



CITY OF  
**PORTLAND, OREGON**

OFFICIAL  
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **10TH DAY OF OCTOBER, 2007** AT 9:30 A.M.

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

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

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

<b>COMMUNICATIONS</b>	<b>Disposition:</b>
<b>1198</b> Request of Hector Lara Cervantes to address Council regarding unauthorized demonstrations and experiments on innocent citizens (Communication)	<b>PLACED ON FILE</b>
<b>1199</b> Request of Brian McManus to address Council regarding terror drills (Communication)	<b>PLACED ON FILE</b>
<b>1200</b> Request of Glen Owen to address Council regarding impeachment of national officials and Operation Topoff terror drill (Communication)	<b>PLACED ON FILE</b>
<b>TIME CERTAINS</b>	
<b>1201 TIME CERTAIN: 9:30 AM</b> – Grant a franchise to Qwest Broadband Services, Inc. to operate a Cable System (Ordinance introduced by Commissioner Saltzman)	<b>PASSED TO          SECOND READING          NOVEMBER 14, 2007          AT 9:30 AM</b>
<b>CONSENT AGENDA – NO DISCUSSION</b>	
<b>Mayor Tom Potter</b>	
<b>1202</b> Appoint Benjamin Kaiser to the Design Commission for a partial term to expire August 14, 2011 (Report) (Y-5)	<b>CONFIRMED</b>
<b>1203</b> Reappoint Arthur DeMuro and appoint Brian Emerick to the Historic Landmarks Commission for terms to expire October 1, 2011 (Report) (Y-5)	<b>CONFIRMED</b>

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<b>Bureau of Planning</b>		<b>PASSED TO SECOND READING OCTOBER 17, 2007 AT 9:30 AM</b>
<b>1204</b>	Authorize the Director of the Bureau of Planning to enter into Intergovernmental Agreements with the Portland Development Commission to provide professional, technical and expert services for planning (Ordinance)	
<b>Office of Management and Finance – Business Operations</b>		
<b>*1205</b>	Pay claim of Aaron Geiger (Ordinance) (Y-5)	<b>181325</b>
<b>*1206</b>	Pay claim of Donna Grabeel (Ordinance) (Y-5)	<b>181326</b>
<b>*1207</b>	Pay claim of Jimmie W. Schultz (Ordinance) (Y-5)	<b>181327</b>
<b>Office of Management and Finance – Human Resources</b>		
<b>*1208</b>	Extend time and increase compensation in amount of contract with Providence Occupational Health for medical testing services (Ordinance; amend Contract No.35614) (Y-5)	<b>181328</b>
<b>Office of Management and Finance – Purchases</b>		
<b>*1209</b>	Authorize an Intergovernmental Agreement with Department of Administrative Services Oregon Cooperative Procurement Program to allow the City to be an authorized purchaser of goods and services from designated price agreements (Ordinance) (Y-5)	<b>181329</b>
<b>Police Bureau</b>		
<b>*1210</b>	Accept an \$858,055 Justice Assistance Grant from the Bureau of Justice Assistance, Office of Justice Programs to reduce crime and improve public safety (Ordinance) (Y-5)	<b>181330</b>
<b>*1211</b>	Authorize the Police Bureau to appoint Sean Christian to the classification of Police Officer at the five-year salary rate (Ordinance) (Y-5)	<b>181331</b>
<b>*1212</b>	Authorize the Police Bureau to appoint Paul Farnstrom to the classification of Police Officer at the five-year salary rate (Ordinance) (Y-5)	<b>181332</b>
<b>*1213</b>	Authorize the Police Bureau to appoint John Gaddis to the classification of Police Officer at the five-year salary rate (Ordinance) (Y-5)	<b>181333</b>
<b>*1214</b>	Authorize the Police Bureau to appoint Kathleen Martinez to the classification of Police Officer at the five-year salary rate (Ordinance) (Y-5)	<b>181334</b>

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<p><b>*1215</b> Authorize the Police Bureau to appoint David McGarry to the classification of Police Officer at the five-year salary rate (Ordinance) (Y-5)</p>	<p align="center"><b>181335</b></p>
<p><b>*1216</b> Authorize the Police Bureau to appoint Chad Phifer to the classification of Police Officer at the five-year salary rate (Ordinance) (Y-5)</p>	<p align="center"><b>181336</b></p>
<p><b>*1217</b> Authorize the Police Bureau to appoint Chad Steiner to the classification of Police Officer at the five-year salary rate (Ordinance) (Y-5)</p>	<p align="center"><b>181337</b></p>
<p><b>*1218</b> Authorize the Police Bureau to appoint Donald Wall to the classification of Police Officer at the five-year salary rate (Ordinance) (Y-5)</p>	<p align="center"><b>181338</b></p>
<p align="center"><b>Commissioner Sam Adams</b></p>	
<p align="center"><b>Bureau of Environmental Services</b></p>	
<p><b>1219</b> Authorize an Intergovernmental Agreement with Northwest Service Academy to provide an AmeriCorps placement to coordinate community-based maintenance programs for sustainable stormwater management projects at Portland Public Schools (Second Reading Agenda 1175) (Y-5)</p>	<p align="center"><b>181339</b></p>
<p align="center"><b>Office of Transportation</b></p>	
<p><b>1220</b> Set a hearing date, 9:30 a.m. Wednesday, November 7, 2007 to vacate a portion of SW Hillsdale Court and a portion of SW 43rd Ave south of SW Beaverton Hillsdale Highway (Report; VAC-10011) (Y-5)</p>	<p align="center"><b>ACCEPTED</b></p>
<p><b>*1221</b> Amend Intergovernmental Agreement with Oregon Department of Transportation to remove costs for Civil Rights services and make minor naming changes to the Oregon 213, NE Killingsworth to Flavel project (Ordinance; amend Contract No. 52597) (Y-5)</p>	<p align="center"><b>181340</b></p>
<p><b>*1222</b> Amend Intergovernmental Agreement with the Oregon Department of Transportation for the SE Hawthorne Blvd Project SE 20th-SE 55th (Ordinance; amend Contract No. 51754) (Y-5)</p>	<p align="center"><b>181341</b></p>
<p><b>*1223</b> Authorize contracts with professional, technical and expert service firms for the Portland Office of Transportation to support implementation of the capital improvement program for the period 2007 through June 30, 2010 (Ordinance) (Y-5)</p>	<p align="center"><b>181342</b></p>
<p><b>1224</b> Amend contract with Friends of Burnside Couch, Inc. for additional work for the Burnside Transportation and Urban Design project (Ordinance; amend Contract No. 35678)</p>	<p align="center"><b>PASSED TO SECOND READING OCTOBER 17, 2007 AT 9:30 AM</b></p>

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**Commissioner Randy Leonard**

**Water Bureau**

**1225** Reimburse unspent money from the Water Bureau Growth Impact Trust Fund to certain wholesale customers (Ordinance)

**PASSED TO  
SECOND READING  
OCTOBER 17, 2007  
AT 9:30 AM**

**1226** Authorize an Intergovernmental Agreement with Rockwood People's Utility District for the Summerplace Water Mains project (Second Reading Agenda 1179)  
  
(Y-5)

**181343**

**Commissioner Dan Saltzman**

**Office of Cable Communications and Franchise Management**

**\*1227** Extend term of franchise granted to MCI Metro Access Transmission Services, Inc. (Ordinance; amend Ordinance No. 169230)  
  
(Y-5)

**181344**

**\*1228** Extend term of a temporary, revocable permit granted to LCW Wireless Operations, LLC (Ordinance; amend Ordinance No. 180518)  
  
(Y-5)

**181345**

**Office of Sustainable Development**

**\*1229** Apply for a grant from the State of Oregon Department of Environmental Quality for \$35,884 for a retail grocery food rescue program to be implemented by Fresh Alliance for the Oregon Food Bank (Ordinance)  
  
(Y-5)

**181346**

**\*1230** Apply for a grant from the State of Oregon Department of Environmental Quality for \$52,700 for enhancement of the ResourceFull Use resource exchange project to be completed by the Zero Waste Alliance (Ordinance)  
  
(Y-5)

**181347**

**Parks and Recreation**

**1231** Authorize an Intergovernmental Agreement with Metro for land acquisition services (Ordinance)

**PASSED TO  
SECOND READING  
OCTOBER 17, 2007  
AT 9:30 AM**

**Commissioner Erik Sten**

**Bureau of Housing and Community Development**

**\*1232** Authorize subrecipient Intergovernmental Agreement with City of Gresham for \$1,064,057 for the HOME Investment Partnership Program and provide for payment (Ordinance)  
  
(Y-5)

**181348**

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<p><b>*1233</b> Amend subrecipient contract with Cascadia Behavioral Healthcare by an additional \$290,000 to provide emergency services for mentally ill adults and training for police officers (Ordinance; amend Contract No.37391) (Y-5)</p>	<p align="center"><b>181349</b></p>
<p><b>Fire and Rescue</b></p>	
<p><b>1234</b> Accept \$100 donation from William B. Andrews in memory of retired Deputy Chief Jerry Ivie (Second Reading Agenda 1186)</p>	<p align="center"><b>181350</b></p>
<p><b>REGULAR AGENDA</b></p> <p><b>Mayor Tom Potter</b></p>	
<p><b>1235</b> Proclaim October 2007 as Archives Month in Portland (Proclamation)</p>	<p align="center"><b>PLACED ON FILE</b></p>
<p><b>Office of Management and Finance – Business Operations</b></p>	
<p><b>*1236</b> Accept grant and authorize Intergovernmental Agreement with State of Oregon, Department of Transportation for Transportation Enhancement Program Grant for Union Station Restoration, Phase II (Ordinance) (Y-5)</p>	<p align="center"><b>181351</b></p>
<p><b>Portland Office of Emergency Management</b></p>	
<p><b>*1237</b> Amend Code to reflect changes to the emergency management program of the Portland Office of Emergency Management (Ordinance; amend Titles 3 and 15)   <b>Motion to accept amendment to delete Finance and Administration from the ordinance:</b> Moved by Commissioner Saltzman and seconded by Commissioner Leonard. (Y-4; Adams absent) (Y-4; Adams absent)</p>	<p align="center"><b>181352</b> AS AMENDED</p>
<p><b>Commissioner Sam Adams</b></p>	
<p><b>Office of Transportation</b></p>	
<p><b>1238</b> Vacate portions of NW Quimby St and NW Aspen Ave subject to certain conditions and reservations (Second Reading Agenda 1191; VAC-10041) (Y-4; Adams absent)</p>	<p align="center"><b>181353</b></p>
<p><b>1239</b> Allow Portland Office of Transportation to administer the Carpool Program including policy and pricing revisions (Second Reading Agenda 1192) (Y-4; Adams absent)</p>	<p align="center"><b>181354</b></p>
<p><b>Commissioner Randy Leonard</b></p>	
<p><b>Bureau of Development Services</b></p>	

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<b>1240</b> Adopt the State of Oregon 2007 Editions of the Oregon Structural Specialty Code and the Oregon Mechanical Specialty Code, including optional sprinkler code; accommodate State administrative rule revisions for plumbing and electrical regulations (Ordinance; amend Titles 24, 25, 26 and 27)	<b>PASSED TO SECOND READING OCTOBER 17, 2007 AT 9:30 AM</b>
<b>Water Bureau</b>	
<b>1241</b> Authorize Intergovernmental Agreement with the USDA Forest Service Mt. Hood National Forest for protection and stewardship of the Bull Run Watershed Management Unit (Second Reading Agenda 1166)  (Y-4; Adams absent)	<b>181355</b>
<b>Commissioner Dan Saltzman</b>	
<b>*1242</b> Approve funding recommendations for early childhood and after-school programs made by Children's Investment Fund Allocation Committee (Ordinance)  (Y-5)	<b>181356</b>
<b>Office of Sustainable Development</b>	
<b>1243</b> Adopt the recommendations of the Report of the Work Group on Containers in the Right-of-Way and direct City bureaus to implement the recommendations (Resolution)  (Y-5)	<b>36542</b>

At 11:33 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **10TH DAY OF OCTOBER, 2007** AT 2:00 P.M.

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

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

<p><b>1244 TIME CERTAIN: 2:00 PM</b> – Improve land use regulations through the Regulatory Improvement Code Amendment Package 3 (Ordinance introduced by Mayor Potter; Second Reading 1108; amend Title 1 and Title 33)</p> <p>(Y-5)</p>	<p><b>Disposition:</b></p> <p><b>181357</b></p>
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At 2:07 p.m., Council adjourned.

GARY BLACKMER  
Auditor of the City of Portland

By Karla Moore-Love  
Clerk of the Council

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

**October 10, 2007**  
**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 program. The text has not been proofread and should not be considered a final transcript.]

**OCTOBER 10, 2007                      9:30 AM**

**Potter:** I start by asking the people in this room and the people watching at home the question, how are the children? I believe that's an important question we need to ask, because not only will we be judged by how we treat our children but they are also the barometers in our society of how we are as a society -- how we are as a society. So this morning i'm very honored to have a young lady named michaela, and she is part of the big brothers, big sisters program. Michaela, could you come forward? Big brothers, big sisters is the oldest, largest, most effective youth mentoring program in the united states. They've been leaders in one-to-one youth service more than a century, developing positive relationships that have a direct and lasting impact on the lives of young people. Children ages six through 18 are mentored in communities across the country. Thank you, and welcome to city hall. Would you like to say something?

\*\*\*\*\*: Hi.

\*\*\*\*\*: [laughter]

**Potter:** That's a really good start, makayela. I was telling makayela how much I like her tie, and we exchanged pleasantries. She liked mine as well.

**Makayela:** Hi. My name is makayela, i'm in the sixth grade. I love my school. I love my community. But sometimes we have a lot of fighting going on, and I wonder if those people need big brothers and big sisters, too. And so we also have a community center, but lots of times, she's either sick or she just has some other reason that she can't come, and I was thinking, well, instead of just saying that people can't come into the community center and hang out and do their homework, maybe you can get a substitute or something, like a substitute so we can still go into the community center instead of just telling us we can't.

**Potter:** Commissioner Saltzman next to me here is in charge of the parks. I don't want to speak on his behalf, but I think that's something that we could look into. Anything else you want to tell us? I understand that you're in track.

**Makayela:** Mm-hmm.

**Potter:** You like to run?

**Makayela:** Yeah.

**Potter:** Are you going to become a marathon runner when you get older?

**Makayela:** No. I have different dreams.

**Potter:** Good. What's your dreams?

**Makayela:** Well, I like playing sports, but I also like making my own music. I would like to be one of, like, a small kate rapper, a female.

**Potter:** Are there a lot of those?

**Makayela:** No.

**Potter:** No? Well, good for you. Did you want to talk about the program big brothers and big sisters?



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**Makayela:** Yeah. Like I told you before, me and my big sister, cat, we've been together for three years, and we have lots of fun together. We do lots of events. And sometimes we might get a little angry with each other, but we always end up working it out. [laughter]

**Potter:** That's kind of how life is, isn't it?

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

**Potter:** Good for you. And, cat, thank you for what you do to big brothers, big sisters. Are you with the program?

**Kat Bachtel:** Yeah.

**Potter:** That's a wonderful program. Obviously does impact thousands of children and young people. Michaela -- michaela is a very smart young lady who knows what she wants in life. I think, for that life, that's just excellent.

**Bachtel:** She's delightful and brings me a tremendous amount of joy in my life. I wouldn't trade it for anything.

**Potter:** Good. Well, thank you for being here, michaela, could we give her a round?

\*\*\*\*\*: [applause]

**Potter:** We're very proud of you. And we're going to start the council. There's some really boring stuff coming up so, if you want to leave now, you can.

**Leonard:** Does that include -- I can leave?

**Potter:** No. You can't, but she can.

\*\*\*\*\*: [laughter]

**Potter:** Council come to order. Please call the roll.

[roll call]

**Potter:** I'd like to remind folks that, prior to offering public testimony to city council, a lobbyist must declare which lobby he or she is authorized to represent. Please read the communications. When you speak, please state your name for the record, and you have three minutes.

**Item 1198.**

**Hector Lara Cervantes:** My name is hector lara cervantes. Last time I was here, I reported unauthorized operations and demonstrations and experiments that were occurring here in the city of Portland and the state of Oregon. On february of this year, I was in Washington, d.c..

Unfortunately the state of Oregon research facilities were in d.c. Holding a demonstration which was actually unauthorized. I'd like to read this letter of the findings that I have. On the last visit here at the city meeting or city council meeting, I asked for help to find research facilities that had been implanting microchips or devices on children from all ages and innocent citizens of the state of Oregon and california. After my last visit, there has been hundreds of murders of innocent children.

As citizens of the state of california and Oregon, I was heading one of the biggest investigations in the history of the state of Oregon. I was working with federal agents that came from all over the united states. The one university that had been under investigation is Oregon health and sciences university and medical facilities here in the state of Oregon. Portland state university and state and federal research had been operating technology used on government employees in the years of 1999 to 2001 which corrupted the working government and violated the secrets of the national security.

The devices are to collect information and control the mind of the person and program the person to do their will. Just like the virginia murders that happened at the university that took many lives and the years the devices -- in the years, the devices have been upgraded to do many other things.

Technology has been one of the most dangerous devices to the welfare of this nation. Here in Oregon, there has been demonstrations to show the power of these devices. Not only the victims but to many. We think there are about 3000 just here in the state of Oregon. In california, there's been more numbers of victims than here in Oregon as we know it. The numbers have been terrorist attacks on citizens from this state. The justice department of Oregon has also demonstrated this technology. In the years, the state of Oregon has been demonstrating in the medical field and

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biomedicine, a way of using this technology has been implanted on innocent citizens and children of all ages. On the northeast side of Portland, there are many victims that are sure that they carry a technology, and these victims were victims or some said that are still being used for experiments. This is actually true. Also, here in Oregon, health and sciences and state technologies and many research tax -- federal and state research for the state of Oregon that for years has been involved in terrorist attacks against the people of the state and city of Oregon. I have been in many demonstrations and experiments that proved that their ways of operations are an act of terrorism and federal investigation or finding was the state is a dangerous state. Seeing them demonstrate in Washington, d.c., in february showed everyone --

**Potter:** Mr. Cervantes, you're not even halfway that your letter, and your time is up. Would you like to make a closing statement?

**Cervantes:** Basically what i'm saying is the fact that there is research facilities here in the state of Oregon that are being -- that are actually not only proven for the fact that they're using children and innocent citizens of the city of Portland and the state of Oregon in their demonstrations, which I was present in many of the demonstrations, plus I also noticed some of their experiments.

**Potter:** Mr. Cervantes, you are going to have to wrap it up. It's in the record.

**Cervantes:** I just wanted to also note that I do care about the people and the children, 'cause I have two daughters that are also victims of this.

**Potter:** Thank you, sir.

**Cervantes:** Thank you for your time, sir.

**Potter:** Please read the next communication -- next communication. State his name again?

**Item 1199.**

**Potter:** Please read the next.

**Glen Owen:** i'm glen owen, discharged from the army reserve as first lieutenant, candidate for the board of cable in the recent election, and recognized activist in both Portland's 9/11 truce and impeachment committee. You're familiar with the content of the impeachment resolution and, I believe, aware that one of you is already committed to sponsor that impeachment resolution for a vote by council provided enough of you go join him in sponsorship. My objective today is to remind you of the solidly growing support for an impeachment process for richard bruce cheney and george walker bush at the earliest possible time. Other cities that have already formally endorsed an impeachment resolution include san francisco, on the cutting edge over two years ago, and more recently the industrial strong hold of detroit, michigan. As we meet, los angeles is now considering an impeach many resolution. Both challenges come from our independent and steve novick have called for impeachment. Mr. Frohmayer is speaking to that topic today at Portland state university. I ask you to recall the closely reasoned arguments for impeachment resolution delivered last week by ginny ross of the Oregon truth alliance. And finally I would urge your closest attention to the remarks bearing on impeachment that you will hear at next week's city council meeting by joe smith and others in senior leadership of the democratic party of Oregon. Gentlemen of the city council, the responsibility is now yours to recognize and evaluate the growing campaign for impeachment by a majority of your constituents as citizens of Portland and to act according to your conscience in compliance with your oath of office to support and defend the constitution of the united states from all enemies, foreign and domestic. The preservation of the rule of law in our country rests on your shoulders and those of other state and local officials throughout america. Please use your authority to help maintain america's way of life as something worth fighting for with pride.

**Potter:** Thank you. We're going to move to the consent agenda. Did brian mcmanus walk in? Please come forward, sir. State your name for the record, and you have three minutes.

**Item 1199.**

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**Brian McManus:** Brian mcmanus. I didn't prepare a speech because I just wanted to wing it. Basically september 11th was a setup. And sorry i'm out of breath. I just got here on my bike. We need a revolution of awareness about the truth. I'm tired of being lied to, tired of being ripped off. On july 7th, 2005, there were terror drills which mimicked the real events in london as far as the subway bombings and the bus bombings. There were drills also in regard to september 11th which didn't mimic exactly, but they were a deterrent from a military response or any response from any professionals. Basically it's obvious that we need to do more than simply think we know the truth about 9/11. We need to have have a revolution, and basically it's kind of like a bully in a school yard playground when a bunch of the little kids gang up on the bully, the bully can't be a bully anymore. If a murderer is exposed, the murderer is certainly going to hesitate before he or she murders again. I have burned and distributed 2000 d.v.d.s in the past year, handed out 300 d.v.d.s in the airport on 9/11 of this year. I have copies of d.v.d.s for all of you. I've also got another 40 copies for the audience. I have a d.v.d. In which there are four d.v.d.s in one, four films in one d.v.d., a total of eight hours. The d.v.d. That i'd like all of you to watch first and certainly foremost is the d.v.d. Called "terrorist storm" which shows that there were drills by the name global guardian, northern vigilance, also alive hijack drill and a plane into building drill. People need to think for themselves. It's pretty obvious that 240 passengers versus 19 so-called hijackers, that's a ratio of 12-1. How is it that 12 people cannot handle one person with a razor blade, a box cutter? I want you guys to watch these films, and I want you guys to cancel the drills next week. If you don't cancel the drills, there is the possibility that the drills will go live or they'll be a deterrent. The real live occurrences can happen in Portland, out of Portland. The drills will be a distraction. At least they're a mental distraction, referred to as a siap, psychological operation. We have to have a revolution. Please watch these d.v.d.s.

**Potter:** Thank you. You can leave those d.v.d.s. Or not. Move to the consent agenda. Do any council members wish to pull any items from the consent agenda? Any member of this audience wish to pull any item from the consent agenda? Please call the vote.

**Adams:** Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye. **Potter:** Aye. Please read the 9:30 time certain.

**Item 1201.**

**Saltzman:** I'm pleased today to introduce a proposed cable franchise with qwest. Our cable office staff, along with dedicated citizens who represent us on the mount hood cable regulatory commission, have worked many months to negotiate and bring forward this proposed agreement with qwest. This proposed franchise not only provides an equivalent level of service of public benefits, as our current cable franchise with comcast, but goes beyond this to create the possibility of true competition to the cable tv market in Portland. This competition should benefit everyone as comcast and qwest begin to compete on cable service packages and prices. At the same time, the critical public benefits, such as cable access channels for the city, schools, and the public are preserved. The franchise provides all of these public services and channels to be -- channels to be included among qwest cable offerings just as they already are with comcast. This franchise also provides strong incentives for qwest to start building out its system as soon as possible. To the extent qwest is successful in doing so, this franchise will be extended accordingly. If qwest is not successful in building out this system, this franchise will expire rapidly in 72 months. Even more importantly, this franchise includes strong provisions to guard against redlining and economic discrimination in any form. The mount hood regulatory commission has extended participation by citizens. The commission voted unanimously to recommend this franchise for the council's consideration. I'd like to invite up the city's cable office director, david olson, and bill june, who represents Portland on the mount hood cable regulatory commission. They will be followed by representatives from qwest.

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**David Olson, Director, Office of Cable Communications and Franchise Management:** I'm david olson, your cable office director. It's an honor to be with you this morning, and I think commissioner Saltzman has well described the essential elements of this franchise. The first cable television franchise to be recommended to be awarded to our incumbent telephone company. And one that creates the prospect of a real competitive choice for cable subscribers in the city who long have had really only one choice for all these years for their cable services. With me of course is bill june. He'll describe to you the public process that was used for this franchise. And we're very proud of that process. As to the franchise itself, just a couple of highlights in addition what commissioner Saltzman has mentioned. It is a franchise with an initial six-year term, 72 months. It's the shortest cable franchise that we have ever recommended to you, it is reason being it has incentives in it to encourage buildout to encourage the company to begin construction and begin serving customers here so that folks begin to get competitive choice. To the extent that qwest does that, additional time is added to the franchise as an incentive for them to keep doing that so folks do have that competitive choice. Very important. And as commissioner Saltzman mentioned, there are anti-redlining and an try discrimination practices -- antidiscrimination practices. We're confident it will not implicate or discrimination against anyone economically or in any other manner. They are neutral technical extension plans, and we're confident of that. I think qwest will be able to show you that when they present to you shortly. The service area is the entire city. We look forward to qwest building out and providing that choice to the entire city? Due time. Franchise fees are equivalent commensurate as paid by comcast and are the support of your governmental access channels. In fact the peg access provisions go a couple steps beyond because we provided some innovative ways for qwest to provide live program and video transport using high-speed internet protocol, connections, and otherwise measuring up to the commitments of the incumbent cable company. So with the peg commitments, the inet commitments, we are satisfied that this franchise is commensurate with the commitments that comcast has here. It is an equivalent franchise in all substantial and material respects, and folks in Portland can look forward to an era of competitive choice. The moment you have competition in that marketplace, you're going to have some restraint on the kinds of rate increases we have seen over the years, which we have discussed with you many times. So, with that, I will close, and i'd like to turn it over to bill june, one of your three Portland appointees to the cable commission to describe to you the public process used in bringing this franchise before you.

**Bill June:** Good morning, mayor Potter, council members. My name is bill june. I'm one of your three appointees to the mount hood cable regulatory commission. I just wanted to briefly acquaint you with the process that brings us here today. Our goal was to be timely, thorough, and open. Staff level negotiations began in the spring. We had one of our commissioners participating with the staff in those discussions. On may 21st, qwest made its first public presentation and responded to our questions and concerns, and that presentation was replayed on cable access channels. In early july, we released a draft franchise for public review. On july 30th, we held a televised public hearing here in Portland which was very well attended. And we had open comments through august 13th. And on september 17th, we held our own work session to review public comment and consider staff comment on the issues raised. What we learned is that the public was generally very positive and supportive of the qwest franchise as submitted. We had the citizens utility board and the cascades policy institute, the hispanic metropolitan chamber, the county libraries, urban league, and many others and many citizens. The principal concerns we heard were expressed by comcast concerning some of the issues that commissioner Saltzman has already spoken to, buildout, redlining, even the city's defense of -- standard defense of franchise language, many details. The staff considered each of these issues and presented their conclusions to us, and it was our conclusion that the franchise dealt with these issues in an appropriate manner. And so what we concluded at our september 17th meeting was that we unanimously voted to recommend this

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franchise to you and that the public was represented and all issues completely addressed. So the mount hood regulartry commission is proud to encourage you to authorize this franchise to give Portland consumers, after 20 years, competitive choice in the cable marketplace. Thank you.

**Potter:** Questions?

**Leonard:** You have a couple. There are more questions about -- I do have a couple, and they're more questions about the function, how it would actually work. One of the things I think people like about comcast is the public access part which people are utilizing now as they watch us here. Is that going to be part of this package as well that would be available to the public if they subscribe to the qwest service? Would they get the same programming that they have the privilege of getting now?

**Olson:** Correct. Correct, commissioner. I'm glad you asked that question. Yes. All of the public, educational, governmental access channels, including the channel which carries this council's live coverage and other government meetings, educational channels, Portland public schools, Portland community college, and the public channels all will be fully interconnected. Same channel assignments. They will be entirely available for qwest subscribers just as they are for comcast subscribers from the moment the first customer is turned on by the service when the service becomes available. All be available on an equivalent service to subscribers.

**Leonard:** That's outstanding because I think the market now, you could argue, has other services available but there are a number of people who don't avail themselves of them just because of this issue, being able to access the public access channels. So that's indeed very exciting.

**Potter:** I have a question in regards to -- when I was looking at the financial impact, it says there would be no cost to the city. These aren't -- pages aren't numbered, but on 14.8 under new underground construction, it says the city will pay grantee the incremental cost for this work consisting of material and labors. Could you explain how that would be of no cost to the city? 14.8, the subsection 1.

**Olson:** Yes. This relates to conduits and ducts that are provided, as I understand it, for the city's use. In other words, when we request ducts for the city to use -- and this would be typical in the franchises we're writing these days -- we'll pay out-of-pocket for ducts, conduits that the city itself has primary use of, which ends up being -- which ends up being economical for all concerns, because when ducts and conduits and vaults are open due to the grantee's construction, then it's much more economical for the city's own work to be done at the same time when the street is open. It's typical to use that in a common manner. So this primarily relates to that. And our able legal council is also here.

**Potter:** Well, i'm not sure you answered my question. What I would like to know is, is this an additional cost? Would we not do it otherwise? Or is this part of an ongoing improvement to the infrastructure of the city?

**Ben Walters, Senior Deputy City Attorney:** Mayor Potter, commissioners, ben walters for the city attorney's office. This provision is modeled on language that the city developed in our franchise negotiations with pacificorp which the council approved slightly under a month and a half ago and it continuing forward towards an effective date. The language gives the city authority to identify where there are infrastructure needs and, if there are resources available to pay for it, then we can ask that conduit be provided as the franchisee is building out its system. There's no obligation on the city to order it. If the city doesn't have the resources, then the opportunity passes by. But it merely provides an opportunity to the city if there is a happy meeting of the ability to order and the resources to pay for it to ask that additional conduit be put in place which, down the line, can be used by the city for extending out its traffic signal system or other communications -- internal communications -- without having to go back and tear the streets up.

**Potter:** So in layman's language --

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**Harry Auerbach, Chief Deputy City Attorney:** The short answer is, if we don't ask for it, we don't pay for it.

**Walters:** It's not an ongoing obligation for us. We don't pay if we don't order.

**Potter:** But if we order, then we would pay?

**Walters:** If we ordered, then we would pay, and that would be something that would have to be identified by -- the bureaus would have to come to the council and ask that it be budgeted, and the council would have to set those resources aside.

**Leonard:** This provision actually would save us money, because we wouldn't have to go out and dig up the street and install conduit. We're just simply taking advantage of the fact that they're dig it up and we may need to do something unrelated to the cable system, so we install the pipe.

**Walters:** At the time the streets are dug up.

**Potter:** Ok. Other questions? Thank you.

**Olson:** Thank you.

**Saltzman:** The final invited testimony is from qwest.

**Judy Pepler, Qwest, Oregon President:** Mayor Potter, members of the committee, I am Judy Pepler, the Oregon president for qwest, and we are very pleased to be in front of you with a competitive cable franchise. We believe it's time to bring the benefits of competition to the cable business, and a recent g.a.o. Study shows that, in markets where the cable company had a wireline competitor, the rates for customers are anywhere from 15 to 41% lower than in other markets. So we think all citizens in Portland will benefit from that competition. I think the staff has captured the relevant portions of the franchise in their comments. I do want to commend the staff through this process. They've been very open and very professional in their negotiations with us, and we've greatly appreciated that and enjoyed the process. I also want to commend the mount hood cable regulatory commission for the thoroughness of their process -- thoroughness of their process. We were very pleased at the number of people that came out to support the franchise during that process. One of the issues that comcast raised in their objections during the process was on the issue of redlining, and I think a picture tells a thousand words, so I wanted to share with you these maps that we put together. The first map is the existing broadband network that qwest has deployed in the city of Portland. On both maps, what we did is we put the census block data on income levels across the city on the map so that you can see what the income levels are. And then you see the overlay of our existing broadband infrastructure. Why this is important is our cable system will be an upgrade to our existing broadband infrastructure, and so, as you look at that, you can see that where we've already deployed, in many circumstances, you also have a legend up there that shows you the black lines are speeds of up to 1.5 megabit. The red lines are 3 mg -- mg and higher. We didn't red line from an income standpoint in terms of speeds. A lot of it is really driven by the technology that we use. And so lower-income neighborhoods sometimes have the higher speeds. Higher-income neighborhoods sometimes have the lower speeds. It's just the nature of our infrastructure. The second map shows you the Portland fiber to the node upgrades that we have identified for this year. What we are doing for our infrastructure is we are moving fiber out to the nodes. And if you think about anode f you've seen those green crossconnect boxes in neighborhoods, that would be anode. We'll take fiber out to there and will use the topper that's already going into people's homes to drive higher band width. Right now, we have the 1.5 or up to 7 depending on whether you're in the black striped or the red striped. When we drive fiber to the node, we'll be able to increase those speeds to 10 to 20 mg. We're also working on bonding the copper pairs that go into your home. When we do that, we can drive 30 to 40 mg, and that's more than enough to provide both broadband services and cable services over those same facilities. So what i'm hoping you show you on this map is that we do not redline with our existing d.s.l. Infrastructure. We do not intend to redline in terms of how we would deploy and provide the cable service. A second issue that was raised was the issue of buildout, and we believe that the incentive-

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based language that david talked about on buildout is appropriate. We are going to be the second and, in some cases, if you count satellite, the third entrant into the marketplace. And having a requirement to build out 100% in a certain timeframe, it's just not workable as the second or third entrant. You really need to see how well you do in the market and use that as a gauge on further deployment of capital. So we believe that the incentive base with the automatic extensions on the franchise is appropriate, and we're very pleased with that language. The final comment that was raised by comcast in their arguments was around cherry picking, that we were going to go after their best customers. It's kind of the fact of a competitive market that, in a competitive market, everything goes after everybody's customers, and quite frankly customers benefit from that, so we don't think there's an argument that generally holds merit. So finally, again, we very much appreciate the support that we received from the community. We very much look forward to providing competition in the cable market, and we look forward to a positive vote from the council. I'd be happy to answer any questions.

**Potter:** Questions?

**Leonard:** I did have one question. So I understand, you're taking and essentially running new fiber to the node, and then you said, from there to the customer, you would use existing copper wire. So what happens between the node and the house? Do you run -- are you going to take advantage of the existing copper wire there, too, in addition to the copper wire in the house?

**Peppler:** Yes, commissioner Leonard. We will use the existing infrastructure that's in the house. We may have to do some bonding if we want to drive those higher speeds, some bonding of the copper in the house down the road. We're trialling that in our labs right now. I understand, from comcast, they're also trialling the bonding of their coax cable. So the technology has just been increasing so rapidly, enabling us to continue to use our existing infrastructure that, as much as we can, that's what we're going to do.

**Leonard:** The nodes are the little green things that are in neighborhoods.

**Peppler:** Right.

**Leonard:** I'm curious about between that and the house. How are you running the cable from the node to the house?

**Peppler:** We won't run a cable. We will use the existing cable that goes into the house.

**Leonard:** The phone lines?

**Peppler:** It's all tie got two free -- actually got two frequencies. The high frequency carries the broadband. The lower frequency carries the telephone.

**Leonard:** So a person that subscribed to your service would get it off the same jack as the phone line?

**Peppler:** Yes. They could, absolutely.

**Leonard:** Thank you.

**Potter:** Other questions? Thank you, judy.

**Peppler:** Thank you.

**Saltzman:** This does go to a second reading, and I just simply wanted to take this opportunity to thank our cable office staff, david olson and mary beth henry, our city attorney, ben walters, as well as the city representatives on the mount hood cable regulatory commission, and shannon callahan in my office.

**Potter:** How many folks are signed up?

**Moore-Love:** We have five people signed up.

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

**Carl Kucharski:** Good morning. I'm karl Kucharski from Portland community media. We support the language you have to front of you. We think it's a good opportunity for additional competition in the marketplace. But given the nature of what's hatching on the national tell with

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pending f.c.c. Rules which would probably eviscerate local authority for cable television franchises, you may be looking at the state of the art for cable television franchises going forward. They continue to provide for lots of local authority. They provide for the public service obligations that the existing operator has. And they are going to be good for the community, for community services that we have currently, and also maybe will drive down some prices. Our written statement that you have in front of you gives a little more information about what we support in terms of the public service obligations that are in the franchise. I think the work was excellent in terms of the work done by the mount hood cable regulatory mission. We want to thank them for all the type and effort they put into this, and I especially want to thank the staff of the cable office. David olle and and his staff went out of the way to make sure the public and Portland community media had the opportunity to participate in the creation of this particular document, especially as regards the public interest obligations and the peg access obligations. And finally I want to thank qwest. Their staff was really terrific in working with us and our discussions for those particular sections of the franchise that you have before you. They were professional and productive, and they were wonderful folks to work with. The process was fairly easy, although fairly quick because of outside things that are pending, as we know, from national legislation or the f.c.c. Rules, but I think we've gotten the best kind of franchise we can get under current conditions. 20 years ago, we'd probably have a different kind of franchise in front of us. Today it meets the new technology and new state-of-the-art that we have for cable franchises. Thank you for your attention to this matter, and we hope you'll find support for approving the cable franchise.

**Steve Buckstein:** I'm steve buckstein, senior policy analyst and founder of cascade policy institute, a nonprofit think tank here in Portland. In the late 1980s -- this has been going on for 20 years -- there's been no competition in cable. A Multnomah county commissioner at the time in the late 1980s -- I was at a meeting where he promised the community members that we would choices in cable, and I waited for that promise for quite a while before I signed up for my own cable when I realized it wasn't coming anytime soon. I'm glad to say it hopefully is coming now after 20 years of no choice. I think the -- you've talked a lot about the benefits and the technology, but I think the mere choice that consumers have of picking one service versus another is the major public service that you can offer people by approving this franchise. I think we can speculate about why there hasn't been any real competition in cable so far, but obviously that's changing with satellite tv, all kinds of new technologies. Technology is changing, and prices are dropping very rapidly in nonregulated technologies, things like cellphone technology, internet. The kind of computers you have in front of you right now are nothing like what we had 20 years ago. The internet access you have is nothing like what you had even a few years ago. Everything is changing very rapidly except where you don't have competition like what we have in cable television. There's been relatively little change because there hasn't been any competition. I think again you can take a major step in changing that right now. If rates with just one competitor, a second competitor in the city, the rates go down 15 to 41%. That is a major driving force towards eliminating the disparity between the so-called information haves and have nots in the city. You're looking at things like affordable housing and other things to help lower-income people. One way to help is to drive down the cost of services they might want. You don't have to mandate that. All you have to do is allow competition. So I applaud this move. I hope you will approve it, and I look forward personally and I think everybody in Portland looks forward to having that choice. Thank you.

**Sanford Inouye:** Good morning. My name is Sanford inouye, vice president of government after faves for comcast in Oregon and southwest Washington this thank -- southwest Washington. Comcast supports competition in regulated environments that ensures all providers are treated fairly and like services are regulated alike. In a competitive market, we've worked long and hard to provide our customers with innovative and superior services. Over the years, we have invested millions of dollars in improving our facilities with fiber-optics to deliver more than 250 channels



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and enhancements such as digital cable, high definition, video on demand, as well as high-speed internet service and our comcast digital voice. We currently have over 1800 employees throughout or market, including our customer service -- customer service facility within the city and a call center in beaverton. Community involvement is the cornerstone for comcast. As a company, we are dedicated to giving back to the communities where we live and work. Just last year alone, comcast contributed more than \$1.3 million in cash and in-kind contributions to various nonprofit organizations serving the city in greater Portland area. This past saturday marked the fourth annual comcast hands on greater Portland cares day where more than 1000 volunteers helped 11 schools and nonprofit organizations throughout the metro area. Currently comcast provides the city with six p.g.e. Channels, inet that provides connectively to school and government sites, gratis cable service to schools. In 2006, we paid the city. \$3.1 million in franchise fees and approximately 1.2 million dollars in p.g.e. Fees. The proposed franchise has been considered at two public meetings with the mount hood cable regulatory commission. We submitted our comments regarding concerns on the proposed franchise to the commission and have shared them with you by a letter dated august 21st. We would respectfully request that that letter, along with the attachments, be submitted into this record as well. We appreciate the efforts of staff in this process, but we question whether the proposed franchise is competitively neutral with respect to our current franchise obligations. Specifically, we believe the city should require qwest to provide video services that our customers in the city that we have been required to and the city should remove or modify the provision through which qwest assumes virtually all cost for legal fees and damages if comcast were to successfully sue the city regarding certain franchise provisions that impose burdens on comcast that are far more significant than those imposed on qwest. Comcast should not be placed at a competitive disadvantage simply because we are the cable provider before qwest has decided to enter the cable business. In the regulated environment such as what we have here, all cable service providers should operate and be subject to the same rules at the same time. We have identified certain provisions in our current program choices that we believe need to be addressed should the city grant the proposed franchise to qwest. In that event, we would respectfully request that the city direct staff within 30 day's granting the franchise to begin discusses with us to address our concerns in modifying the current franchises so that we are not placed at a competitive disadvantage. We look forward to the opportunity to continue to work with the city's cable commission and staff in the mule actually cop -- mutually cooperative matter. Thank you for the opportunity to present ow views and comments.

**Potter:** Thank you. Good morning.

**Gale Castillo:** My name is gail castillo. Good to see you again. The senate chamber, as you new york is one of the largest chambers in Oregon with over 700 members. The hispanic chambers works with hundreds of businesses and sees the value of competition in every industry. Competition implants pricing, increases the quality of customer service, stimulates creativity among competitors, creates jobs and increases contracting opportunities for small and minority businesses and contributes to the overall economy. Latino families in particular throughout the united states and Oregon are big users of cable television and other services as they form of family entertainment. Latino families are especially interested in cable television to access international sports events such as latin american soccer matches. Latino families will certainly benefit from competitive pricing and competitive service offerings. The hispanic chamber supports qwest's franchise application to offer cable television services in Portland. Just juan to say we're in support of that. Thank you very much for your time.

**Mary Ann Schwab:** Hello, gentlemen. My name is maryann schwab. I have served on many, many committees. Want you to know for the record, in 1990, I served one year on the qwest u.s. West direct dialogue committee where we set the basic rates. I kept referring to aunt martha and what her telephone would be when we have money transferring on wirelines. Then we had cable

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and internet. I just wanted to make sure we had lifelines on the the telephone, and i'm very pleased to tell you we do have really low prices for that population. When I learned that qwest owned the underground cable here in the city streets, I decided, well, they own them. That should be able to provide the best price. I'm here to speak for my neighbor up the street. We've heard the terps this morning, cherry picking and redlining. That's like calling the witch's kettle black. Hello. Please note that judge abraham's family, living on southeast oak street, had cable long before my h.c.d. Sunnyside neighborhood had cable. I know because he opened his family room and his house not only to my teenaged sons at the time but to all of troop 90. We miss him. He's kind of moved out of the city. Maybe I should follow. Next, trick or treat. I'm serious here. Like the public utility commission who supplied telephone equipment free to vision and hearing I am spared individuals, the time has come for all cable franchisees to supply a.d.a. Remotes for the motor impaired and vision impaired. This is so heavy, my friend can't pick it up. Her ands are so contorted with -- well, you might say rigor mortise. They're so constrained, she has to hold it like this, and she can't make the buttons work. The neighbors came in with a television and cable service, and the technician told me to go up to circuit city. Well, evidently the market is so low that they don't have the big button remotes. That's wrong. We can't control, as a local community, what the programming is. We can't control as a local community the charges that are charged to us for the seniors, those in palliative care, those that are in hospice care. It should be a free service. This man talking about the multimillions he's made and given to the city, it's the individual. We are as strong as the weakest link in our society, and we have many people that are ill, many that are living at home that can't afford the assisted living. Cable would be really a nice gift for that family. That's it. I'll take my broom, and i'll leave. Trick or treat.

\*\*\*\*\*: [laughter]

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

**Adams:** Maryann, you can't leave the city. It wouldn't be the same without you.

**Potter:** Questions from the commissioners? This is a nonemergency. It moves to a second reading. When will it be heard?

**Moore-Love:** It will be heard next week on the 10th. Today's the 10th. The 17th, I do believe. Yep.

**Potter:** Thank you.

**Saltzman:** November 14th.

**Leonard:** November 15th.

**Potter:** Ok. We'll move to the regular agenda. Please read item 1235. City auditor, gary blackmer.

### **Item 1235.**

**Gary Blackmer, City Auditor:** Good morning, mayor, members of council. October is national archives month, and before you is a proclamation celebrating that event. Our Portland archives are a key to understanding the city of Portland, and these records represent a determined effort to preserve all that is important about Portland's past and present. There are many past decisions to be found in our archives, some realized, some merely alternatives that were not taken. There are records of veil lure as well as success, progress as well as setbacks and decline, and records that convey assumptions and conclusions that now may seem quite outlan dish. Sometimes a tangible record is as intriguing as the event it captures. A pen on paper ordinance, silver on glass negatives of streetscapes, typed memos and carbon copies, wall-sized maps, architectural blue prints on silk as well as with our power point presentations made to council. Our office is installing records management software throughout the city so we can continue to preserve the important electronic records and documents for our future. The software also gives city leaders and staff direct access to the archives so we can all use the foundations of the past to continue building a better city. So this event, I think, reminds us that we must continue to preserve those records of the past, even those

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that we're creating today. So I would urge you to support the proclamation, and also please come out to see our archives center. We have an open house on october 26th from 1:00 p.m. Till 5:00 p.m. Diana banning, the manager who's sitting next to me, will be providing tour as of the building, and -- tours of the building, and we'll have a small selection from our collection out there available.

The whole public is invited, and we have root beer floats, too, I understand. Treats.

**Adams:** I'll be there.

**Blackmer:** Would you like me to read the proclamation?

**\*\*\*\*\*:** Please.

**Blackmer:** Crucial to our understanding of the past and in planning for our common fuss and whereas archival institutions have a responsibility to provide the public with access to their records and it is the goal of these institutions to increase public awareness of the vital role they play in safeguarding knowledge of our intellectual, cultural, social, and governmental heritage and providing a forum for ensuring accountability to the citizenry and whereas archival records documents activities of citizens, businesses, governments, and organizations or they document organizations and provide context that our histories and evidence of our common and individual rights and obligations and whereas, during archives month, we celebrate the value of the city of Portland's written record publicizing the many ways archival records enrich our lives and recognizing those who maintain our community's records, now therefore tom Potter, mayor of the city of Portland, does hereby proclaim october 1 through 31, 2007 as archives month in Portland and encourage all citizens to discover the diverse documentary resources maintained by the air rid archival institutions in the city of Portland and to explore their relationship to community and cultural memory.

**Potter:** Thank you very much.

**Blackmer:** Thank you.

**Potter:** Proclamation, there's no action required. Thank you very much, gary.

**Leonard:** Thank you.

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

**Item 1236.**

**Jim Coker:** Mayor Potter and town members. Eye name is jim coker with the office of finance and facilities services. On june 7th of 2006, an ordinance was passed authorizing the city to apply to the Oregon department of transportation -- transportation's transportation enhancement program for four projects. One of those four projects was a project at union station mainly meant to replace the red metal tile roof area over a northern segment of the building. Applications to the transportation enhancement program were formally submitted in late june of 2006. In february of this year, odot selected the union station project for an award of 1.2 million dollars. The total project is estimated to cost 1.5 million with the 1.2 million coming from odot and the remaining 300,000 from the Portland development commission. That concludes my summary, and I would be happy to answer any questions.

**Potter:** Questions of the commissioners? Thank you. Is there anyone signed up to testify on this matter?

**Moore-Love:** No one signed up.

**Potter:** Is there anyone here who wishes to testify to this matter? It's an emergency vote. Please call the vote.

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

**Potter:** Aye. Please read the next item.

**Item 1237.**

**Patty Rueter, Office of Emergency Management:** Good morning. Patty rueter, Portland -- patty rueter. I just wanted to bring to your attention some of the changes in both city code chapter 15 and chapter 3. Chapter 15 is the emergency code, and in such it outlines some of the actions needed to

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be taken in an emergency, and this is the guidance for the city in all disasters. So mainly we've changed definitions. And chapter 15.404, the declaration of disaster, c and e have been changed. It says that the mayor must declare the city in a state of emergency prayer to requesting resources from the governing body of Multnomah county. That is just basic protocol step to step. The county then goes to the state. Since the county doesn't have the same type of resources that we do, this is a very quick process. Also, in e, the mayor will communicate the change of disaster response phase to the recovery phase with all appropriate officials. And this also is allowing people to understand, the public as well as all of our city bureau officials, that we are in a different part of the disaster. We're no longer looking at life safety as an issue but reconstitution of our resources, our government, and I understood that you had a question about that, mayor. Basically just another piece of the protocol. Moving on to 1508, there are not any changes in that, but pay attention to this executive response ability chapter, because it outlines the mayoral powers that will be instituted once we declare a disaster. 1512 is the duties of the office of emergency management, and it is just again a more defined definition. We are a coordinating body, not a directing body. For chapter 3.124, this again is outlining and clarifying definitions of emergency, outlining the disaster policy council is the main one. We wanted to make sure that the mayor or the president of the council, whomever is in charge of the disaster, has an advisory body that is the key people of our -- of the government to advise the mayor, the president of the council, what the issues are and the policies that need to be directed during the disaster. This chapter also outlines the purpose and staff succession. Those are the main changes in that. And 3.1225 outlines the membership of the disaster policy council. It's the mayor, the president of the council, the auditor, the chief administrative officer, the attorney, directors of Portland office of emergency management, chief of police and fire, office of transportation, and water. These are the main response bureaus, the main infrastructure bureaus, and the ones that are going -- that have a lot of resources to bear on a disaster. Everyone else, we will probably confide in, but these will be the main ones that we'll be giving you direction -- direction and advisement. Chapter 3.126, the only change in this really is the establishment of -- is the establishment of an emergency steering committee. These are the worker bees in each bureau that are directly relative to the disaster policy council. And we confide in them on a regular basis to make sure that we're all in sync, that we're all moving along in the same lines and are gathering the expertise from each one of the infrastructure bureaus so we're coordinating correctly. So it's a lot of changes, but just strengthening the ability for the council to perform and the bureaus to perform in a disaster. And we're going to be testing this in toff.

**Potter:** Questions from the commissioners? Thank you, patty. Because it is going to be tested in toff, it is an emergency vote, so --

**Moore-Love:** There is an amendment to this. It was distributed yesterday in the tuesday memo regarding line 4 in the findings.

**Potter:** Do we have extra copies of that?

**Leonard:** I've got it here. It deletes finance and administration.

**Saltzman:** Move that amendment.

**Leonard:** Seconded.

**Potter:** Please call the vote.

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

**Potter:** Aye. Please call the vote on the emergency.

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

**Potter:** Aye. Please read item 1238. Second reading, call the vote.

**Item 1238.**

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

**Potter:** Aye. Please read 1239. Second reading call the vote.

**Item 1239.**

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

**Potter:** Aye. Please read item 1240.

**Item 1240.**

**Leonard:** Good morning. Thank you. We have staff here to explain this.

**Lori Graham, Bureau of Development Services:** Good morning. My name is lori graham. I work with the bureau of development services. Before you is an ordinance that in essence does two things. It amends title 24, 25, 26, and 27 to bring them into compliance with the required state-adopted structural codes and rules. In addition, at the request of the fire service, it adopts an allowance under the state codes that will require limited fire sprinkler provisions or receipt pro fitting for -- retrofitting for those larger apartment buildings to be substantially altered or damaged in an event. The language -- the fire sprinkler language mimics that already adopted by this council in 2005 for smaller apartment buildings that are regulated under the Oregon residential specialty code. Portland fire and rescue conducted an outreach and information process to those that will be most affected by these changes, including low-income housing developers. Jim schwagler is here in the audience today, and either one of us will be happy to answer any questions you may have? Thank you.

**Leonard:** Did you want to add anything, jim?

**Potter:** Questions from the commissioners? Did anybody sign up to testify on this matter?

**Moore-Love:** No one signed up.

**Potter:** Is there anybody here who wishes to testify on this matter? It's a nonemergency and moves to a second reading. What is the date of that reading?

**Moore-Love:** That will be october 17th.

**Potter:** Please read item 1241. Second reading. Call the vote.

**Item 1241.**

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

**Potter:** Aye. Please read item 1242.

**Item 1242.**

**Saltzman:** In 2002, Portland voters created the children's investment fund, which is investing about \$10 million a year for programs reaching the city's neediest children. The children's investment fund investments are presently funding 66 proven programs throughout the city, helping 10,000 children and 1000 families each year in areas of early childhood development, after-school mentoring, and child abuse prevention and intervention. The children's investment fund is seeking council approval for three allocations today that were approved by the fund's allocation committee. As required by an intergovernmental agreement with Multnomah county, the children's investment fund has already sought and obtained approval from the county board of commissioners. To provide more detail on these allocations is the director of the children's investment fund, lisa pellegrino.

**Lisa Pellegrino:** i'll describe briefly the allocations. The first allocation was made with -- we had additional resources unexpected, traditional tax collections, and the allocation committee voted to spend \$2.7 million over three years to do a project to improve access to quality child care and improve the quality of child care in the city. This will help mostly low-income kids who don't have access to quality care. The second allocation is a leverage fund allocation leveraged by grants from the gates foundation and meyer memorial and the county to bridges to housing, and it will provide child care subsidies to low-income families or homeless families who are participating in the bridges to housing project. The third allocation is -- it's really third and fourth -- one of the renewal of the sun program at three area middle schools. We are renewing that program directly through the nonprofits as opposed to going through Portland public. That's the only change there. The last is a separate allocation to continue a sun program at alder elementary, which is the poorest school in the city and county, which was going to have the program end this year because of grant funding that

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was running out. So we stepped up to try to continue that funding for a year while there's currently a sun council meeting that is going to recommend some changes to the whole system. So we are kind of providing a stopgap for one year while the council sorts out what's going to happen to the sun system overall. So those are the allocations in a general sense. If anybody has any questions, i'd be happy to give more details.

**Potter:** Questions from commissioners? Thank you.

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

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

**Moore-Love:** No one signed up.

**Potter:** Is there anyone here who wishes to testify to this matter? It's an emergency. Call the vote.

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

**Potter:** Aye. Please read item 1243.

**Item 1243.**

**Saltzman:** Members of the council, two years ago, this council voted to convene a work group of private and public representatives to develop solutions to a livability and nuisance issue raised by the ombudsman's office relating to containers in the right-of-way. The bulk of Portland businesses comply with current city code, which prohibits private property in the public right-of-way. But approximately 300 businesses still store garbage on public property. Garbage dumpsters and containers in the right-of-way are more than sore sights on a city sidewalk. They impede pedestrians, especially those with physical disabilities, impose sanitation and fire issues. They have been targets for graffiti and are inconsistent with city requirements for storage containers on private property. This report includes how to prevent future containers from being stored in the right-of-way and how to deal with the issue now. We've had input from private citizens and small business owners in support, and we've just received a letter. The Portland business -- from the Portland business alliance today that is also in support. Here is judy crockett now who co-chaired the report.

**Judy Crockett, Office of Sustainable Development:** I'm judy crockett, as the commissioner said, and for the last two years, I have been co-chairing the -- what's called the crow committee, containers in the right-of-way committee. My co-chair, alex, from the department of transportation, is not here this morning because his wife just had a baby. And don gardner is sitting in in his place.

And lori graham from the bureau of development services has also been a very active partner in this endeavor. As you know, two years ago, the council set up this public/private work group. It was made up of a number of business associations. There's 16 members in all. And a variety of city agencies who have some jurisdiction over the problem of either garbage, nuisance containers or buildings. And we had as well two citizen members. As you know, containers do cause problems. They are a serious liveability issue. They block the street. They attract graffiti. Excuse me. It's gotten very hard in here. And they also have an adverse effect on businesses that are neighbors. It's not just the passers-by that are affected by this. And they're in violation and have been in violation for at least the last 15 years of city code which says that you are not able to store personal property on the right-of-way. This has not been rigorously endorsed for a variety of reasons and we have seen the problem grow. The city met over the last two years for at least 12 meetings. We had a variety of drafts and redrafts of the reports and the recommendations. We've decided to take a three-tier approach. The committee was noon muss in supporting the first approach -- unanimous in supporting the first approach which is to make sure the problem does not increase. That is that no new buildings or significant reed models happen without space being provided on their own property to take care of the garbage and recycle. That was a fairly easy solution, and we will be wanting to draft code language to clarify exactly what we mean by adequate space. But the entire committee supported that. The more difficult problem and one where there are a variety of opinions on the committee is what you do with the containers that are existing currently. I may have

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mentioned that we did a survey both by car and on foot of the most -- of the oldest and the most densely populated areas of the city. Old town, chinatown, the pearl district, northwest 21st and 23rd street, downtown, and the central east side industrial district. And we were able to identify 124 businesses that were storing containers in the right-of-way. Since we know that there are containers in other areas of the city, we extrapolated to say that -- extrapolated to say that there are probably 300 containers out there. Now, this is a very small percentage of Portland businesses. There are about 25,000 businesses in Portland, so this is just about 1% of the businesses are using the sidewalk as basically a rent-free storage space. Many of the businesses don't realize that this is against the law, and one of the approaches that we have agreement on is that we will publicize for six months the fact that it is in fact against the law to store in the right-of-way and request that businesses take those six months as time to figure out how they're going to deal with their garbage on their own property. We also, after that six months is over, will then begin enforcing and bringing businesses into compliance on a complaint-driven basis. We will work with the businesses, particularly if they are needing to do remodels inside. We'll certainly give them more than the normal 30 days that the o.s.d. Uses to enforce people who aren't recycling. And we have a provision in the recommendation that says that, in cases of extreme economic hardship, we will work with the business to possibly allow them to remain their containers on the street. One of the issues that the committee considered and rejected -- and it's mentioned in the report -- is that there was a possibility of permitting businesses to store the containers on the right-of-way. And the reason why we rejected that was that it was inconsistent with our existing city policies that apply to businesses who choose to put the containers either in their buildings or outside on their property. And those businesses are required to screen or fence, required to plummet to the sanitary sewer rather than the storm drain. They're required to cover it and have a variety of other requirements which, as I mentioned, 99% of the businesses are currently doing. If we allow people to store it on the sidewalk, we're certainly not going to allow them to screen it, and we would still retain all the nuisance and liveability issues that we currently have. We expect that will take some money for both dealing with contractors and people who are building new buildings. We estimate that would be a half of a full-time employee, and that would be located at the bureau of development services. Publicizing the existing law, we anticipate about \$1000 for that, and we want to work with the business associations to make sure it gets out in the newsletters and the business associations as -- neighborhood associations as well. We estimate about half of a full-time employee to do the compliance procedures with the existing containers. In the first full year, we anticipate that to be a full-time job but then to drop down to halftime. A certain amount of voluntary compliance, we don't think that's going to take a full-time job from now on. That money will be provided by increasing the commercial tonnage fee on trash, and we estimate it will be about 20 to 30 cents a ton. When you break that down into real world numbers, that means that, for a business that's currently having two yards -- that's kind of a garden variety size of container -- two yards of garbage collected weekly, that would be about 16 cents on their bill for the tonage fee. Potential cost to businesses, this has been something that we have looked into in fairly great detail. I believe, from my survey, that a number of businesses will be able to bring their containers inside without any additional cost the photo that you see in power point is a picture I took last week of a business storing pallets and what looked like a two-yard container outside their bay doors, which have a very large open space. From my eyeballing of it, I would assume they could bring those containers inside with very little reorganization on their part. I think a lot of businesses will be able to bring it inside. Some businesses, currently having their garbage collected once a week out on the sidewalk, would be able to bring a smaller container inside and have it collected more frequently. That would increase the collection cost, and that is a cost of doing business that many other small businesses, like cassidy's restaurant, for example, which has six days a week collection, are already bearing. For businesses that have to build a new space inside, we have estimate, in discussions with bomo,

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which was of our -- one of our committee members, that that would cost, for a new space, about \$18,000. I've had people say that they thought that was high. Obviously I'm not in the construction business. I don't know. As I said, most busies will be able to deal with this and, in one instance where I have enforced on this this year, the business didn't bring it inside, but they made an arrangement with a neighboring business to share their garbage collection business so they were able to take their containers off the street and pay a certain amount of money to have that collected.

In terms of what we're asking from crew in next steps, we plan to, if you accept the report and the recommendations, immediately begin work with b.d.s. To draft language that would apply to new buildings and significant remodels so we can plug that loophole, draft code and rules for the existing containers, then in december. Gin the publicity outreach -- begin the publicity outreaches to the businesses currently storing on the right-of-way and then n may and june, begin the compliance work. We hope, by that time, we will have the language drafted for the new construction. I appreciate your attention to this matter. It has been controversial, and I wanted to say that I very much appreciate the work of all the members of the committee. I know some of them are here today probably in opposition, others in support, but it took a lot of time and a lot of effort, and they did what we would hope all good citizens would do, which is participate to the best of their ability in helping us come up with good pomsy. Thank you -- policy. Thank you.

**Potter:** Questions?

**Adams:** So I see if we're tracking in our understanding, first off, I think great work on a very difficult issue. I had an opportunity to read. In some cases, the cost for the containers, making changes to the way they deal with their containers, is going to be born by the business leasee and in some cases by the building owner. Talk to me more about the discussion in the group about those circumstances where we have small businesses that don't own their building but potentially would be required to foot the bill for -- would they be required to foot the bill or is it your understanding that the building owner would be required to foot the bill or does it depend on the circumstances in what was the discussion within the committee about the smaller businesses' ability to comply with this new regulation?

**Crockett:** We had a fair amount of discussion about that, and the answer, I think, would be that a lot of that would depend on the conditions in their lease. If the lease says that the building owner is providing the a garbage space, then it would fall on the building owner. If the lease said -- and some of them do -- that the person who occupies the space makes the arrangements for their garbage collection, then they would be paying for that cost. Again, I do want to point out that the vast majority of small businesses are currently complying with our existing law.

**Adams:** Aye. Is part of the \$18,000 estimate cost sprinkler requirements once you move garbage in?

**Crockett:** Yes. Part of that is sprinkler requirements, and part of that is just the cost for new construction of a 10 by 10 room. And that was a ball park estimate that we got from beaumont.

**Adams:** Aye. And what sort of assistance or have we lined up assistance for businesses that have to comply with this?

**Crockett:** We met with -- frankly, there's not a heck of a lot of money out there for business, as you probably are aware. And we did talk with the p.d.a., and they said that some of the money for storefront improvement probably could be used in the districts where that applies. Now, that doesn't apply to every district in the city, but --

**Adams:** P.d.c.?

**Crockett:** P.d.c. Sorry.

**Adams:** Aye. That's all right.

**Crockett:** So there is some money available there. Frankly, there is not a lot of money out there particularly to allow people to stop breaking the law. And when we did meet with p.d.c., they



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referred to the amount of money that we were asking for as a microloan, which I guess in the -- in the overall ballpark of what it costs to run a business, it probably is.

**Adams:** I just wonder what the businesses that don't own their space, that are going to have to comply to this -- i'm not sure if it's a negative bank loan or outside the zones that we've established for improvement, like a little more exploration on what we can do to help those businesses.

**Saltzman:** In our budget last year, we did adopt a citywide storefront improvement package. I'm not saying storefront is necessarily appropriate for this, but it is truly now available throughout the city, not just for urban renewal.

**Potter:** Further questions? Thanks, folks. How many folks have signed up to testify?

**Moore-Love:** We have eight people signed up.

**Potter:** Please call the first three. Thanks for being here today, folks. When you speaks, please state your name for the record for the record, and you each have three minutes. Michael, why don't we begin with you.

**Michael Levine:** Thank you. I am here -- my name is michael levine, and i'm here today representing Portland citizen disability advisory committee. We are in support of removing containers from the sidewalk and opening up the right-of-way to pedestrians. We go further, if I may, as long as i've got your attention here for a second. We also are concerned about café furniture, newspaper boxes. Basically we would like to see the sidewalks in Portland opened up for access for pedestrians. And being people with disabilities and representing people with disabilities, we have other difficulties. We've shared some of this with rolls and strolls with three of the members here today. I think you understand some of the obstacles that we do face. And eliminating containers and the other items i've talked about and freeing up the sidewalks would just be wonderful. Thank you.

**Ken Turner:** Good morning. My name is ken turner. 4000 southeast 82nd, Portland. And i'm speaking on behalf of the small business advisory committee this morning. First of all, I would like to thank judy crockett for chairing that committee over two years. Sometimes it seemed like a lot longer to us and probably to her it seemed like more than that. And, again, i'd like to thank her for that. The small business advisory committee met this morning and, through some discussion, it led to the short letter that you folks have this morning suggested by the small business advisory committee sustainability -- sustainability commit that we suggest to this commit, to the council, that we refer the crow report back to the commissioner in charge for further consideration as there may be some conflict with the recycle issue that will be decided in the very near future as containers in the right-of-way will necessaryes tip -- necessitate or recycle will necessitate in all likelihood additional containers. We don't agree with most of the opening statement by commissioner Saltzman. I don't think any of us likes to have or see containers in the right-of-way. But sometimes -- you know -- we have to work around those issues. And thank you.

**Judy Crane:** Good morning. My name is judy crane, and I operate holman's bar and grill on southeast 28th and burnside. I've served opening the crow committee since it began back in 2005, and i, too, would like to thank judy crockett for her time. She has spent two years hurting cats, and it's been difficult, and she's done it very well. I'm here representing the small business advisory council. As you've been told, we spent many hours considering the problem of garbage and recycle containers stored in the right-of-way. We fully agree with the first recommendation of the report which requires that new construction and major alterations provide for proper on-site storage of containers. We also agree with the second point which calls for public education. We do not, however, agree with the third point, which deals with solutions for existing noncompliant containers. We agree that publicizing the existing law is a great first step since we believe most businesses out of compliance are probably unaware of the rules. We think that will eliminate the majority of the problem. Since the estimated number of businesses in noncomply answer was extrapolated from very unscientific count, we think a more accuratest -- estimate of the problem

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could be estimated. The report acknowledges problems with the estimate and suggests a first year gathering of data with a report back to the work group with further recommendations. That brings us to one of our major problems. If we intend to spend the first year gathering data on the issue, why are we planning to institute the enforcement process with fines after only six months. The report states that the estimated cost of compliance is roughly \$18,000, which is not an insignificant expense for a small business. Actually, this number could be much higher, particularly if the business is located in a historic district with very strict limitations on alterations. Also the consequence of indirect cost and impacts on business and the community are too easily dismissed in light of the pride that Portland takes in viewing itself as a green city. More frequent trips by haulers as to con-- adds to congestion, road wear, neighborhood noise, and pollution. Fortunately this report concedes that these expenses may be onerous and suggests funds by the p.d.c. Or other programs. We think the funding sources should be better identified before we begin the enforcement procedures. Finally, the report has no defined solution for businesses who simply have no alternatives for compliance. The restaurant association, sback, and the apnb representatives all advocated for some sort of a permit system as a last resort for these people. When the commit did research, we found that some places do have a permit system. In philadelphia, for example, they decided they were willing to trade some aesthetic considerations for job retention, and we think Portland should demonstrate that same sensitivity. Thank you.

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

**Dan Andersen:** My name is dan anderson, 2144 northwest flanders. Commissioner Saltzman, mayor Potter, commissioners, I served on the crow committee as one of two citizen representatives. The other citizen representative had to drop off the commission less than half way through the work period. The remaining seven public members of the work group represented refuse haulers, building owners, and users of commercial space. And thus I think the crow work group is hardly a hot bed of neighborhood or pedestrian activism. In the work group's recommendations for a gradual, measured approach that eliminating a practice of storing dumpsters on the sidewalk very much represents ago slow compromise. I encourage you to accept the crow report, to endorse its recommendations, and to direct staff to move forward to implement those recommendations. In doing so, you won't be alone. Many other injuries the jurisdictions, including seattle and boston, prohibit the storage of dumpsters on the sidewalk. They also vigorously enforce these codes in a manner well beyond anything you're being asked to do. Well beyond. The current situation here in Portland should simply not be allowed to continue. Among other things, the practice is simply not legal. In the absence of guidance from the council to the contrary, the several bureaus arguably having jurisdiction shirk from enforcement. This is a disfunctional embarrassment to the city that works. Failure to enforce in the face of persistent citizen request to do so promotes a stop law culture in which citizens learn, by municipal example, that ordinances need not be obeyed. This is hardly the kind of thing the city needs to teach while it's concurrently attempting to discourage other citizens from sitting or lying on these same sidewalks. The fire bureau has identified dumpsters as, in their words, a leading source of preventable fires. Your leadership is leaded to extinguish this practice. The present situation is also a potential source of legally ability for the city under the clean water act and under the americans with disabilities act. Finally, as you look at the arguments against council engagement, they basically come down to arguments for selective toleration of pollution, circulation obstruction, and law breaking, all dressed up as a business preservation strategy. We have long since decided not to sacrifice our rivers and air shed in the name of business retention. We now need to make the same chase for our neighborhoods and our pedestrian rights of way. Today is the time to act by endorsing the work of the crow work group and its gradualist go slow approach. Thank you.

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**Jack McCreary:** Mayor Potter, commissioners, jack mcreary, resident of old town. I want to save 2000 words, so I just brought two pictures instead. This first picture -- can you see it, commissioners, mayor? This is me in the pearl trying to negotiate sidewalks in my very narrow scooter. When i'm on my crutches, it takes -- you know -- I block this entirely to get through. Ok? Second picture, also taken in the pearl, this is a dumpster. I'm sorry that it's not too clear, but there's trash coming out the top. There are pallets behind. These are fire hazards. These are health hazards. And so this is what you see when you tray and negotiate one of these dumpsters. Now, both these pictures were taken last thursday. First thursday, this is what people in the pearl going to first thursday had to negotiate. They had to wait in line not just to go to the galleries or restaurants. They had to go single file or double file to get by obstacles like these. And when they were abreast of the obstacles, they had to smell trash like this. Again, I thoroughly and wholeheartedly endorse this slow approach that the crow report has recommended, but i'd also like to add that some of the violations out there are gross violations. They don't deserve six months. They don't deserve six days. I think we have fire hazards. We have health hazards. We have a.d.a. Violations that should be corrected not in six months but by the end of this month. Thank you very much.

**David White:** Good morning. My name is dave white. I'm regional ref tiff for the Oregon refuse and recycle association located in salem. I work in the try county area with garbage haulers, recyclers, and processing facilities. I'm also a member of the Portland solid waste advisory committee, alled the Portland swac. I was nominated by the swac to represent them. Swac members did receive a copy of the report and discussed it at our december 25th meet. The committee asked me to share our comments on the proposal. Swac is pleased with the diversity of the work group membership and the effort to develop consensus recommendations. It appears that many opinions were expressed and considered. The meetings with the numerous neighborhood associations -- and they're refer to in the work group report -- provided a good opportunity for citizen input. The recommendations developed by the work group are a good approach and seem reasonable to swac. Regarding the recommendation for containers that are already stored in the right-of-way, our committee supports the approach because it is -- it provides flexibility to accommodate difficult situations. Finally, our committee felt it was very important to collect data during the first year of the new policy and then report back to the work group and to the council for further recommendations or changes that might be necessary to the plan. I am happy to answer any of your questions. Thank you. Just a second, please. Thank you. State your name, and then you have three minutes each.

**Page Stockwell:** My name is page stockwell. I live at 2039 northwest irving street. I support the recommendations of the crow report. Dumpsters and other containers on our sidewalks have been a continuing problem and a blight on our neighborhood. As an example, I would like to point out a particular problem at the intersection of northwest 21st and glisan which, in many respects, is one of the main intersections in northwest Portland. It is in the best interest of businesses to comply with this law as otherwise they run the risk of their pollution chasing their customers away. At 21st and glisan, the violators have succeeded in causing pedestrian traffic to walk in the more congested south side of glisan street simply because the north side is so disgusting. I have some photos here if you want to see them. I can leave them with the clerk. The owner of the business is certainly aware of these violations since I met with him over a year ago and pointed out the regulations. It seems that many of the violators have used the lack of enforcement as a reason to go far beyond the dumpster issue itself and use the sidewalk to store used cooking oils, other containers, and discarded furniture and building materials. If in fact new construction is required to house dumpsters, the use of smaller containers is a good interim solution. And also it spreads the cost of compliance over a longer period with more expensive -- slightly more expensive collection costs. I therefore urge enforcement to include as few exceptions as possible. The sooner we get all of the dumpsters off the sidewalk, the better. Also, since enforcement of the existing code will be on a

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complaint basis, I would also urge that any publicity associated with these changes include a contact number or an address for reporting such a complaint. Thank you very much.

**Berna Plummer:** Good morning, mayor and commissioners. My intent -- my name is Berna Plummer. I live at 5530 northeast 7th avenue. Just a side note, you just recently appointed Ben Kaiser, who is the one that did the design on the facility -- new design on the place to your structural commission. With the commercial thing, when it comes to residential, he did also a very good job when he came for the garbage activity of collection. What brought me, after listening to what has occurred, with the last four years since I've been in innercity, I've just been appalled concerning the health and safety that exists with all of the containers and the garbage that is allowed in innercity. I lived quite a few years in the city of Portland in east Multnomah county, and I never saw anything like I've seen continuously for all of these years. And I look at it that something is not being enforced in this city area, and of course I do shop in Pearl District, so I'm familiar with some of the other things said about the area. My concern is the health and safety to our citizens that's just being ignored. And I feel that there should be city employees that are working for you that should be doing some evaluation of what has been going on, and I think these businesses know that a lot of enter inner city people, they complain, but they're not going to call you, because a lot of them have been in the criminal system and in a lot of problems, so they don't want to have to give their names. And then I know some residential owners who have called, and they feel that they're ignored because of the area that they live in. And maybe that's true and maybe it's not true. So I hope that you will make sure that all the ordinances that you have are enforced and all the new ones that you need to adopt -- I don't think it's a matter of cost to the small businesses. I think that's something they should build into their business. I think, because they are selling to the public, that they have an obligation to make sure that their health and safety of anybody in wheelchairs and have have you -- I've noticed in innercity, with a lot of people in handycap and walking in wheelchairs that have to consider trash. And if you really went in -- if some of you sent some employees in the area, it's just appalling to see a lot of the trash that really brings rats and rodents and everything else that are in a lot of these mid-size containers that are just left in our areas. Thank you.

**Michael Mills:** I'm Michael Mills, your city ombudsman. It's not often I have the opportunity to come before you. It's probably been two years when the resolution was passed, the last time I was sitting in front of you. The resolution that you passed was a result of an ombudsman report where we were dealing with complaints on dumpsters on sidewalks for over five years now. At that point, we were faced with three options. Do nothing, which is what we had been doing and allowing the problem to continue to get worse. Drop the hammer and start enforcement. Or enter into a collaborative process to try to come up with the best possible way to achieve compliance with the least impact on businesses, those few businesses that were out of compliance. And council chose the one that I preferred to work collaboratively to, quote, develop solutions to the problem of garbage dumpsters and refuse containers permanently stored in the public right-of-way, including public sidewalks. A couple of points that I looked at through this entire time period is, one, there's no inherent right to use a public sidewalk for the permanent storage of refuse. And, two, it has been illegal and remains illegal to permanently store refuse on sidewalks. A leading business organization in the city of Portland, as quoted in the Oregonian, said the chamber of commerce board of civic improvement intends to see that the ordinances of this city, relating to on streets and debris on the streets and sidewalks, are enforced. That was in 1905.

\*\*\*\*\*: [laughter]

**Bud Clark:** Bud Clark, in 1990, worked with the city club and resulted in a recommendation, number six, provide safe and appropriate public toilet facilities in the downtown area and eliminate dumpsters from sidewalks. Some examples that led to the ombudsman report coming out -- there's three I'd like to mention briefly. One is inconsistency. A business owner was fined over \$1000 by

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the city during his remodeling for not having his dumpster properly screened in his own parking lot. Had the individual push his dumpster onto the sidewalk and left it there, he would have faced no action by the city. I know he can yet. Another business owner located his dumpster on his parking lot, as was the correct thing to do. After adding a screen and a roof, he was required to construct a drain line to the city sewer and then required to install a water line to fill up the p trap to avoid gases from backing up. At considerable expense while at the same time, several blocks away, businesses were allowed to store the dumpsters on the sidewalk with no recourse. And in cases, it's unfair. It's hard for the city and myself to justify the prohibition against people sitting on public sidewalks while, at the same time, allowing other people to permanently store their garbage on public sidewalks. While I believe that the solution reached is lenient with respect to financial hardship provisions allowing a waiver, I agree with the committee recommendation to adopt the report as a viable means to resolve this long-standing problem. If the city is concerned that compliance with laws on storing refuse on the public sidewalks is too great a financial burden, then the city would be justified in identifying sources to assist compliance rather than foregoing the public's use of sidewalks. Thank you.

**Moore-Love:** Unless peggy anderson is here, then that is all.

**Potter:** Repeat the name?

**Moore-Love:** Peggy anderson.

**\*\*\*\*\*:** She's representing the nob hill association. She was trying to be here to support the rest of us.

**Potter:** It's a resolution. Call the vote.

**Adams:** I want to thank commissioner Saltzman and the good staff at o.s.d. And everyone involved with this. I'm going to support it. I'd like, though, for -- before you start the education to get back to work with kimberly schneider on my staff to put a little more meat on the bones about when the waiver, some of the criteria for when the waiver can be enacted and when it cannot, because I think that will save us time later on as we get to the enforcement phase. And if that can be part of the educational piece of this, I think it gives business clarity up-front, sort of what will be -- what possibly could be waived, what would not, and how to go about seeking a waiver. I also think that the comments about exactly what are the financial opportunities for folks and, if they're inadequate, i'd like o.s.d. Staff to come back to us looking at whatever -- if you feel that they're going to be inadequate, i'd like you to come back and also, again, a little more meat on the bones in terms of what would be the criteria for business to potentially be eligible for financial assistance and then where the money might come from. But with those two sort of pieces of additional work that I think can be accomplished in the next couple of months, i'm going to vote for this. I think it's an important step forward that has been long overdue in the city of Portland. I think it will contribute to the safe passage on sidewalks. I think it will contribute to the beauty of neighborhoods in many, many ways that have been mentioned. And thank you. Aye.

**Leonard:** Well, I appreciate how difficult this task is. I am administratively responsible for the enforcement of these regulations regarding dumpsters on sidewalks. In an attempt to be collaborative and find a solution that works for everybody, we have not been as technical as we could have been in enforcing these ordinances. So for two years, this group has worked very diligently and hard to find a middle ground and is even recommending what I consider to be a very reasonable recommendation to delay enforcement. Of the existing -- delay enforcement of the existing ordinances. I just have to say I am so disappointed in the small business advisory council's recommendation here today to basically table this work that's been done this way and, in a larger context, I know that the council sometimes feels like it's not listened to. I just had a conversation yesterday saying I would really love to have a better relationship with the small business advisory council, but frankly it's these kinds of recommendations that makes it hard. I think we can't just ignore problems like this that impact people and say we should just continue turning our head to

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problems that affect liveability and affect a number of things. But I was really glad somebody also mentioned, because I was going to, the source of fire that these represent. There are a number of structures in Portland, particularly commercial structures, including residential structures that have burned over the years, including fire deaths that started in a dumpster either intentionally or accidentally from cigarettes that were left in a trash can. This isn't just a liveability issue. It's a public safety issue as well. And in that context, i've tried to be very restrained in the enforce many of the provisions of the code and recognition of the impact on small businesses. But to move from here to the next place is going to require cooperation from everybody. And frankly I expect it. It's not something we can delay any longer, and i, in spite of my sometimes quick reputation, have been very patient to try to get these recommendations in place before we implement them, but I have grown I am patient -- impatient and am happy that we're going to accept that report, follow the work group's recommendation, and try to do it in a way that is as least impact full as possible on people but, on the other hand, recognizes the huge public safety and liveability aspects of finally implementing these recommendations. Again, thank you very much. Aye.

**Saltzman:** I want to thank the ombudsman, michael mills, for bringing this to our attention again. It's always good to keep it in front of us. I think this time I want to thank the committee also for coming up with a very pragmatic solution but also recognizes that this is -- public right-of-way is exactly that. It is the public right-of-way, and people ought not to have to worry about getting around dumpsters or smelling dumpsters and being targets of graffiti. And it's time to really find solutions. I think the ability to provide a hardship waiver is there, and it is something that is designed to be truly hardship situations. It's not designed to be a loophole under which everybody who's currently in the right-of-way says -- you know -- it's a hardship.

[Captioner change]

**Sten:** I think it's simple, this is a fair approach. My friend dan anderson was denmiend saying we have to enforce the law. I was going to say, gosh, you guys, it took you two years, but with the revelation it's 102 years into the problem, I think two years, it's all -- it appears to be quick work. And I really think it's one of these things where we've got ways to take some steps that's truly necessary. I think on these issues, when the city is clear, makes the rules fair so they applied to everybody, our free market is incredibly resourceful and findings ways to respond. I did think ken turner had a reasonable point on if this should be modified as we potentially go into franchising, which is the way I lean on commercial hauling. I don't think that calls ken for not doing this, but it calls for being open if the new commercial strategies offer some other opportunities we ought to come back and modify this. Otherwise there's a reason not to move forward. So I wouldn't say don't move forward, but I think we ought to keep that in mind. Great work, and glad to vote aye.

**Potter:** I want to thank commissioner Saltzman. The work group, and all the bureaus that participated in that. And michael mills, thank you for bringing this forward once again. So I think this really solves to me what I consider to be a fairly serious health and safety issue in our city. One that affects the mobility, limited community, but also just average citizens trying to get around town. I think anybody that's been around for a while can remember pictures of other cities such as new york when they had garbage trucks and it piles up on the street. It's something citizens notice f we want a truly livable city, we've got to make sure it's not only livable for everybody, but it's also - - we keep our garbage off the street and off the public right of way. So i'm really pleased with this. I think it's incremental, but it will get to solve what I consider to be a serious problem. Thank you all for working on it. Aye. [gavel pounded] we're recessed until 2:00 p.m.

At 11:33 a.m., Council recessed.