



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **13TH DAY OF FEBRUARY, 2008** AT 9:30 A.M.

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

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Commissioner Leonard arrived at 9:37 a.m.

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

On a Y-4 roll call, the Consent Agenda was adopted.

COMMUNICATIONS	Disposition:
221 Request of Betty Jean Lee to address council regarding Transition Projects Access Center (Communication)	PLACED ON FILE
222 Request of Carol McCreary to address Council regarding Resource Access Center and housing on Block 25 (Communication)	PLACED ON FILE
223 Request of Richard Louie to address Council regarding Block 25 (Communication)	PLACED ON FILE
224 Request of Louis Lee to address Council regarding Block 25 (Communication)	PLACED ON FILE
225 Request of Suenn Ho to address Council regarding Block 25 (Communication)	PLACED ON FILE
CONSENT AGENDA – NO DISCUSSION	
Mayor Tom Potter	
226 Appoint Jeff Blosser to the Private for Hire Transportation Board of Review for term to expire December 31, 2009 (Report) (Y-4)	CONFIRMED
Bureau of Planning	

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<p>*227 Authorize a Historic Preservation Fund grant application for \$30,000 to supplement City historic resources program for the federal FY October 1, 2008-August 31, 2009 (Ordinance)</p> <p>(Y-4)</p>	<p>181603</p>
<p>*228 Increase contract with Ken Martin Consulting by \$5,000 to administer boundary changes related to annexations and provide for payment (Ordinance; amend Contract No. 37499)</p> <p>(Y-4)</p>	<p>181604</p>
<p>Office of Management and Finance – Business Operations</p>	
<p>*229 Authorize acquisition of vehicles for use by City Bureaus (Ordinance)</p> <p>(Y-4)</p>	<p>181605</p>
<p>Commissioner Sam Adams</p>	
<p>Bureau of Environmental Services</p>	
<p>230 Authorize a contract and provide for payment for the construction of Transit Mall Sewer Rehabilitation Project No. 8620 (Second Reading Agenda 194)</p> <p>(Y-4)</p>	<p>181606</p>
<p>Office of Transportation</p>	
<p>*231 Authorize Intergovernmental Agreement with Oregon Department of Transportation to accept a federal Transportation Growth Management grant for station area planning for six eastside light rail stations (Ordinance)</p> <p>(Y-4)</p>	<p>181607</p>
<p>*232 Accept easement granted and authorize payment for the Portland Streetcar Gibbs Extension Project (Ordinance)</p> <p>(Y-4)</p>	<p>181608</p>
<p>*233 Authorize an Intergovernmental Agreement with Oregon Department of Transportation for design and construction of the SW Gibbs St Pedestrian Bridge Over I-5 (Ordinance)</p> <p>(Y-4)</p>	<p>181609</p>
<p>*234 Authorize an Intergovernmental Agreement with Oregon Department of Transportation to provide Major Bridge Maintenance funds for design and construction of fencing and protective screening on the I-5/N Killingsworth Overcrossing (Ordinance)</p> <p>(Y-4)</p>	<p>181610</p>
<p>*235 Authorize a Purchase Order with Northwest Sleeve wear for 1,500 T-shirts for the SmartTrips Southwest target area for \$6,801 without advertising for bids and provide for payment (Ordinance)</p> <p>(Y-4)</p>	<p>181611</p>

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<p>236 Grant revocable permit to Jake's Famous Crawfish to close SW Stark St between SW 12th Ave and SW 13th Ave on March 16-18, 2008 (Second Reading Agenda 201) (Y-4)</p>	<p align="center">181612</p>	
<p align="center">Commissioner Dan Saltzman</p> <p align="center">Parks and Recreation</p> <p>237 Authorize Intergovernmental Agreement with the State of Oregon, on behalf of Portland State University, to provide survey and research related services to Portland Parks and Recreation (Second Reading Agenda 203) (Y-4)</p>		<p align="center">181613</p>
<p align="center">City Auditor Gary Blackmer</p> <p>*238 Waive bond requirement of Code Section 5.08.160D to allow City to pay wages and accrued leave to next of kin of deceased employees (Ordinance) (Y-4)</p>		<p align="center">181614</p>
<p align="center">REGULAR AGENDA</p> <p align="center">Mayor Tom Potter</p> <p align="center">Office of Management and Finance – Financial Services</p> <p>239 Authorize sale of sewer revenue bonds to finance system improvements, fund bond reserves and pay related costs (Second Reading Agenda 209) (Y-4)</p>		<p align="center">181615</p>
<p align="center">Commissioner Randy Leonard</p> <p>*240 Authorize an \$88,434 grant to Camp Fire USA for after-school programs in Centennial School district and east Portland (Ordinance) (Y-4)</p>		<p align="center">181616</p>
<p align="center">Commissioner Dan Saltzman</p> <p align="center">Office of Cable Communications and Franchise Management</p> <p>*241 Approve settlement of claims with 360networks (USA) Inc. (Ordinance) (Y-4)</p>		<p align="center">181617</p>
<p align="center">Office of Sustainable Development</p>		

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242 Authorize contract with Compass Resource Management for \$103,415 for consulting services to create a district energy system for the North Pearl District development area (Ordinance)

**PASSED TO
SECOND READING
FEBRUARY 20, 2008
AT 9:30 AM**

At 10:19 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **13TH DAY OF FEBRUARY, 2008** AT 2:00 P.M.

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

Commissioner Adams arrived at 2:07 p.m.

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

<p>243 TIME CERTAIN: 2:00 PM – Appeal of George Trinkaus against Design Commission’s decision to approve with conditions the application of TMT Development Company and Fox Tower LLC for a new 33-story mixed-use tower, Park Avenue West, at the site known as South Park Block 4 (Hearing; LU 07-140633 MS DZM AD)</p> <p>Motion to adopt the February 13, 2008 memorandum: Moved by Commissioner Saltzman and seconded by Commissioner Adams. (Y-4)</p> <p>Motion to amend the previous motion to not accept the new information from Douglas McIntosh and pictures of the buildings from Marlon Warren into the record: Moved by Commissioner Saltzman and seconded by Commissioner Leonard. (Y-4)</p> <p>Motion to reject the appeal and uphold the Design Commission’s decision as amended by the February 13, 2008 memorandum from the Bureau of Development Services: Moved by Commissioner Adams and seconded by Commissioner Leonard.</p> <p>(Y-4)</p>	<p>Disposition:</p> <p>DENY APPEAL AND UPHOLD DESIGN COMMISSION’S DECISION AS AMENDED</p>
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At 2:57 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

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

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

FEBRUARY 13, 2008 9:30 AM

Item 221.

Betty Jean Lee: Good morning commissioners. My name he is betty jean lee. I'm the regional grant executive of the chinese citizens alliance. The chinese-american citizens alliance is a 113-year-old national civil rights organization to protect the chinese immigrants from discrimination and other injustice in the united states. Our own Portland lodge will celebrate its 87th birthday tomorrow, february 14th. We are certainly supportive of the homeless and what blanchett house, g.p.i., and other social service agencies have done in chinatown. Many of our chinese community grew up, lived are and worked in the neighborhood. My husband's family was seven boys being one. These are our roots. We more than understand the difficulties of living without secure fad and shelter. Old town, chinatown has also been the home of many other disadvantaged immigrant communities. Our concern is to have a balanced neighborhood in which people from all walks of life can thrive. In the past, we have been known as the silent minority. We are now speaking out, as you can see here today, and demand adherence to public transport policies regarding land use and development so that everyone in the community can understand their options and a consensus can be reached. We must support chinatown, located between northwest third and northwest fourth from burnside to glisan with strong anchor in business. Enhancing existing human service agencies are fine, but we oppose any new siting of services whether they are contracted with an existing agency in old town, chinatown or not. It is our sincere feeling that block 25 is not large enough to accommodate the needs of both blanche a house of hospitality and g.p.i. Members of our community worked two years with brine mccarl when he build pacific tower. We worked two years on the avenue projects. Many of us are board members of the jewel of chinatown, Portland classical chinese garden. Help us make a diverse neighborhood and make one with economic prosperity. Let there be more bilingual communication with the city decision makers so that we don't feel that the city is not being transparent in the public process. Thank you.

Sten: Thank you very much. Could you please read them 222? Good morning.

Item 222.

Carol McCreary: Good morning. My name is carol mcreary, and I chair the old town, chinatown neighborhood association. Neighborhood associations help the city, involve stakeholders, and manage the public process. Recently, however, I feel city commissioners have been operating outside of the proper public process. It seems that promises have been made about changes to urban renewal boundaries and the funds of specific projects. The sense of optimistic goodwill and cooperation and consensus that usually characterizes old town chinatown is being exhausted. We haven't had the time to hear from all stakeholder groups nor to bring recommendations made by our joint land use committee before the board or the full membership. On january 8th, the neighborhood association passed a resolution that recognizes the potential of block 25 as an important development plot for old town, chinatown renewal. The resolution makes reference to p.d.c.'s north old town, chinatown redevelopment study in which several of us here today participated before it was abruptly halted last summer. It simply asks that alternate proposals for placing the access center be seriously evaluated and reevaluated. I'd also like to bring to your

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attention the city's location policy, which is integrated in the old town, chinatown vision plan accepted by this council. It, quote, discourages concentration of low- or no-income households in any one area of the city. We'd like you to respect the spirit of this policy as you and other city -- other organizations choose a site for the new h.a.p. Housing project. I'll really grateful that he's representatives of chinatown, many of whom are celebrating new year's this week, have the opportunity to be heard today. So thank you for your time and attention.

Sten: Thank you. Item 223.

Item 223.

Sten: Good morning, mr. Louie.

Richard Louie: Good morning. I'm richard louie, president of the chinese consolidated association, an umbrella organization that represents various families and businesses in Oregon. In december, 2007, we were taken by surprise that a day use center for the homeless would be located in a prominent block that is the north gate to chinatown. In the last two months, we have been struggling to make our voices heard in meetings. This is not the chinese way. We are quite proud and humble people. We do not have a history of asking government for help. We support our homeless citizens. Inside chinatown, we currently have union gospel mission, outreach missionary, blanche a house, cascade royal ponds with other close by. But now, in this year of the rat, we cannot support the proposed location of the homeless day use facility bounded by northwest third and fourth avenue and northwest glisan and flanders street because it is detrimental to china town's survival. Our neighborhood is at its tipping point. We need to bring an equitable balance to the community that houses many of our lowest income citizens and provides many social services. We need mixed income housing, business, and culture to bring people to live, work, learn, and shop in chinatown. We need what every neighborhood needs a balance of economic levels, active streets, safety, and variety of housing of all income levels and prosperous businesses. We know that many of our friends say the new facility will provide for those that are already in chinatown, but we believe that the new day use facility would draw new people from all over the city. It will prohibit development in this important block near chinatown that has so many potential of what remains of chinatown. Many years ago, we were forced from south of burnside to this neighborhood. Now we're seemingly losing what remains. It is not right nor is it honorable. Our elders are afraid to speak out. They are afraid of government. It has taken new generation to lessen this distrust. The young generation is learning and participating. Let us argue. Let us disagree, but give us a respectful process. We cannot speak in meetings when we are not invited. We cannot seek in meetings held behind closed doors. Please invite us to your meetings. Please give us a public process for the location of homeless day use facility. Thank you.

Sten: Item 224.

Item 224.

Louis Lee: I want to first state the position that we are supporting right now. We support actually the chinese community along with half a dozen neighborhood groups, we support blanche a house to remain in block 25. We are asking transition project day center and housing authority of Portland to be located in block u. I want to draw your attention to the maps that you have, page 1 and page 2. I want to state that how the forgotten piece, chinatown, is conveniently swept aside in the public discussion under label of "old town." we support the economically disadvantaged, that being the poor, which is in itself a minority group. We also want people to think about another minority group that people normally think of as a race, the chinese, chinatown. With reference to the map in chinatown, in five blocks on your right-hand side with full provider there, which is in the red, and that's the lineup that chinatown is facing right now, and we are looking at an expansion of a super block at the north end, and that is an overkill which can push chinatown to extinction. Other neighborhoods are keeping quiet because they stand to benefit by keeping their silence. Chinese folks ask for nothing more than fairness i'm glad that the city established the office of human

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relation. May I suggest that this be the first case they look at. Chinese community and chinatown make tremendous progress. We have, since the event of roy palmer motel 15 years ago, the siting of -- we are actively participated in the neighborhood affair. We have made positive contributions. We are attentive. We are right at the gate when things start. The neighborhood folks in chinatown old town, they understand all of these, and that's why they are proposing block u as an alternative. What you are trying to say is you want my right arm. I offer you my left arm. I am asking the commission right now to progress same as chinese community by not insisting things to happen that way in block 25. Thank you.

Sten: Thank you. Item 225?

Item 225.

Suenn Ho: I am an urban designer. Since moving to Portland in 1994, i've done considerable professional work in old town, chinatown and also served on the board of transition projects. I believe block u is a good alternative for siting the p.p.i. Resource access center. Old town, chinatown is dear to me. This community has taught me that the key to a better future for this neighborhood is to honor, respect, and value cultural, economic, and social diversity. What is dividing the community is not intolerance. We need demographic balance and continued shares efforts to strengthen the heart of Portland. Portland is a city that is known for its progressive urban environment, a city that welcomes a healthy mix of urban lifestyles. When the royal palm hotel issue divided the community in '95, we painstakingly craft a captioning made possible by katu-channel 2 good neighbor agreement within the context of the old town, chinatown vision plan. This plan, adopted by the city council in '97, included a location policy to ensure that new city sponsors, shelters, and low-income facilities would not be concentrated in any one area of the city. That plan emphasizes the importance of a balance of social services and tax-generated development. The city and the community have long collaborated in building a distinct identity for this unique urban historic neighborhood that we all can be proud of. Investments such as the classical chinese garden, pacific tower, old town, and -- block 25 has a 350-foot height limit. It should be reserved for a landmark mixed use development that is capable of activating the street life for all ages and hence maximizes return for the city. This kind of active street life quality is essence of the city-funded streetscape improvement project. The siting of the access center at block 25, this north chinatown gateway, will compromise previous investments and the trusting relationship that has been nurtured between the city and the chinese community. We must not up set the delicate balance that exists. An access center on block u can accommodate entities with entrances on different street levels. Block u can provide g.p.i. With a full block footprint to keep blanche a house on block 25 allowing for greater development, assess ability for this wonderful neighborhood. Thank you.

Sten: Thank you. I might just take a moment and add I appreciate everybody coming in and sharing the process. Obviously this is not a hearing, so it doesn't make sense to try and share point, counter points. It's a communications. But p.d.c. is meeting this afternoon. I believe they're going to discuss the status of this project. They have set over today's expected decision for two weeks until february 27th. We are expecting them to make a decision on february 27th. My understanding, as of yesterday, is that all of the parties are discussing block u, and there seems to be some interest in that. There's a fair number of hurdles, as there is in everything. Although I would take some issue with the description of the process to date, we did not look at block u as part of the process because at the time p.d.c. says it was not available. I think that is a viable possibility. I personally did not think about it because p.d.c. says it was not available. Fit is available, it's certainly worth looking at. I don't want time ply that is the decision that will be made. I think we either need to get a decision that's got enough agreement that people feel we can move forward or the council needs to step into this and set its own process, because it's become quite contentious and I think because of the unexpected and reasonable controversy that the process isn't clear. I have held the time certain on february 28th for the council at 3:30 if necessary, to review the p.d.c.

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decision if we get to a point where it's still controversial. At that point, I would expect the council to step in and either make a decision at this level and/or set up another process. This really has risen to the level, I think, of a council decision at this point. It may or may not be necessarily, but that's the process. Hopefully a decision, recommendation by p.d.c. on february 27th. If not, a council hearing on the 28th. Just wanted to share that with everybody so that you knew where this was going from here, and thanks for coming down. I think we'll take the consent agenda. Anybody on the council or in the audience have items they wish to have removed from consent? Roll call on the consent?

Adams: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye. We'll move to the regular agenda. Would you please read item 239?

Item 239.

Sten: Second reading. Roll call.

Adams: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye. Item 240, please.

Item 240.

Sten: Commissioner Leonard, did you want to say anything about item 240, campfire?

Leonard: It is, as we have been -- unfortunately nobody's here. As we have been working out at dodge park to improve dodge park, we've done a lot of capital improvements. We have just recently gone through a land use process in clackamas county to allow tent camping out there with the vision of Portlanders riding their bikes out to spring water corridor trail which will hopefully have a terminus at dodge park. We have been in cooperation -- in cooperation with camp numano, which is right across the river from dodge park, helping them deal over the years with a number of incidents of rowdy behavior at dodge park that has interfered with the program that camp numano has which is under the auspices of campfire u.s.a. As part of that effort, we're really pleased to help them meet their operating goals for the services that they provide Portland kids and specifically centennial school district Portland kids at camp numano in the summer. This is the culmination of, I think, a renewed great working relationship the water bureau has entered into with camp numano, its directors, and the services they provide which we hope begins a new era in our working together. They haven't always been happy in the past with what's happened at dodge park. I think they're very excited about where we're going and very obviously happy that the council has agreed to this grant to help them with their programs.

Sten: Terrific. Anybody in the audience like to testify on this? It's an emergency ordinance, so we'll take a roll call.

Adams: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye. Could you please read item 241?

Item 241.

Saltzman: This is good news. We're getting a settlement with 360 networks. David olson from the cable office here is here to answer any questions if anybody has any. This has been going on for a while, and I think the settlement is for roughly \$1.3 million. 1.1420.

David Olson, Director, Office of Cable Communications and Franchise Management: 240.

Saltzman: 240 coming to us from 360 networks.

Sten: Has that been put into the forecast?

Saltzman: No, it hasn't.

Adams: Why are you spending it if we don't even have it yet?

Sten: No time like the present.

Adams: And can you come forward, david, just so I understand this? More for my own education than --

Olson: Absolutely.

Adams: What did they do that requires -- what didn't they do that has allowed us to extract a settlement from them?

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Olson: Thank you, commissioners. I'm David Olson from the cable communications and franchise management office. With me is Ben Walters from the city attorney's office. This is a dispute that's not unrelated to the litigation we've had with Qwest in recent years. This is another telecommunications franchisee that, on the basis of similar legal theories that we prevailed on in the Qwest litigation, decided to stop paying in 2002 approximately. And those legal theories were contested by the city, and we have prevailed on all aspects of the litigation thus far. There are certain aspects of it that's, in the Qwest case, still existing in the ninth circuit, but we've really prevailed at all other levels. And this particular company had asserted those theories in withholding payment from us. And what you have is quite a bit of an arrearage that built up since 2002 on the payments that were due as well as some disputes over facilities that we really do rely on both for our earning system or our bureau of environmental services. There are some facilities associated with this franchise that we use. So we worked very hard and really congratulations are owed not only to staff that worked on this your. I'd particularly like to mention Dave Solace in our office who's instrumental but also the city attorney's office. We have a terrific team of city attorneys over there, one of whom is sitting to my right, and also Terry Thatcher. Settlement is always the best way because you avoid any potential risk of litigation. We're happy to bring this forward. It's a substantial arrearage. It's not in your financial forecast yet, but we're very happy to bring it to you and to help the general fund in that way.

Adams: The obvious question is why settle if we could get more money going to trial.

Ben Walters, Sr. Deputy City Attorney: Commissioner Adams, Ben Walters with the city attorney's office. The settlement represents acknowledgment that there are some risks in litigation. There were some disputed amounts involved in the settlement. One of the aspects of this is that this was a company that, shortly after acquiring the franchise from the former Pacific Fiber, the original franchisee, went directly into bankruptcy, and so some of the disputed amounts involved what was taken into bankruptcy and what claims we would or could have asserted against them for the amounts that accrued during the bankruptcy proceeding. There is also the uncertainties of delay. Litigation with Qwest has now been going on six years. We've been receiving payments from Qwest during that time period, but 360 has taken the position that they're withholding the payments, so there is the time value of that money. We could have asserted interest, but whether the interest would have been the equivalent of the actual time lost, the opportunity lost, cost for the city in not receiving the payments is something to take into account. And then there is just the uncertainty of litigation. We have, as David noted, thus far prevailed in the Qwest litigation, but nothing is certain in this world, and there is a possibility, albeit small, that we could eventually not prevail. And so this gets us the money. It does, as David acknowledges, also resolve some other disputes that the city has with the franchisee. The franchisee was supposed to provide the city with conduit. That conduit is certainly occupied and used by the city. There was some dispute between the city and 360 as to the city's ability to use that. This resolves this in the city's favor, which has its own financial aspects in terms of the city has having to go out and arrange for alternative conduit in place of what 360 has provided. So we think there is significant benefit to the city, and we do recommend that the council go ahead and approve the settlement.

Adams: It's commensurate with the settlement for Qwest?

Walters: It's commensurate with what we settled with Electricity Light Wave for. We're still in litigation with Qwest. So far we've prevailed, and the court rulings have been in our favor, but we did settle previously with Electricity Light Wave, another franchisee that had sued the city, and this is commensurate with that settlement.

Adams: Thank you.

Leonard: Is that it? Would you like to ask anything else?

Adams: Does Commissioner Leonard pay his utility bills on time?

Walters: I'd have to look into that.

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Olson: I defer to the city attorney's office.

Sten: On that note, thank you. Would anybody else like to testify on item 241?

Adams: I'm here to learn.

Sten: Not seeing anybody, it's emergency ordinance, and we'll take a roll call.

Adams: I am tickled pink to vote aye.

Leonard: And I know more about this than I ever wanted to, so i'm happy to vote aye.

Saltzman: Well, I want to thank david olson, dave solace, and ben walters in particular for working long and hard to get us to this great settlement. A million plus dollars will be in the revenue forecast very shortly. Aye.

Sten: I also want to say "thanks" and just to point out a small piece of, I think, maybe history for people to know that qwest basically took a we're just going to outspend the municipality approach. They decided not to pay the franchise fee and basically made a blatant play that the legal fees didn't matter that much to them and indeed they could essentially run out the clock, and I think ben and his team have helped, did a masterful job working to win that lawsuit, and I also wanted to thank the Oregon league of cities who actually cojoined us in the suit and went this far, which is pretty unusual of having a special assessment on all members of the Oregon league of cities to actually put more money into the legal fund. We carry the chunk of it, but every city in Oregon assessed itself to stand up to this. I think we always knew our legal strategy was solid, but there was some question whether we could afford to see it all the way through the court system, and that was qwest's strategy specifically was to bankrupt us. This money follows on that strategy, so it's good work and shows how important this stuff is, so thanks. Aye. That brings us to item 242.

Item 242.

Saltzman: District energy systems provide a central source for space heating and hot water and potentially cold water for cooling. They have significant potential to help Portland's neighborhoods with increased energy security, fewer greenhouse gas emissions, and lower energy costs. The development of the pearl district north of lovejoy street is a strong candidate for a district energy given the magnitude of new development, infrastructure work that will be completed as well as the proximity of industrial lands that the west. However, we do need a deeper degree of analysis. Through this contract, the city is engaging a consulting team to evaluate the technical and economic questions to engage building developers, owners, occupants to advise the city and the development community. This work will be completed in the next three to four months. An external stakeholder group of property developers, energy, and green development experts and neighborhood leaders will also help guide this process, and the funding for this comes out of the sustainable industries initiative that the council funded in last year's budget. With that, I want to turn it over to tom osteba who will give us some more information on this potentially exciting project.

Tom Osdoba, Office of Sustainable Development: It's a pleasure to be here. My name is tom osdoba, and i'm leading the office of sustainable efforts' efforts. I just want to make a few brief comments about this project, because district energy is something new for the city. As we go through this analysis, it will be great for us to have a little bit of background with this. In late september, this project was identified to look.

Adams: Vances sustainability on a neighborhood scale. In this case, we're looking at the north pearl district as the most compelling first place to begin this analysis, and our objectives are multiple, including environmental performance and the sustainable development goals within the north pearl district plan, which is being put together with the property owners in the neighborhood, also contributing to local energy and shifting away from high-value gas and electric heat to low-grade alternative sources for heating buildings which has the sub shall potential to reduce greenhouse emissions. We're looking for also economic wins here as well in terms of a return on investment for the cantall of a district heating or cooling system that reflect as market-style investment and looking at cost of service comparable to what alternatives -- what other alternatives

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customers would have. So we're really looking to provide for multiple objectives here. We issued the r.f.p. in late october and went through a selection process to choose in consulting team and it was a unanimous selection. It will be about a three- to four-month process for completing the work, which involves the technical review of the questions around how do you create a distribution system, what are the right energy sources, as well as the economic and financial aspects of it. How much investment could be necessary, what sort of rates and the structure of those rates, how does that compare to what's going on, what are the opportunities for investing in new innovative technology, what are the carbon finance aspects we'd want to consider around this? We'll also then be able to have a fairly open and fully engaged discussion for moving this forward. District energy systems are very common but also are quite challenging to build. The initial development of a situation is quite difficult but, once it's in place, it's a very good, sound investment, operating very effectively, and so we want to make sure we bring that discussion forward with full information about the costs and benefits that we'll see. Just to provide just a very quick background, status quo energy systems and what district energy would seek to dubai collectively providing for heating and cooling needs, in the status quo approach that development, each development and each building would be responsible for its own decisions. Generally developers will install those, tending to put in lower-cost equipment. Oftentimes buildings oversize their equipment at the same time because they never want to be in a position where they can't provide the service. You have sort of double inefficiencies going at that level, because developers are very sensitive to first costs, and that can be a barrier to more efficient, longer term technologies. So that's what we'll be looking at over the next three to four months, and we'll be back with the full piece of analysis that will tell us what it looks like in terms of the technical questions, the economic questions, and what is the right way for the city to move forward. We could choose to move forward simply soliciting a private development partner to do this. We could have a different conversation about whether this is really best done as a public enterprise to at least develop and then potentially sell once it's established or hold as a revenue-producing asset, but that will be a conversation we'll be able to have with a full piece of analysis done. This just gives you a picture of the benefits we're trying to achieve here in terms of economics, environment u and social performance, and we're trying to make sure people have a good solid understanding of their energy use choices and how it rebates to issues we're all aware of in terms of climate change, peak oil, and rising prices. Given the change we've seen in the last few months in the real estate and development marketplace, I think there's going to be some very interesting analysis we'll have to take into account in terms of the pace of development, how fast that will be built, and whether you'll actually then be able to provide revenues to justify a capital investment at the front end. That will be a very interesting piece of analysis and will also force us to evaluate what's an appropriate initial service area. It could be that the area just north of lovejoy in the pearl district is the initial service area. It could be broader than that based on the ability to connect in existing buildings. Again, we don't know that. We also don't know exactly how well we'll be able to build out a distribution system, if it's justified or what energy technologies make sense. There's a wide spectrum of choices here, and that's what we'll be looking at. Certainly, if this can be developed as an initial scale, i'm very positive that it will expand incrementally throughout the broader area adjacent to this area because there is so much development there and existing development that we'll be able to reach out, and that's a very common practice once a district energy system exists, because it performs better. So I just want to provide that brief overview. Happy to answer any questions at this point. Otherwise we'll look forward to seeing you later this spring.

Sten: Questions from the council?

Saltzman: Any idea of what size conduit or piping we're talking about?

Osdoba: Well, if I were to project out what we know of the anticipated development of just the north pearl service area and the square footage, the kind of energy use that's going to be there, if

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there was a district energy system, it would be a two-pipe system for heating, so hot water, one going out, one returning. Each would probably be in the neighborhood of 10 to 12 inches in diameter. If you did cooling as well, that would have another set of pipes. It potentially could be a lot larger, because cooling is a little more tricky than heating unless you have a lot of demand for it.

Leonard: Didn't we have something like this in the John's landing area that provided district heating that was removed in the last few years?

Saltzman: I think we had it in the downtown area.

Leonard: Was it the same technology?

Saltzman: It was Pacific Power, I believe.

Osdoba: I know there was a steam-based system that served the downtown core.

Leonard: John's landing wasn't right. I meant the development down there --

Osdoba: South waterfront?

Leonard: No. It's where the old steam plant used to be. By the Lexus hotel.

Saltzman: Yeah. That's the system that I think Pacific Power used to have and provided steam heat in large part to downtown.

Leonard: So is that the same technology as this is or is this different?

Saltzman: Basically it's the same technology. District energy systems have moved away from steam because it's not as flexible on your energy source as if you're using hot water. It's cost effective to use hot water as opposed to steam. Where steam pipes still exist, you still use them of course, but new systems are almost exclusively going to be water based, and all of the efforts are to drive the temperature as low as possible because again you're trying to really create the opportunity to create new technologies that are a lower grade of energy than the sort of high-value fossil fuel based or other sorts. Conceptually very much the same thing. Two weeks ago, we had a meeting with OHSU about potential development of their new campus, and they are very keen to see us work with them to consider district energy for that development which could, if it were viable, extend through South Waterfront, because that was designed really for a district energy system that wasn't built but could easily be built there and could extend all the way up to Portland State. And they have a very small steam system for about five buildings at Portland State campus. So where we have these big densities of buildings and a mix of uses both residential and business, we're likely to see incrementally moving more towards district systems for heating and cooling over the next 20 years, and our challenge is to make sure we can see that as an investment that provides a return, whether it's to private investors or public investors.

Leonard: Is the technology basically heat exchange in the buildings that extract the heat from the water, extract the heat from the water?

Osdoba: That's exactly right.

Leonard: So they have to have these kinds of technologies in each of the buildings.

Osdoba: That's right.

Leonard: So we're not actually paying for a fuel to heat the water that's delivered through the pipes. We're just circulating the water, and then these exchangers do their thing?

Osdoba: The short answer is it depends. A district heating utility will often own the heating exchange elements within each building because that's something the building's owners and occupants don't want to worry about this. Just want it to work. It's a lot smaller than them having their own boiler, so it saves them space in the building, saves them money. Where the energy comes from to create the hot water could come from anywhere. The baseline analysis would almost always be to reference against a very efficient gas system, because you could easily do that. You could even rent one until you made a subsequent decision about what's the right ultimate technology. From there, the energy could come from ground water or river water. It could come from heat recovered from sewer systems. It could come from waste heat that's captured from other

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nearby sources. So that's the analysis is to find where can we really find those novel opportunities to really ratchet down greenhouse gas emissions as well as give us efficiency benefits at the same time.

Leonard: The reason you're doing that is because the temperature of the water that's coming into the system is two-fold so you need to find another source of --

Osdoba: You just have to boost it up. That's right.

Saltzman: We're fortunate that Tom Oseba was previously working for the city of Vancouver of British Columbia on projects related to this, and they made some real progress on this, so he came onboard and, as you can tell, he has a lot of knowledge about this.

Sten: Thank you very much. Would anybody in the audience like to testify on this item? Don't see anyone, so item 242 moves to a second reading, and the council is adjourned until 2:00 today.

At 10:19 a.m., Council recessed.

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

FEBRUARY 13, 2008 2:00 PM

Item 243.

Sten: The council will come to order. Karla could you please call the roll?

[roll taken]

Sten: The mayor is at our sister city in Mexico and I am expecting Commissioner Adams but were going to get started. If you could read item 243.

[item read]

Sten: Good afternoon, I'm going to have the city attorney, I will have the city attorney walk us through the schedule and rules for this hearing and then we'll call you up.

George Trinkas: Am I premature up here.

Sten: Just little a bit.

Trinkas: Sorry. I heard my name called.

Sten: Your name is -- you are Mr. Trinkaus? Your name is part of the item, so, Linly if you could walk us through the agenda for the hearing.

Linly Rees: This is an on the record hearing. It means you must limit your testimony to material and issues in the record. During this hearing you may only talk about issues, testimony, exhibits, and other evidence that were presented at the earlier hearings before the design commission. You cannot bring up anything new. This hearing is designed only to decide if the design commission made the correct decision based on the evidence presented to it. If you start to talk about new issues or try to present new evidence today, you may be interrupted and reminded you must limit your testimony to the record. The procedure for today will be as follows, we'll begin with a staff report by the bureau of development services staff for approximately 10 minutes, and following the staff report, the council will hear from interested persons in the following order -- appellant will go first and have 10 minutes to present his case. Following the appellant, persons who support the appeal will go next. And each person will have three minutes. This time limit applies whether you are speaking for yourself or on behalf of an organization. The principal opponent in this case, the applicant, will then have 15 minutes to address council and rebut the appellant's presentation. After the principal opponent, the council will hear from persons who oppose the appeal, and in this case that means support the application. If there is no principal opponent, the council will move directly to testimony from persons who oppose the appeal after supporters of the appeal conclude their testimony. Again, each person will have three minutes. Finally, the appellant will have five minutes to rebut the presentation of the opponents of the appeal. Council may then close the hearing, deliberate, and take a vote on the appeal. If the vote is a tentative vote, council will set a future date for adoption of findings and a final vote. If council takes a final vote today, that will conclude the matter before council. There are several guidelines to announce for those who will be addressing council. The evidentiary record is closed. Because this is an on the record hearing, you must limit your remarks to arguments based on the record compiled by the design commission. You may refer to evidence that was previously submitted. You may not submit new evidence today. If your argument includes new evidence or issues, council will not consider it, and it will be rejected in council's final decision. Before we move on, there were a number of documents that were submitted to the council clerk. Most of those documents appear to be argument as opposed to

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evidence. However, I will note for council, there was one email that came in with, from a douglas mcintosh with three attachments. One of which appeared to be argument, two of which appeared to be correspondence with d.e.q. that would be new evidence, and as we move through this hearing, it would be appropriate for council to make the determination whether that remain in the record or should be rejected.

Sten: Ok. We'll start with the staff report.

Saltzman: Ex parte?

Sten: I'm sorry, I forgot to check. Does any member of the council have ex parte contacts they would like to disclose?

Saltzman: I do. As a parks commissioner my staff and I have been intimately involved in the planning and development of park block five, so and that's been over the past two years I have met with numerous parties regarding the future of the park, including representatives of t.m.t. Development, but the proposed tower north of park block five has never been an item of discussion during any of those meetings.

Sten: Any other ex parte contacts? I also have none to disclose so with that we'll ask staff to come forward. How long did you say for the staff linly?

Rees: 10 minutes.

Sten: 10 minutes. Good afternoon and if you could keep it to 10 minutes, we would appreciate it.

Kara Fioravanti: Sure. Good afternoon, I am kara fioravanti, the staff planner on this land use review.

Lloyd Lindly: And I am lloyd lindly, and I am the chair of the design commission, 620 southwest main in Portland.

Fioravanti: And I'll begin. This is a type three appeal of a design review, the central city master plan, modification and adjustment review. LU 07-140633. And to be brief about the proposal, um, to begin, there was several components to this land use review. First there was a type three design review, and there's also a type three central city master plan, and there was an adjustment request to parking access restricted street, and there was a modification to the loading stall size and the loading maneuvering, and there was a modification to the height of the rooftop mechanical area and the spire of the building. And I'll go through each of these. First starting with the site, it's downtown zoned cxd, central commercial with design overlay. It's within the central city plan district, it's within the mid town park blocks, and the adjacent streets are park and ninth, morrison and yamhill. This is the, the block proposed -- that will have the proposed building, the owner also owns all the other shaded areas, including this, which is park block five. That's we're the f.a.r. is proposed to be transferred from this block to this block. The design reviews for a new, a high-risible, 33 stories, 460 feet tall, which is allowed by code. Its proposed at 23.7-1f.a.r., and I will describe how the building was able to get to that f.a.r. Retails proposed at floors one and two, office floors 3-22, and residential units floors 23-33 for 87 units. Parking is all below grade, six floors of parking. For 341 stalls. The entries to the building are at 9th and the parking and loading access is at park. The design review approval criteria of the central city fundamental design guidelines. And now to describe the central city master plan, basically, what the proposal is, is taking a development potential, all the f.a.r. that's allowed to be achieved on park block five, and transferring it across the street to park block four. So to run through the math quickly, park block four can achieve a 12-1f.a.r., and it did through, its base f.a.r. and its bonus f.a.r. Park block five has the same development potential. A base f.a.r. and a bonus f.a.r. That leaves both blocks 24-1 f.a.r., so the park block five maintains .3 to one f.a.r. for the small buildings constructed on that site, and the rest is being transferred to park block four through a central city master plan request. And, and the central city master plan approval criteria were in the zoning code. The project was found to be consistent with the central city plan policies, and it was found to have adequate infrastructure.

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The, -- oh, it provided adequate open space by providing a park, park block five, and it was not found to obstruct public viewpoints, and there's no required housing for this site. Real quick, this area that you see in the box, that exceeds the height limit. It's allowed to exceed the height limit, if it's constrained. It's bigger than what the code allows but was found to be finely crafted and had well designed and, and meeting the merits of the design guidelines. The adjustment and modifications regarding the loading and the parking, first parking, all four streets are parking access restricted streets. So to allow for parking access to happen on this block, the applicant requested an adjustment to allow parking from park avenue and that was found to be approvable. There was also two modifications regarding the loading. First is to allow the loading vehicles to back, back into the site from the street. The standard requires that all vehicles enter and exit in a forward motion. The other is to the loading stall sizes. Their proposing one standard and one substandard loading stall. And this is -- the loading was a big area of concern during the process. Staff and the design commission reviewed about three different proposals looking at ways to, um increase pedestrian safety, necking down that curb cut as much as possible and providing as many street trees and onstreet parking spaces as practicable and we settled on the best solution with that. And just to note, during the process, which was about four or five months. There was a separate land use review, a central city parking review, and that was LU 07-169105. That was required because the parking access that you see here was within 75 feet of the light rail line at morrison street. And central city parking reviews are required to have access that close to light rail. The hearings officer was the review body for that, and approved the proposal on december 6, 2007. He found that there were no conflicts with the max line. He also reviewed the proposal for um pedestrian safety. Real quick, the process for this building, prior to the type three design review, there was a design advice request. That included a public hearing with the design commission on may 17. And there's adequate notice at that time. The type three design review, central city master plan, the site was posted on august 20, and notice was mailed on august 31, and there was -- the first hearing on september 20, the hearing was continued. The site was reposted on november 21, and the second hearing was on december 6. This shows adequate public notice and meeting all zoning code requirements. And then finally, um, there's a memo for you dated today, and staff is recommending that you include this in the final decision. Basically, elaborates on all the public testimony received during the process. The final decision was a brief summary of the number of people who testified, briefly, describing their issues. This memo has, has an itemized list of all the people who testified and more in-depth summary of their concern. Obviously, we have an appeal today. The appellant is george trinkaus, and here's a list of the issues, land use, f.a.r., no due process, traffic impacts view corridors, park avenue vision and affordable housing. Since the appeal has been submitted, there's been three additional letters listed here. And that concludes my, report to you.

Sten: Did you want to add anything?

Lindley: Yes. I have some remarks from the design commission, and what I would like to say is that in june 2007, the design commission reviewed this project during three public meetings. That included a design advice request, and two central city master plan and design review hearings prior to the approval, and kara just went over those in detail with the dates. Over the past 35 years, Portland has built infrastructure for a sustainable future by investing in light rail, which is going on outside your doors right now. Streetcar retail retention and growth, increases in diverse housing stock and market rate housing, and pioneer courthouse square, park block five, Portland center for the performing arts, Portland art museum, and the masonic temple, and many other projects that are not on this list. You guys are probably all aware of those. This project sits at the city and regional center of mass transit shopping, cultural venues and employment. All of this investment was focused on attracting more people to live and work in the heart of downtown. This project, i'd like to make three points today. First, our goal as a city is to become sustainable by growing in a

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compact, highly dense, urban form, and this project supports that. And it includes 87 housing units, and just as a comparison, if these 87 housing units were developed in undevelopable, or undeveloped areas, we would see them consuming approximately 10.5 to 11 acres. This project occupies about half an acre. It also provides on, 90 parking spaces or, bicycle parking spaces. There are 60 spaces in the building. 30 of them are long-term bike parking spaces, and 30 are residential spaces. There are also 36 to 40 spaces under park block five. And second, this project also supports the goals of the city in that it is a catalyst development project for that supports downtown commercial and retail businesses, and it supports Portland's desire to be a 24-hour downtown. Third, the design commission considered the f.a.r. transfer from park block five through the central city master plan process, and we found that this project fits within the land use and zoning requirements. I would like to recognize that t.m.t. and, and bob thompson of t.b.a. architects were very responsive to the design commission's requests for modifying the building top and also modifying the surface entrance to better serve pedestrians on park avenue. In conclusion, this project will be a sentinel in our skyline marking Portland's thriving downtown neighborhood, and the design commission considered, and unanimously supported this project and we respectfully request that the council uphold our decision.

Sten: Thank you. Any questions for, for the design commission or staff? Great. Thank you. We'll call you back up after the hearing if anything arises.

Lindley: Thank you very much.

Sten: And next we'll hear from the appellant.

Trinkas: My name is good morning trinkaus, 623 southwest park.

Sten: Mr. Trinkaus, before you start, you have 10 minutes, and there's a clock you should be able to see to give you a running sense of how you are doing on that time.

Trinkas: Ok. Thank you.

Sten: Keep an eye on it.

Trinkas: I think I can do it I'm used to three, you know.

Sten: Well, then you have got plenty of time. [laughter]

Trinkas: I want to thank for you hearing this appeal. Thank the p.d.c. for paying our \$20,000 fee for this privilege. The developer wants to build a 35-story building on a three-story block, in my eight-story neighborhood. He's asking for permission to break state code. The zoning code on the basis of certain odd exceptions, in the central city plan that allow for the addition of extra bulk. These are so-called f.a.r. credits and transfers, please note, that the developer's own architect back here, robert thompson, who I call czar thompson, one of the authors of the central city plan, the local code that allows this dubious business. Talking about f.a.r. people's eyes glaze over. F.a.r. means floor to area ratio. And it's a measure of the bulk of the building. If people think they can transfer it, like some polluters think that they can transfer emission credits, and sometimes, this f.a.r. is for sale in the open market, I understand. Traded, transferred, bought and sold. We can hope -- ok. I can assume that the council men know all about f.a.r., and I understand more towers first f.a.r. transfers come since the allegro, correct? And with that, that was a disaster. He tried to take theoretical f.a.r. bulk from a tri-met plot in the lloyd district and install it in a condo tower across the river in goose hollow. Somebody blew the whistle, and the attempt was thwarted. Was it you, council men, who decided on that case? Did it go to the city council? Yes or no? I don't hear a yes or no. Do I get to ask these questions?

Sten: It did, but you will not get answers if you ask because this is your time to testify.

Trinkas: This is all declarative sentences, sir. We can hope that somebody is always there to blow the whistle for the design commission. It's the only review panel that is procedurally in the way. You can blow the whistle at them, but they don't hear. So us whistle blowers have to come up here to you. In an 8 to 1 zone the developer wants to build to a f.a.r.24, half of this, 12-1 is from f.a.r. transfer. The rest from f.a.r. credits, this is an extreme demand, and the architects logic had better

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hold up. We will demonstrate it does not. But first in order to focus this appeal and make clear what park avenue concern ultimately wants. One, cancel all f.a.r. transfer and f.a.r. credits for the proposed moyer tower. We'll argue that. Delete, two, delete the f.a.r. credit and transfer loophole from the central city plan in the upcoming revision. Three, while the moyer tower project is in process, no demolition of building permits, no evictions, no hassle, no rent hikes on park block four. Four, any plan for block four gets a real land use review honoring the criteria and exhibiting what is an acceptable land use review. Submitted to the commission and, and not honored, or acknowledged. Five, if building must on park block four, the developer will honor the zoning code for height and bulk and will build compatibly with the neighborhood scale and tradition. It will meet with neighbors in order to scope the environmental impacts and to write guidelines for the mitigation of such impacts of construction, as noise, dust and equipment emissions. Six, you'll love this, establish a two-year moratorium on construction for the staff park blocks from p.s.u. to southwest Washington. And the exception would be projects underway like the ladd tower, esquire and park block five, which, thank you, are quite enough already. Seven, no [inaudible] to the bus mall activity to it's held over there. Seven, make available the developer's residential building on the northwest corner of southwest park and alder, called the cornelius or the alder hotel for purchase by a non profit for affordable rental housing. And I understand that attempt had been made in the past. Eight, give proper public notice that the historic dental arts building at yamhill and ninth is at risk so that those who might be concerned with the preservation or restoration have an opportunity to defend it. Ok, on the f.a.r. transfer, we submitted to the challenge, we submitted to the council challenge to the decision of the design commission, which did approve this dubious transfer. The council needs to know the real history of the park block five. And in order to make a decision about whether it has any theoretical f.a.r. to transfer to a proposed moyer tower. Is my history admissible here? I'm citing city code. The land use design commission's decision is very perfunctory. We're responding to that, so I challenge, in our challenge, we have done our own people's land use, park block five, and interested citizens. I have a few copies. The land use history and the design commission's decision is very perfunctory, so we've done our own. I hope you have had time to read it. Sam Adams, you were the assistant to mayor vera katz. Who signed many of the ordinances, signed, sited in our history. And I wonder if I could ask you questions. I would ask if you have any first hand knowledge, to contribute, we would derive this whole history from documents. And does our history ring true? Through all the hearings I've attended, by definition, has no aerial bulk. No theoretical f.a.r. to transfer. This is an argument of logic and linguistics. I said please explain how a park defined everywhere in the world as open public space can have any part of transfer? This question was never answered. It was not acknowledged as being asked, in the 35-page decision, may be the commission found it an embarrassing question. Our history's appearance, in the press lately makes the developer the hero of park block five. Over 10 years ago the same developer, tom moyer, proposed a 12-level parking structure on park block five, which was then a surface parking lot. This project was defeated by the people in 1997. They had appreciated block five as an open public space even then, and this was before construction of fox tower or the paramount hotel. In order to thwart any development there in the future, the people had the city declare block five as a city park. The status has been affirmed and reaffirmed through the years and various resolutions and ordinances cited in our land use history. So, my assertion of block five as a f.a.r.'less open space, called a park, has plenty of legal foundation, ordinance numbers are cited. Let's look at the notion of park credits and transfers generally. This becomes a discussion in terms of the public benefit, you're familiar with -- of sacrifice? I've added that term and of quid pro quo. The evidence of a clear public benefit is an established criterion for park credits and a f.a.r. transfer, a clear sacrifice for the public benefit would also be a reasonable criterion. And a tangible quid pro quo would be another, so let's imagine if we did get away with that building, a 12th-story parking structure on block 5 back on 97. There the ugly thing sits the

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public agitates the developer seen the light he tears the eyesore down. Magnanimously donating the land to the city for a park. Here's a clear public benefit and a sacrifice also would be arguable, of course, for the transferring of f.a.r. to the developer, demonstrates that one plot, necessarily, had anything to do with the other. 1970's, public benefit, quid pro quo. 1970's, surface parking lot, open aerial space. Trees. That goes to 206, 206 to 207, construction sacrifice. Park block five, and 208, a four-level, a for-profit, six-level underground parking facility opens creates a negative traffic and pedestrian impact. It's a bare asphalt slope. Trees are gone. Two elevator sheds. Please demonstrate the public benefit, the sacrifice, the quid pro quo. Park block five has since at least the 1990's been perceived by the public as a valued open space. Since 1997, it has been legally a park. Defined everywhere in the world as a public open space, and no aerial bulk. Any f.a.r. transfer, whatsoever, to transfer, and then my last 15 seconds, i'll give my credentials on that. I have done graduate work in linguistics. I've been employed [inaudible] with rhinehart and winston, I was a consultant to the random house dictionaries, style committee -- thank you.

Sten: Thank you. Does the council have any questions for the appellant?

Adams: I wanted to fact check that comment that it was, was mr. Moyer's proposal to build the parking structure on park block five?

Trinkas: Yes. I have that document right here in the room. I believe it's a p.d.c. document about, park block five, and I can get the exact title for you if you wish.

Adams: Thank you.

Sten: Any further questions? Thank you. We have five more minutes for rebuttal after the applicant's testimony.

Trinkas: Pardon?

Sten: You have five minutes to rebut the applicant's testimony after we get through that.

Trinkas: Thank you.

Sten: I think we'll now hear from supporters of the appeal. Would anybody like to testify, karla?

Moore: No one signed up.

Sten: No one signed up. Would anybody like to testify in support of the appeal? Please come on up. Yeah, even if its short you have to sit and talk into the mike for the record. If you can just introduce yourself, and you have up to three minutes.

Roslyn Aronson: I'm Rosalyn aronson, and I also live at 623 southwest park avenue. I manage the building. It's a residential, low income building. I'm concerned, um, primarily about the noise pollution, the traffic pollution and the air pollution from all the extra traffic that's going to occur after the building is built with six underground levels of parking. I just think it's too big of a project for that block. It's is a great project, but I would love to see it on another block. I'm also concerned with just making sure that it is a proper use of that land, and so I support the appeal so that you can study that and if it is decided that building can go forward, that it is decided by the city council rather than those who have already decided. I also just want to say that the traffic study that was presented at one of the design commission meetings I attended, from my understanding, was done, was paid for by the developer. I would like to see the city do a traffic study to the impact of that much added traffic in that area. I also submitted something, along with another resident, from our building.

Sten: Ok. Thank you very much. We'll now hear from the applicant, and have up to 15 minutes.

Vanessa Sturgeon: Hopefully we won't need that long.

Sten: That would be fine but it's up to you.

Sturgeon: Thanks for your time today and in interest of respecting that time we will be brief. I do want to correct mr. Trinkaus's assertion it was mr. Moyer that proposed the 12 story parking garage. That was - -

Moore: Excues me, could you state your name for the record?

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Sturgeon: Oh sorry, vanessa sturgeon, 805 southwest broadway, suite 2020. So, actually, it was the goodman that proposed the 12-story parking garage. Mr. Moyer purchased it from the goodmans to donate it to the city in 1998. The appeal that's before you today is an unusual one, in that there are no really cogent legal issues to be vetted. The facts cited in the appeal are largely from the appellant's own testimony at prior hearings on the project. So where most people, mr. Moyer's age, won't even buy green bananas, he's working on new projects, like the park avenue west, the condemned cornelius hotel, which is traded again and again because no other developers have been able to make it pencil. Both the design commission and the planning staff have found that the park avenue west meets all code requirements, and the approval is the result of three public hearings. One of them being the advisory and many, many meetings with the downtown neighborhood association as a whole, and separately with their transportation committee. We worked with nordstroms and structured a good neighborhood agreement to coordinate delivery times and I think that it was said at the design commission meeting, that we have gone above and beyond as far as what we needed to do in cooperating with both the city and our neighbors. And, you are going to hear more from bob. So I'm going to give myself the hook but I will be up here if you have any questions.

Robert Thompson: My name is robert thompson, the design principal with t.b.a. Architects designing the project for mr. Moyer and as vanessa said, we spent an inordinate amount of time working with the city, not only on park block five, but obviously, on park block four, and we've been, as architects, obviously, we are very concerned that we're following the proper process, working with the city, and that we are, obviously, adhering to all applicable governing agencies that have control over that property. You know, and as vanessa says, we have been working with the city of Portland planning and transportation department, obviously, on this project since the beginning, and of which they deemed we're in full compliance. With the applicable codes, we've been working very closely with the city of Portland design commission. Again, with, with the unanimous support and approval from them and we've also had four separate meetings with the downtown neighborhood associations that have privy over this project, so I just want to express our concern that everybody is aware that we feel that we have done everything per the letter of the code, per the letter of the law, and that the process, we feel is gotten us to where we are today. If you have any questions, we'll, we're here to answer those.

Sten: Ok. Questions from the council for the applicant? Looks like were done. Thank you very much. Would anybody like to testify on behalf of the applicant.

Moore: We have four people signed up.

Sten: Ok. Could you call the first three?

Sten: Terrific, come on up. I will not explain the process to the mandel's. [laughter]

Sten: Gentlemen if you could sit up here, you will have three minutes, and there's a clock there.

Fred Faveluke: This is my first time, if I get out of line throw me out ok.

Sten: We know what to do.

Faveluke: My name is fred faveluke. I live in southwest Portland. 7128 southwest capitol hill road. I believe the design commission made the correct decision the first time around, and this appeal should be thrown out. The council should uphold the decision of the design commission. This new building replaces a worn out old building with the modern office space, downtown, and I think that that follows the spirit of Portland. Most folks in this town want to see us build up rather than out. I often get off the bus at barber and Terwilliger and have a lovely view of i-5 traffic at 4:30 or 5:00 in the afternoon, and see that the traffic coming back into town is heavier than the traffic going out. And, i'm imagining that many of these folks live here in downtown, close in southeast, and drive to work and stare at a computer screen in a gleaming office complex in Tigard. I believe that density is a step towards energy independence, and we need to decide if we want to

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look like san francisco or los angeles, either one. And I believe the project should go forward.

That's all I have. Thank you.

Sten: Thank you very much.

Irwin Mandel: Irwin mandel. If I could have mr. Trinkaus's attention for one moment. Because I don't think he heard miss sturgis. The park block five originally belonged to the Goodman interest, who planned to build a 12-story garage there. Not mr. Moyer. Mr. Moyer paid good men \$5 million to prevent that parking garage from rising, and in addition to which he donated that land to the city to be used as a park, and additionally, donated another million dollars towards the cost of the park. So, perhaps, you could correct your record, mr. Trinkaus. Now, the design commission held several hearings before finally approving this building. I attended all the hearings. At each hearing, the appellant was given every opportunity to express his objections. He was listened to very carefully and very respectfully. It is crystal clear from the final report that the building has met all approval criteria as described in the central city fundamental design guidelines. Some commissioners were refusive in their praise of the building as a valuable addition to the central city. And voiced regret it could not be even taller in order to emphasize the iconic status. I have not heard the appellant present any rational reason for not upholding the decision of the design commission. Thank you.

Lili Mandel: Hi. I'm lillie mandel, and I am here to rhapsodize about this building. This building will resuscitate the central core. This building will be infused with life. This building will be active. This building will have retail. This building will have office space. This building will have living space. During the day, this building will be alive with office workers. In the evening, this building's tenants will come home. Day and night, this building will be busy with retail activity. This building has it all. Jane jacobs must be cheering for this building for having so many eyes on the streets at all times. This sculptural tower with its majestic spires and four different faces is an architectural gem. Wow: At night this building will glow and will be downtown's beckoning, brilliant beacon. Thank you, mr. Moyer, for your valentine to the city. Thank you.

Sten: Thank you. The next name?

Moore: The last person is marlin warren.

Sten: Mr. Warren, and does anybody else want to testify?

Trinkas: Do I get to uh - -

Sten: No, I'll call you back up but it's not your turn yet.

Trinkas: Pardon?

Sten: We're still doing supporters of the applicant, and you will be after that.

Trinkas: Oh, ok.

Marlon Warren: Good afternoon, my name is marlon warren, live at 3805 northeast 11th avenue, Portland, Oregon, 97212. And first of all, i'm in support of the project. But first, I want to do a bit of history in why I am in support of this project. If one looks at the pioneer courthouse which was built in 1869, it's the oldest federal building in the northwest, and if one compares that and looks at the sculptural style of what, -- the park avenue west is, you can tell the first thing that's most striking is the symmetry and the parallels between like the speer on park avenue west, and then if you look at how that's lined up, with two blocks to the east, we have the courthouse. And it appears that the architect is looking far into the future because the way it's lined up, its almost like the nordstroms building is there, but you can tell, if park avenue west becomes an historic building like many other buildings around parks and Portland, it's prepared to do that. Also, I want to do a bit of history real quickly about how I think that, how important this project is, if you go to like new york city we're you have the lever house and the surgums building, lever house was built in 1952, the surgum building was built in 1958, and these two structures are kind of like classic buildings of how modern architecture should be. And you can tell that t.b.a. Architects have paid very close attention to that. Also, in 1948, the commonwealth building, built here in Portland and designed by

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another prominent architect, whose firm later went on to become s.o.m., who has done some of the best work here in Portland, which working my way up to the park avenue west, is that you can tell that, that t.b.a. Architects attention to detail carries on that tradition of so many great american architects. The apgio beluchi, mees vanderol, richard meier, the great work of s.o.m. in the 1970's here in Portland. The bancorp tower -- I mean, there is undeniable distinction that this is probably going to be a very classic Portland building. And so, that's all I have to say. I want to thank for you giving me the opportunity to testify, and I think that Portland should be proud that we have this home grown architect who hired a local also a contracting firm, so it is definitely a local product are and I think that that's good for sustainability. Thank you.

Sten: Thank you very much. Sir.

Krey Price: Krey price from troutdale, Oregon. I spoke at the previous public hearings on the opposite side and at the risk of appearing like a flip-flopper, I would like to speak in favor of it, each time I've voiced several issues in opposition and several issues for. I don't believe it's as clear cut as for or against. I am in favor of the building's design. I am in favor of rejecting the appeal and continuing to allow the design to go forward. However, I am disappointed that there was not some way to incorporate some part of the park block vision into the design. Looking at the design of the building, it would be a, is a grand addition to any skyline anywhere, but that's just the problem. It could be plopped anywhere. There's nothing that I saw about the design that lends itself to anything special about the park block status. What we're still calling a park block, even once the building is up. The design, I would love to have seen something, incorporated into the, the sidewalks, some sort of pedestrian zone on either side. The traffic on either side of this won't allow that. The other suggestion I had made at previous hearings was for some sort of observation deck.

If you are going to maximize the profits, of course you want to maximize the building's footprint at the bottom and the retail space. We can't do away with that, then perhaps something up at the top could be done to maximize profits, you would want to stratify that, and the folks at the top wouldn't want to see somebody like me or anybody else hitting the elevator button going up to the top. I, for one, think this is a gem as the previous folks here testified and going up to the top of that, I work right next door. I've been there five years, and I would love to be able to go up and take a look at this grand city to see signs, panoramas, have it be a park on top, be able to look out, see, you know, old town, see Washington park, mount st. Helens, mt. hood. See everything from up there. I'm afraid, though, with the way the building is designed, it will be off limits to anybody, like me, the general public. I would love to see that, incorporated. If not, I just want to go on the record and say, I wish it had been done and I wish we had had some pedestrian zone vision on the streets that could have allowed for continuity between the north and south park blocks. I'm in favor of the building. Thanks.

Sten: Terrific. Thank you. I will ask the appellant to come back up. You have five minutes to rebut the testimony you heard.

Trinkas: Thank you. The, the ownership of the park block five is the county record and moyer is the owner from the beginning of when we have record until 2006. And moyer's ownership was under various business names. These include a central city parking and moyer trust and uptown development a sadler company, all moyers, and the records show the official ownerships of park block 5 shifting from one moyer entity to another. So, in 1998, a foundation, which made the moyers assume ownership, and the look of it was that, this would the path to the land to the city, the city never got the land. The land was never passed to the city, and a surface rights have removed and just worked out quiet with the p.d.c., and 2006, so in 1998, a foundation assumes ownership in response to the protest to this 12-story structure on moyer's property, whether he was a developer or not, may be moot. The city buys the land. It was highly advertised, but one record shows an Oregon community foundation, which may be a moyer entity, but the block from moyer's city center parking with the express intention of preserving it for park references to the purchase of the

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block entire without any reference to separate surface, subsurface area rights. Indeed the city worked out and put into city code an agreement to take ownership but why did the county records not show a transfer to the city? Instead they showed a continuing ownership by various shifting moyer entities, ultimately, with the marilyn moyer trust. Until this 2006, p.d.c., arrangement for subsurface - - for surface rights, only transfer there is no reference to any giving of this land. Now, money has passed hands, and this was mentioned, so we have, a donation of \$5 million coming from this, from this foundation to, to whom, I don't know. It would be interesting to track this down. I mean, this is great investigative reporting challenge here. Some, -- note that this charitable gesture was made 10 years ago, not yesterday afternoon, as the press would have you believe in recent articles. If a f.a.r. transfer was worked out in this time, we're are the records? Not in any of the documents have I seen a park transfer deal worked out which could give any substance to the claim that the plot has f.a.r. or that moyer has the right to transfer said f.a.r., so what happened to the money? Not a park. This is the best endowed non park that ever existed. Did the money work its way back to moyer? Certainly. Was there some unacknowledged quid pro quo with the city that came with it? Moyer certainly did collect a nice tax deduction in the process, and sam Adams, I would love to pick your brains because you may be the public memory here. You shake your head if you had nothing to do with park block five in vera's reign. So on this matter of czar Thompson's continuously telling us that, about the 24-hour city, and this is reflected at everything czar Thompson says faithfully reflected in the decision by the design commission, this -- the design commission says this will certainly jumpstart the development activity to make this section of town what it is destined to become the 24-hour city. Who is deciding this destiny for us? Evidently, judging from the hearing, we've been to it, czar thompson, who is making this decision of destiny for us and we've observed. It's one architect, one developer's architect dominating a rubber stamp panel, compliant technocrats. Is this how it works for all development projects? Is this why we're getting things like this 17 level conundrum over here for traffic? This is planning? What are these high impact decisions doing in such hands? The design commission and technical panel, no political sensitivity and that is why we're here. Thank you. There's been no due process. You've heard a lot about that lately, and this is an instance indeed about outcome based decision making, and no due process, and you will find an exhibit dedicated to that thing.

Sten: Thank you. I move to council discussion. Does the council have any more questions for staff?

Adams: I have a motion but a quick questions for staff, just for the public, that might be listening in.

Sten: Staff come back up. Thank you.

Adams: I want to run through these very quickly. Are you aware that the city has broken a code in any way?

Fioravanti: No.

Adams: In evaluating this project?

Fioravanti: No.

Adams: Ok. And, and are you aware of any, any, anything related to f.a.r. transfer that, that is not allowed under the rules and laws of the, in which govern this kind of transaction?

Fioravanti: An f.a.r. transfer is allowed through the central city master plan and f.a.r. does exist on this site simply because of its zoning is cx.

Adams: Ok. Thank you.

Sten: Thank you. Linly, did you have a couple of questions?

Rees: Two procedural items. One to remind you staff had presented some additional findings to amend. The second is to deal with any additional evidence. I had three different items that were submitted that are probably new evidence that you would want to deal with, whether you accept them in the record or not.

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Saltzman: I would move that we adopt the february 13th, 2008 memorandum. That's what you're wanting us to adopt? I'll do that first, I guess.

Sten: Ok.

Adams: Second.

Sten: Second. Roll call on that motion.

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

Sten: Aye. [gavel pounded]

Rees: Can I identify the three items just so they are clear for the record.

Sten: I think we have them. Do you have - -

Rees: There's one -- there's two douglas mcintosh's five-page email chain and three-page both titled air contaminant permit for park block five, and then this document you just received with the pictures of the buildings, although the person testified before to the design commission, this document was not submitted. So you probably should, should --

Saltzman: I would move we accept all those as evidence.

Leonard: I think that she is saying not to.

Saltzman: Oh, not to.

Rees: These were not before the design commission.

Saltzman: Ok, sorry.

Leonard: You rebel.

Sten: Would you like to amend your motion? [laughter]

Saltzman: Yes, I would amend my motion that we not accept that new information into the record.

Sten: Do I hear a second?

Leonard: Second. [laughter]

Sten: Roll call.

Adams: I think it's an excellent document, though. Aye. [laughter]

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

Sten: It was outstanding. Aye. Ok. [laughter]

Sten: Does that cover it linly? So I'd open it up to a motion on the case, itself.

Adams: Mr. President, I move that we reject the appeal and uphold the design commission's decision.

Leonard: Second.

Sten: We have a motion and second to uphold the design Commission's decision and reject the appeal.

Adams: Linly has a clarification apparently.

Rees: If you would state in your motion, and you would adopt the design commission's findings as amended by what you did today, that would help, please.

Adams: Ok. I move that we reject the appeal and uphold the design commission's recommendation, including the amendments --

Rees: And adopting the findings as amended.

Adams: And adopting the findings as amended.

Sten: Without objection, i'll rule the motion to be so rewritten and will not take another vote and we'll call the roll call on the, motion to reject the appeal and uphold the design commission's findings.

Adams: I want to, to thank the appellant for making his case. I know it was heart-felt, and -- but, we are governed by a system of laws and it was not persuasive enough for me to side with the appeal. I also would like to state that I think that this modern design will be a welcomed addition to the city's skyline, that mr. Moyer and his company have, based on everything I know, have been

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one of the most generous investors. One of the most generous donors to the city government, which I appreciate, and I would agree with lili that this is a great valentine to the city. Aye.

Leonard: Aye.

Saltzman: I also want to commend the design of this project. I think it's outstanding and really does enhance the vibrancy of downtown, and I want to thank mr. Moyer and t.m.t. Development for coming forward with the great design and the architects and also for your generosity in donating park block five to the city. I'm pleased to support this. Aye.

Sten: Aye. I agree, aye. [gavel pounded]

Sten: So the appeal has been rejected and the design commission is upheld.

Adams: Are we adjourned?

Sten: Council is adjourned. [gavel pounded]

At 2:57 p.m., Council adjourned.