any person here who supports the appeal of the neighborhood association and wishes to testify on this matter?

**Moore:** We have about six people signed up.

**Potter:** Ok. Please call the first three.

**Wayne Rogers:** I'm wayne rogers.

**Potter:** Thank you. Sir, could you sit down. Thanks for being here, folks. Please state your name when you testify and you each have three minutes.

**Rogers:** My name is wayne rogers. My wife maggie and I live just uphill from the property in question. Shall I go ahead and speak?

**Potter:** Please go ahead, sir.

**Rogers:** What I have to say is essentially written out here and I will leave this with your secretary.

We have viewed this hilliard house problem, this one as concerned neighbors since we have lived there in our house for 13 years since we inherited it from my wife family who built it in 1960 when the sewer easement that you have heard about down the hill beside the hilliard house was obtained. And that's recorded in the Portland deed book. It has a two and a half feet on either side specified limit of accessibility which is not met by the present structures. The concern that we've had is from the sewer, is that of concerned neighbor about the property in general. When we went to the hearing 11-11-06, mr. Frank proceeded in an orderly legalistic manner but he impressed me as someone who had never seen the property. If you go look at this, it's not something you can readily describe and therefore I have a picture of the property and I wish you would show number one, if you can. I can't see from here with those lights on. I gave it to her. It's a cd. There are three pictures on the cd. While she's putting that on, I might say that after we came out of the hearing on october 11, we developed an intense interest in this place which we had never seen so thoroughly. So we walked down the hill, looked around, took along a builder who knows about the Portland heights. The first thing that struck them was it's unsafe. It's built on rocks that are fractured. And I will show you one of those. It has footings that are not embedded to the rock but sitting on top of the rock so that if an earthquake shakes loose this fractured rock, what will happen next? So we are very much concerned about the safety. We had had slides on the historically designated side 500 yards away which is similarly rocky. So we know it can happen. There we are. Let's go back to the previous one. I hope the council can see this. I think it's pretty clear. There. Can you see that all right?

**Potter:** Yes. We have it on our screen.

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**Rogers:** Good. This is the east side, the downhill side. The mill street terrace of this building, as you stand on mill street, and look at it. You will see that white footing in the middle. You can't see it's sitting on top of that rock but you can see the rock is fractured for a distance of a foot or more. And the builder I took by there said it wouldn't take much of an earthquake to shake that apart. The next thing that struck us were these rusty i-beams. They have been there for more than five years. I don't know how long. But the only purpose I could think of for the i-beams is to provide security in case the rock did fracture. It's only house on Portland heights that has an iron cage around it, a specialized structure. You will see something that's been there for more than five years and that's a crane. It's pretty unsightly. On the left you will see the entrances to the two sewer lines, maybe a third one. I am not sure. Ok. I'm not having much luck with this. Oh, there. There's the way it's looked for more than five years, perhaps our neighbor who is here can speak to this. But this is what we have had for all this time. Steps on the right go up and the crane is there and so on. You can see where the rock has been blasted away and where a cadillac is parked beyond there. We got one more that's worth seeing.

**Potter:** Sir, you are going to have to wind it up. You have gone over your time.

**Rogers:** Can you move that? I'm sorry. At any rate, the last thing that I was concerned about was the height of the building. There were many figures given at the hearing but no one seemed to take any measurements so I got hold of the hoffman construction company. I will leave that up. And got a surveyor out. And he says that the height of this building above mill street terrace is 71 and a half feet. Any way you look at it, it is at least six and a half feet above any limit that's been put on building so it's out of compliance in that way, too. Above that level which he didn't measure are the sky lights and the iron beams. So the building is way up there in the air somewhere. Now, the last thing I will say is here is a picture the two garages we have been talking about and in between the middle --

**Potter:** You have to finish up. You are way over.

**Rogers:** It's where the sewer is. That's all I have to say. If anyone has questions, why, i'll answer it later then. Thank you.

**Potter:** You can stay here.

**\*\*\*\*\*:** Stay here?

**Janet Klapstein:** Mayor Potter, i'm janet klapstein. My husband paul silver and I have lived in the house immediately north to this property for some 15 years now. We are here in support of the goose hollow neighborhood league appeal and are probably one of the properties most affected by the adjustment setbacks. I have prepared written testimony. I won't we labor those points. It does have such attachments that can explain particular concerns that address our property and setbacks. In the area of predominant concern, you have services, setbacks and how the property fits in with the neighborhood. But I think you will find if you look at the diagram which shows the proposed setbacks adjustments that the applicant has requested, will it's nominated as almost a four-foot setback the slides, and attachment doctor dr. Rogers has shown you show that with the what was an illegally installed stairway is effectively a zero lot line and in terms of livability and problems with the neighbors, you know, tree trimming, I will list sit tree trimming it's a significant concern to us personally and to the neighborhood. And bureau of neighborhood involvement did a really darned good job in trying to close out the problems and got a stipulated agreement to remove all these things. And what we see happening is just approval of what has already been agreed to be removed. And I don't think that's really good public policy. In terms of the street itself, mr. Powell was accurate. This is an old street. The house itself is visible as you drive out the sunset highway. You look above the tunnel. It's this giant monstrosity. It's way out of scale for the rest of the neighborhood. What's being proposed is a larger chunk being built on top of what's already been built illegally. The street itself is very, very narrow. The one of the requests is effectively a one-foot setback for two more garages. And that the circumference of the cul-de-sac is so small you

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can't do a complete turn. We have had concerns expressed by the fire department of inadequate access. It's one thing to say that building will have sprinklers. The other older structures do not. If the street is narrow enough and very, very steep the garbage trucks have to back up the hill. You cannot pass safely. It is really quite dangerous and the idea of adding two more garages, spaces for new cars that are smashed on top of where this cul-de-sac runs is really troublesome and I think a public danger. There is space from the yell carved out area that you could move that garage back without needing the set back that is requested but I think this is just a convenient method again of covering up what has already been built there and there's really no reason that the setback shouldn't comply with what has preexisted. Thank you very much.

**William Hawkins:** I'm next. My name is William Hawkins. I'm an architect. I have two pieces of property in the immediate neighborhood here's. As an architect I am very acutely aware of what the adjustments mean and what they can mean to certain situations here. However, I have known this house for a long, long time and it bothers me that the bad construction is actually built on the public right of way. I don't see in all of this changes here that that is -- I don't think it's proper to simply allow that to stay. The decks are actually built not within the set back but on the public right of way. I have difficulty with the lot coverage. R-2 I can accept at 50% of the lot. But going up to R-62, seven feet bothers me particularly when there is new construction. It seems to me the new construction should meet the change of zoning. And be at 50% of the lot coverage. The maximum height has been discussed here a great deal. R-2 is 40 feet. It is so hard to ascertain what is actually happening here but when you look at it you know 71.5 feet above the street it seems like every little trick in the world has been done to accommodate this building. Criterion b does this building visibly detract from the residential character of the neighborhood? I think we are all unified in the feeling that it definitely does detract. If the owner's intent is to demolish these buildings, which I could understand why they might do that, then, I think they should only be allowed to build within the R-2 requirements, not up to the requirements of all these adjustments that have been submitted. My neighboring property has had numerous slides. I must concur with Wayne that it's an ongoing problem in the neighborhood. I have seen the cliffs collapse in this area. It's very hard to look at this house and say there isn't a potential problem here. Thank you.

**Potter:** Thank you, folks.

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

**Julie Clifford:** My name is Julie Clifford. And I am the neighbor immediately to the south of -- you can see my house in all these pictures.

**\*\*\*\*\*:** I don't know if they can see it.

**Julie Clifford:** But I am just set back from the house and relatively close. My main concerns were the setbacks. It's looking like the new plans address a lot of my issues on setbacks. Previously the setbacks were granted by the hearings officer that were smaller than the private sewer easement that also runs along our property line, where there's three sewer pipes. From what I understand, no adjustments to the setbacks are required for the R-2. So we wanted to ensure that there are no further reductions in the required setbacks as Kathleen Stokes was saying this morning, that that was true. And my main concern here is to protect my property rights, but also in concert with helping my neighbor bring her property into compliance without compromising the potential of my property. And that's basically why I got involved in this process. There's a big issue on bank stabilization. When excavation was done, several banks were created. One across the front of her property that you saw in the pictures, and then one at a 90 degree angle along my property, and the excavation also came into my property. And my concern is just the appropriate retaining wall that the former owner had promised me over the years and I just supported this project hoping that it would be complete and I have faith that Cindy will complete it. And but what I need basically is, in the staff report, my address was singled out that the party sewer was no longer going to be -- it had to be

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broken up. They could no longer have the party sewer and that my address needed to be broken out of that and then direct line, I assume, attached. But I don't know at this point how that's going to affect me and what I need to do for that. And it's also i've been talking to the people, you know, environmental services and what not and they all say a 10-foot-wide area is a reasonable access to sewer pipes. And then what would be really helpful for me is if the applicant could stake her property line because we've each had a survey but I don't know the property line she's working from and we are getting mixed signals about where the line is. But generally, I understand that this unique single family residential cul-de-sac will eventually become higher density, and as much as that does impact the environment and livability of the home that I had purchased in this area, I can accept that. I just don't want to accept that this development might unnecessarily or unjustifiably affect the integrity of my property and its development potential in the future. So those are basically my concerns.

**Potter:** Thank you.

**Joyce Clifford:** I'm joyce clifford. And I am mother of julie clifford, the neighbor to the south of the applicant. In the picture that is on the screen, you can see off to the left the applicant's house and that cliff you see under the main dwelling is also at the, on the side, on the north side of julie's property. And it goes down about 20 feet. It is cut into julie's property. I would like to repeat comments made by kevin on october 15 in response to the land use action under review. Under analysis of the land use report, this statement, he quotes, "houses tends to be close together with reduced building setback. The pictures that mr.burger illustrated the distances between the structures met or exceeded the minimums established by the setbacks. Further, varying orientations of the structure on the hilly terrain accentuates the openness in the neighborhood. The one exception to this is the distance between the residence of this case and my daughter's property. Additionally my daughter's front porch and entry way face the south boundary line where a one foot nine inches set back is shown in the drawings for the main family dwelling that was given a 4.5 foot setback in 1974. We request that the setbacks for that property be maintained for the existing permitted structures, the 4.5 for the main family dwelling, and whatever was permitted for the garage. The other concern is the excavation that has extended into my daughter's property, a 20-foot cliff in her yard, in her front yard. She does not have full use of her yard. She has a dangerous cliff of a special concern when I bring my grandchildren. It undermines the stability of her house. It has exposed the sewer lines. We have worried about this over the years. If my daughter's house develops a crack in the foundation, who will be liable for the repair and the loss of value? If a person is injured from the unprotected cliff, who is going to bear the responsibility and the expense? We ask that julie's land be restored and her front yard, the cliff be stabilized and made safe, the sewer situation be resolved, and the full use of the front yard be returned. We are grateful that cindy hilliard has stepped up to the challenge she has inherited. We fully support her efforts to make her property an asset to the neighborhood.

**Potter:** Was that it?

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

**Potter:** Could the principal opponent please come up. That's you, yes.

**Cynthia Hilliard:** A copy of the survey was shown and clarified where the lines are that were discussed at the last -- people have made --

**Hilliard:** State my name? Thank you. My name is cynthia hilliard. I reside at 1970 s.w. Mill street terrace in Portland, Oregon. This is very interesting house, I would agree. I put a lot of time and effort into getting to this point. I believe that the staff of Portland, the development commission has had people up to the site, it's a very long, involved process. I applied for the process in 2000-the end of 2004. And a lot of different departments that represent the services to determine whether or not any of this was viable had to take their time. I had to go to several meetings. So the report that was summarized by kathleen stokes I think is a very good

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representation of the work that has been seriously considered. It's not just a fly by night decision. There have been a lot of people up to the site not the least of which was the fire department. I was there when they were determining -- because the safety of the public is important. So I believe the reason that I agree -- one of the reasons I agreed to move this hearing forward to today's date was, one, I wanted all of the members to be present. I'm sorry Mr. Adams couldn't be here. And I am certainly that you gentlemen will consider what I have to say. But I also, in the spirit of cooperation, I made work with my architect made some modifications that addressed some of the concerns of the neighbors that modification of the design included the main house as well as the lower structure. That's not something that I'm just going to put on paper and then I am going to disregard and go away. The house is going to be returned to its original design which was built in 1974. The detached garage was given a variance by the city council I believe in 1977, for a zero clearance variance and at that time, the garage structure had a one story level above it that had a sloped roof that went probably to a peak of 16 feet on the east side. So the designs you have in front of you are what I intend to draw. -- to build, excuse me. Various neighbors have spoken about the excavation in the cliff. Back when I was not the owner, the former owner did hire a company that did not come out only one time, they came out three times to determine the stability of the slope and it was determined that it was stable. I went one step farther and I hired some of the people that were with that firm but had started another firm, and paid for quite an involved report, geotechnical engineering study of the stability of that slope. The first thing that needs to be done -- first thing that I did was to repair and replace the sewer lines with two new cleanouts. Before that can be filled in, the structure on a supporting wall for that main house needs to be built. Once everything, everything has to be done in order in a building project. That portion where Miss Clifford, the mother, spoke about, a cliff, that will be replaced in grade level will take care of that. But the geotechnical study proved that the hillside, that cliff, is stable. I am under process of getting a design for a supporting wall before the next step of construction happens. Mr. Powell said he was confused as to whether or not he was diagnose to demo the whole house. No. The designs you have been given are what the main house is going to remain the only -- the only thing on the main house that was modified was the top level. That was brought out. That's going to be pushed back to its original design. The side metal decking is going to be removed. So a lot of the concerns that Ms. Clapstein expressed I believe will be answered. I am afraid I'm at a loss as to why the characterization about the whole house was being, has been modified. It hasn't. I am trying. And the lower structure was the offending structure to the city. And that has been taken down or altered, if you will, demoed, down to its basic structure so that rebuilding can occur. Building takes a long time. R-2 zone is in the comprehensive plan map amendment. There is a neighbor in the cul-de-sac of the address of that neighbor is 1991, and his house currently sits in an R-2 zone. So all of the houses on that cul-de-sac are not R-7. Mr. Powell referred to it as a multifamily, multidensity. This is a low density multifamily. The most that can be put on this is two structures. The two structures exist. I am just trying to improve the structures. And so. It's interesting that builders have come to look at that. I have had several builders. I have had -- I paid for several professionals to give me their determination of what needs to happen. And believe me, this alleged discrimination of a former owner, I've gone through a lot to date. I have spent a lot of money, a lot of time, and I am working as I said to all my neighbors, everything will be done according to code, according to the compliance requirements of the city of Portland. Mr. Hawkins talked about bad construction built on a public right of way. The existing house was built in 1974. Anything that needed to be approved or disapproved at that time, the house structure will remain. The height of the house is not going to change. There's some suggestions that it's higher than supposed to be. It was built with approval the city of Portland. There's going to be month more elevation in the house. And so I just want to respond to what was said. I'm not sure what was meant by every trick in the book was made to accommodate this house in this request. Believe me,

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i've learned a lot about city codes, building compliance, how the different departments integrate. No one has come to me to talk to me. If they're also concerned as a neighbor, one might think they would come to talk to me. I even went to my neighbor to the north's door one day to introduce myself and to let her know what I was doing. And basically to introduce myself. And she refused to come to the door which is not neither here nor there except I am trying my best to bring this to a close and to have it -- this, I will say that this neighborhood is very eclectic. There's not one house that's like another. The neighbor right across the street from me, 1969, happens to come right to the property line almost go straight up. Mine will not and I think you will find it will be an attractive assets to the community. The other thing is that ms. Clapstein talked about the addition of two garages. There's not going to be an addition of two garages. What currently exists is the footing and three walls of the originally built garage which will remain. It houses two cars. What will be added will be a garage which will be designed back behind that but will take pressure off parking. Before this all happened, there was -- there were neighbors across the street and at the end of the cul-de-sac who when they would have parties and ms. Clapstein as well there was no place to park. I couldn't even get to my house. So the fact I am going to add a garage will take pressure off the parking issue. I myself choose to park up above on vista instead of put pressure down on to mill street terrace because you can access my house from both vista and mill street terrace. The environmental services department have done an exhaustive pressure on the area. I believe that I concur with the staff report. I believe i'm done.

**Leonard:** I have some questions.

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

**Leonard:** Sometimes it's difficult to sort out all these issues but the flavor I am getting is that there's a stigma attached to this property. That isn't necessarily reflecting on to you but has kind of been a sore thumb for a long time. And I think i'm also getting the flavor that the neighbors might not be perfectly in synch with where the staff has gotten to with their proposal of suggested changes. Is that -- is that working assumption of mine at all accurate?

**Hilliard:** They are not in synch with the city, city staff's assumptions?

**Leonard:** I am hearing criticisms of what is the property. I think i'm hearing staff say that they're ready to go ahead and accept what you want to do based on their requirements.

**Hilliard:** Uh-huh.

**Leonard:** So i'm wonder fiscal maybe we are mis, each other a little bit. Kite be that the proposal that you are intending to develop there will satisfy the carat criticisms?

**Hilliard:** I believe it will, mr. Leonard. Yes, this property has been infamous. Ms. Clapstein said she had been at her property 15 years. If you do the math I am not sure -- when they acquired it. However, the former owner, mr. Mccullough, purchased the property in 1993. He started following the city permit process and until -- between the years 1993, 1995, he did comply. In 1995 I believe is when he took out permits. He didn't get them final and that is where -- this was out of my hands. I had nothing to do with. But believe me, I live with it daily. And until 2005, mr. Mccullough died in october of 2004. And until june of 2005, I had no ability to -- because of the estate and being opened and the ramifications of the estate -- I couldn't rebuild anything. But I did -- I have -- I have moved forward since that time. I have spent a fair amount of money and time and effort trying to bring that -- none of -- dr. Rogers I don't know. He seems to be a reasonable man. And was happy that I replaced the sewer lines that at a cost -- at no cost to my neighbors. And the concern of sewer lines is a city concern but I believe that's it will be when everything is done that will be satisfied. So yes, it's a very colorful property of which I am trying to do my best to address and solve and would definitely like to work with people but no one has ever really come directly to me. But certainly willing to make some recommendations which could have been made to me or come to me other than ms. Clifford is the only one I know quite well. And things should be, once everything's developed and completed and built, should satisfy her. I have moved the setbacks. I have

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eliminated all the windows on the south side which is fine. Taking the metal decks off the north side and willing to comply so that the plans that you have in front of you should restore the original house to its design and add a nice structure. Mr. McCullough excavated land that did exist between the detached garage and the main house. Unfortunately, I have to deal with that. I can't bring the dirt back. So that's why I'm working with the design and I have an architect. Have I answered you?

**Leonard:** Yes.

**Hilliard:** Sort of? Any other questions?

**Potter:** I am curious about the steel frame. Does that hold the house up?

**Hilliard:** No. I actually had -- no, it doesn't. I actually hired an engineer from Corvallis -- Mr. McCullough was originally from Corvallis. Gordon Wallace came up because I wanted to determine if the house sat on the original foundation was fine. He said, yes, Cindy, that foundation is fine. When Mr. McCullough excavated the land and he hired a structural engineer and that's why the original house was designed to attach to the front building. The design I believe that Mr. Franks was seeing when he approved that zone change. But that is -- that house is not supported on those I-beams, no. It has support structure but once the retaining wall that is in design now is built, it will just add to the I-beams and the support wall should allay anyone's fears. It won't affect either property on either side of me. So, no, it's not resting on those I-beams as Dr. Rogers might think or Mr. Hawkins. I'm not sure who might have mentioned it. Yes, sir.

**Potter:** Are there persons here who oppose the appeal who wish to speak on this?

**Moore:** We have a person signed up, Barry Barrah.

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

**Potter:** Good afternoon. Please state your name when you speak, sir.

**Barry Barrah:** Barry Barrah. And I will be brief.

**Potter:** Start the timer.

**Barrah:** I am here in support of Cynthia Hilliard's proposed plan. As Mr. Greg Franks, the hearing officer, approved on the date in question. You heard a lot of testimony from some well meaning self serving citizens. Frankly, most of what you heard was not very accurate. I've been to all the hearings. With the hearings office process and some additional hearings past those regarding this property. Ms. Hilliard has expended a great deal of money, as you heard her testify to. Purchased lots of permits as required by the city. And done everything possible physically comply with the requests of the planning department and building services. And to bring this property into compliance with the statutes. The survey that I believe she gave you a copy of on the 4,081 square foot lot allows for conformance with the comprehensive plan on this particular property and into R-2. And as I understand it that's really the main issue here. The retention wall, it's my personal humble opinion is a good addition but the basalt that is there has been surveyed, has been engineered, and has been looked at, tested, and it's been standing for, since the 1970's. It hasn't moved. It's appeared to be very sound you understand for her proposed building project which has permits open more and will take more out depending your approval. That's all I have.

**Potter:** Thank you, sir.

**Barrah:** Thank you.

**Potter:** Is that it?

**Moore:** Yes.

**Potter:** Ok. Then rebuttal by the appellant? Please come forward.

**Jerry Powell:** Mr. Mayor, gentlemen of the council, the issue isn't whether Mrs. Hilliard or Miss Hilliard is trying to do the right thing. The issue isn't whether the structure as it stands is a thing of beauty or, in fact, whether it's structurally sound. The issue is whether the adjustments comply with title 33. The single standard that jumps out in title 33 with respect to adjustments is that adjustments are meant to better or equally satisfy the intent of the zone district that's applied to the

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par tell. The adjustments are not permitted under that same adjustment section of title 33 to degrade the livability of the neighborhood. It -- it is our position that the adjustments are not necessary to make that structure usable, livable, and compatible with the neighborhood. We request that the adjustments be denied or alternatively sent back to the hearings officer for his attention. Thank you.

**Sten:** Let me try hone in on something and I am not sure i'm right so set me straight. Is the primary adjustment that you are against at this point the building coverage? And the reason i'm not setting aside the setbacks but I want to get to that next. Am I reading this right that the setbacks are already -- I mean if they are not knocking the building down, I think the setbacks are going to stay like they are or am I missing this? And you really are dealing with how much extra building they can add. Am I wrong on that?

**Powell:** Ok. In 1980, there were variances which are slightly different from adjustments but have a practical effect that's about the same. Granted, for zero lot line or zero setback on the north and south boundaries, the garage was built at that time and it may actually be encroaching on the sewer easement at this time. Unfortunately we don't really have information in front of us to tell for sure if that's true. Because i've seen three different locations for that garage. Maybe none of them are correct. We don't know. That's an information problem. The lot coverage is, in fact, the what I would have to say is the key adjustment because it permits a building footprint that's a good deal larger than any existing building permit in the area, or larger than would be permitted under a new zoning and new development. Height and -- height has basically been table off the table by the applicant.

**Sten:** So I am reading this right that there really is not the dispute on zone change really is somewhat irrelevant in the sense that it's building coverage that's going to determine what gets built there because you can get to your units?

**Powell:** That's true.

**Sten:** Under your scenario.

**Powell:** That's true.

**Sten:** So you are saying the hearings officer erred in allowing the increase in set back -- building coverage from 62 to 65?

**Powell:** Correct.

**Sten:** And on the setbacks we really actually can't quite tell -- which is awful low odd place to be which is why I am shaking my head. I have seen a lot of land use cases but not one where we don't know --

**Powell:** Yeah, there's an information insufficiency. We could look at it that way. But -- and it's likely that the appropriate information wasn't available in 1980, when the previous variance was approved, too. But hanging your hat today on an error then is not really very good policy either.

**Sten:** And then how much -- how much does this hearing, how much does the coverage issue in your hearing revolve around a potential problem versus -- let me ask this a different way. Could you be presented with an actual design that would solve the coverage issue? I guess what I am getting at we don't really know what's the neighbors are facing. You are representing the neighborhood. And while I think the coverage issue is very critical and as you are picking up i'm just one vote and sort of leaning towards your side on that argument, at the end of the day I think it's probably more about what the design is and what actually gets built there than it is, is it a little bigger? I can imagine something that was a little bigger that was nice either from the neighborhood point of view than something that was smaller but -- I am trying to figure out if there was any way to mediate in actual building design rather than try and guess at this through lot coverage. And it may just not be possible given where we are. What do you think about that?

**Powell:** Footprint in and of itself is not really a huge thing. It's the volume that that footprint enables that becomes a big issue.

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**Sten:** Right.

**Powell:** The building that could occupy that site is a big deal for the neighborhood. A very big deal. The building that you have plans in front of you for which simply as I understand it, and I think the original applicant's intention is to leave the original house, or the house as it was modified at any rate, alone, and then build on top of the footprint of the garage and sort of extend that a bitings building on top of the garage. I don't think we have any problem with building on top of an extended garage. We could have a problem with. Again, that gets to that extra 12% that is problematic, frankly. It bulks out the -- that mass that's at front of the lot to approximately the size of any of the houses around it. And the typical house in that area is about 1300 to 1500 square feet. This garage that's proposed is kind of that same amount of bulk.

**Sten:** That gets at it. Thank you.

**Potter:** Jerry, I had a question.

**Powell:** Sure.

**Potter:** Ms. Hilliard said that the neighborhood hasn't talked with her. Have you folks made attempts to talk with her to see where there's a middle ground or at least come to some accommodation?

**Powell:** It's beginning. The neighborhood association kind of assumes that folks will come into it and talk about what they are planning when they are planning to do something that's -- requires permits or requires a neighborhood notification. That didn't happen. And it probably would have been a good thing if that did happen. There has been increased communication between ms. Hilliard and the neighbors because we hear about that. I'm not sure about with dr. Rogers. I know that there's been communication recently between mrs. Hilliard and the julie, the neighbor next door. Between -- I think it's fair to say that there have been neighborhood issues here. And, yes, commissioner Leonard is exactly right, there has been friction. Part of it's been over the house. Part of it's been personalities. That's -- neighborhood has tried to stay out of that. And we brought the appeal based on the impact of the -- of this physical structure and the possibility of a new structure occupying that same spot because of its impact on the neighborhood, not because of the personalities that were involved.

**Leonard:** So i'm curious, though, that -- i'm trying to find it here. The hearings officer found that the proposed r-2 was in compliance with the comprehensive plan.

**Powell:** Yeah. There's an issue there. Spot zones are conventionally not credited well. And the reason that they're not, the reason that they're considered an undesirable thing is because they're, one, they're criteria for what you call a spot zone. One is that it's for a private purpose. That it has no particular public purpose. The other one is that it's a single parcel or single ownership when it's in a situation that is shared with parcels and ownerships around it. When particular parcel is in the midst of six similarly zoned parcels and similarly zoned parcels. Why this one should be different and treated differently is kind of a puzzle. Portland code permits it. That's all I can say.

**Leonard:** I guess i'm just wondering out of fairness, I guess I am trying to understand, well, I think I do understand. Maybe the question I ask originally about the stigma associated with it I think actually explains a lot of the energy behind this. But it does seem to me that you have a credible person who is earnestly attempting to right the wrongs of the past on that site. It does look like the hearings officer found that it was appropriate designation r-2 to do what she wanted. I'm still there's something in me that's telling me the two sides aren't in synch in terms of what b.d.s. Is saying they want to have done is what the neighbors understand is going to be done.

**Powell:** In the Portland zoning code, under single family residential zones, more than one dwelling unit can be placed on a per sell. They are called accessory dwelling units. They are limbed in size to a third of the size I believe of the principal dwelling unit. And that apparently was the reason that this is secondhand. Is the reason that the applicant decided to ask for a zone change rather than improve her property and bring it into compliance under the single family zone. We would have

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preferred that it be left in the single family zone and improved with the accessory dwelling unit. But it's not our call. You know, it's up to the applicant to decide what's best for them. And that would have been the discussion that would have happened had there been early communication between the neighborhood and the applicant. As it comes out at this point it probably doesn't serve the neighborhood very well for the -- for the new construction that's going to happen on this site to be tantamount to a second full size house. But it's one -- it's basically one dwelling unit replacing a smaller dwelling unit that was already there. I don't -- I don't see an impact of that happening. Size and potential even greater size that really kind of energizes this appeal.

**Sten:** Probably ready for discussion.

**Leonard:** Is staff going to come up? I'm a little curious by staff we approve the proposal as suggested by staff, how that matches up with the hearings officer's decision.

**Potter:** Actually, we, this is the prior to the deliberation but commissioner Leonard has a specific question of staff. They don't really have a closing remarks but you can ask questions.

**Stokes:** Thank you, kathleen stokes, b.d.s. Staff. I actually would like to share some facts code citations or issues that respond to some things I heard in the testimony if that would be all right. Because these are just clarifications. This is not a summary.

**Leonard:** That would be helpful for me.

**Stokes:** There was a request to remand the decision to the hearings officer. When I have previously asked city attorney whether that was possible in other case I was informed that once there's a appeal to council there is no avenue to do that. There was a statement that the hearings officer made this decision --

**Sten:** Can I clarify? The council can certainly remand it back.

**Stokes:** That would be a question of the city attorney.

**Rees:** Our advice has been there's no code authority to do so. Council, how have we put it in the past? There has been times council has desired to send something back unless somebody were to challenge that action, it's certainly not within our quasijudicial requirements. We are working within the 180 day rule. It goes from hearings officer to you for a final decision.

**Sten:** Except the 120 days has been waived here and we have remanded things back in the past.

**Rees:** My advice would be that it is not provided for in the code. I do not know whether if it were challenged if that would be a procedural error. I believe it could be deemed a procedural error.

**Stokes:** Thank you. There was a statement that the hearings officer did not have full knowledge because he was not aware of the easement for sewer lines and actually the hearings officer did have that information. It was presented at the hearing and it is listed in the hearings officer's exhibit list as exhibit h-14 which is titled "the john junkin letter with attachments." and one of the attachments is the text of the easement. There were some people who indicated that if the adjustments that have been requested were approved even as amended, that it could allow overbuilding of the site for lack of a better term. And that if it were, if the buildings were demolished, that then the property could be built under these adjustments. That was not part of the approval of the hearings officer. He limbed the approval to the proposal as presented and as I indicated in my presentation, the reason that there would need to be a decision by council and new findings is because the proposal was changed. It wasn't still exactly the same as what the hearings officer reviewed. However, those adjustments would still be subject to the proposal that's being reviewed and if it were demolished it would be a new ballgame and would it have to meet the code standards or else come in and ask for new adjustment reviews. The height of the house as originally built, the original structure, was approved and would remain the proposed second unit as the current proposal exists with a detached structure meets the height limit. So there was again question about the height overall. What's there meets the height limit for the house. And what's proposed for the second unit would meet the height limit of the code. As far as lot coverage, the reason that that adjustment is still being requested is because a portion of what was approved previously was torn down which is basically

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the carport area. It was approved as a covered storage area. It wasn't originally approved as a carport but the footprint was approved. The footprint is not changing from what was originally approved under the code. So it's almost a gray area as to whether it would be -- would have been required but staff determined that the building coverage adjustment was still needed because it obviously had become nonconforming with the changes in the code, and when nonconforming development is demolished, you can't rebuild it. And so in order to rebuild the carport area of the footprint an adjustment would be needed to put back what was there before. There was a comment about stairs on the north side of the property being illegal. And the proposal was that those stairs would -- they may be illegal now but that there would be grading done so no part of that stairway would be more than two and a half feet above grade level and that structure can be within the set back as long as it's not more than two and a half feet above the grade level at each point. There was a comment about the garage that it should be moved back and I just want to again state the reduced garage entrance setback was previously approved and so that carries forward but because the storage, covered storage area was it was approved in its location but as a carport so there was a request for reduced coverage set back for the carport. I think -- I think that pretty much covers it. I have told those who are concerned about the excavation that what occurred in the past encroached on to do property to the south, that there would be two things that would happen. One is that a geotechnical report would be required and it would be reviewed for safety, for any construction on this site as a part of the building permit process. This is also true for the sewer lines that they would be reviewed as parts of a building permitted process. And that any other encroachment issues that occurred are a civil matter between property owners. Thank you.

**Sten:** Any discussion, mr. Mayor?

**Potter:** Yes.

**Sten:** Well, this is a difficult one. Because I do think you have got a some pretty significant sins of a past owner and current owner who I think is working in good faith to try and make something work and I think neighbors who are trying. That all being said, I don't have a magic solution to it and at this point, I would move to uphold the appeal by the neighborhood and overturn the hearings officer's decision to approve these adjustments. I just -- I don't find the logic. I see the logic but I don't find it compelling that given all the illegal structures on this and everything else that once they knock down a nonconforming carport they ought to be given the adjustment to keep that size of lot coverage. I don't have any problem with the zone change. I think that's reasonable. But I think the neighbors have, you know, have a right to expect the lot coverage that's allowed which is 50%, given all of the, you know, interesting things with this property. Not that I think those are your fault in any way, shape, or form but I don't see why the neighbors should not be able to rely on the zoning code. It's r-2 so if you bought a house next door you know that's r-or could have known and that building lot coverage in that area is 50%. That being said, I would maybe ask for the findings to come back in 30 days and -- because I think they will encourage the neighbors to enter into some conversations and see if you couldn't come back to us with something that both sides could agree to, that we could then change these signings and fit. And you might argue that if the council likes this motion and it may not, that the neighbors wouldn't have much incentive to negotiate but, in fact, I think they do because I think you are not going to get this fixed until you agree on a project and I think the status quo doesn't serve the neighbors so I think that there's a lot of incentive for the neighbors to work something out but given all of the issues around this property, i'm just not comfortable approving what the hearings officer approved so my motion would be to grant the appeal.

**Rees:** Commissioner Sten, can I make sure I understand your motion. I heard there are two distinct parts of this proposal one is the zone change which has completely different criteria from the adjustment. I heard you say you didn't have a problem with the zone change. Not suggesting a change I just want to make sure, do you believe the whether you believe the criteria for the zone

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change or met or not because you certainly would have the option to approve the zone change, deny the adjustments, or deny the zone change and the adjustments.

**Sten:** I'm open to discussion on that issue. I go back and forth whether we should problem solve or grant appeals and in this case it's close on that.

**Potter:** I don't hear a second. There are three people up here we have to come up some understanding.

**Sten:** If we fail to act the appeal fails.

**Potter:** Pardon?

**Sten:** I believe if we fail to act the appeal fails.

**Rees:** It takes three votes to do anything. So we would have to set it over to another date time certain where we thought we had additional commissioners available.

**Leonard:** Yeah, I mean just to explain myself a little bit, I am obviously persuaded somewhat by what the concerns of the neighbors are. I also think, however, that the property owner is attempting to correct what has happened on this property in the past. I think there have been some indications at least by some of the neighbors they believe she is going to do that. From what I can sort out here, it appears to me that she has done everything appropriately or the property has done different things over the years, that I think it's -- I think in the final analysis -- to approve what the staff has recommended. And that would mean i'm denying the appeal. Given that we are in this position i'm not sure what the -- where to go from here. I'm not sure.

**Potter:** Could you call his office, Karla, to see if he is going to be coming back? I would support commissioner Leonard's approach. It sure would be nice if folks could get together since we don't, we only have three members here to vote, you guys could get together and come back in 30 days with something where both sides are looking to see how they can work together. We could set it over.

**Leonard:** That would be acceptable to me. I guess i'm -- i'm persuaded that there hasn't been as good communication between the property owner and the neighbors as could have been. I don't think anybody's disputing that. Without passing judgment on who did or did not talk, I think what you are hearing here is we are struggling with this and probably if everybody was talking a little more we wouldn't be having to struggle like this. And I would sure feel -- I would feel a lot better having commissioner Sten's issues addressed by both sides getting together and talking about it in the next 30 days, see if you can't come up with a solution.

**Potter:** Have you heard the discussion?

**Sten:** That would be fine with me. I'm also, if it was persuasive and I don't know that it would be, I would be open to -- my motion failed but I would be willing to forward a motion to grant the zone change, deny the lot adjustment, or deny the coverage, the lot coverage, and the setback rules.

**Potter:** Randy and I are seeing if we can get these folks together and have them come back in 30 days to see what, if they could accomplish any successful mediation and if not then we will just take the action that we think is appropriate and go from there.

**Sten:** Actually I don't have any objection.

**Leonard:** Jerry, do you find that as a reasonable position for us to take at this point?

**Powell:** Jerry powell, goose hollow. The neighborhood is going to support anything that gets neighbors together and works out this kind of issue applicably. That said, I think we need to find out from the original applicant the respond can't in the appeal whether that's ok with them.

**Potter:** Yes.

**Potter:** Could you folks come forward, please. You can sort of hear the dilemma that we are facing. I know that you are, too.

**Hilliard:** I've been living with it. Excuse me, gentlemen.

**Leonard:** Nod your head. Will you do this for the next 30 days?

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**Hilliard:** I would request the zone change with the adjustments. That's my position. Because I believe that mr. Powell misstates their intentions.

**Potter:** Could you repeat that again.

**Hilliard:** Mr. Powell misstates their intentions and any -- any manner of communication -- never did the city tell me that I had to communicate -- not that I wasn't trying to design a house that would anger my neighbors certainly. But building code doesn't require the approval and the blessing of my neighbors. I mean, I -- this design is beautiful. Part of the coverage issue, gentlemen, quite frankly is when that land between the detached garage and the house was excavated, that changed the coverage. Now, like I said before, do you want -- is the council want me to bring the dirt back and change the coverage? And still maintain the two structures? The house across the street from me is close to 3,000 square feet, 1969. Mrs. Clapstein's house. It's not 1300 square feet. It's probably 2500 square feet or more. Mr. Powell misstates the small, quaint little size of the neighborhood. There are multiple condominiums in there all around. The condominiums are the smallest thing. There are only two neighbors that might be the same size as what mr. Powell characterizes the small, quaint, quaintness of the neighborhood. It's a growing. The comprehensive plan map has encouraged increased density to keep people in the city, to keep the property tax base up to encourage people to be living in the city, use the services the city offers. That's what eye i'm not asking for something unreasonable. I'm asking for a zone change with the adjustments.

**Potter:** You know, I really thought I heard you tell us that you had tried to contact folks and talk to them.

**Hilliard:** I did.

**Potter:** We are asking, we are giving that chance now and now you are telling you really don't want to because --

**Hilliard:** I attended one -- it was difficult to find where and when they were meeting. I went to the methodist church and they said they never -- they never let them know when they are having a meeting. And I said, well, how can someone find out?

**Leonard:** Ms. Hilliard, what we would do here is say hold this over for 30 days and then if they do avoid having a meeting with you that will be taken into account by us in 30 days. But sometimes if people are forced -- the intent of this is to force discussion so good things can happen. Maybe in the long term you will be happier as a result of it. And they will be happier.

**Hilliard:** All right.

**Leonard:** I recommend you do it.

**Potter:** We have third party mediators if you feel more comfortable having a third party there to assist with the conversation.

**Hilliard:** All right.

**Leonard:** We don't need to have your agreement but I am strongly recommending.

**Hilliard:** I would agree to that. It's just difficult when -- I mean i'm being held accountable, very aggressively negatively for the sins of the former owner and I am not him.

**Leonard:** Some of us are taking that into account. So I think we are trying to help you actually.

**Potter:** It is your choice, though.

**Hilliard:** Yes.

**Potter:** We're just trying to find some common ground rather than sort of putting us in the middle and having to split the baby.

**Hilliard:** I understand. That's fine. I will agree to that, yes.

**Potter:** Ok. Would you name a date 30 days out? Would you like mediation?

**Hilliard:** Possibly.

**Potter:** Jerry is right here. He is the president of the neighborhood association.

**Hilliard:** I don't want to deal with him. Because -- because of negativity and adverse member of mr. Mccullough's family. I don't want to deal with him.

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**Leonard:** Let's let a mediator figure all that out. For now if you will make that agreement and be open to what that means, I won't come back in 30 days. We will hear what happened and we will make a decision based on what did or did not happen. Ok.

**Hilliard:** Thank you.

**Potter:** I will have my office contact you folks about the mediation service.

**Moore:** Kathleen. Kathleen, would march 15 at 2:00 p.m.?

**Potter:** March 15 at 2:00 p.m.

**Moore:** That's the next available day after 30 days.

**Potter:** This is set over to march 15 at 2:00 p.m. We will have a mediator contact both parties and go from there. It does take both parties to enter into good faith negotiations. I just want to remind you of that. In 30 days we will evaluate the progress or lack thereof and the reasons why.

**Leonard:** If I could adjust one thing you did hear one motion on the floor. I didn't make another motion that was going to be to approve as presented to us by staff. So I don't want any either side to think they have an advantage here. You had two competing motions so there should be an incentive for both side to try to find a resolution because we don't know how this, whether commissioner Sten's motion or my motion will pass. So I don't want anybody going into the meeting thinking they have a foot up on anybody else because they don't.

**Sten:** I also want to be clear I believe this is and this is why I was asking jerry this I believe you can build a really nice dwelling at something like the coverage ratio and that possibility the neighborhood could agree to it but doing it with all of the variables that are there with the neighborhood that's put up with this much at this property and, you know, it's -- it was the previous owner but it's still the property. I think is so for me it's the specificity much more than the adjustments but I can't give the adjustments in the abstract.

**Potter:** We are adjourned. [gavel pounded]

At 5:04 p.m., Council adjourned.