



CITY OF  
**PORTLAND, OREGON**

OFFICIAL  
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **19TH DAY OF MARCH, 2008** AT 9:30 A.M.

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

Commissioner Saltzman left at 1:27 p.m.  
 Commissioner Leonard left at 1:32 p.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Ben Walters, Senior 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>
<p><b>343</b> Request of Bruce Broussard to address Council regarding Voter Owned Elections (Communication)</p>	<b>PLACED ON FILE</b>
<p><b>344</b> Request of Patricia Schaeffer to address Council regarding surviving the storm (Communication)</p>	<b>PLACED ON FILE</b>
<b>TIME CERTAINS</b>	
<p><b>345</b> <b>TIME CERTAIN: 9:30 AM</b> – Accept the Feasibility Study for a One-Stop Domestic Violence Service Center (Report introduced by Commissioner Saltzman)</p> <p><b>Motion to accept the Report:</b> Moved by Commissioner Leonard and seconded by Commissioner Adams.</p> <p>(Y-5)</p>	<b>ACCEPTED</b>
<p><b>346</b> <b>TIME CERTAIN: 10:30 AM</b> – Approve appointment of James Michael Bennett to the Housing Authority of Portland Board of Commissioners for a term beginning March 19, 2008 to expire March 19, 2012 (Resolution introduced by Mayor Potter)</p> <p>(Y-5)</p>	<b>36592</b>

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<p><b>347</b> <b>TIME CERTAIN: 10:45 AM</b> – Report on the Performance Review of the Independent Police Review Division (Report introduced by Mayor Potter; Previous Agenda 289)</p> <p><b>Motion to accept the Report:</b> Moved by Commissioner Saltzman and seconded by Commissioner Adams.</p> <p>(Y-5)</p>	<p align="center"><b>ACCEPTED</b></p>
<p align="center"><b>CONSENT AGENDA – NO DISCUSSION</b></p> <p align="center"><b>Mayor Tom Potter</b></p>	
<p><b>348</b> Reappoint Dharam Yadav and James Elliott to the Business License Appeals Board (Report)</p> <p>(Y-5)</p>	<p align="center"><b>CONFIRMED</b></p>
<p><b>*349</b> Create Office of Human Relations and Human Rights Commission; assign Racial Profiling Committee and implementation of the Immigrant and Refugee Task Force recommendations to Office of Human Relations (Ordinance; add Code Chapters 3.128 and 3.129)</p> <p>(Y-5)</p>	<p align="center"><b>181670</b></p>
<p align="center"><b>Office of Management and Finance – Business Operations</b></p>	
<p><b>*350</b> Pay claim of Lauri Clark (Ordinance)</p> <p>(Y-5)</p>	<p align="center"><b>181671</b></p>
<p><b>*351</b> Pay claim of Melissa Fox (Ordinance)</p> <p>(Y-5)</p>	<p align="center"><b>181672</b></p>
<p><b>352</b> Authorize the donation of a surplus vehicle to the City of Goldendale, WA (Second Reading Agenda 325)</p> <p>(Y-5)</p>	<p align="center"><b>181673</b></p>
<p align="center"><b>Office of Management and Finance – Financial Services</b></p>	
<p><b>353</b> Statement of cash and investment February 07, 2008 through March 05, 2008 (Report; Treasurer)</p> <p>(Y-5)</p>	<p align="center"><b>PLACED ON FILE</b></p>
<p align="center"><b>Police Bureau</b></p>	
<p><b>*354</b> Amend an Intergovernmental Agreement with the Multnomah County District Attorney to reimburse the Police Bureau for overtime costs of officers assigned to the District Attorney Office as investigators (Ordinance; amend Contract No. 52562)</p> <p>(Y-5)</p>	<p align="center"><b>181674</b></p>
<p><b>*355</b> Amend an Intergovernmental Agreement with TriMet and the City of Tigard for Tigard to provide an additional officer to the TriMet Transit Police and for TriMet to compensate Tigard for those services (Ordinance; amend Contract No. 52503)</p> <p>(Y-5)</p>	<p align="center"><b>181675</b></p>

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**Commissioner Sam Adams**

**Bureau of Environmental Services**

<p><b>*356</b> Amend Feasibility Cost Sharing Agreement with the U.S. Army Corps of Engineers to continue to evaluate ecosystem restoration options in the Lower Willamette River under the Water Resources Development Act (Ordinance; amend Contract No. 52070)</p> <p>(Y-5)</p>	<p><b>181676</b></p>
<p><b>*357</b> Extend grant from Energy Trust for a co-generation facility at Columbia Boulevard Wastewater Treatment Plant for project milestones (Ordinance; amend Ordinance No. 179904)</p> <p>(Y-5)</p>	<p><b>181677</b></p>
<p><b>*358</b> Authorize contracts with CMTS, Inc. and EPC Consultants, Inc. to supply construction management, inspection and project support personnel for Bureau of Environmental Services construction projects (Ordinance)</p> <p>(Y-5)</p>	<p><b>181678</b></p>
<p><b>359</b> Authorize a contract and provide for payment for the construction of the Wellhead Sump Retrofit Project No. 8772 (Ordinance)</p>	<p><b>PASSED TO SECOND READING MARCH 26, 2008 AT 9:30 AM</b></p>
<p><b>360</b> Authorize a contract and provide for payment for the construction of the Taggart Sewer Rehabilitation and SW Mitchell St and I-5 Sewer Rehabilitation Project No. 6920 (Ordinance)</p>	<p><b>PASSED TO SECOND READING MARCH 26, 2008 AT 9:30 AM</b></p>
<p><b>361</b> Authorize Grant Agreement with Friends of Zenger Farm to support their mission to provide environmental education and promote environmental stewardship, sustainable food systems and local economic development through a working urban farm (Ordinance)</p>	<p><b>PASSED TO SECOND READING MARCH 26, 2008 AT 9:30 AM</b></p>
<p><b>362</b> Authorize grant application for up to \$25,000 for Columbia Slough Confluence Habitat Enhancement Project to the Lower Columbia River Estuary Partnership (Ordinance)</p>	<p><b>PASSED TO SECOND READING MARCH 26, 2008 AT 9:30 AM</b></p>
<p><b>363</b> Authorize grant application for up to \$100,000 for Tryon Creek Confluence Habitat Enhancement Project to the Lower Columbia River Estuary Partnership (Ordinance)</p>	<p><b>PASSED TO SECOND READING MARCH 26, 2008 AT 9:30 AM</b></p>
<p><b>364</b> Authorize grant application for up to \$150,000 for Columbia Slough Confluence Habitat Enhancement Project to the Lower Columbia River Estuary Partnership (Ordinance)</p>	<p><b>PASSED TO SECOND READING MARCH 26, 2008 AT 9:30 AM</b></p>
<p><b>Office of Transportation</b></p>	
<p><b>365</b> Transmit summary of sponsorships and donations received by the Office of Transportation in 2007, as required by Ordinance No. 179806 (Report)</p> <p>(Y-5)</p>	<p><b>ACCEPTED</b></p>

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<p><b>366</b> Amend exhibit that authorized a major encroachment to bSide6 LLC to install, use and maintain building improvements in the airspace over a portion of the E Burnside St right-of-way at SW corner of 6th and E Burnside St (Second Reading 327; amend Ordinance No. 181441)  (Y-5)</p>	<p><b>181679</b></p>
<p><b>Commissioner Dan Saltzman</b></p>	
<p><b>*367</b> Authorize Grant Agreement with Christie Care, Inc. for the Multnomah County Children's Receiving Center (Ordinance)  (Y-5)</p>	<p><b>181680</b></p>
<p><b>*368</b> Approve Intergovernmental Agreement between the Portland Children's Investment Fund and Portland State University for delivery of the Oregon Leadership Institute's Latino mentoring program (Ordinance)  (Y-5)</p>	<p><b>181681</b></p>
<p><b>Commissioner Erik Sten</b></p>	
<p><b>Bureau of Housing and Community Development</b></p>	
<p><b>*369</b> Authorize an Intergovernmental Agreement with the Housing Authority of Portland and the Portland Development Commission for \$60,000 to support a Housing Policy Manager and receive funds (Ordinance)  (Y-5)</p>	<p><b>181682</b></p>
<p><b>REGULAR AGENDA</b></p>	
<p><b>370</b> Affirm the City Council's intent to manage stormwater as a resource through the use of green infrastructure techniques using onsite surface vegetated facilities (Resolution introduced by Mayor Potter and Commissioners Adams, Leonard and Sten)  (Y-4; Saltzman absent)</p>	<p><b>36593</b></p>
<p><b>Mayor Tom Potter</b></p>	
<p><b>Office of Management and Finance – Financial Services</b></p>	
<p><b>*371</b> Authorize downtown waterfront urban renewal and redevelopment bonds (Ordinance)  (Y-4; Saltzman absent)</p>	<p><b>181683</b></p>
<p><b>Portland Development Commission</b></p>	
<p><b>372</b> Approve Limited Tax Abatements for Single Family New Construction and Owner-Occupied Rehabilitation Properties from January 1, 2007 to December 31, 2007 (Resolution)  (Y-3; Commissioners Leonard and Saltzman absent)</p>	<p><b>36594</b></p>

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**Commissioner Sam Adams**

**Office of Transportation**

**373** Vacate a portion of SE Washington St east of SE 30th Ave subject to certain conditions and reservations (Hearing; Ordinance; VAC-10037)

**PASSED TO  
SECOND READING  
MARCH 26, 2008  
AT 9:30 AM**

**Commissioner Randy Leonard**

**374** Prohibit marking public property or right-of-way using paint, tape, other methods or objects to reserve viewing space for a parade event (Second Reading Agenda 342; add Code Chapter 14A.55)  
(Y-3; Commissioners Leonard and Saltzman absent)

**181684  
AS AMENDED**

At 1:34 p.m., Council recessed.

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**WEDNESDAY, 6:00 PM, MARCH 19, 2008**

**DUE TO LACK OF AN AGENDA  
THERE WAS NO MEETING**

**March 20, 2008**

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **20TH DAY OF MARCH, 2008** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Potter, Presiding; Commissioners Adams, Leonard and Saltzman, 4.

Commissioner Leonard arrived at 2:22 p.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Kathryn Beaumont, Senior Deputy City Attorney; and Dave Kline, Sergeant at Arms.

<p><b>375</b> <b>TIME CERTAIN: 2:00 PM</b> – Adopt the Portland Streetcar Loop Project Capital Budget based on the Design Development submittal and direct various actions for implementation (Resolution introduced by Commissioner Adams)</p> <p><b>Motion to accept Substitute Exhibit A:</b> Moved by Commissioner Saltzman and seconded by Commissioner Adams. (Y-4)</p> <p>(Y-4)</p>	<p><b>Disposition:</b></p> <p><b>36595</b> AS AMENDED</p>
<p><b>*376</b> Amend contract with Portland Streetcar, Inc., under certain conditions, to provide additional professional services for project management and financial planning for the Portland Streetcar Loop Project (Ordinance introduced by Commissioner Adams; amend Contract No. 37251)</p> <p>(Y-4)</p>	<p><b>181685</b></p>
<p><b>*377</b> Amend contract with Portland Streetcar, Inc., under certain conditions, to provide additional professional services for design and civil engineering during Final Engineering of the Portland Streetcar Loop Project (Ordinance introduced by Commissioner Adams; amend Contract No. 37279)</p> <p>(Y-4)</p>	<p><b>181686</b></p>
<p><b>378</b> <b>TIME CERTAIN: 3:00 PM</b> - Appeal of Sullivan’s Gulch Neighborhood Association against the Hearings Officer’s decision to approve the application of Tuan Luu, Ankrom Moisan Associated Architects, applicant and Holladay Park Plaza, Inc., property owner, to amend two previously approved subdivision with adjustment cases for property located at the northeast corner of NE 16<sup>th</sup> Ave and Clackamas St (Hearing; LU 07-166143 AS AD)</p> <p><b>Motion to uphold the neighborhood’s appeal; overturn the Hearings Officer’s decision:</b> Moved by Commissioner Leonard and seconded by Commissioner Adams.</p> <p>(Y-3; N-1, Saltzman)</p>	<p><b>UPHOLD APPEAL AND OVERTURN HEARINGS OFFICER’S DECISION; PREPARE FINDINGS FOR APRIL 9, 2008 AT 10:00 AM TIME CERTAIN</b></p>

**REGULAR AGENDA**

**Commissioner Randy Leonard**

**Bureau of Development Services**

**March 20, 2008**

**379** Amend Property Maintenance Regulations to reflect changes in application and policy, repeal outdated provisions and add new provisions to address chronic offenders (Ordinance; amend Title 29)

**PASSED TO  
SECOND READING  
MARCH 26, 2008  
AT 9:30 AM**

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At 5:01 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.



**March 19, 2008**

**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.]

**MARCH 19, 2008 9:30 AM**

**Potter:** The formal part of our proceedings, first regarding our Portland gow shung sister city association, and I want to welcome the Portland gow shung sister city association back from their recent goodwill delegation tour of gow shung, taiwan. I understand that during the visit four members of the executive board were granted honorary citizenship by mayor chu chiang in honor of this past year of outstanding cooperation and exchange between the two cities. I also understand this is the first time anybody from Portland has been granted this recognition in the gow shung municipal government. So I want to congratulate president tom crowder, former presidents richard cole, mike chiang, and in luck pu for receiving this high honor. I thank you and all the members of the association for supporting this association over the last years.

**Tom Crowder:** I have with me today dr. Richard pole, michael chiang. Michael chiang is our vice president. Richard is our secretary. I'm here today to report to you that gow shung sister city is celebrating -- association is celebrating this year a 20-year sister city relationship with gow shung, taiwan. In february, we took a 46-member friendship delegation to gow shung that included 10 of our board members and spouses, six rose festival members, president mark mcgurr and his wife, the executive director and his wife, and queen elizabeth and her chaperone, joann reese, ant a 20-member jazz band from mount hood community college under the direction of suzy jones. I have here today a letter from mayor chen and some gifts. I'd like to give these to you.

**Potter:** Ok.

**Crowder:** This plaque is representative of -- [inaudible]

**Potter:** By the way, for the ethics commission, I don't accept this personally.

[laughter]

**Potter:** And it will back part of the city's memorabilia.

**Crowder:** In 2009, gow shung is supposed to -- [inaudible]. So this is in celebration of that.

**Potter:** All right. Thank you.

[applause]

**Potter:** Well, some folks in the room may have noticed that we have a lot of young people here, and there is a reason for that. Our young people, our high school teams, have had an outstanding year. The city of Portland high schools, we have three state championships that were won by them, and we also want to recognize Portland state university for their wins and movement into the ncaa tournament. First we're going to take the high school folks.

\*\*\*\*\*: Grant.

**Potter:** Grant? Thank you. There's a voice to my right saying grant. Could we have the state champion 6a boys' basketball team please come up and stand up here? And also coach tony broadus as well as -- [applause]

**Leonard:** Jefferson people are not here yet.

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**Potter:** I'm still back here.

[laughter]

**Potter:** But i've been surrounded by all these tall guys. I do have a proclamation to read in their honor. The principal please come forward, too.

[applause]

**Potter:** I was out at grant high school the other day to acknowledge their wonderful championship, and everybody was very kind to us, and this is one enthusiastic high school and one great team. So here's the proclamation. Whereas Portland celebrates a rich and exciting basketball culture that attracts people from all walks of life in maintaining a fun and competitive environment for all participants and whereas Portlanders everywhere are proud of the success that our youth and student athletes are achieving in their lives and whereas the city of Portland reduces in the sheer dedication to school, sport, and community that the student athletes of grant exemplify so well, whereas coach tony broadus and ulysses s. Grant high school have succeeded in using basketball to instill positive life experiences for the youth of our community, whereas grant's boys' basketball team won the 2007/08 osa a6 a basketball title and has fostered a program dedicated to excellence for many student athletes to come, now there for i, tom Potter, mayor of the city of Portland, the city of roses, do here by declare march 19th, 2008, to be a day of appreciation for the grant boys' basketball team in Portland, and I encourage all citizens to observe this day. Let's give these folks another hand. [applause]

**Potter:** I want to say the obvious. Two of our city commissioners are grant alumni, so they're especially pleased with this event. I would next like to recognize the jefferson high school's girls' basketball team for winning the 5a state championship, and their record is slightly amazing. The girls' basketball team had a 27-0 season.

[cheering]

**Potter:** In no small part, that was due to their coach, michael bonntaps, and they just had some outstanding players. I'd like to ask the girls' basketball team to please come forward.

[applause]

**Potter:** In case anybody has a problem identifying the coach, he's the guy in the white shirt and a great person. Once again I have a proclamation to read. Whereas Portland celebrates a rich and exciting basketball culture that attracts people from all walks of life and Portlanders everywhere are proud of the success that our youth and student athletes are achieving in their lives, the city rejoices in the sheer dedication to school, sport, and community and also coach michael bonntemps and thomas jefferson high school has been successful in using basketball to instill such positive life experiences in the youth of our community. The jefferson girls' basketball team won the 2007/2008 osaa girls' 5a basketball title, a 27-0 record season, and have successfully fostered a program dedicated to excellence for many student athletes to come. Now therefore i, tom Potter, mayor of the city of Portland, Oregon, the city of roses, do hereby proclaim march 19th to be a day of celebration for the jefferson girls' basketball team in Portland and encourage all of us to observe this day. Thank you very much.

[applause]

**Potter:** The last group -- and I understand not all of them are here yet. Are they here now? The jeff boys' basketball team. And, once again, they are the 5a state champions in basketball high school. So could you folks please come forward?

[applause]

**Potter:** Also their great coach, marshall haskins. They were just a great team. I think they were under a lot of pressure because the girls' basketball team won first.

[laughter]

**Potter:** But I had promises from some of the team players that they were going to bring back the trophy to Portland, and they did just that. So, once again -- and I know some of these proclamations

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sound very similar, because they are, but it's important to read it and recognize these young people and what they've done for our community. Whereas Portland celebrates a rich and exciting basketball culture that attracts people from all walks of life in maintaining a fun and competitive environment for all participants, Portlanders everywhere are proud of the success that our youth and student athletes are achieving in their lives. The city of roses, the city of Portland, rejoices in the sheer dedication to school, sport, and community that the student athletes at jefferson exemplify so well. Coach marshall haskins and thomas jefferson high school have succeeded in using basketball to instill positive life experiences for the youth of our community. Whereas the Portland jefferson high school boys' basketball team won the 2007/2008 osaa boys 5a title and has successfully fostered a program dedicated to excellence for many student athletes to come, now therefore i, tom Potter, mayor of the city of Portland, Oregon, the city of roses, do here by declare march 19th, 2008, to be a day of appreciation for the jefferson boys' basketball team in Portland and encourage all citizens to observe this day. Let's give these young men another hand.

[applause]

**Potter:** And finally Portland has so much to be proud of. We're also here to recognize the p.s.u. Vikings. They won the big sky -- [applause]

**Potter:** They won the big sky conference for the first time and earned a seat at the ncaa tournament. They'll play kansas in the first round of the tournament on thursday. That's tomorrow. Their record is 23-9, and their coach is ken ball. Could you folks come forward to accept the proclamation. The p.s.u. team is out of town obviously getting ready for their big contest.

[applause]

**Potter:** And this is the second string.

[laughter]

**Potter:** But we're very proud of our Portland state university. They truly are Portland's university, and we appreciate what they do for our community in many areas, and we're very proud in this particular instance. Please bear with me as we read one more proclamation. Whereas Portland state university is Oregon's largest and most diverse university and p.s.u. continues to emerge in many areas as one of our nation's finest urban-serving research institutions and the p.s.u. men's basketball team finished the season with a best in school history of 23-29, including only two losses in the big sky conference and they kept a five-game-winning streak by soundly defeating the northern arizona university lumberjacks 67-51 to win the big sky conference tournament march 12th and whereas the vikings have earned their first-ever berth in the ncaa tournament and the vikings have shown tremendous athletic achievement and put Oregon's largest and most diverse university on the map of collegiate sports by making it to the big dance and whereas we look forward to cheering the vikings on during the ncaa tournament, now therefore i, tom Potter, the mayor of Portland, Oregon, do hereby proclaim march 20th, 2008, to be Portland state university day, and I encourage all citizens to observe this. Thank you. Let's give them a hand.

[applause]

**Potter:** This is the official tournament t-shirt, and afterwards there will be a contest of arms to see who gets this on the council.

[laughter] [applause]

**Potter:** Thank you, folks, for being here. Ok. City council will come to order. Karla, please call the roll.

[roll call]

**Potter:** Please read the first communication.

**Item 343.**

**Moore-Love:** He called. He is not able to make it.

**Item 344.**

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

**Patricia Schaeffer:** Patricia ann schaeffer. What I saw and what I was in was a storm down coast in the pacific coast storm. The rescue efforts that were down there in roseburg was a team effort. Cars that went off in the rivers, the storm, the trees that went down in the rivers and the creeks, the high rising waters, I rescued as many birds as I could, even wildlife, by calling them because I knew the storm was coming in, and they knew that I would feed them, but I even saw some spills in the rivers. The rescue efforts of the police were done very good, too, because they were pushing cars off the roads where there was dangers also, stalls in traffic. Now, I saw other efforts of people taking other people to the hospital and children, and my efforts were helping other people, making sure they would not slight down embankments in the snow, children where there was danger, 'cause they could slide in the river. I was devastated because my fingers -- I had gotten frostbite myself on my feet and on my hands, and I was crying through this, but I did not stop helping other people. I was telling people to park their cars. Don't drive with your cellphone. It's so important in a storm to stop what you're doing. Don't drink and drive. And they did pass the law in Oregon that young people cannot drive with a cellphone. Drinking otherwise or anyone else, it's so important, because I saw these wrecks and everything else and the endangerment. When the trees were cracking going down in the river, I was avoiding -- trying to get a woman to get away from the area. This was my effort, and I did seung people helping other people. I said, get up high but not near mudslides. Other people in the schools, I was trying to evacuate even the schools when I saw the rivers going up. This is my effort, but it was devastating for me. But other team efforts and churches -- I even went into churches noticing that this was happening when the front came in on the pacific coast. That's all I could do. And even help the wildlife. For two and a half months, I saw this downpour of rain and wind and freezing cold snow. I'm still here. But I got pneumonia, and i'm just now getting over this right now.

**Potter:** Thank you. Is that all the communications?

**Moore-Love:** That is.

**Potter:** Any commissioners wish to pull any items from the consent agenda? Does any member of the audience wish to pull any team 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 345.**

**Saltzman:** Today i'm pleased to bring to council a feasibility study for a domestic violence one-stop service center which is the result of an extensive public process with representatives from law enforcement, community service providers, and even more importantly input from survivors of domestic violence. The process began over one year ago when council funded this feasibility study about creating a co-located multidisciplinary one-stop domestic violence service center. The one-stop center seeks to address a very real problem victims of domestic violence have in accessing services. Currently in the Portland area, resources and services for victims of domestic violence are scattered throughout the city. Victims of domestic violence must go to numerous locations to receive the full range of services they require. This makes for an extremely time-consuming, hard-to-navigate process which overwhelms many victims, especially those who have children, and often keeps them from receiving the help and the services they need. However, a national best practice has emerged for addressing this problem, the one-stop domestic violence center. Recently more than 30 local communities across the nation have experienced concrete benefits from bringing together domestic violence advocates, intervention specialists, prosecution, and law enforcement personnel into one physical location and providing a one-stop center for victims needing service. Using a collaborative model, a one-stop service center brings all available resources in a community into a coordinated, centralized service delivery system with accountability to victims and survivors

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for the effectiveness of the model. To present the findings of our feasibility center, i'd like to first bring up kay saul and marlene farnum of technical services for community services. They were the consultants who conducted the study and will give a brief power point. Following kay and marlene, we'll have sergeant greg stewart of the police bureau, domestic violence reduction unit, and whose also a member of the steering committee for the study, and he'll present some information on the public safety benefits of the one-stop center, and then we have some other invited testimony as well. We'll start with kay and marlene.

**Kay Sohl:** Today we're going to give you what our vision for the center was and the feedback we got. We worked with a magnificent steering committee, and we have most of our committee members here, including commissioner Saltzman and county commissioner jeffco again as well as representatives from the district attorney and Portland police and chiquita rollins, the Multnomah county domestic violence coordinator and two of the leading domestic violence service providing nonprofit organizations in town. The steering committee was really able to help guide the feasibility study so that we were sure we were talking with the right people here in the metropolitan area. I think the quickest way to understand the concept is to understand the goals of the one-stop center, clearly the goal being to help domestic violence victims and their children from continued violence. It is also the goal of the center to enhance the ability of the police and prosecutors and courts to hold perpetrators accountable. We look at this center as having a core feature of co-location, getting community-based victim services in the same location as criminal justice services and the civil legal assistance services. And probably the most important element, as we talked about the center with victims and looked at centers around the country, is the concept of a safe, accessible, welcoming center that is focused on the needs of victims. So the group, the steering committee, and everyone we talked to made core commitments for their vision of the one-stop center, and that is a victim-centered service philosophy. It is the victim herself who knows best and has the best judgment about what she needs and what her family needs. So you'll see that throughout our presentation, the victim-centered philosophy. And the other very strong commitment is in the area of cultural diversity and just recognizes, for this center to be truly accessible to all part's our community, we have to have a system that is culturally specific. So there is a context for doing this. As commissioner Saltzman mentioned, a key concept is collaboration. It does take the collaboration of the community-based domestic violence programs with the rest of the system to make a center like this work. And I think it's very important, as we talk about the one stop, to understand that, while this will be a resource for victims to come and access services in one place, it is still going to be critical that there are multiple points of entry for help with domestic violence around the community, because not every victim will make the same choice. So what's going to happen at the one-stop site as we see it here in Portland and Multnomah county county? Probably core service is the advocacy and personal support, really envisions a system of direct navigators, people who will work with a victim from the moment she walks into the center. There will be help to actually a bly for a restraining order at the center rather than having to wend your way down to the courthouse and cope with the possibility of encountering not only your own abuser but others who are threatening to you. There will be access to police and district attorneys if that is what the victim wants to do. There will be on-site child care because most victims will be arriving with children. And there will be civil/legal assistance on-site. Now, not everything can be co-located, and so, as we talked with the community, it became clear that there would need to be particular collaborative relationships off site, but the ability of the on-site navigator service providers to help victims advocate and access the other services that they need. After a lot of discussion with many victims and with service providers, with the police, with the district attorney, it became clear that the most appropriate location for a center in Portland would be in the gateway area, and we heard repeatedly from victims that they strongly preferred that location to something in the downtown core near the courthouse. They saw it as a safer area, and they saw it as an area

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that was readily accessible by public transportation. And we noted that we have an excellent core resource already in gateway with the location of the dvru and dvert -- d v ert. We found there is a facility owned by Multnomah county that appears to be very appropriate for redevelopment, so a strong recommendation for the gateway location. I think our study was helped the most by six focus groups with domestic violence survivors. The survivors shared a great deal about their experience and, in many ways, inspired this report. We also had two very helpful focus groups with domestic violence service providers and key informant interviews with a number of key players in the domestic violence field. We did a major internet survey and got stakeholder feedback on the plan. I think it is important to know that the survivors we talked with are connected with a number of the community-based service providers, and they included several latino groups and a russian group of survivors, and much of our thinking about the need for culturally-appropriate services was influenced by those survivors and their stories. We did have a chance to work with the tri-county domestic and sexual violence intervention network. We are extremely fortunate in Portland to have a network of very strong service providers working with domestic violence victims. And we had tremendous support from the courts and from probation from the sheriffs from both the Portland police and the gresham police. We really found a very strong consensus among law enforcement and the courts in support of the center. We talked with a number of community service organizations and service providers, and they had a great deal of interest in the one-stop concept and, interestingly, their own experiences paralleled those of the victims that they, too, found it difficult to navigate the domestic violence system and wanted to have a better opportunity to work with victims. We found our national study to be particularly helpful. As commissioner Saltzman mentioned, there are one-stop centers operating in 30 cities across the country. We did in-depth telephone interviews with seven of those centers and discovered that, although they have common goals, there are some significant differences in how the centers are actually organized, and it was extremely helpful to our thinking about a Portland center. Our entire steering committee went with us to see the one-stop centers in tacoma, Washington, and oakland, california, and those site visits were very helpful in clarifying some of the issues for this center. And I think probably what we can say is that our conclusion centers on the fact that the 1-stop model is working across the country and work, both in terms of how victims perceive their ability to get the help they need and also in some very concrete benefits in terms of reduction in the number of domestic violence homicides, the number of d.v. Police reports, and the number of d.v. Trials. The one-stop centers are creating an impact. We heard strong local support from victims and from domestic violence service providers, from law enforcement, and from the court system and from the potential partner agencies. And as we heard that support, one area of emphasis was that the one stop will create an opportunity for services to be more readily accessible, but there still have to continue to be those services, and so a real emphasis on the need to keep our current domestic violence services intact and to continue making the investments that are necessary so that the victims have resources to access through the one-stop center. I thought a good place to close our report would be to just share with you some of the comments from survivors as they looked at the recommendations of the steering committee, and I think overall what we heard from victims was a great sense that it's been a long time coming but that it is very good to hear the city listening and to know that there is an interest in getting services collected together in one place. I think the final comment there, above all, keep women and children safe, is the comment of this report and of the steering committee that the overall goal of establishing a one-stop center will always be to keep women and children safe in the city of Portland. So we really appreciated the opportunity to do the feasibility study, and we're happy to answer questions.

**Saltzman:** Thanks, kay and marlene. If there's no questions, then we'll proceed to the next invited panel, and that is sergeant greg stewart, as I mentioned, with the Portland domestic violence reduction unit, who also was a member of the steering committee, and we're also going to bring up

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rod underhill of the district attorney's office, another member of the steering committee, captain christy weehara, and carol kolimori with county commissioner jeff cogen's office.

**Sergeant Greg Stewart, Bureau of Police:** My presentation is going to be on the public benefits of the d.v. One-stop center. This service was developed in collaboration with Portland state university professor chris henning and represents 4700 domestic violence offenders from the year 2005. First i'm going to touch on overall contribution of domestic violence in the overall crime rate of Portland. 47% of simple assaults in the city of Portland are coded as a result of domestic violence. This means that basically one in two assaults is d.v. Related and it's by far the greatest single contributor to domestic violence assault. In addition to this, 30% of aggravated assaults, actually 29%, and 26% of homicides in 2006 were related to domestic violence where domestic violence is again a strong contributor to these crime rates. Domestic violence accounts for approximately 6000 investigative reports a year. Again, those reports are where officers have determined that there are crimes that have occurred as well as 4000 special reports which are commonly called family disturbances. In those instances, many times a crime has occurred. However, the officers cannot prove or demonstrate that this has been -- that the d.v. crime has occurred. 10,000 domestic violence incidents in the city is an amazing number. One, domestic violence is one of the single biggest contributors to crime in the city. You recently saw in the news about gang violence, an increase in gang violence. In the last three months, at the same time we saw an increase in gang violence, we had over 1000 domestic violence crimes occur in the city, far, far, far in excess of the number of gang-related activity which I believe was 20-something incidents. D.v. victims face barriers to crime that are not faced by other crime victims. These include the suspects' knowledge of the victim and their ability to anticipate their actions, their ability to impact their work, their ability to impact whether they have custody of their kids. These are all things that a regular victim of crime -- a barrier that they would not face. This is also kind of a disjointed current system of response to d.v. where victims are forced to go to the courthouse some of the time and then maybe go back to a service provider and then report to a different location to perhaps meet with d.h.s., all the while having children in tow, and oftentimes relatively small things like paying for parking to go to court can be a barrier or for arranging transportation with two or three kids if you use public transit. These are all issues that many of us do not face in our daily lives but that victims of domestic violence must find ways to overcome. Lastly, from a general view of criminality in Portland -- and this is irregardless of domestic violence -- d.v. offenders contribute hugely to that number. Police are often the last resort for the victims of domestic violence. The people who call police about their domestic violence frequently don't have other options. They're lacking either in employment or family support or perhaps new to the area, perhaps brought here purposely by the offender to separate them from that support. We've got currently a very disjointed response to domestic violence, requiring victims to navigate a very complex system, and it's a system that even i, as a domestic violence sergeant, frequently find confusing. And then the victims of this -- i'm sorry. The suspects in this are some of the city's worst criminals, as our study found. These numbers are from the total 4700 domestic violence offenders. We pulled this from ppds, and so these are total numbers from 2005 for the city of Portland. 68% had prior arrests of any kind in ppds. 55% had been arrested two or more times, and that is only by the Portland police bureau. That doesn't include any other arrests that might have come from other localities. When you include those numbers, it skyrockets well above three-quarters. Nearly half had prior nond.v.-related assaults, indicating just generally violent people, and this isn't the worst offender batch. In 2005, the city had what we are calling priority 1 offenders, and this number is based on a recidivism scale. Our party 1 offenders of over 700 people were suspects in 32 different crimes. These led to 20 different arrests. Of that crime base, five resulted in d.v. assaults. However, five were nonrelated d.v. assaults. Five were assaults against other people. They averaged three weapon offenses, obviously significant drug and alcohol crimes against society, and when you looked at the

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crimes they were suspected in, only one-third of their overall criminality was directly related to domestic violence. The rest of that criminality was a result of violence directed against people who didn't know them. And this is clearly a case where, if you ignore the needs of one group of victims, there will be another group who suffers. So by being more responsive to the victims of domestic violence, we're not only going to be doing the right thing, but we're also going to be protecting people who are not victims of domestic violence. We're going to be protecting the citizens of Portland as a whole. Also one-third of this group was gang affiliated. Again, with the recent emphasis on gang active -- and I don't imagine anybody is surprised by that, because gangsters are generally very violence people. The victims of these criminals have enormous barriers to overcome. You can imagine how terrifying it must be if you know the person who's perpetrated domestic violence assaults against you has killed somebody else. Are the systems in place to protect that person should they wish to come forward and hold their offender accountable? For the victims of domestic violence, when they're solely focused on surviving, it makes offender accountability really a small piece of the puzzle for them. So much of their energy is focused on just making it through the day. Going to court or holding the person who's committed the crimes against them accountable is just too much. By creating this center and addressing some of these other needs, we're anticipating a secondary benefit will be that, as these basic survival needs are met, more victims of these crimes will be interested in holding the offender accountable. And, again, that benefit will be directly to these victims as well as to the society at large. If we don't meet these needs or don't address this problem, the criminals will continue to prey on these victims and society. Again, as our study indicated, these criminals are repetitive. They're going to return, and ultimately the whole system bears the cost of that. Thank you for your time. Any questions?

**Adams:** I was just reading the "oregonian" story on this, and it starts by talking about the 93 phone numbers that show up on a list for folks that -- that one. This talks a lot about a facility. Can you talk a little bit about how it will provide sort of virtual one-stop shopping as well for folks that are trying to get information via telephone or web?

**Stewart:** This facility -- and I'm just one person of this -- but as we envision this facility, from partnership discussions with the Portland women's crisis line to bring them onboard, obviously the Portland police bureau has its own website. However, once -- we currently -- and I'm sure you're all aware there's a dire shortage of police officers in the city. Our unit has gone from as many asinine officers down to five in the last few years. It makes it very difficult for me to assign all these cases to only five investigators as well as do things like community outreach or set up groups or respond to things like sort of internet requests. With this system, we'll get the synergy where people can come to the police looking for specific service that perhaps we are not in a position to provide. However, by being co-located with a group like the women's crisis line or volunteers of america home free, those requests are appropriate to them and can be handed off and dealt with in a timely fashion, and I guess that's the benefit of co-location. I'll go into my -- I had three minutes, but I guess this kind of touches on what I was going to talk about in my three minutes. When you look at partnershiping and you look at community policing, there's more to that than just partnerships. There's developing institutions and effective collaborations to make the most of those partnerships. The whole idea behind the partnershiping in the first place is to create that positive synergy. If the partnership is a partnership on paper or in name only, its effects are very limited. When you bring organizational cultures together, what you gain from that is that synergy where each group is more effectively able to solve kind of our goal goals are reducing domestic violence. Did that answer your question?

**Rod Underhill:** My name is rod underhill. I am achieve district attorney with mr. Shrunks's office. Deputy Stewart has given us very recently data. I'd like to take a moment and back up, a little bit of a historical perspective. For a me personally, my involvement being first assigned to the domestic violence unit was January 23rd of 1991. At that time, I think it's fair to say that we needed and took



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a critical look at how we in law enforcement in our community responded to issues of domestic violence. And frankly, when we did that, we found that we weren't doing a very good job. Throughout the decade of the '90s, people in this room and others who aren't in the room of course worked hard at changing where we were then to where we are now, and that change over the course of the decade of the '90s involved significant changes in looking at best practices throughout the nation. It is accurate to say that the topic of a one-stop domestic violence center was talked about even then when it wasn't found in 30 cities throughout our nation. We had the minds and the ideas in the rooms talking about what we are doing now, what we're discussing now even back then but, for whatever reason, it was out of reach. We couldn't pull that off even though the idea was there. As we've moved into this decade, we've seen continued hard work, continued good efforts, cutting-edge efforts on best practices in all areas of domestic violence, but we have been frankly left behind on this issue. Bringing parties together in the one-stop domestic violence center approach. We've been left behind by at least 30 cities who have been able to grasp that, what was out of our reach, and grasp that and bring it to their communities. When I talk about that historical perspective, it makes me think -- and that is for about a decade and a half -- when we have a one-stop center and when we offer programs and ideas and interaction amongst ourselves in law enforcement, we will no doubt save a life. Frankly, we're probably going to save a life or lives over the course of time. The interesting thing about this is we won't necessarily know whose life it is that we've saved nor will they know necessarily that we've saved their life. What we'll do, when we have this kind of approach, is change the course of history for a family, whether that's a family of a woman and her children or a man and his children. It will change the course of history because, for whatever reason, sergeant Stewart was able to, in a particular case, walk down the Hollywood and meet with that member of the Portland's women's crisis line and give a very warm handoff of that individual who needs resources or referrals, and maybe that referral worked in changing the course of history for that person and they were able to receive shelter for the night or receive job training referrals or the child was able to be accommodated with special needs that that child had. Whatever it is, it will change the course of history for that person and will no doubt, over the course of time, save a life or lives. We recognize that going full circle now. We recognized that back in the '90s as we began to have our eyes opened towards best practices in things other than the one-stop center in evidence-based prosecution, for example, in the formation of the family violence coordinating council and those efforts to bring like-minded people with great ideas to move one step forward. This is the logical and necessary step forward for our community in bringing together again the best practice that other cities have shown and that we, I think, as a community can gather together and continue to save the lives and in many respects as since the lives of women and children and other victims of domestic violence.

**Captain Chris Uehara, Bureau of Police:** I am the captain of the family device that oversees the domestic violence reduction unit and the child abuse team. I just want to make a dovetail off of what my colleagues have said here and just put an emphasis of support onto the one-stop domestic violence center from the police bureau's perspective. Any chance that we have to stop or to assist a survivor out of a domestic violence relationship is also a step towards helping keep our officers safe because, for everyone less domestic violence call that police officers have to go on, that's a win also. I see this domestic violence center as helping survivors navigate through the multiple barriers that currently exist by being under one roof. A survivor can go and take their children there where a day care center will be, and some of the barriers that currently may create these blockades in survivors making that decision to continue through may be what could be viewed as a laborious venture to get out of a domestic violence situation because it's conveniently located, 102nd and Burnside off the light rail line, they can get there, and they know that, even though they have to make multiple visits in order to have this come full circle for them and get them out of a domestic violence situation that they can go there and that child care will be provided for them, and it just

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assists our survivors in taking those necessary steps. I view this as a win for the city of Portland. I view it as a win for society as a whole. And really it strengthens -- it falls right in the line of community policing, and it strengthens our goal of working with our partners, collaborating with social agencies, services out there to rid society of domestic violence.

**Karol Collymore:** I also was a staff assistant on this domestic violence steering committee, and it was my pleasure to do so. We've worked on this project for several months, and Jeff Cogen strongly supports the creation of a one-stop center in Portland to benefit the survivors of domestic violence. This project will enhance work currently done by the county, the city, and our collaborative partners. More than this, our work on this one-stop center will create vital concentrated services for the survivors of domestic violence. Jeff looks forward to continuing work on this project, and we both thank you in advance for your support.

**Saltzman:** Next Anna Sanchez with the American Native Youth and Family Center, also a member of the steering committee. Chris Billhart of Volunteers of America. And Sonya Kaech.

**Tawna Sanchez:** My name is Tana Sanchez, the director of family services for the Native American Youth and Family Center. I just want to say that I believe very strongly in this one-stop center. One of the hardest things I had to do in my life and in my work with victims of domestic violence is to watch a woman say, I just can't do it. I just can't go to all these different places and try to get everything done, dragging her two or three small children with her. To the point where they would say I'm just going to go back. At least I know what to expect. At least I know how to do that. I know how to work that system around dealing with my abuser and maybe trying to not get hit tonight or how to make it through the day or be able to feed our kids, just being able to do that on a regular basis. That's the hard part. Having one place will give them so much more strength within themselves to be able to make that change. Sometimes you just need that little bit of a hand to make it difference. A lot of victims see the work that I do, the work that Chris does, and a lot of the other D.V. Programs is helping them with that piece, and some of them can make it, but some of them just get terribly overwhelmed by the inability to make that next step, to go all the way down to the courthouse and sit by themselves and maybe not have the ability of being able to deal with the language or deal with the complications of the forms and filling all that out, and we do a lot of help working with women to help them get that done or working on the forms with them. It would just be so much easier than when they had to fill out those forms that they then could talk to one of the detectives, talk to somebody to get their D.H.S. forms, to get their TADVs filled out right there. They could do it, and then they wouldn't have to stress about it and struggle, figure it out how to get the gas money to maybe go to that next stop. These things would be so much easier and just a major help for our programs, and I think people brought up the question of, well, is it going to take away from some of those programs? We don't think that at all. Many of our programs are so excited about having one spot where they can get most and then come to us to get the rest of the sport they need and get the help with the long-term avenues, things they need to do. That would be so much more helpful. We really want to support and do as much as we can to move it forward. Appreciate your support.

**Sonya:** I'm here today not as a victim but as a survivor. To give you a little bit of an insight, I'm a single mom with four boys, and you walk into buildings not knowing what you're going to face or who you're going to talk to or how many people you have to talk to before you get the help you need. My biggest thing, my biggest, greatest thing, is to see this open because, to get a restraining order right now, you have to go downtown. There's only a certain window at the courthouse where you can get a restraining order, and it takes you a long time to get through the process of filling out the paperwork. You have to go again the next day. Finding child care is not always easy. Going alone is a big feat. Being able to walk in and talk to people and have somebody help you all at one place where you can even talk to a D.A., you can talk to a police officer, to be strong enough to walk in there is hard enough to do, because when you get to the system and you have to go to those

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different buildings, you get put on a waiting list, sometimes even up to a month. It's easier to go back. It's easier to be a statistic, to say, I know what he's capable of doing. I don't know how bad it's going to be, but I can watch his temper and watch his shifting and changing and it's easier to go back because you're not on the streets. Shelters sometimes don't take boys over 10. Sometimes shelters won't take more than two children. And just getting to those locations sometimes is just so hard that it's easier to go back. And so to see a one-stop center in the Portland metro area would be a great, great step for all survivors and even vick times so they can become survivors.

**Saltzman:** Thank you.

**Kris Billhardt:** Good morning. I want to thank sonya for her strength and courage in being here today. And thanks for the opportunity to speak to you. I am speaking as, like tana, as one of 14 different agencies all working as hard as we can to provide a 10 yum of services that range from prevention to early intervention to long-term advocacy post crisis. We work together to provide a meaningful response at any point along the continuum to survivors that may come in with a varying range of levels of danger, multiple forms of abuse, and a broad range of individual needs. We've, as a system, long recognized the need to create multiple points of access, and that's been talked about a lot today, having lots of entry points. It's a core belief in our system. And we also work very hard and value strongly working collaboratively not only amongst ourselves but across systems, because there are so many disciplines that come into play in a domestic violence survivor's life, and many of those institutions have incredible power over her life and what might happen with herself and her children. We have long been aware of the complexity of services, and I think a lot of what we've talked about so far today are logistical barriers to entering services and accessing resources. There are also a lot of other issues that intertwine with domestic violence that I want to just give you an example of. In the 5000 survivors and their children that we worked with last year at home free, here are some of the barriers that they faced. 56% had a mental health history. 25% were disabled. 43% some kind of chemical dependency history. Some of them had themselves an arrest history, which creates a huge barrier to housing and accessing many of the services that they need. More than 93% of them had experienced multiple forms of abuse and, in many cases, more than one abuser in their lives. Many of them had been stalked, sexually assaulted by their partner as well as by strangers. 86% of them were living in poverty. And in 83% of cases where there are children involved, they had witnessed the abuse. So there's an enormous and complex web of issues that they come into services with and needs help for. At home free, each time we celebrate and recognize the gains that a survivor's been able to make in part because of our effective advocacy and collaboration. We also think about the many hundreds and maybe even thousands of other survivors that are out there that are facing these intimidating institutions without that guiding hand to help them through and navigate their way through. The one-stop center we really see as a potentially vital starting point for many, many survivors who would otherwise be trying to find their way through the systems on their own. Home free and other community-based providers do look forward to integrating the one-stop center into the range of services available now and the network of resources that we have created for survivors. We, as the domestic violence provider system, are a vital force, and we want to work with this effort in terms of ensuring that it capitalizes on the existing collaboration. It really is an augmentation of what we're doing and that its development is ongoingly informed by the profound knowledge, best practices, and cooperative approach to seeking funding and support that have defined our system for at least the past two decades in our area. I would welcome any questions. Thank you for your time.

**Saltzman:** Thank you all.

**Adams:** I have a question. So the crisis line, that seems to be a very -- I was just searching here under domestic violence, Portland, and that pulls up as a very visible link.

**Billhardt:** Mm-hmm.

**Adams:** For information, how is their involvement in this? What is it?

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**Billhardt:** Well, they have definitely indicated interest in being one of the on-site partners, and I think it's interesting to note that every shelter has a 24-hour crisis line, but the Portland women's crisis line has really been the closest that we've had to a centralized crisis line that could be the one place that survivors call, and I think that the one-stop center could really boost that effort and facilitate the ease of getting into the system when it's started by a phone call.

**Adams:** They were key in putting this together?

**Billhardt:** They weren't involved in the steering committee, but they have had conversations with the consultants about their availability and willingness to participate in the effort, yeah.

**Saltzman:** Thank you. Our last panel is chiquita rollins, member of the steering committee, ed hall, city of Portland firefighter, and our district attorney, mike schrunk. .

**Chiquita Rollins:** My name is chiquita rollins. I'm the Multnomah county domestic violence coordinator. Just to give you a little brief history, i've held that position since 1994 when it was established as a joint city/county position. In this role, I provide consultation, technical assistance, and training to both the city and county training governments. The coordinating council has been a central body for coordination, refinement, and development of services for victims and intervention for perpetrators of domestic violence. It's my role and the role of the council to hold for the 5000 or 10,000-foot view of the system and the services that are being developed and the needs and the gas in those services, so I want to speak from that perspective. Before I do so, I want to address commissioner Adams' question about is the existence of the one stop going to stop the need for that 93 phone numbers and provide easier access for victims into the services -- the specific services they need? No. We'll keep that list, because different victims need different things. But I think what kay didn't talk about is the concept of navigators that are core to this one-stop center, and that's someone who will do the intake assessment with the victim as she comes into the center and then keep in touch with that victim regardless of what services the victim chooses to select from the one-stop center and make it easier to get the services. I think it's going to augment and make for easier access. So one of the things I want to say about the center is that I think one of the reasons this is such a perfect moment to bring this forward and to thank commissioner Saltzman for his leadership in this is that we have in place some of the best collaborative efforts that i've ever known in the system since 1991 actually when I first started going to the coordinating council. Sergeant Stewart didn't get to talk about the domestic violence reduction unit, but we have victim service advocates that the city funds working there, co-located with them, have a great collaborative relationship, very strong relationship to the advantage of both systems, both the victims' service system and the law enforcement system. We also have a project out at gateway called the domestic violence enhanced response team which broadens that collaboration beyond the Portland police bureau and victim advocates to include probation, the district attorney's office, d.h.s., public assistance side of the department of human services, and the child welfare side, Gresham police, Troutdale, Fairview, and other law enforcement officers, departments in the county. So we have this really strong collaboration going on. Many of us in this room have worked with the department of human services to improve their response to domestic violence. I think there's an eagerness in the community at large to figure out how to provide better services. There's good collaborative relationships, and this one stop fits very well within that kind of model. In 2001, my office convened a planning process to look at the community-based victim services system and, in 2002 we published a report. One of the highest priorities for new services was what we were calling in those days multi disciplinary walk-in center, looking very much like the 1-stop concept that Kay talked to you all about. It's clear this one-stop victim service center fits within the intent. I think it's been mentioned, but I want to sort of restate to you that victims and children -- and their children need a wide array of services but don't all need the same services. To have the ability to have victims bring their children and have at one place this array of services that they know they can access if they want it, it's easy access for them. There's a multidisciplinary response if they

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want it. It's really important and will make their lives easier, make it easier for them to attain safety and to maintain safety once they've done that. The services currently available, it would provide an accessible, holistic, and disciplinary response to their complex needs. I think the feasibility study has been a very important step toward the establishment of the that center. I want to thank you for the opportunity to speak to you and for your support.

**Mike Schrunk:** Mike schrunk, your district attorney. Let me first of all congratulate you on the first part of your council session this morning. It was a pleasure to see the young men and women from grant, jefferson, and the kudos to Portland state. I see my alma maters are displayed up here. That's our future, and that's good that you recognize them. But another thing. Let me recall that, when you heard rod underhill, one of my chief deputies, tell you that he'd been working on this for a decade and a half, I looked at mr. Mayor, tom, and I thought, mr. Mayor, how long have you and I been working on this problem? We're looking at three, and four decades that we've been dealing with it. So it's high time, and I want to congratulate commissioner Saltzman and jeff cogen from the county commission for their leadership and their work. This is long overdue. We've worked in the domestic violence area for a long time, seen people chased around, lost victims who got tired and fed up. The one stop makes abundant good sense, and I congratulate all of you for this time you've spent on the council calendar but also for getting behind this. It is very, very important. We need access. The three things that i've learned in the almost three decades as district attorney is we don't take very good care of our children, our partners, and our elderly. There this, you're talking about the domestic violence, our partners. We solved a little bit of that working with the multidisciplinary team in the gateway area when that was created through joint efforts of the city and county and other cities within the region. This is another gigantic step forward, and I applaud you. You've heard the statistics. You've done it right. Your feasibility study is loaded with good best practices, with good documentation of the needs and the benefits. Just looking quickly at sandy egg gell, they went from 70% of victims unwilling to proceed to 70% of victims willing to proceed with their one-stop center. Better services, easier for law enforcement, less trials when we can gather information right away upfront, get cooperation, get people going the right direction. This isn't a lock people up program. This is a community enhancement program. This builds the culture. Prevention's best. Chiquita has addressed that. But we know some will sleep by. Thank you for your leadership in this, and we are 100% behind you.

**Ed Hall:** At first blush, it may seem like kind of an odd thing for the fire bureau to be involved in this, but our primary goal is protecting life, and we're constantly looking for better resources and tools that will help us do our jobs. Obviously at fires we perform our rescues, that seems to be where our mission came from, but we have expanded that over the years. As most of you are probably aware, we are the first responders to emergencies of all kinds, especially medical emergencies, here in the city of Portland. We're trained as spare medics, trained as emergency medical technicians, and we are often the very first people to show up in instances like domestic violence. Oftentimes these scenarios play out by someone calling for something elsewhere you show up and we're there called to check on some sore ribs that happened somehow a couple of days before. We're there to check on a child that has some sort of headache that's happened for the last few days. Or you hear from somebody who wants to check on their blurred vision from a swollen eye that they really can't tell you exactly how it happened. Over the years, you can look, and you get a hunch of how these things are happening to these people. I can't tell you just how valuable it would be to have a card or a folder, something that we could give, 'cause there's more than bandages that needs to be done in these instances, as we all are, i'm sure, aware. When we're done doing the first aid work, to have something that we could hand to give somebody a place, a single place to go where they can move onto becoming survivors instead of just repeated victims. Our fire engines right now, we carry a piece of paper that says what do you do after the fire is out just to help people go through the hurdles. What's the next step? What do you have to be aware of? We

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should have that same resource for people who are victims of domestic violence. And I really encourage your support of this and your continued work. Thank you very much.

**Saltzman:** That completes our invited testimony.

**Moore-Love:** We have one person signed up, teresa teater.

**Potter:** Please state your name for the record, and you have three minutes.

**Teresa Teater:** I highly applaud this whole concept. It's way long overdue. My experience myself with domestic violence has been about -- my daughter will be 34 april fool's day. 34 years ago, and all I had was one button you could push when my ex-husband was coming around to assault me again. I prayed to god the police department could drive like hell to get there before damage was done. I had teeth replaced, et cetera. When we finally did start creating a domestic violence type thing, it was go down to the d.a., pay 75 bucks for a restraining order, and as soon as the restraining order was violated, you had to pay 75 bucks for another one. And on and on and on. So, with this new system in place that you have, i've read everything in here really fast. The only thing I don't see is a child care room, and I see that some of the other models in here, they had them but they weren't supervised at all times. I think that when you have a woman come in like when I myself had a two and a half-year-old on my hip, it's very distracting to try to take care of your 2-year-old, fill out paperwork, and calm down a little bit from whatever may have just happened the last evening or early in the morning or whatever. You need a child care room to be funded and somebody in there to supervise these children. You also need to empower the police so, when they go on these situations of broken ribs like the other person just testified, the police officer can press the charges. We created that back in lincoln, nebraska, where they press the charges as soon as they see damage. Mine was always purple, yellow, green on my face. All they had to do was go get my ex, charge him, and that was it. That way it keeps the victim from getting reassaulted from the perpetrator, and it helped a lot, believe me. I went through eight major assaults, major m.r.i.s, et cetera. Also i'd like to see you get some law students come in and intern and learn how to do this type of thing. This is the case of field of work they want to go in. And the college that submits them like lewis and clark, they can get college credit and the college can make a donation back to the domestic violence center to help fund operations. Also you could have benchmarks to precipitate patterns that these women have happening. We discovered when it was time for the super bowl every year, that's when domestic violence issues increased in lincoln, nebraska. And so we would get these women to go do events by themselves away from their husbands. We'd try to intervene in the betting process so that they wouldn't bet all the family grocery money away because, once the money was gone, there was nothing to eat. And then we did community action alerts. Also schoolteachers. If you can get this through your one stop shopping center, teachers should be able to report to this center if a child or the parent is listed or registered at this center so they could -- i've got five seconds. So they can help intervene with these situations. Thank you very much. This is very good. But get that child care room so the parents can unwind while they're doing their paperwork. Thank you.

**Potter:** This is a report. I need a motion to accept.

**Leonard:** So moved.

**Adams:** Seconded.

**Potter:** Please call the vote.

**Adams:** Well, I want to thank city commissioner dan Saltzman and county commissioner jeff cogen and the entire steering committee for your excellent work on this. I look forward from going from here to your implementation work. It's very exciting, clearly needed, and i'm honored to vote aye.

**Leonard:** Thank you for the presentation. Aye.

**Saltzman:** Well, I want to thank everyone who participated in the study of the domestic violence one stop service center and especially all the members of the steering committee but also our focus groups. There's no doubt in my mind that the city of Portland would benefit greatly from having a

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domestic violence service center. I believe we owe it to the victims of domestic violence, their families and children. It's a necessary first step to stopping the domestic violence against families in our community. This is just the first step toward making this center a reality in Portland. I want to thank my staff person, Shannon Callahan, who worked tirelessly on this effort along with our consultants. I'm pleased to vote aye.

**Sten:** This is very tough work, and it's sad how pervasive it is and even sadder, I think, that we don't do more to expose what's going on in our communities and to help. I thank Dan for his hard work on this. He's been very focused on our council and not accepted sometimes arguments that this isn't the city's issue because the county's in the lead. It was good to hear some of the testimony from the police officers working hard on this. I do also want to just say very loudly that I remember in the last report that I looked at the number 1 reason people were going back to their abusers was a lack of housing and that an enormous number of women find themselves potentially homeless if they don't go back. Our housing programs need to try to continue to make tighter connections between what housing we provide and targeting some of the dollars for this kind of use. I hope we will keep that in mind and keep fighting for those dollars. I vote aye.

**Potter:** About 40 years ago as a young police officer, I had a regular route. I always went to the same house at least once a week. It was always about domestic violence and the husband would get drunk and assault his wife in front of their children. Each week I went back and I'd go back and go back and go back. Because there were so very few resources, sometimes we could just tell folks, try to find a relative to stay with for a few days. Here's how you file a report or complaint with the district attorney's office. But there was just nothing there. Over the years, I think we've made a lot of improvements. I think this particular improvement takes it to another level, and it really makes it easier and that we stop victimizing victims twice and make sure that we eliminate all of the obstacles and then not only reporting but following through, which is so important. So I really appreciate Commissioner Saltzman's leadership, Commissioner Cogen's, and all the other good folk whose helped put this together. I vote aye. Please read the 10:30 time certain.

**Item 346.**

**Sten:** Is Mr. Bennett here? Mayor, we have the honor in this case of affirming and welcoming -- this is an appointment recommended by Gresham. Mr. Bennett is a Gresham city commissioner elected in November of '06. I would say just briefly, with Mayor Bemis and Chair Bachrach here from the housing committee, we've really been doing a lot of work to make sure that Gresham and Portland are both equally working with the housing authority. I think there's always been interest but maybe not quite as much full coordination. This will be a whole new level to have an actual city council member on the board. I think Mr. Bennett was an engineer.

**James Michael Bennett:** Yes, I am.

**Sten:** We also want to get his thoughts over the years on how to improve the system as well. Congratulations, and I want to thank you for your willingness to take this on. I know you already have one very, very taxing volunteer job being on the Gresham council. To add this one to it is pretty remarkable. Thank you.

**Bennett:** You might say I'm a glutton for punishment.

**Sten:** I was trying to think of some other way to phrase it.

**Bennett:** Thank you.

**Jeff Bachrach:** Thank you, Erik. You said everything I could say. We welcome, as we try to enhance our commitment to East County, to have a local elected official there to help solidify the bond and make sure we don't lose sight that we are a countywide agency. With poverty and low-income people increasingly migrating eastward, it's especially important that we work with Gresham, so we welcome Mike Bennett, and hopefully you will as well today.

**Bennett:** I'd just like to add that this is a unique step, and our hope in Gresham is that we forge this bond between H.A.P. and Portland so we can deal with these housing issues that are affecting the

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communities all over. Be assured that we on the Gresham city council will be relaying our views as a city council. These won't just be my views. You may or may not be aware that last night we provided staff direction to actually start forging -- researching and forging which will eventually become a Gresham policy by the end of the year on affordable housing. So we're starting that investigation and all of that research right now, so the connection with H.A.P. right now is actually quite timely. It will allow me to have access to a lot of information that we can process and bring back to our policy statement and then work with H.A.P. so that we've got the correct policy statement in place. I don't know that there is such a thing, but we'll do our best. Thanks for your consideration in this, and I'll ask a lot of tough questions. Being an engineer, I hope I don't drive the H.A.P. staff crazy.

**Potter:** Thank you very much. There is anyone signed up to testify on this matter?

**Moore-Love:** We have one person signed up, Richard L. Meyer.

**Potter:** Please state your name for the record, and you have three minutes.

**Richard Ellmyer:** My name is Richard L. Meyer, and six years ago, I challenged the Portland city council practice of denying citizens their right to speak out on H.A.P. nominees by placing the matter on the consent calendar. Today I challenge the Portland city council to stop voting on H.A.P. nominees based only on the candidate's presumed interest in history of public service but rather their views on public housing policy. A search of Mike Bennett's published bio and news reports do not indicate that Mike Bennett has been involved in any public service activity related to or even interest in public housing policy. His only public service experience appears to be about 15 months in office after an uncontested Gresham city council race. His public experience and credentials in the area of public housing policy range from zero to none. The job of H.A.P. commissioner is to make public housing policy which guides the spending of \$90 million of public funds every year. No vote should be cast by any Portland city council commissioner without knowing the nominee's positions on a range of public housing policy issues. Morris Stein writes Bennett considers himself data driven and organized with a problem solving approach. Bennett has refused to ask for statistical data as a commissioner. He has not identified the problems he intends to address or how he intends to fix anything. Mike Bennett has written the incredible statement that he has no intention of stating any public housing policy, quote, prior to my nomination being confirmed by the Portland city commission. Despite Bennett's absurd and undemocratic notion that candidates who are elected and appointed office shouldn't tell the voters what public policy positions they support, he has nonetheless indicated to me where he stands on the following public housing policy issues. Mike Bennett does not acknowledge that the citizens of Multnomah County have a right to authentic, accurate, complete, and timely public housing statistical data from all public entities that administer public programs including the Housing Authority of Portland. Mike Bennett opposes the widely accepted public policy of equitable distribution of public housing. Mike Bennett is on the wrong side of all of these public housing policies. His positions on these public housing policies are not in the interests of your Portland constituents. A vote for Mike Bennett is a vote of affirmation of his views of public housing policy. If you support the status quo and continuation of unlimited neighborhood concentration of public housing, then you should vote for confirmation. If, however, you believe that citizens have a right to public housing statistical data and that equitable distribution of public houses are the correct public housing policy choices, then you should not vote for confirmation.

**Potter:** Thank you.

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

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

**Adams:** Thank you for your willingness to serve. Aye.

**Leonard:** Welcome to Portland politics, Mr. Bennett. I'm really pleased that you've agreed to serve, and I really can't say enough about and I really can't say enough about the emerging



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relationship between us and the gresham city council. I am very impressed with your work and the mayor's work, and I know the perspective you bring from east county, including east Portland, will be a very important perspective on the job that you're undertaking. Thank you for your work, and i'm happy to vote aye.

**Saltzman:** Thank you, mr. Bennett, for your tour of duty. Pleased to support it. Aye.

**Sten:** Aye. **Potter:** Aye. Thank you, mr. Bennett. Please read the 10:45 time certain.

**Item 347.**

**Potter:** Today we're going to hear from the consultant, eileen lunar foubou, her report of her review of the i.p.r., and after that we'll have a response from the city auditor and the c.r.c. Chair, mr. Bigham, and then we have four folks for invited testimony, and then we'll put up public testimony. I asked eileen if she would keep her comments to 20 minutes, and I would ask the same of the city auditor.

**Eileen Luna-Firebaugh:** I hope it's all right to have brought my water. [laughter] i'm eileen luna firebaugh, and I was very privileged to be able to do this evaluation of the independent police review division. First I would like to say that I want to thank the native peoples of this area. I want to thank the chinook, the cowlitz, the clackamas, the Multnomah, the wasco, and the other people for the privilege of speaking in their hand. I would also like to thank mayor Potter and the council members for the privilege of conducting this study and thank the city administrators who were so helpful in providing information and allowing me to bounced ideas off of them. It was very useful. I would also like to thank the citizens of Portland, because they opened their homes. They opened their meetings. They contacted me, responded to my calls. The study would not have been able to be conducted without their assistance and their interest. I really appreciated that level of support that I observed throughout the system. I think it's fair to say that as both a person who spent their career doing -- working in government, doing oversight of law enforcement, also being an attorney for deputy shares and a -- share i-5s and a labor attorney for public employees that I come to this work with a sense of the role of citizens in a democracy. I think it's fair to say that I believe in an empowered democracy. I think it's difficult and can be mess said but it is, by far, as we know, the best system that exists. Part of making that work is supporting an invigorating the community and the population. So I think that's pretty pervasive throughout the study. I know you've had the report for a number of weeks, that you've seen both the executive summary and the full report, and i'm not going to burden you with going through that in detail. But I wanted to say that what struck me at the beginning was that the city of Portland had very much participated in the concept that exists throughout government, which is continuous improvement, which is the concept of best practices. The idea is that you do a study, come to a decision about what you can improve, that you make those attempts to make those improvements, and then look at it again and decide are those improvements being met. Are we doing it? Is it working for us? Because I strongly believe that there is no system that exists out in the universe that says precisely what it is that Portland should be doing something. There are various components and pieces of what is called oversight or citizen oversight that you can take from other places or that you can take from all the literature and you can a bly it in your city if it fits what it is you are doing, because I strongly believe that there is no one system that works everywhere. I think that that's a big part of why up in front of you a set of recommendations that are numerous and that the intent is that you could be able to look at those and say, let's try this. Let's try that. This is working here. This is working there. Instead of just here's a template. Plunk it down in the middle of Portland and make Portland adapt. The idea of best practices is a very strong way of proceeding, and I really honor the fact that that is what you have done. I come prospective of having worked in government for a lot of years, but you have to also understand that I am a member of a native community. I am the clan of the light horsemen of the traditional law enforcement of my nation. And I come also as an appellate judge for our tribe, and so I believe in the community role that what happens is that there is a community role that directs,

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doesn't just think about, doesn't just comment but actually directs the role of government, and that is where I come from and that is what we do. So I believe in that. That's a little about it of perspective of how i'm heading. What I did in terms of defining the methodology for the study is talk to people in the field. I'm in the field, but I haven't run agencies for a number of years, though i've been a professor for a while. So what I did is I said this is how I think the system should go. This is the methodology that I see as making sense, embedded it with the people who are working in the field today, running agencies today, but also researching and thinking and structuring other agencies to get a sense of what are some of the things that could happen in Portland. In addition to first contacting that, I then contacted various parts of the community in the city administration. I tried to spread a very wide net. I looked at the surveys that had been done by other agencies in the city, assessed their surveys, attended four different pocus groups as well as meeting with various parts of the community in individual meetings in people's homes at night. Getting phone calls from more than 100 people, interviewing those people, trying to get a sense, in addition that our own surveys and surveys done by other parts of the city administration, what is actually the view of the people in this community as widely based as possible. I think i'm a person who believes that the best process is one that comes out of lots of people's brains, that the idea that one person is in charge and this person's going to make all the decisions is not my approach, and so I tried to broaden it as much as possible. One of the things I wanted to talk about is the idea of the auditing form of civilian oversight. It gets a little confusing in Portland, because it's the city auditor, and then there's the ought tore model. The auditor model isn't based on a city auditor. The auditor model is based on the concept of auditing, making a qualitative analysis of the complaints handled by the police department, so it is an auditing model that you have, and that model -- in that model, the auditor or the head of the audits agency, which in this case would be the i.p.r. Director, stands in the middle. That's the concept of independence. They stand in the middle with the community on one side and the police department and the city of administration and surrounded by these engine tipties, and they try to make the best decisions, the best judgments of what should happen within that position of centrality to all of those forces. So it's important to understand that the concept of independence comes from the role of that person surrounded by all of these forces and understanding that that's what independence means, and the concept is one of standing in the middle, not being part of any one of those forces but instead being the person or the concept that makes that decision. And I think that one of the things that really leads to the ability to make those kinds of evaluative divisions is the role of an empowered board. The idea that the citizens need to be empowered in a democracy or else government will just roll down on them -- and we all know that we've seen and read about things like that. So what happens is that, when you have a board that is composed of citizens, that they have a role in figuring out what should happen, and that role comes from empowerment, so they need to both feel empowered and actually be empowered. Part of that empowerment is knowing what to do next, being able to make an independent assessment, being able to have the training and the education and the power to make decisions, and that role of an empowered board is critical in any form of civilian oversight. It is absolutely built into the concept of the auditor model. One of the weaknesses that can happen with an auditor model is that the centralization -- if the responsibility is centralized in one person, it can result in community disaffection, and there's also a danger then of a lack of transparency, and I think that's one of the concerns that you have in Portland. I looked at the Portland i.p.r. System. It has significant strengths set forth in a report. There's also a number of observed weaknesses, one of those the concept of are you living up to the structure that was established through the codes and ordinances and protocols? When you have clear statutes and guidelines, you should fulfill them. If you don't, you should change the statute. What happens for the community -- and I mean this very broadly -- the idea that a community can read what a statute says, they say, wait a minute. This is not what's happening. Why aren't we doing what it is we say we're going to be doing? There's a number of

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strengths but also a number of weaknesses. In your statutes, there is a statement that independent investigations will be conducted where deemed necessary, and that has never happened. So the question then becomes, why not? One good thing would be to arrest particulate what "when necessary" means, what it is you're talking about. If you were to think about how it's working in other places, the concept has tended to be cases of public import. That is in my recommendation, but the question is what does that mean? It means what you want it to mean, but I think that dialogue between community and organization and city needs to be conducted prior to making that decision. You need to decide what is a complaint of public import? Different cities and different government models have different perceptions of what that means. For some, it is anytime there is an illegal violation, if there's an allegation of that, it becomes a complaint of public import. In others, there needs to be a decision about a number of complaints coming in or a particular kind of egregious situation. But it needs to be articulated. It needs to be developed before you start doing it, because otherwise you're working on a case-by-case basis. A case-by-case basis, as we know when we deal with court decisions, when we deal with other kinds of administrative decisions, is always difficult, always a point of contention. I really would strongly recommend that that decision be made upfront and first as part of a collective decision. There is a very low sustain rate for complaints in the city of Portland that hasn't been very well addressed. There's a number of recommended in the report. One of the things that I would strongly encourage is that the findings for the police department do not include policy failure, supervisory failure or training failure. That decision, that determination, is fairly common throughout the country, and it's certainly part of what the department of justice cites as one of the things that can be done in an agency. I think it's real important to think about the concept of supervisory failure, training failure, policy failure, because this may be a situation where the individual officer is really not responsible. Specifically it is the responsibility of the system to give the information to the officers. I exempted deputy sheriffs for a while. I think it's important that the message is clear and not just to the individual officers but clear to the administration, to the supervisors, to the sergeants, to the lieutenants, that this is what's expected of them and to release perhaps the individual officer from responsibility but shift that responsibility to the system that should be giving them a straight message. I think that's very important to do. One of the issues that you have is related to how does a policy complaint come forward. How does mediation apply? Those are things that you can see in the recommendations, and I won't go through that specifically, but die want to talk about the role of the citizen review committee. I think it's laudatory that you have one. A lot of boards do not. A lot of review agencies do not. And so having one at all is a good thing. But you need to make the next step under the best practices concept and actually empower that board of citizens. One of the things that you do to empower them is you give them training. You give them -- if you're going to have a larger role in dealing with complaints of misconduct, then you she'd to have the training to know how to do that. It's very important -- right now you have a system where basically the citizen review committee members are -- they go through the citizens' academy. There needs to be a comprehensive training program for people if they're going to be able to really take power and act in a comprehensive way. The national i've investigation, nacol, the professional organization for those of us who work in this field, has a training program for board members, and they also will provide training for investigators. My suggestion would be that that needs to be brought in comprehensively, that they will come and do a training. They will -- you can send board members and investigators to training or they will come and do a training. That process of training people in how to do this work is critically important, because nobody should be thrown into the sea without the ability to swim. I think it's very important you think of that comprehensively and bring people in to do that as a profession. I also believe that something that would very much help is if there were a serious look for the citizens review committee on policy issues that arise from complaints. So what's happening now, which is certainly something that's a serious approach to deal with it, is if

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they make a list at a retreat and those retreats of course are not public and they can think about or decide what policy issues to address, it would strike me that may or may not need the needs of the community at large. They should be looking at policies that come out of complaints, which means there's going to need to be more assertiveness in terms of determining what those issues are. One of the ways they could determine what those issues are is if there is a staff person assigned to the c.r.c. whose role it is to staff the c.r.c. and to bring issues that come out of complaints forward to the board. Now, I can tell you, in my jobs working for boards, that was my job. I mean, one of the major things that I did was identify policy issues that came out of complaints and bring them forward to the board, which was my boss. I acted at their interest, brought cases and issues forward, and that was my job to bring those things forward and for them to be able to say, yes, this is something we want to work on or no, we don't. We'll see what happens in a year and see if it's continuing to come up. So that's the role of an empowered board and the role of a staff person to that board. Now, in terms of the independence police review division, it's some issues and recommendations with that. You'll see it in detail in the report. But one of the things that's very important is that this i.p.r. should present a comprehensive report to the city council on an annual basis, and the c.r.c. should report to you. You need to be involved in figuring out what's going on and not be at an arm's length distance from this. This is probably -- of course i'm biased, but I think it's one of the most important things you could be doing, figuring out how law enforcement is working. So you need to be more directly involved. You need to be looking at sustain rates. One of the things that is included in -- the sustain rate is only reflected in the cases that actually get full investigation at i.a.d. It is not reflective of the number of complaints that come into the i.p.r. about 60% of the cases that come into the i.p.r. do not go to i.a.d., so those cases go away, and there is no recourse for the person who has had their case dismissed by the i.p.r. to bring it to the c.r.c. to complain about what happens. They can't appeal, and so you have a large number of people in the city who are concerned about what happens to bring a complaint and for whom nothing happens, and some of those people get letters, and some of them don't about what happened in their individual complaint. But they don't know the facts. Those cases are dismissed they seem to be not meritorious and yet they have no place to go no right to appeal. And so part of that becomes a real problem, I think it's part of the disaffection that you see between the citizens and the civilian oversight process. It's important to understand that when we say civilian and we say citizen, these are all difficult terms. But what it means is the role of citizens in a democracy to have some say with what goes on with their government and that's a critical function. And anything that's done to shortcut that or anything that's done to control that is going to be problematic. You need to open it up you need to be concerned about the input coming from people. And even if their people who are routinely watching this, that's all right. There's always the role of watch dogs in a community. But what's need to happen is that as they bring issues forward, it doesn't just come from them it goes to the and the c.r.c. is able to evaluate it, to decide whether it's bogus, to decide whether it's just somebody going over and over it again, or whether it truly has an effect on what's going on in the city, and c.r.c. is the best organization, best part of this process to make that decision. But in order to make it, they need to become empowered, they need to become trained and fully developed, and they need to fulfill their function. So there's a number of outreach statements, there's a number of other things. I stand ready to step away and answer whatever questions you may have but I was really honored to be able to do this work, and I found it incredibly interesting. One of the things, the best thing you can hope for in life is to do interesting things. Thank you so much for the opportunity.

**Potter:** I think -- do you have questions?

**Leonard:** Yes. Thank you for the time and clear passion you brought to this. I want to say that up front. I really respect your forthrightness, about being an advocate, you're forthright about what

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your opinions are relative to this subject matter. But that's also the problem that I have, quite frankly. I think -- for example, you would be an outstanding member of this city council.

**Luna-Firebaugh:** I'm paint clan, we never run for office.

**Leonard:** But if you were, you would find yourself in a group here that reflects I think just almost to a t the things that you believe politically. But our job here is to balance information.

**Luna-Firebaugh:** You bet.

**Leonard:** And to try to come up with policies that reflect all perspectives in our city. And I'm concerned about your report from that perspective. You've said -- I really respect your forthrightness. You've said just a moment ago, of course I am biased when talking about law enforcement. The concern that I have, how do I read through a report, when you're honest enough to say I'm biased, what I'm trying to get a balanced look at. Because we have those biases, and we'll take those into account. And I feel a little almost like you're preaching to us.

**Luna-Firebaugh:** Let me be very clear. Apparently I misstated.

**Leonard:** Can I finish?

**Luna-Firebaugh:** Absolutely. Then I'm going to give you an opportunity to respond.

**Leonard:** So before your presentation I raised with the mayor some concerns that I had about the approach that you were taking. Not because I knew necessarily what that was, but actually because of an interchange. And that was based on the auditor coming to me and saying, Randy, I am concerned about the report the consultant is doing. And it wasn't even on my radar. I had no if somebody said is there a consultant doing work on i.p.r., I'd have said I don't know. My approach I take on council, I always try to get sides together and talk and listen and see if we can't find a consensus. My natural reaction was when I heard the auditor raise concerns about your methodology. The auditor knew -- sat in my office, we could find some solution. I was struck because this doesn't normally happen with your refusal to meet with me and the auditor, and when I met, I asked why would you not meet with the auditor, and you said I have to do it with you. I'd have to do it with all the council. I thought why is that a problem? Individually I didn't get that. I think today I have a clearer picture of why that is. You have a perspective. And I think another thing that disturbed me, you may have a reaction to this, the auditor informed me that you did meet a lot with citizens, but you restricted your inner action with the police association with one phone call that was characterized as less than five minutes to me. I'm interested to hear your response to that. So the sense that I have is, I have a report here, I appreciate the passion, I will read it to educate myself about your perspective, but it's not going to get me far in trying to find a balanced solutions to these forces we have to deal with. And have you clearly picked a side, and that's great, and I'm very sympathetic to that, but how does that help me find in the end some more balanced approach to make a decision to move forward on that is somewhat of a consensus?

**Luna-Firebaugh:** Let me be very clear. Apparently I misstated, or you misunderstood menopause. I am not biased against police. I have worked in policing for a number of years. I was internal to the san francisco police department. I come from generations of law enforcement. That is not my bias. I am biased in the idea that citizens, that there should a review board that a review system that stands in the middle. That evaluates information, that comes to it both from police and citizens and that doesn't load it one way or the other. I am, however, absolutely biased in favor of empowered citizens, communities. I believe that that's what it is we're trying to build here. And I honestly don't believe that police are against that. To be perfectly honest, when we wrote the richmond review board, it was written at my dining room table with the black police officers and the main police officers association sitting at my dining room table, and we wrote the ordinance. So it is not something that I am against doing or that I think is wrong. What I think is wrong is a system that addresses consistently the issues of law enforcement and to some extent, does not address the concerns of the community. Where it's basically said, the community is unhappy and they're always going to be unhappy, and therefore, we'll meet the concerns of the police and we'll

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just do our business. I don't think that's an effective way to run a government. That's my own feelings as they both person who teaches law --

**Leonard:** Do you understand that's my -- that's the point i'm make something your answer is the point i'm making. We all agree with you. But how does that help us when we're looking to have an analysis done of this system? To balance objectively getting to that place?

**Luna-Firebaugh:** What I tried to do in the report and I believe what I have done, is give you a number of approaches to dealing with an issue. And I believe that you have the right and the responsibility and the ability now to choose what it is you'd like to do. But I think it's very important to understand that civilian oversight as a field, as a concept, as a philosophy, is not on one side or the other. It is -- it stands in the middle, it hears what the different pieces say, and it comes to the best decision independently of any of those forces. And I think that if you have an overarching concern for how happy one side or the other is, then you're going to have a problem. Because you can't you shouldn't run the agency that way. You should run the agency as being an independent agency that listens to various perspectives, and that means everybody will be unhappy with you sometimes. And that's ok.

**Leonard:** But did you listen to various suspects?

**Luna-Firebaugh:** Absolutely.

**Leonard:** Can you respond --

**Luna-Firebaugh:** I talked to lots of people in the police department. However, there was -- if you're talking about officer king, or --

**Leonard:** Yes.

**Luna-Firebaugh:** What happened in that situation was I contacted him on the phone. I said what I was doing, and his statement to me as I best recollected was that he didn't need to meet, that he would see the report when it came out. I can't force people to want to meet with me. So I said that's fine, that's a fair decision. It didn't strike me, and my recollection is he didn't want to be involved in doing an interview or giving me a real sense. I did talk to lots of people in the police department. I talked to individual officers, I surveyed the police department, and got hundreds of surveys from them. I sat and met with them after precinct meetings when they wanted to talk more individually. I had interviews on the phone with officers who wanted to talk. And I also got lots of emails from officers saying this was their input. So that I did. And I felt very strongly that needed to happen, because the police department is an integral part of this. There's lots of studies where they don't talk to the police. And I don't understand that part. One of the things I specifically built into it was talking to both police command and police administration, but also dealing with individual officers.

And talking to them and taking statements from them. On the phone, by email, and in person. So that was my intent, and that was my actually achievement, was in terms of getting a very broad sense of what it is they thought about the system. And what it is they thought they could better. I tried to reflect that in the report, without naming names, because it's always a problem when you're naming names to have people contact -- people feel uneasy, and I didn't want to do that. So I didn't do that. And I won't do that today. But it absolutely was my intent and my ability to do that.

Understand, to some extent I feel the role of a person who runs a civilian oversight agency is to be the guardian of the process. You can't have a vested interest in one side or the other. You just can't.

It's not your job. Your job is to be the guardian of the process, to make sure as much information gets out there as possible, to be -- to help evaluate that and to present it to the board. You wouldn't be making those decisions yourselves. You're making those decisions as staff to a citizen review committee. Or to a citizen board that then has the hearings or makes the decisions or makes the deliberations and makes those decisions. It's not the job, its my position, of an individual staff person to do that. I believe that that is -- that power is vested in the community, vested in the citizens, and i'm not saying that the citizens can't be -- i've had boards where citizen were expolice

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officers from other cities, they need to be able to understand it too. That's not an expertise you don't want to have on a board, but you want a board that's truly reflective of the community. And --

**Potter:** We have -- we have other questions.

**Luna-Firebaugh:** I'm sorry.

**Potter:** I think commissioner Adams, did you --

**Adams:** Yeah. I want to give you a chance to respond. I asked the auditor in our informal yesterday for some detail, additional detail on some of the recommendations that you made that he categorized as faulty. I want to give you an opportunity to respond. I assume you've seen his memo. I want to give you an opportunity to respond to any of those recommendations that he categorized as faulty that you might want to push for.

**Luna-Firebaugh:** You're talking about the february 27th report from Mr. Blackmer?

**Adams:** Yes.

**Luna-Firebaugh:** I've certainly gone over this, and I just don't know that it's conducive to a full discussion, to get into a point-counter point. I just don't know how effective that is. There's some basic concepts I think are very important. There's always details that can go one way or the other. There's some things I could have been wrong. What we say from where I'm from is, you know, perfection is not the job of humans, it's the job of the creator. We're human, we can't be perfect. But there's some overriding concepts I think need to be addressed. If you address those, I think an awful lot will fall into place. I really want to motivate the concept that everyone should have the right to appeal, that right now the only people who have the right to appeal a decision are those people whose complaints have gone fully through the i.a.d., and have been denied. That's maybe 10% of the complaints that come in. I don't know the numbers, but maybe that's 10% of the complaints that come into the city, come into the i.p.r. There's a large number, a majority of cases that come to the i.p.r. That have better -- that are dismiss and never have a right to appeal. There's all the others that go to service complaints, etc., that have no right to appeal. Only those cases that go to full investigation have the right to appeal. And I think that discomforts the community greatly. And I any that it's the role of citizens, and it's the role of government to listen to what people say.

**Adams:** Do you have --

**Luna-Firebaugh:** I think that's an important piece.

**Adams:** And this is sort of lightning round questions and answers. One of the things we were talking about yesterday is how do you provide that -- how can we provide that appeal with the potential number of appeals? Do you have experience or suggestions in terms of the sorting process or criteria?

**Luna-Firebaugh:** Right. If you're thinking of the 701 complaints come in, not all of those people are going to file an appeal. And probably not even a majority of them will file an appeal. So a number is not as huge as it would appear. I think that if a person files an appeal, they've -- their case has been dismissed at i.p.r. If they have the right to appeal, which they don't now, they would submit a letter, they would say, you know, here's -- my understanding is you didn't talk to this witness or this happened or you didn't evaluate what I had to say, it would go to the c.r.c. The c.r.c. Could make a decision as to whether or not to allow a full appeal. So it doesn't have to automatically be a full investigation or full appeal of something that a person wants appealed. It's part of the empowerment of the board to make that decision. But the person has to have the right to bring it forward. That's I think part of the issue now because a complaint is filed and nothing happens. I would think it would win 0 down, but it should win 0 down through the role of the citizen review committee, not through an administrative decision.

**Saltzman:** I was look at the executive summaries some of the contents of the report, and you talk about the challenge facing this consultant is to make an independent determination of perceptions of effectiveness and satisfaction of the community and the complaints. And you have the statement

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they do not have the confidence of the community. So -- and I look under -- page 82, I find reference to one meeting at an indian center where staff said they knew of hundreds of people that were dissatisfied. Is that the community?

**Luna-Firebaugh:** That was only one meeting. I wasn't reflecting all the meetings I went to. What was said was, they knew of a hundred, or approximately a hundred people, hundreds or a hundred, who were unhappy with what had happened, but had not filed complaints. And so in some ways that's reflective of a broader community. This is not complainants. These are not people who filed a complaint and weren't happy with the way the system worked. These are people who never bothered to file or didn't feel it would do any good, and therefore were unhappy about it within the community. So you're getting bad statements made in the community, but those people didn't even bother to file.

**Saltzman:** Your determination that it lacks the confidence of the community, you define -- I understand it's not the complaint, you define the community as the broader citizenry of the city of Portland? People who are closely following these issues --

**Luna-Firebaugh:** The definition of community if we actually look at a definition of community is those people who know something about something. So you can't -- not necessarily everyone. But when you look at the city auditor's own survey that goes out to I think 65,000 people in one year got it, you still had -- you had 39% of the people saying they thought I was ok. The rest of them don't think it's working. So that's a very broad community. That's people who get a survey form in their mailbox and are answering about a number of things, not just police. So they're dealing with lots of stuff in this survey, and to some extent it's a self-selected group. But still it's not focused on policing. So what I tried to do when I looked at everyone's surveys, and everybody's studies, was to glean from that basically an evaluative statement. Which is that the community doesn't think what's happening is what should be going on. They're generally unhappy with it.

**Adams:** Yesterday we also had part of our discussion, a robust discussion, I thought it was useful, talked about how when it comes to hearings, the c.r.c.'s decision sort of stands, but on all other issues the auditor views the role as advisory. Given your earlier testimony, would you suggest that their role be defined differently? Visa I have both for the c.r.c. and the i.p.r. staff? And the auditor's staff?

**Luna-Firebaugh:** Right. I think there's some problems with a system that's actually directed by a council member. A member of the commission.

**Adams:** You mean an elected --

**Luna-Firebaugh:** An elected official. That generally a director of a civil review board -- a citizen review board is an independent person within a city administration. And in my case, one case I answered to the board of supervisors. In another case I answered to the city manager. But the answer didn't mean I reported to them directly. The ants just meant I went to a staff meeting, there was an issue that came up hi to talk to them.

**Adams:** What's the nature of that concern you have, of an elected official in charge?

**Luna-Firebaugh:** Because this is an independent role. Elected officials have purr views, they have responsibilities that are very broad. This is a very specialized part of what goes on in the city. And I think that the director of that agency should truly understand how to do that particular job and not be scattered with a number of functions. So it's very important that that be a designated position, and that that position be fully empowered to do what it needs to do.

**Adams:** Other responses to the issue of definition of roles, c.r.c., staff, that we should hear about?

**Luna-Firebaugh:** I believe that the c.r.c. should have a staff person that -- obviously they're within the system, and so there's i.p.r. comes and speaks to them, other people do, they handle the paperwork, the minutes. But the c.r.c. Really has no designated staff. And I think they need to have a designated staff person who can act for them and with them. It's time consuming. If they're going to be doing the job that is envisioned in this report, and they're going to be an empowered



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review process or powered citizen board, there's going to be a lot of work. And as such they need to be trained to how to do, that but they need a staff person. They need somebody who can -- who they can say we need to get these things done. That person will have a role within the greater administration, but it's really a c.r.c. person who does -- who carries the water for that board.

**Potter:** We have the auditor and the c.r.c. chair.

**Gary Blackmer, Auditor, City of Portland:** Good morning mayor, members of city council. Gary blackmer, Portland city auditor. I'm not going to repeat the good discussion we had yesterday. I think it added a lot of ideas and discussion and strategies for us to start considering. So I try to think of something else, but I will have one repetition. City council's considering changes to Portland's police oversight system. And i'd like to point out again, some of what I think are accomplishments that are very remarkable for Portland, and I think other systems in the country truly would envy the 40% decline in excessive force complaints in the last three years. The 68% decline in officer profanity complaints in the last four years only two officer-involved shooting incidents last year, compared with a previous annual average of over nine per year. So those are goals that we're working on, and they're the very same goals I think the community puts an importance on. Some of them are less important than others, like profanity, but they go to the heart of community policing. So I don't think we're working at cross purposes with the community. I think it's a debate about how we get there. And I guess it also is a debate about one very fundamental question of how we improve police services. On one side the question is, do we take investigations away from the police bureau to build credibility with the public? On the other side, do we create an empower and oversight body to ensure that problems in police services are thoroughly investigated and properly addressed by the police bureau? My belief is that officers are more conducive to change an improvement when a peer or a supervisor tells them they've done wrong. Than an outside body telling them i've done wrong, fundamentally. And those accomplishments I just mentioned I think are clear proof that the model we have is actually working. I'm not alone in that view. Here's a summary of one important conclusion drawn by several police scholars. It's an article by deborah livingston in an essay on police reform and accountability. Quote -- the efforts at police reform will be most effective when the police organization itself is involved in the process. And ultimately, when we form involves not simply adherence to rules in the face of punitive sanctions, but a change in the organizational values and systems to which both managers and line officers adhere. That's the philosophy we've been following, but ultimately it's a philosophy that I think city council needs to decide on. So i've given you my commitment to apply all my professional attention to sustaining an effective oversight system in Portland, and holding officers accountable. I work closely with the citizen review committee and we listen and we consider, we have good open discussions about policies, about practices, and we listen and look to them for guidance. I will always consider any suggestion for improvement, and we have adopted many improvements not only from what piac was, but even from what i.p.r. and c.r.c. were in 2002. I prepared a written response to ms. Luna's report. It's on my website. I won't go into the details of the issues I raise regarding the report. But I welcome anyone who would like to know my viewpoint to go see it there. So I guess I would close and say, I think we've accomplished remarkable thing in Portland, and I would encourage council to think about not only what we've accomplished, but the philosophy that we follow, and as it considers changes to the system. I'd like to introduce michael bingham.

**Michael Bigham:** I'd like to thank the mayor and members of the council for giving us this opportunity to speak. First i'd like to say all members of the c.r.c. are satisfied and heartened to know we remain with the city auditor's office. The auditor and his staff have given the us great support, and i've always been willing to help with our mission. The auditor is a fair-minded public official who is -- with integrity who is committed to the concept of citizen oversight of law enforcement. Some supreme really don't know what-to-the c.r.c. does. Other than appeal. So I

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thought I would start with telling about you last night's meeting and a couple of issues we dealt with at the meeting. First we had a discussion with commander vince jarmer, who is head of the tri-met transit division. And commander, the case background is we heard a case regarding the tri-met division. Tri-met division consists of Portland officers, officers of outside agencies, jurisdictions, and they were performing a fair checking mission on a max light rail platform. A young man was asked for his bus pass and the situation eventually escalated and the young man was arrested. He subsequently filed a complaint on the matter. During the course of our case review, we learned that at least one of the officers from the outside jurisdiction was not allowed to be interviewed by Portland's internal affairs division. That was a decision by that department head. We were concerned about two things. One, how officers from outside agencies will be held accountable to the citizens of Portland for their actions while working for the tri-met division, and second, outside agencies need to be interviewed by internal affairs in complaints against officers. Those interviews bars resolution -- may bar resolution of the case that may or may not exonerate the officer. Commander jarmer took that information from us and is going to work up through channels to try to resolve those issues and then come back within 30 days or 60 days. The other thing we discussed were service complaints, which was an issue here yesterday. And the service complaint protocol says the cases should be on a quarterly, annual, or semi annual basis. Protocol also was written by director richard rosenthal and ratified by c.r.c. in 2002. The protocol says that service complaints are not appealable. It was his opinion at the time, what he put forth in the c.r.c., that they were not appealable in light of the police labor agreement. I'm really not sure I buy that argument, or that opinion. But anyway, in last night's meeting the c.r.c. established a work group to audit service complaints and also look at protocol and determine how service complaints are handled, and whether they should be appealable or not. If so, the goal would make -- would be not to make findings on the complaints but to determine if it -- a full investigation was warranted. I have full confidence that the work group will do a good job there. Are two attorneys on the work group, and the former director of operations for the customs in the city of Portland. As for the consultant's report on police review, it's not easy to characterize the c.r.c.'s reaction, because we're a diverse group of people. Each with our own experiences and opinions. Some people on the c.r.c. are very critical, and some people are accepting. I do think we all can agree that although flawed, to some degree, the report is a good starting point for a well-needed discussion that's been a long time coming, and we -- discussion is welcome. I'd also like to talk about the mayor's desired outcomes on that sheet you handed out yesterday. On c.r.c. conducting investigations, I think we agree with the auditor that logistically it would be impossible for the c.r.c. members to screen 700 complaints a year for investigation. The c.r.c. does feel more input by the committee in determining an i.p.r. or i.a.d. needs to investigate an investigation on a particular matter is desirable. I know the league of women voters will float a proposal to you, and I think that might be an interesting thing to discuss. Civilianized training, I agree we need that. The only reason the i.p.r. Director cannot allow appeals to come to the c.r.c. is a timeliness issue. But if you want to say I -- that may clear up that perception problem. In conclusion, police need to be held accountable but an adversarial relationship, where we are continually butting heads. Not productive. Police need to be part of this process and part of this discussion and their voices need to be heard. We need to forge stronger relationships with the mayor and council. We were heartened to see maria rubio, the mayor's office, was at our meeting last night. We thought that was a great step. So you can expect to hear more from her. Thank you very much.

**Potter:** Questions?

**Adams:** I appreciate your testimony, and your service on this. On the c.r.c. is it really that stark of a trade-off of either the status quo or no independent investigations or review of any types of cases? Is it really that stark? You said you didn't think it was workable. I just want to make sure --

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**Bigham:** No, I don't think that's stark. I think that you can measure out how much certain cases that you can review or appeal. I guess -- is that what your question was?

**Adams:** I just wanted to -- we're always -- we put you on a timer and there are lots of people watching. I just wanted to give you a chance to amplify that there might be a way forward to, you know, honoring your workload and how much time you have to devote to this, there might be a way to provide for a limited number of reviews by the c.r.c.

**Bigham:** Actually, talk about empowering the c.r.c., I think that is a possibility. I think a staff person would be necessary. Somewhere in that point it shifted over, maybe the staff person could make a referral at that point. Rather than -- I think once it goes through the process, it's too late.

**Potter:** I want to ask a couple of questions. I appreciate your candidness, and independence in terms of your views. And I have had the opportunity to talk to several of the members of the c.r.c., and I have been very impressed with the quality of people that are on it, and their dedication to doing the best job possible. The two questions, and sort of the larger question is that of the 700 or so complaints that the city of Portland receives each year regarding police officers, only less than 10% are appealable. Do you believe there should some system in place, and do other members agree, I know there's diverse opinion, but should there be some system in place that allows for some kind of an appeal process, whether it's to the c.r.c. in some other way?

**Bigham:** I'll give you my opinion. Yes, I think there is. But I think there are people that don't believe that. I think that the citizens deserve a right to have their cases reviewed by an outside person other than --

**Potter:** And my final question has to do with the issue of the c.r.c. and i.p.r. doing an outside investigation. Regarding a police complaint that may be more appropriately handled that way. Have you folks talked about that? Is there some consensus, or do you believe it's something that's doable from time to time there would be times that it would be more appropriate to be investigated by an outside investigator?

**Bigham:** I believe there are certain types of -- I think it was mentioned yesterday, certain types of complaints that should be investigated, or more appropriate to be investigated by an i.p.r. I think i.p.r. has a staff and the resources to be able to do that. I.p.r. We really haven't had that discussion. Maybe as a c.r.c. we should sit down with the auditor and whoever else and have that discussion. See if with can come to a consensus.

**Potter:** Any further questions? Thank you, folks. We have four folks for invited testimony. Ask them to keep their remarks as brief as possible. Andrea meyers, david, carol curbman, president of league of wims women voters of Portland, jorge, Portland resident, and kathleen, director of diversity and human resources for cascade aids project.

**Andrea Meyer:** Mayor Potter, andrea meyer, legislative director for the aclu of Oregon. Usually I am here to testify on behalf of the aclu directly, but today i'm here to testify in lieu of david, the executive director who could not be here today. He serves on the state law enforcement contacts policy and data review committee that's meeting at the same time. He is our expert on this area and has been involved and was indeed interviewed for the report. So my words are a shorter version of the written testimony that I provided to you on his behalf. Portland has many of the most important components of effective civilian oversight and law enforcement in place, but there are some critically important components that currently are either missioning or need improvement. The most effective civilian oversight will meet the following critical goals. Increase the general public's confidence that local law enforcement is professional and responsive to the concerns of the public for both safety and justice. Provide a readily accessible complaint process and ensure investigations and hearings results in findings and actions that are fair to both complainants and police officers. And three, provide for public involvement into the review and improvement of police bureau policies and practices. We believe that if adopted, many of the consultants' recommendations and the mayor's would move Portland closer to achieving these goals. In

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particular, we fully support an increased community outreach bite c.r.c. and i.p.r., ensuring that every person who files a complaint receives formal resolution and notification of the outcome, provide clear criterion procedures for determining when i.p.r. or the c.r.c. should conduct independent investigations as you've discussed. And we don't anticipate that there would be many of those. And provide an appeals process for all the complaints that are not formally or fully investigated. And as discussed yesterday and today, also provide sufficient staffing resources. An additional critical missing component I want to focus on is a process for improving policies and practices. We're well aware the c.r.c. and i.p.r. are currently representing -- attempting to address policy issues that arise through the complaint process. But the scope of that effort is limited in -- and is mostly invisible to the public. We agree with the public statements made by the city auditor that these policy issues are critically important, but we strongly disagree that it is necessary to carry out these initiatives quietly and behind the scenes. Indeed, while the current strategy is negotiating with the bureau may result in some important improvements, it represents a lost opportunity to involve the public and significantly improve the public confidence in the bureau. Too often here and elsewhere police policies have been written to give the broadest possible discretion totion individual offices to do whatever they believe is best in a particular situation. Rather than giving the officers clear direction on best practices. That also reflect the values of the community they serve and protect. Police practices and policies and procedures too often are written late the city but not necessarily the police officer from potential litigation. Rather than giving the officers the tools they need to solve problem situations safely and practically. And too often complaints about the action of individual officers result in findings that reject the merits of the complaints because the officer acted consistently with established policy, even though the underlying policy should be the focus of the review, and remedial action. We think the current role played bite c.r.c. and i.p.r. important, but reactive to the issues that have arisen as result of complaints. While that role must continue to be most effective, the bureau often needs -- also needs a public sounding board for poll and I practice issues before they give rise to complaints for litigation. And the effective model I want to discuss, I attached -- provided to you today is some information about the eugene police commission. It was established a decade ago, and it periodically reviews key policies and procedures tone sure that police practices reflect the values of the community. The independent auditor and civilian review part of eugene required a charter amendment, and that original proposal was defeated by a small margin, and it was approved only two years ago. And I think there were -- yesterday eugene was lumped in with a list of problem jurisdictions, but those are related if there are any problems, to the initial implement takes of the independent auditor's involvement, and oversight of i.a.d. investigation and recommendations. That process is newer, the police commission as well -- is well established. The commission and its policies review functions have now been in place and work actually remarkably well. Commission members receive extensive training on police practices as well as recommended best practices. They are broadly represented in the community at large, including at least one member of city council in the human rights commission. It has dedicated staff member who takes direction from the commission regarding additional research and information needed to reach broad agreement between the commission and the police command personnel. The eugene police commission has reviewed many hot topic policies that are down there and up here. Including use of pepper spray, handling political demonstration, civil disorder and their entire use of force policy. Now, the aclu does not always endorse the final outcomes or policies, but we very much endorse and participate in that process. These take place in public meet cans that have included opportunities for members of the public and interested organizations to make suggestions and express concerns. On the most difficult issues this commission has reached consensus among its own. If I may finish, mayor, i'm almost done.

**Potter:** How far are you?

**Meyer:** Close to concluding.

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**Potter:** You really have to wrap it up.

**Meyer:** They have reached consensus on these issues as well as with the chief command personnel and the Eugene Police Department and public. Those recommendations are advisory to the chief. I've attached the information. The Bureau has currently has a number of advisory council commission and we would urge looking that the as an opportunity set up the system through there. If we are ever to have an effective policing policy, there must be transparent mechanisms for the committee to work with the police bureau, to continually improve its policies and practices. Doing so will not only improve public confidence in the bureau and its personnel, it will also greatly assist officers on the ground to know that they have the full support of the public as active partners in the effort to deter and solve crime in our community. Thank you.

**Carol Cushman:** The 2001 national institute of justice report how civilian oversight can benefit communities as referenced by a professor Luna performance review of the independent police review division, explains that civilian oversight benefits communities by providing a window into the police bureau, increasing public understanding of police policies, procedures, and behavior, discouraging misconduct through retraining and discipline, and improving police procedures by recommending policy changes. Appointing a stakeholder group with representatives from the public c.r.c., i.p.r., and the mayor's office to work out the details with council direction. Most of them taken directly from the performance review. We'd like to highlight a few of those today. Some of them were also league experience added into her recommendations as far as our experience with the c.r.c. the c.r.c., in conjunction with the i.p.r. director and the public, should develop criteria, spelling out the types of cases that should be investigated routinely by i.p.r. The report provides examples of types of cases such as illegal searches and serious bodily harm. This does not mean the c.r.c. would be dealing with individual cases, receive investigation independent of the police bureau, but accepts the criteria determining which categories are subject to those investigations. The performance review envision as more active empowered c.r.c. In order to manage the workload and enhance effectiveness, we suggest increasing the size of the board to 11 or 13 members. Lengthening the term to three years and dedicating a staff member to support its work. To create a more direct connection between the city council and the c.r.c., each council member should be responsible for appointing one c.r.c. member. We were pleased to hear yesterday that the mayor plans to have staff present at all future c.r.c. meetings. The i.p.r. has adopted a number of outreach strategies, but has had limited success. The public needs to be made aware of the system exists and how it works. Planning commission and p.d.c. meetings are broadcast on channel 30. Maybe it's time to add c.r.c. to the program schedule. We were pleased to hear yesterday that the mayor wants to find a way to give complaints whose cases are declined or classified as service complaints, an avenue for appeal. Early in i.p.r.'s history, those decisions could be appealed. It makes sense to find a way to get complainants some recourse when they feel a decision is unjustified. There are a number of other policy issues that need consideration, such as how to compel officer testimony in an independent investigation. The standard of review used in appeal hearings, appropriate findings available in complaint cases, training for staff, c.r.c. members and more. League recommendations on those topics were included in the memo, but once again, a stakeholder group would be well suited to working out the details for council consideration. Thank you.

**Potter:** Thank you.

**Adams:** I have a question.

**Potter:** Question from commissioner Adams.

**Adams:** I think the results, some the information provided to us from the auditor in terms of some of the service area concerns, improvements are pretty remarkable. Do you agree with that?

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**Cushman:** There are probably -- there are improvements in general as far as -- certainly not arguing over this act there have been improvements. That don't mean individual citizens still don't feel they should have their own chance for redress of concerns.

**Adams:** And you would want to continue to see those improvements occur, correct?

**Cushman:** Correct.

**Adams:** And you want an opportunity as someone who has studied this a little bit of dialogue with the auditor's well-intentioned concerns that if there's too much confrontation or conflict, then everyone sort of goes to their respective corners and only does the minimum required, or has a more collaborative approach as he described has produced great results. I wanted to hear your sort of thought actions to what has been characterized as trade-offs, and does it have to be a trade-off?

**Cushman:** I'm not certain I'm going to address exactly what you want, but let me try and say our thought on independent investigations, which I think is one of the places where it's feeling it's a head-to-head conflict. There are criteria set as to which cases are going to be dealt with as an independent investigation, then I don't see that that's going to affect the rest of the flow. That's taking a very small number and sort of setting them up. I'm not saying that is a criteria, but if the criteria is decided, I think it would identify a very small number. It would be not a small number of the 700, it would be a small number of the 60 that we're talking, you know, two or three maybe that might go to an independent investigation. So I don't see that becoming a conflict or a head-on -- head butting with interest.

**Adams:** Thank you.

**Jorge Espinoza:** Good morning, thank you for the opportunity. My name is Jorge, and I am a long-term resident of Portland. Let me say a couple of things about my involvement with paramilitary associations in the state and in the country as well. I have, since 1981, provided instructional advisory and consulting services to various law enforcement and connection agent significance in the state and elsewhere in the country. To name a few, I have worked with the police academy in monmouth, I have worked with the sheriff departments in clackamas and Washington counties, the police departments in salem and hillsboro, and the entire staff of the Oregon department of correction. This experience has provided me with knowledge and insight and experience with men and women policing this great state of Oregon. That is, I do have direct experience and some understanding of the mind and culture and behavior of those we have chosen to protect and in some instances, correct and control the residents of our state. I often tell my students that we look at the past to get a sense of origin trajectory. We do not look at the past for answers to contemporary questions. That of so what if we were to look back at the relationship between the police bureau and communities of colors in the early 1980s? On one hand the bureau gained national notorious thanks to the -- richard walker and tom Potter, when they institutionalized a community policing approach into the police bureau here. But on the other hand, I like many other Oregonians recall the embarrassing if I kass co, the tragic choking of an african-american security guard by three bureau officers and the terribly arrogant -- part of the collective memory. Presently as the council and the mayor's office grapple with the questions and recommendation made in this report at hand, this past events provide us with two useful elements for understanding the importance of the proposed recommendations. Number one, they provide us with invaluable perspective on the often tum tuesday relationship between the -- second, my opinion more important, is that it gives city officials an opportunity to gauge, to measure the perceptions held by some and the communities of color in Portland. So these are the specific recommendations I support. I support the recommendation to grant the citizen review committee the authority to hear requests for appeals for three reasons. Number one, because the old hire arc call model of decision making excludes rather than includes folks. The c.r.c. Board's members in fact represent the many voices of Portland and should not be silenced by structure. Open session speaks of openness, inclusion and the willingness to be held accountable. I support giving the citizen review committee

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the proposed staff person for the following reasons. One, it maximizes resorts. Number two, is less time consuming. And is likely to expedite changes in the p.p.b., which is an important consideration given that my quote from the report, the c.r.c. has been responsible for only three systemic community focus policy changes in six years. I support giving the c.r.c. the authority to conduct independent investigations for two reasons primarily. The p.p.b. strengthens its credibility in the eyes of the community. Which is important. And the bureau is provided with a beneficial second opinion on controversial cases. Again, this would be evidence of the willingness on the part of the p.p.b. to be held accountable because as we all know, power begets responsibility. And I support the call for immediate development and undertaking of a public outreach program by both independent police review and citizen review committee for the following reasons. One, because in educating the community, you empower the community. In informing the community, you gain the support of the community. And when you educate the community and inform the community, it prevents a formulation of useless and damaging urban myths about the p.p.b. So like any other groups or agencies, or governmental branches, entrusted with the public's confidence, oversight is essential. These recommendations in my opinion ensure that all members of the public indeed get the service and protection from the Portland police bureau that is charged with providing. Thank you.

**Potter:** Thank you, folks. How many folks are signed up to testify?

**Moore-Love:** We have 17 people left.

**Potter:** Let's call the first three.

**Potter:** Because of the lateness of the hour, i'm going to ask you to keep your comments to two minutes. I appreciate that. Please proceed. State your name when you speak.

**Dan Handelman:** I was very -- that's disappointing, but i'll go ahead. I'm with Portland cop watch. It's great to be having a discussion about the-- in which is long overdue. And probably should have happened -- these are some of the major ideas we support of the. The c.r.c. should be able to set the guidelines for when independent investigations will be concanucked. Cases should include high profile shooting, deaths, use of force with serious bodily harm, racial profiling, illegal searches, and when there's high emotion in the community or conflict of interest. These are the parameters they're used in systems in albuquerque, boise, and eugene. Transparent outreach can be increased by using the report suggestions. It's not about the community police files, which i've heard accusations of, it's about i.p.r. and c.r.c. telling the public what they're doing and asking for feedback frequently and consistently. We also believe the city should change the charter to make the i.p.r. fully independent and not subject to public whims. I.p.r./c.r.c. need its own legal counsel there have been problems in the past because of this. The standard of proof, this is addressed in the report but it's not a specific recommendation, should be changed to preponderance of the evidence. The confusing reasonable person standards that exists should be replaced. This is an administrative process, I just want to jump to this alleged drop in shootings and all the improvements that we keep hearing b I don't think you can make a causal link between the existence of the i.p.r. and these changes in numbers. In fact, there was only one shooting in 1995 when ppiac was still around, and you can't say it had anything to do with that. And we can't prove it. We analyze this statistics on how much money is paid out in lawsuits, and those numbers have almost doubled since the i.p.r.'s existence. We could claim that's because of the i.p.r., but we can't prove it. So I want to be careful about making -- listening to claims that the i.p.r. is responsible for any changes in the use of force or profanity complaints.

**Adams:** I'm trying to ask questions to people to come together that appear to make some sort of extreme statements. Do you agree you accept and understand what you're saying in terms of you don't see any causal relationship between i.p.r. and some of the improved trends. You make no causal relation at all, i.p.r. has had no positive impact on those trends?

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**Handelman:** I just say you can't prove it. Certainly -- when tasers were brought in in 2002, we were told they were going to replace use of handguns. They've been used a thousand times a year now, which I think is a lot more than handguns were used. And that's when the shootings started dropping off. So to only say it has something to do with the i.p.r. is I think disingenuous.

**Adams:** Is there any strength that whatever changes we look at making, are there any strengths would you want to advise to us for the identify?

**Handelman:** What you've been hearing today about the citizen review committee needing more power and needing the community more involved is very important. The use of force directive that just came out yesterday from the police bureau to citizen review committee, I don't think that the draft was sent back to them. It certainly wasn't sent to the whole c.r.c., and we as an organization that does police oversight never saw the draft of that. And what andrea was talking about. The community should be involved. And we weren't.

**Adams:** Thank you.

**Reverend Dr. Leroy Haynes:** I am the reverend dr. Roy who -- honorable mayor Potter and distinguished members of the city council, on behalf of the ministerial lines, the oldest and largest ministerial alliance in the north and northeast Portland, we come to support the recommendations 4 the committee -- commission study on the independent review division. With believe the six-month study captures the heart of what is needed to reform i.p.r., and the citizen review committee, and in add to create public trust and participation of citizens, especially communities of color. It is important that the citizen review committee doesn't be just an imitation of personal affairs. We have an internal affairs, we don't need another internal affairs. Rather the citizen driven, it is important that the citizen review committee be independent of the Portland police bureau and possess investigative powers on our level. It is important that the citizen review committee be transparent to all citizens to see and not become ground politics. It is important for the citizen review committee to be able to make recommendations directly to the city council for disciplinary action. And although i.p.r. and the citizen review committee will not resolve all of the issues of the brokenness between the Portland police bureau and especially the communities of color, it is an essential pillar to create a bridge of trust, cooperation, and partnership between the Portland police bureau and the community, especially the communities of colors. Thank you.

**Hector Lopez:** I'm hector lopez, retired minister of the united church of christ and former chair of c.r.c. In its first two years of activity. Thank you for holding this hearing. The tension between protective agencies in the communities that allow them is historic. It is important point to remember that all protective organizations are ultimately accountable to the community that created them. We need the police. We need the bureau, but we need one that relates well to the community. This relationship is built on trust, accountability, and participation. Any time a segment of the greater community loses trust, it does so because there's a perceived lessening or lack of accountability. The independent police bureau is a way of holding the police bureau -- accountable to the communities it serves. Since its initiation, the citizen participation has been eroding. The auditor's office, the commissioners, and the director of the i.p.r. have been responsible for this erosion as a recommended change to the original ordinance to limit or take away from c.r.c. powers and responsibilities authorized by the original ordinance. And every time this was done, there was a loss of faith from the community. I refer you to the c.r.c. 321090a 1-7. the powers and duty of the committee. There are seven listed, including hearing appeals, hold hearings, recommend referrals, to the city council. The new definition of c.r.c. primary functions is four, and it eliminates much of the powers that we have. I recommend to you to implement the consultant recommendation that most of you heard from others, and strongly urge that i.p.r./c.r.c. be placed for an interim period away from the auditor's office until such a time as a truly independent police review system with its own office, staff, and resources, can be created accountable only to the



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citizens of the city. We recommend that you initiate a process to draft a charter amendment that will create this new reality for our city. Thank you.

**Potter:** Thank you, folks.

**Pastor Lynne Smouse Lopez:** I'm reverend lynn smouse lopez i'm representing the citizens campaign to end racial profiling. I want to commend all of you and the report that you requested, and commend the report developer. It's very important, and it answers a lot of questions and concerns that have been brewing for many years. I am married to the former chair of c.p.r., c.r.c., and when he walked out and the others quit, they did it out of very big frustration. When auditor blackmer said there were decreases in police shootings, I don't know how he could tie it to the c.r.c. They were not allowed to investigate police shootings. Is my understanding. So I want to commend chief sizer and the Portland police bureau for helping make those changes, those improvements in our community, but it certainly wasn't because those hands were part of that, those improvements. And I don't think i'm saying it as clearly as I would like. But change came because there was a lot of community outcry, a change in leadership in the police bureau, a new chiefs of police came on that had a vision of making change and chief sizer has really played that out and continues to try to make those changes. The c.r.c. is a necessary and the independent police review are very necessary bodies, but they need not to have their hands tied. They need to be increased to 13 members to increase representation from the community. They need to have true independence and power, not be under the auditor's office. They need to be transparent and help the process of transparency everywhere. So I ask you to continue to engage the community and continue to support this important body, but make it more -- make it independent. Thank you.

**Joe Smith:** Joe smith. I come as former district attorney who I know had the great deal of respect from the police community and worked very closely with the police community, as the district attorney gathered real appreciation for the challenges that the police community faces. There is a tendency of any uniformed organization to develop a we-they mentality. Whether it's a basketball team, or an army that is always in uniform. No place is it more natural to happen than in the police establishment. But to the extent that there is a we-they mentality, that causes the they, the citizens, to also feel we-they, law enforcement loses. Because effective law enforcement depends so drastically upon the support of the civilians. The support of community. The community therefore has to feel that the police are not thugs but us. We, all of us together. They are here as representatives of important segments of our community who have the impression that there is not a fair system. Sometimes whether the impression is accurate or not is the most important reality. I suggest a c.r.c. and an independent review board that has real power, that has the ability to make its own investigations is almost a no-brainer in encouraging that sense of citizen cooperation, participation, and support. And I urge the council to seriously take steps in that direction. Thank you very much.

**Alejandro Queral:** Good afternoon, my name is all han grow, the former director of the northwest constitutional rights center. Much has been said today that I will not repeat, but I do want to emphasize a number of things. First, this is a unique opportunity to address the system that has not been working that has missed unique opportunities to address complex policing problems in our society, in Portland particularly. One of which just as an example is a problem of racial profiling. I.p.r. was assigned to identify and deal with c.r.c. the problem of racial profiling and that was an issue that took I think a lot of the establishments by surprise. Because there was no direct connection with the community and the feelings the community was having with respect to how they were being policed. So this provides an opportunity for analysis and deeper understanding of what c.r.c. and the independent police review division do and do well, and what they do not do well. For this to happen we'll need particular political leadership, especially strong head of political leadership to carry this process through. We have elections coming up, and i'm concerned, I think many of us in the community are concerned, that this issue will fall through the cracks. That

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because there will be other political pressures, we will ignore it. And I think it's important to emphasize how we need that to be able to carry that conversation, because there are a number of stakeholders that don't see eye to eye. And we need to bring the stakeholders, we need to bring community members to the table, we need to continue to bring the rank and file of the police to the table. They need to be part of this conversation. I agree with that. They should hear not only to improve how i.p.r., it's perceived in the community, but also how the police bureau and its culture fit within the city of Portland. I think we are in the right path, but I think this report provides us an opportunity for improving that model and for improving the model that causes it to oversee the police.

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

**David Elkins:** David Elkins, resident of beaverton. I was encouraged by commissioner Leonard's article in the paper about more transparency, and I just heard about this meeting yesterday. So I threw a bunch of things together. I've been in contact with Mike he's with the i.p.r. About a complaint I had, and this has to do mainly with supposed I do go true with this, and put some teeth into the i.p.r. I've offered a lot of my intelligence work or gathering of information to basically make it a lot easier for them to do an investigation using the freedom of information act. And that's basically why I was here. Mike called me a couple weeks ago to look at my complaint, go back through it and whatnot, and review, and I gave him some information. But I told him the freedom of information act would be available to investigate an agency within Portland, that the f.a.a. In particular who this -- all this documentation is from, could be released to the investigative body. And it has to do a lot with a lot of unwarranted surveillance and a lot of activity by the Portland air support unit, which is a little bit different from a lot of these other complaints they probably compiled over the years. Thank you.

**Teresa Teater:** My name is Teresa Teater. I filed an i.p.r. report complaint. I witnessed an incident the night after election night when all of us were out in the streets of Portland, on our third lap back from Burnside back to Pioneer Square because of the outrage of the election. And I witness add police officer use his motorcycle as they were lined up on the max line over by what's now Macy's. A guy cut through the crowd, jumped off the curb to cross the street, he wanted to get home. He wasn't with the groups, the protestors. The officer received up his motorcycle and nailed him and pinned him under his wheel. To this day I still have the license plate memorized. I filed a complaint, I had the investigator contact me. She could not verbally comprehend what I was telling her, to face the building, look at the track, the officer would have been right in front of her, and you rear-ended the police motorcycle in front of her. My concern is it's a third-party complaint. There is no process in the i.p.r. Process for a witness like myself of a third-party complaint. And all I got back was a letter that said the officer said he denied doing that, of course I remember the reaction of the officer whose motorcycle he rear-ended, because that officer cursed at him. And I couldn't get anybody to witness. I snuck in with the anarchist groups, so they're not going to talk to you because they know the system. That type of situation wasn't rectified to my satisfaction so I've never filed another complaint. When the issues come up with Tri-Met transit tickets a gentleman was held down by his neck by an officer that wasn't a police officer, but an outside agency, who wasn't aware how the Tri-Met transit tickets operated for the handicap persons, etc., I'm saying the C.R.C. group that night didn't understand the honored citizen card system either. So they weren't able to make proper determinations. My other concern is that Leslie Stevens, the former director, has switched to the police bureau and if she's taking the same training or lack of training from this i.p.r. here and going to try to make changes over there, I think you've hired the wrong person.

**Robert King, Bureau of Police:** I think the audit itself this process is both disappointing and divisive and unnecessary. I'm also concerned that the discussion today with respect to shootings being down isn't given more credit as a community, the reduction in the number of police officer

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shootings in a community should be celebrated and heralded and champions instead of struggling over who to give support for. I was called once bite auditor and she gave me one date to meet and we didn't speak following that. I have extensive experience and knowledge in this area and I would have been happy to have talked with her. The i.p.r. audit falls short in too many ways to mention. The consultant manages understands the i.a.d., the i.p.r. and the c.r.c. process. She mistakes statistics, she use incorrect math, she quotes unnamed sources, she fails to cite relevant specs she displays so much partiality there's no pretense of academic rigor. It's ha hoard terror imagine the city basing anything on this report. This flawed i.p.r. audit could not have come at a worse time. The morale in the police bureau is the worst it's been in over 20 years. We're dramatically short-staffed. The number of sworn employees has declined by 11% over the past 10 years. Too we have only 381 street cops in the five precincts. The job has become so unappealing the bureau has dropped a minimum education requirement for the job, is resorting to lowering the probation period from 18 months to 12 months, and is now offering signing bonus us just to attract applicants. Though historically we've bent highest paid agency in the state, today we're losing candidates because of comparable or better pay, and because officers in those cities don't face the same relentless microscopic scrutiny and criticism we do here. Officers believe they will receive no support from their employer and controversial incidents. They've learned the best they can expect is silence. For the first time in my career, I can tell you that this lack of support is now clearly resulting in officers hesitating before they take action on the street. Hesitating for fear of being wrongly dragged through the pages of a newspaper, more interested in selling papers than accuracy, hesitating for fear of whether you, their employer, will support them. We're deeply concerned about this. We're worried about this hesitation. We're concerned it will lead to serious injuries of both Portland citizen and members of the police bureau. I've been a Portland police officer for almost 19 years and I can tell you i've never seen the bureau more demoralized than it is today. Lastly I want to say something that we don't hear often enough. The Portland police bureau is an organization of professional men and women who risk their lives every day to keep our communities safe. Bureau members make over 450,000 citizen contacts annually with only 700 complaints. That's one come plaint in less than one tenth one 1% of all police citizen contacts. We believe it's impressive by any standard, and they do all of that with the staffing at only 1.8 officers per thousand at a level 40% where it should be by national standards. I it this audit self, having read it and reviewed it, is a disservice to the hard work of the police officers who are on the street today. And what I think officers need more is more and greater explicit support and encouragement and less results oriented audits and recommendations.

**Potter:** Commissioner Adams?

**Adams:** Thanks robert, for being here and for your testimony. I think it's important that we hear from you representing the rank and file of the police bureau. Are there any of the audit recommendations that you -- any that come to mind that you would support?

**King:** I was really disappointed by the knowledge that is possessed by the council of the intake that occurs in complaint processing. I was stunned by that. I don't think that the -- that we, the police bureau have been given any credit for the successes that we have spearheaded. There are a couple of important ones. The police bureau has established a more and greater transparency and its review of officer conduct and officer use of force, there's now a performance review board and there's a use of force review board that is in place, and it's working, and I think it's effective in a variety of different ways. So there are things I think that we have done for which we have not been given credit, which makes it more difficult to be conciliatory or helpful or cooperative in the implementation of recommendations from an audit that we don't think is fundamentally sound.

**Adams:** Are there any circumstances, just asking for your professional judgment, representing your corn constituency, are there any circumstances where would you see appropriate and independent review bite c.r.c.?

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**King:** They have had the i.p.r. has had the authority to conduct independent review or independent investigation since its inception. And they have not done that. They have not done that because of what they view as the thoroughness of the investigative process that plays out in i.a., and what you don't know, and what clearly won't satisfy the concerns of everybody either in the room or the community, i.a. Now has retired homicide investigators conducting internal affairs investigations. So when we go back to internal affairs investigators, we're talking to investigators who have previously interviewed and gotten confessions off killers. The quality and the thoroughness of the i.a. process has been above the standard that's out there nationally and the concern we've got about these so-called independent investigations is, first I agree with gary's comment from yesterday. I don't think three or six independent investigations is going to satisfy the concerns of the people who don't trust the police today. And number two, my concern -- I think when the pressure is on and when the community is pressing the council and when we have used force, that in those half dozen cases where the investigations occur, that the officer faces the greatest likelihood of being scapegoated. We believe it will happen, so you'll gain the advantage of being able to say that you've appeased a segment of the community, but on the other hand, the trade-off is that you've made the individual officers who were involved in those specific cases pay a price that I don't think is appropriate.

**Adams:** Can you imagine an independent review that would avoid those pitfalls, and would be objective and they might not can be maybe having less than all of them done by independent review, but could you imagine putting together some sort of process that would be fair.

**King:** Given how badly managed this process has been, and the fact that what didn't happen during the time that the i.p.r. and c.r.c. was functioning and operating, given the fact we didn't get together as a group around this table on a more routine basis and talk about concerns and make improvements along the way, and given the fact we're now put in this position of being back into these various corners, I can't say that I would support or that I read or I think there's any value to independent investigations at all, and i'm sure my members looking in on this would want me to say I would do everything in my power to protect them even if that meant grieving lawsuit, because we've been cooperative and helpful at every step along the way in the development both of process and policy, and it doesn't ever seem frankly to be enough. And so for to you come to us and say we'd like you to trust us and be confident in these six case you'll be treated fairly, I don't think that trust exists today for this political process. Or this council.

**Potter:** Thank you. How many more do we have?

**Moore-Love:** Five more.

**Potter:** Please state your name for the record. You each have two minutes. Go ahead.

**Norm Costa:** Norm costa, citizen volunteer, you might safety i've been -- norm costa. I've been work with Portland police bureau as a citizen since 1995. There was really an interesting process. I'm involved with the sexual minority round table, with the Portland police bureau's police forum as an advisor, and a steering committee on a coalition against hate crimes. I've done a lot of oral interviews with the Portland police bureau, i've done oral interviews for the i.p.r. the people on i.p.r. are intelligent and through the process they make very good decisions. Understanding police culture is really important. And understanding the police culture is that I really believe in the last few years i've seen many changes in the Portland police bureau. And they have been positive changes. This in conjunction with all citizens, not just i.p.r. or the police bureau, the man that serve in the police bureau. It's everyone. And I think we as citizens of Portland should be proud of what we're doing as a citizen. This is still one of the most livable cities, and I really support keeping the auditor system in place. Thank you.

**Diane Lane Woodcock:** I'm diane lane woodcock, and I was a part of the mayor's task force for making improvements to piii in 2000. I helped write the report, I brought a lot of research forward. I talked to a lot of police review experts, a lot of police review board directors.

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Essentially it boils down to the independent review board being the best model. The problem with the lack of independent investigation, is that you get too many people, too many citizens that are afraid to bring their complaints forward. Because they know it's going to be turned over to the police. I have talked to several people over the years, I have talked to review boards across the nation. They all say the same thing. If the citizen knows that their complaint is going to be turned over to the police, they will not file their complaint in many cases. So you as the leaders, do not get to see all the complaints that are truly out there. Ok? Now, I brought forward several statistics of other review boards where they put in place an independent investigation core body. Those statistics showed a decline in use of force incidents, in police shootings, those things were dismissed. The latest -- they did not want to hear those statistics, they did not believe it had anything to do with independent investigation. Now it seems you want to hear the city auditor's statistics. I am a private investigator now so I can see things from the investigative side of things. And I will tell you that the exhibit b in the report in her answer, let me please finish my sentences -- that show police investigation a couple phone calls, a knock on the door and so forth, that's where you start. When you want to find somebody, you try many more measures. The police have resources that p.i.'s do not have. So that does not reflect a good investigation. What I heard across the nation is that police do not want to find dirt on other officers. It's hard to talk that fast. Thank you.

**Martha Perez:** I'm martha perez. Good morning. Good afternoon. I reside at 1920 northwest kearney. I'm also a general political activist who is currently running for public safety commissioner position and i've heard the desire for the change. It's a ground opportunity, a sound business investment, heed the word of the people who pay your taxes. Who pay your salary. I feel i've heard a lot of stories, and the stories are what matter. The stories, we have to transmit that information one way or another with respect to the -- how the police feel. As a leader you have to balance your view, your viewpoints. Everyone has a word at the table. And you know, the -- if they're demoralized without this civil process of dialogue and community input, my concern is that we allow that to continue to happen in the future, the plits will become militarized. If they're not quasi military already. They're being asked to do more with hees, and there's a lot of political factors for that. I'm not opposed to police, they're part of our community, but the people that are affected by their decisions have come to speak. I represent people. I'm not a cop, but i'm sincere in trying to solve or resolve or come to a compromise to a healthy agreement about how to approach the situation. Les we want to avoid something that happened during hurricane katrina when the city was shut down and the police overwhelmed the system, and horror stories came out. So thank you.

**Ed Kill:** I'm ed kill. I am here to talk about one of the recommendations of appeals going directly to the c.r.c. It seems pretty obvious that is the system that should be in place. If any one of you filed a civil suit and you lost or you won, and one of the parties wanted to appeal, they wouldn't have to go through gary blackmer to have their appeal heard. They would go directly to the court. Having this bottleneck in the system, this -- is illogical, and it doesn't work. The fact that so few appeals are heard is evidence of that very fact. It's in the report, it's in several reports, everybody agrees. Let's get rid of this one little part of the system. Appeals should go directly to the c.r.c. Let them make the decision. Also, at the working group you, mr. Mayor, had a poster with a list of recommendations. You should implement all those. They were great recommendations. I fully support those recommendations. Thank you. And I expect you to support them as well.

**Steven Sherlag:** Good afternoon, my name is steven sherlag i'm a civil rights lawyer. And a concerned citizen. I'm concerned the officers are held accountable to no one. Not to the public nor the i.p.r., nor the citizens' review board. I'd like to tell you a little bit about a single case that illustrates this. A matter involving leo besner and bill ellis, 2003-c-0184. On march 25th of 2003, mr. Ellis and many of the citizens of Portland took to the streets to protest the war in iraq. Mr. Ellis

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held up a crude sign and as he walked down street he held it up a couple times, holding it out into the street. Officer went up to bill ellis and demand pd bill give him his name. When bill questioned whether or not he had to do so, officer brutally took him to the ground, with the help of other officers, forcibly arrested bill, including pepper spraying him in the face at close range. And kneeling on his head. We could argue about whether the force was excessive. I'm going to talk about why his arrest was illegal. Officer bessner wrote he intended to cite ellis for impeding traffic. I gave you an excerpt of the report. The report says that when bill ellis held his sign out there was quote steady flow of tri-met buses, several waiting at the intersection for him to remove the sign. This was absolutely untrue. We provided the city and the i.p.r. With proof in the form of a videotape that swept the scene shortly before officer bessner arrived. The videotape showed two things -- when bill ellis held up his sign, traffic continued to flow, including a police vehicle. Second, the video captured a longview of the street, which showed something very plainly -- there was not a single tri-met bus within blocks of where bill ellis was. Certainly none waiting for the sign to go down. Bessner's conduct was cleared by the i.p.r. We appealed to the citizens' review board. They were first -- the i.p.r. sent it back to review a variety of things, including whether or not there was a false report filed. When i.t. was reversed and sent back to the i.p.r., they ultimately dismissed the case all together. We had settled the civil rights lawsuit and they said that bill ellis's general release, which is a monetary release, settled the i.p.r. complaint, even though the i.p.r. complaint was whether or not officer bessner acted lawfully and acted truthfully. A general release does not in any way obviate i.p.r.'s need to investigate officer bessner for his conduct.

**Potter:** Your time is up.

**Sherlag:** Thank you.

**Adams:** What conclusions do you draw from being part of this experience?

**Sherlag:** Two things. The i.p.r. has every -- they look for every avenue they can to clear officers, looking for any technical reason, even ones which are not based on facts. Second, that there's really no purpose to filing complaints with the i.p.r. except to continue to build the case that the i.p.r. investigations are inadequate. That the citizen review committee has no power to force the i.p.r. To do anything, and finally, to use the process to file complaints to demonstrate the cities not doing anything, so that when I sue the city, I can demonstrate the city is not doing its job in supervising the officers. I don't want to sue the city anymore. I want the city to be safe for all the citizens, I want the officers to comply. I found the only way I can pursue things because we can't get justice for the i.p.r., is file lawsuits. I don't want to do it anymore. So please do something about it. Thank you.

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

**Potter:** I need a motion to accept. Moved and seconded. Please call the vote.

**Adams:** Thanks -- thank you all for your testimony. I thought it again -- day number two of good discussion. I proposed the resources in first budget that I worked on as an elected official to complete this review, and so i'm glad that we're here having this discussion. I think what we talked about yesterday that the testimony that we received today reinforces an approach that we talked about yesterday in our council work session to look at criterion options for when independent reviews could be conducted by c.r.c., the timing of them, the staffing of them, criteria that would provide both a limitation but the possibility. I think today's testimony reinforced that for me. The second is the need for c.r.c. to do the look at trends among the larger case loads, the larger report or complaints for us to look at the resources necessary for c.r.c., to look at the complaints and provide back a trend report to the city council. And to the police bureau and all stakeholders on areas of concern, outstanding questions, derived from those. That examination of trends. And any sort of recommending I think there's an opportunity for a lot more preventive problem work to be accomplished by c.r.c. in that area. The notion of the commissioner in charge of police being able to call for an independent investigation, we have to figure out what that means, I also think

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should be on the list for consideration. So I appreciate the conversation today, and I vote to accept this report and to work on moving forward. Aye.

**Leonard:** There's nothing that I think that is a more sacred requirement of an elected official in this country, but specifically in the case in the city of Portland that it protect civil liberties of our citizens to move about freely, unimpeded due to their religion orientation, their sexual orientation, their race, their political views. And I don't just say those things. I am sitting here trying to remember the first meeting I had with Tom Potter after he became mayor, and I believe it was at that meeting I presented to him a resolution that I asked him to cosponsor with me calling on the city's withdrawal from the joint terrorism task force because of various activities of the federal government. It drew me to the conclusion that they were not treating our citizens fairly. And I've never waived in second guessing, and I appreciated his support then as the majority of the council did at the time, I think I'm the only person that voted against the sit and lie ordinance that just took effect because of a variety of concerns, including the civil rights of citizens downtown. Those are my biases. But I know when I'm sitting here and I'm voting I have to balance those biases against some objective information. So I make proper conclusions, because if you were to just follow my biases I'm afraid what would happen is if we had no check on those who might harm citizens, then we would have good people who were constantly being victimized by bad people in our community. So I understand that that's a responsibility I have as well to balance my inclination to give people as much freedom as possible. And it's for those reasons that I'm really disappointed in this report. Because not because of what it says, I like what it says. I agree personally with what it says. But my responsibility here for an example is as I think you're hearing from the entire council, we all agree that the C.R.C. should be able to follow up on compliance, we all agree there should be some appeal from those that are dismissed by the I.P.R. director, that the citizens have the C.P.R. -- C.R.C. The report gives me no guidance what kind of objective criteria we could decide which should be appealed and what should not. So we don't overwork the task force and the staff. It's not that I quarrel with what it's said, it's what it doesn't say, and the stated bias of the person that we hired. Frankly had I known that that was the approach to be taken when I authorized the contract, I would have never voted for it. Rather asked that we get somebody in there that could itemize us they were objective and help us sort through some of the issues that we now still have to sort through, because the report doesn't help us do that. So that's the unfortunate part of what it is that we're left with after this long process. Having said that, the good part is the last two days we've had excellent discussions. I've learned things I didn't know before. The mayor's pushing to make changes are right. I don't agree with all of the auditor's reasons for not agreeing to what the mayor said. But we're left with having to figure out what the next steps are because the -- the consultants' recommendations don't help us. I toyed with whether or not to vote against this. But I'm afraid it would send the wrong message if I did. So I vote to accept the report, but it doesn't provide me a lot of guidance to get to where we need to get to next. Aye.

**Saltzman:** Well, I too am voting to accept the report. I'm not sure I'm endorsing any of its recommendations, however. But I do appreciate the conversations we've had in the last two days, and I do think this appropriately does lie at this level, and it is up for us to make changes or stay with -- state course of what we have. I look forward to those discussions occurring. And I do think this is the appropriate level. And I'm glad this report was done. It's something that we've talked about for many years. We first formed as an audit of its functions. So we've got that step out of the way, and that would really -- now it's up to us to decide how to tweak it. And to tweak it if at all, with full input from all stakeholders, which includes police bureau, the police union, and citizens as well. So aye.

**Sten:** I am really torn on this. As I think you're hearing from the council. I can accept the report and I think there's quite a few good recommendations in there. I do, however, kind of feel like this is the same hearing we had before we started I.P.R. with not much move -- I don't know of anybody,

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i'm going to push on people a little bit and if I'm wrong, point this out to me, but I don't know of anybody who has taken a particularly different position after we've functioned for a few years and they took before we functioned for a few years. So I think where we're at is that there's a view that it has to be completely independent and there's a view that that won't necessarily lead to cultural change. And actually I think there's some truth in both. I think we probably need more ability to have an independent push, and I think the council needs to work on that. We may have asked the wrong question in some of this report. We may have wanted more specific thoughts as opposed to some of the things that were there. But I also do believe, and this is where i've split with friends who i'm almost always philosophically in agreement with, that I believe that 90% of the complaints that come in are about bad rules and about cultural ways people that police approach the community and less about often the actual act. So what happens is the person gets -- the officer gets let off because technically they were following the rules, and it was probably a fairly minor things but the question that needs to be asked, how could we have avoided that situation? Not once you got into that situation did you technically follow the rules. So I think to have a culture where you're trying to change the way we do community policing, you have to have the police officers involved. And it's tricky, looking at the different -- that's a different question than how do you investigate serious matters with some independence. And I think we need to take a more focused look on both of those questions. The flaw is the one point out by some of the critics today, I believe the flaw in a completely independent system is that you really will become strictly adversarial with the officers and 90% of the complaints will come down to, can you basically prove in court what the general order violated. What you're going do find, it's the frustration of many citizen, usually it was not. But that doesn't mean action was right or couldn't have been avoided. So I think we need to -- I don't know that i've got it right, but we need to keep working to look at what we're trying to solve with these processes. Some of it is about improving community policing, some is about sanctions, and discipline where it's necessary for just bad acts. And I think we talked about those things across the board. So I do think this needs more specific work. I've also watched how very, very hard this work is. It's been very hard on people who I respect very, very much. And I don't know, maybe it's not possible, but I believe it's actually a relatively small group of people who are watching this closely in this community, and from sitting up here i'm going to say you say the same thing over and over. It may not be shocking to you today that the council isn't going to be able to solve that. We need to find a way to get the activist who's care about this, and this may be impossible to help think through, if you can't win on everything, how do you make incremental changes to make this thing better? I will end by saying I don't think we're there yet, but I think we're a lot better than piiac. I don't know if i'm the only member who served for a long time with piiac. I think dan saltzman did. -- dan Saltzman I think -- I always like to at least mention if a glass has a half full side, that's there as well. So I -- i'm not sure what it means, but I do vote aye to accept the report.

**Potter:** I want to thank all the folks who have been involved. The consultant, eileen,. The i.p.r. staff. I know they've been relatively anonymous in this, but they do a lot of hard work and I appreciate that. I also appreciate the work of the Portland police bureau. As nathan windsor as their working to improve the service to the community, and the city auditor Gary blackmer. He's been under fire a lot lately, and I think his role is very important in all of this, and to the c.r.c. folks, the volunteers, the folks who day in and day out continue to work hard to try to create a fair system. And I look forward to working with gary and his staff, and the community and the c.r.c. to develop a plan that works time prove it. As commissioner Adams pointed out, commissioner Adams and Sten originally in 2005 asked to have an audit of the i.p.r. system because there had not been one previously. So that initiated the action that eventually led to this report. The report is controversial in the sense that there's critics of it and supporters of it, but the fact is, this report has created a lot of discussion that needed to occur. And to me, that is very important. Not that we just



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have a discussion, but that we do something with the discussion. That we actually look to see if there are ways to improve the service. I believe the major function of a complaint function is to handle citizen complaints. That to me is the basis of any system, and it may sound simple on the exterior, but it's not. A system that is fair to citizens and to police alike. I think that is critical. I think that that requires, because of the fine line in the middle that has to be won, requires a lot of work and effort on everybody's part. And I am going to be working with the city auditor to ensure that we do have a strong citizen component in the independent police review. They do a lot of good things. To me the issues in terms of how they impact police bureau policy is a secondary issue. The complaint process is the primary issue. And that's what I think we need to focus on. And not lose the good things they've done in terms of working with the Portland police bureau. At the heart of community policing, it is the relationship between the police and the community. If it is not an effective relationship, it impairs the ability of the police to do their job and the community to be part of the solution. So I know that this isn't just about a report or just about a complaint processing system, it's a much more fundamental question to me, and that is, how do we ensure that a policing community -- the police and the community understand, as Joe Smith said earlier, it's not about us and them, it's about we. I accept that we as my responsibility to work with our council and the auditor to ensure that the system comes as close as we humanly can to develop a system that is not only fair to each other, but where it is looked upon as way to improve police service and to satisfy citizens' concerns. So with that, we're going to have additional -- at least one additional work session on this, and I'm going to be bringing some recommendations with the auditor to the work session that we can begin to develop this and take it further. So thank you all. I vote aye. [gavel pounded] because of the time, it is possible that we can move through these remaining items fairly quick? Please read item 370.

**Item 370.**

**Sten:** Mayor, I introduced this one with the co-sponsorship of everybody and I would say that in the title itself, it's a resolution to affirm that we want to do green solutions for storm water.

**Leonard:** You earned my vote.

**Sten:** And we have no presentation.

**Potter:** Okay, do we have anybody signed up to testify on this?

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

**Potter:** Is there anyone here who wishes to testify on this matter? It's a resolution, call the vote.

**Adams:** Aye. **Leonard:** Aye. **Sten:** Aye. **Potter:** Aye. [gavel pounded] Please read item 371.

**Item 371.**

**Sten:** I did not introduce this, you did. But just to say very briefly that chair at your request the committee that commissioner saltzman sat on wanted to try and come up with a strategy for downtown waterfront and the end of downtown waterfront and the south park blocks. I think the council has been briefed in great detail about this. This would be the final sales of bonds forever in downtown waterfront which would allow Saturday market project, the Ankeny market project, to get finished and then I think once in a lifetime it would appear end of an urban renewal district.

**Potter:** Folks, I think the commissioner made a pretty good case. Are there any questions -- please go ahead.

**Leonard:** I need to leave.

**Potter:** It's an emergency.

**Adams:** Will we have the ability to changed boundaries more than 10%? I have been asking this question for weeks now. And I know you have been trying to track down an answer in the future. Can you change it more than 10%?

**Eric Johansen, Office of Management and Finance:** The existing limitation that we have in this district based upon our agreements with the bond insurer are that we can reduce the district by 10% of the assessed value over a five-year period. We are currently in discussions with Amback to get

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more flexibility for that reduction. They have come back with, and not formally offered but suggested that 25% reduction is probably something that they could support. We are pushing back a little bit to perhaps raise that to as high as 40%. So right now, I am reasonably confident that we may end up at a place between 25 and 40% but night to emphasize that nothing has been agreed to formally at this point in time.

**Potter:** Commissioners. Further questions.

**Johansen:** There is one thing I need to say as part of my discussions today in order to comply with some internal revenue code requirements. Part of the bonds that we may be issuing here are to refinance some outstanding bonds that were originally issued for the classical chinese garden. The garden is managed by a 501-c three organization. If we refinance bonds to that organization we have to conduct what's called a tefra hearing. We have advertised that hearing. We have conducted that hearing. And I am required to report to you the results of that hearing. And those results are that we, as always been the case, have yet to have anybody show up to testify at the tefra hearing. My report to you is exactly that we have conducted the hearing. There was no public testimony. And your approval of the ordinance today satisfies the internal revenue code requirement related to the 501(c)3. That's it.

**Potter:** Thank you. Has anyone signed up to testify on this matter?

**Moore-Love:** We have two people signed up. Dan oliver and cathy cook.

**Potter:** Are you speaking for both? Ok. Emergency, please call the vote.

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

**Potter:** This is an important issue. And I wish we could have had more time but I think it's in the best interests of our community and I vote aye. [gavel pounded] please read item 372.

**Item 372.**

**Sten:** Mayor, these right tax abatement for the affordable housing programs that are already in compliance with new council policy. Yes.

**Potter:** Is there anything that's required by the i.r.s. to tell us?

**\*\*\*\*\*:** Nothing that's required. [laughter]

**Potter:** Ok. Is there any testimony signed up?

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

**Potter:** Is there anybody here who wishes to testify to this matter? It's a resolution. Please call the vote.

**Adams:** Aye. **Sten:** Aye. **Potter:** Aye. Thank you, folks. [gavel pounded] please read item 373.

**Item 373.**

**Potter:** Commissioner Adams.

**Adams:** Staff is here to answer any questions the council might have.

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

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

**Potter:** It's a nonemergency. Move to a second reading. Thank you very much. Please read item 374.

**Item 374.**

**Potter:** I think our chance is now. Isn't it?

**Sten:** Once in a lifetime chance.

**Potter:** It's a second reading. Please call the roll.

**Adams:** Aye. **Sten:** Aye. **Potter:** Aye. [gavel pounded] recessed until 2:00 p.m. tomorrow.

At 1:34 p.m., Council recessed.

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

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

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

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[roll call]

**Potter:** I'd look to remind folks a lobbyist must declare which lobbying entity he or she is representing. Please read the 2:00 p.m. Time certain 375, 376, and 377.

**Items 375, 376, and 377.**

**Potter:** Mr. Adams.

**Adams:** Thank you. Members of the city council, the checklist for securing the federal funding for the Portland streetcar is almost complete. And we need a finding of no significant impact from the federal transit administration in response to the environmental assessment in order to move to [inaudible] engineering. The e.a. was published on february 8, public comment period closed on march 10, and we held an open public house on march 6, and comments received were not substantive in nature, and the draft finding of no significant impact has been prepared for the federal transit administration's review. No indications there is an issue. Cost estimates that we'll be discussing in greater detail are based on the design development submittal, which is 40% to 50% engineering, and needs to be within 146,915 million budget. The resolution represents the latest cost estimate, which concludes with the 146.9 million budget, and concludes that, that the 46.9 million budget can be met, and that is, that contains adequate allowances for contingency, inflation, and finance costs. The project staffing and consultants are here to answer any questions from council. A new cost estimate will be afforded to the Portland development commission for phase two of the third party public improvement project risk assessment, results from the phase one, third party public improvement project risk assessment effort, based on the design cost estimate educates the contingency shown then in the project was, was 80% confident to finish the project. I know I have to read this for the record. It will make sense a little later, I hope. Medium cost effectiveness rating from the federal transit administration, the president's fiscal budget 2009 budget includes the \$2,000 for the Portland streetcar loop project, and funding starts during 2009. The federal transit administration will support that allocation and appropriations of the total \$75 million, if the loop project meets the medium cost effectiveness rating by june 30 of 2008. The project technical staffer continuing to work with the federal transit administration to achieve the medium cost effectiveness rating. The alternative path is a congress appropriation. The purpose of the two contracts amendments on the agenda is, is to, is to have all approval this is place so the final engineering can start as soon as possible, but done in such a way that minimizes the commitment of project funds until the federal funds are approved. Therefore, the notice to proceed for this work will not be given until, until myself and ken rust agree that it is highly likely that we will receive the small starts fund. And I would ask michael powell and vicki to come forward, and rick to explain the fiscal impact in some more detail of these.

\*\*\*\*\*: Commissioner, there was one small correction in which you said 50,000, and it is 50 million.

**Adams:** 50 million.

\*\*\*\*\*: Slight correction.

**Adams:** 50 million.

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**Vicky Diede, Bureau of Transportation:** Could we ask carter to come up?

**Adams:** Carter, can you come up, as well? Let me try to summarize this and introduce the speakers, may be using more plain spoken english, you're assessment is that we will get, get the streetcar, the Portland streetcar loop funding either this year or early in the new administration. We did, we did receive a an inclusion in the president's budget for \$50 million, and that was very good news. We still have to meet the, the medium, what do we call it? The medium cost --

**Diede:** The effectiveness rating.

**Adams:** Meet the medium cost effectiveness rating, so, so we want to proceed with, with a portion of the work that keeps the project on track while those discussions with the f.t.a. Continue. The reason why that's important is that it's our estimate that inflation is running on this project about, about \$500,000 a month. Is that right, carter?

**Carter:** Yeah.

**Adams:** More or less?

**Carter:** Yeah.

**Adams:** And so all the work that we can do, so that when we get approval and are ready to go, all the better. Carter, do you want to start out?

**Carter:** I think that --

**Adams:** He's going to start out?

**Diede:** If that's ok. I'll quickly, i'll talk about the three specific items in front of you if, that's ok, and then we'll answer questions in total, or if you wish to ask a question, of course, do so. On the resolution that, in addition to asking the council to adopt the revised capital budget, there are other implementation items in the resolution, which are really important that we get started on. One of them, the contract amendments, the next two items on the agenda, and then we need to develop a new intergovernmental agreement with tri-met for them to disperse the federal funds to the city for the project construction grant phase of the project, which will include both final engineering and the actual construction work. The city is not an eligible agency. The federal transit administration fund, we do that through tri-met, and then they pass the money onto us. And they also provide us oversight to make sure that we're meeting the federal requirements. Another item that we need to start working on is, is the issue of procurement of the streetcar vehicles to be funded by the Oregon state lottery. This will require, um, work with odot on meeting the administrative rules for the grant funds and then, and then the solicitation process to choose the manufacturer. The, the Oregon transportation commission will be, will be considering the new administrative rules that they are meeting this month, I believe it's on the 22nd and 23rd of april. The notice to proceed, however, with the manufacturer will be held until the, the project construction grant agreement has been given to, to the project. And finally, we need to initiate a procurement process to pick a construction manager general contractor for the project. In the past, and we would assume we would do the same thing, we would like to bring our contractor onboard before we are through with the design so that they may help us with the next round of costing and also provide us with value engineering. So, so those are the items in the resolution. The first amendment to the Portland streetcar is, is for project management services, and, um, and during final engineering, the cost for those project management services will be \$500,000, and, and the conditions to, the notice to proceed will be held, again, as mentioned, over to the commissioner, and kim ross agrees it's highly unlikely we'll get the federal funds, but it provides for some interim project management between now and when the final engineering moves forward. And the cost for in that are dollar 300,000, and this is funded by, by, from a \$1 million grant that's available to the city for, for this project, so that's the only money that's at risk right now. And it's money that's already allocated to us. And the work that that will pay for, is it will work on the project construction grant application, itself, and we have a resolution of design parameters with the Oregon department of transportation, with Multnomah county, and with the union pacific railroad, a resolution of the align element through

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the pearl district, there's the selection process for the cmgc and and the vehicle procurement, and other miscellaneous items. The second ordinance is for an amendment with the Portland streetcar, inc. For civil and design engineering services during final engineering, and the cost for this is \$5.16 million. And again, the notice to proceed will be issued when the commissioner of public utilities and ken rust agree it's highly unlikely we will receive the federal money. I should mention, too, that on both those contract amendments, the Portland streetcar, inc. Subconsultant agreed to hold the prices until september 1 of this year. Should we not have a notice to proceed by that time, everyone will probably need to step back, take a deep breath, and regroup. And we'll need to relook at the scope of the project, perhaps the scope of the work, and the budget and all of that, of course, would come back to council. So, in a nutshell, those are the items, and we're all here to answer any questions that you may have.

**Carter:** Um, I think what I have been working on primarily was getting the design completed and then working on the cost estimate, which is, obviously, a very important thing, and we, as vicki indicated, we, we were shooting to, to stay within the budget in that we established last september when we were in front of you, and, and we, we have, have advanced the design considerably, which helps a lot, and, and gives us a lot more confidence in the numbers. And we also used a very diverse about rich source set of sources of, of information to develop the cost estimate, including the, the current, ongoing projects president particular, particularly the mall light rail and, and other projects that are current we're we know the numbers are good. We went to odot to get data on the cost asphalt, and so we really drilled into this in quite a bit of detail. We also did this with a team of, of people who have been involved with the streetcar here, been involved with the light rail, and, and both on the civil side and the track side, as well as the overhead electrical piece of this, which is a significant piece of the project, and on the bridges, we are using, using david evans and associates as the design engineer, and, and they were the design engineer on the recent refurbishment of the broadway bridge, so they understand the bridge well, and, and we have had, we have had several meetings with Multnomah county engineers and, and feel very good about we're we are with all of that designwork, as well as with the cost estimates. So, we feel, we feel pretty confident about we're we are. We are within the budget we established last september, and, and we are, we are positioned to, to keep moving through the final design and bring this thing in on budget, and it will be important, as vicky mentioned, to get the cmgc onboard to help us with the value engineering, looking at constructability issues, helping us with long lead items that that are out there relative to the project, as well as the sequencing work that we need to do.

**Adams:** So phase one of the third party public improvement project risk assessment is done, and what did it conclude in terms of our estimates?

**Carter:** The conclusion was that, that we had, we had adequate, you know, really what they evaluated is given the risk and the project relative to the schedule and cost, did we have adequate contingency to cover the risks? The answer was yes mr.

**Adams:** And what will be achieved with the public improvement project risk assessment phase two?

**Carter:** Assumingly, what they will do, we'll deliver this information in terms of the background and, and the detailed cost estimates done, and they will review those. They will do, again, this risk assessment process that they use to, to evaluate, really, almost on a line-by-line item basis. What the, what, what we're assuming the cost will be, what contingencies were carrying and how are we dealing with the inflation and they will come back with another report, which I think is going to be fine.

**Adams:** And we, just to remind council, the third party public improvement risk assessment is something that, that council asked for, along with the Portland development commission and the Portland development commission has the contract for that assessment, so they are a separate group of folks, holding to [inaudible], not to pdot, to assess our work.

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**Carter:** Correct. Absolutely. P.d.c. Is, has selected the consultant and has managed that contract, and then involved in all those discussing. Of course, we talked to them a lot, you know, just to share the information with them, and we'll continue to do that. We welcome that, that kind of scrutiny. It makes good sense.

**Potter:** I had a few questions. And this is, it's for me, but also for the folks at home, we're building a streetcar loop, and that, that the initial phase, which is the, the design and civil engineering, correct? Is to determine, determine, um, what it would cost and the timelines and so forth.

**Diede:** There are several phases in any kind of project. The small start lays out a schedule. The first thing that you do is conceptual design and, conceptual planning, is what we call it. You start looking at what streets, whereabouts on this street will it be, and, and you, you don't get into enough detail to, to -- well, there is some detail that's obviously not taken care of in that area, and based on that, you move into the design development, and this is, this is further engineering work from the tactical staff on the roadway and, and underground utility and the overhead electrical system, etc., and it was a result of that design development work that, that this cost estimate that's in front of you today. And then the next phase of the project is, really, into the final engineering. And, and that will end up getting us to construction documents from which you would then construct the project. So that's the continuum that we're on at the moment.

**Potter:** Is then to tie this to the budget, the first contract with t.s.i. Was for \$270,000?

**Diede:** Yes.

**Potter:** Plus 170,000 initial to be spent during the year 2007?

**Diede:** Yes.

**Potter:** And the, the original contract with, with p.s.i. For subcontracting for civil and design, engineering, was, was for, for what?

**Diede:** 900,000.

**Potter:** 900.

**Diede:** And those were both involved in the conceptual design phase.

**Potter:** What were the deliverables for those two contracts?

**Diede:** I don't have the contracts with me, but, um, the result of the contract was that the conceptual design was done, the conceptual cost estimate was prepared, and, and the financing plan was brought forth to council, the local improvement district was but the in, other sources were secured. That was for the conceptual area and the financing plan. And then when we moved into the next phase, we amended those contracts, and that, the amendment of those contracts was, was, talks about in the initial solicitation documents that were, that were sent out, and we indicated that as we moved into the next phases of the project, that the contracts, you know, subject to the negotiating the work and, and the scope and the budget, the work would be amended as soon as we have the funds available to pay for it. So, the next piece of money that we got was some seamac money.

**Potter:** Stands for?

**Diede:** Congestion management air quality. That's a part of the regional flexible funds.

**Potter:** Was that, would that the amended contract that we had to bring it up to \$520,000 c.s.i.?

**Diede:** And up to 2.3 million for, for the engineering.

**Potter:** Ok, do we know what the deliverables are on that?

**Diede:** The deliverables on that were the project development phase work.

**Potter:** Do you have a detailed plan indicating what those were?

**Diede:** I would be happy to provide that to you.

**Potter:** So this contract that we're considering today, this amendment, um, then brings it up to, to a total of, of 7.46 million?

**Diede:** 7.46 million for the design contract, and.

**Potter:** 1.32 for the p.s.i.?

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**Diede:** Exactly.

**Potter:** And does this contract have, have any specifics?

**Diede:** Yes.

**Potter:** What are those?

**Diede:** Again, I don't have -- well, I do, actually, don't I. Hang on. On the civil and design services, many, many, many pages here. 100% design drawings, and it will be for the street and, and the track and the o.c.f. work. And the deliver buildings on, on the, the structural work, the bridge, interim and final design documents, and includes drawing specifics and final drainage reports and, and there will be, will be, will be interim and final utility design documents and for the maintenance facility, and, and there will be, um, interim and final design documents for traffic design elements, quantities of the traffic design elements, and most of these have interim and final design, so we get to plan specs and estimates is what we get to so as we can move into construction.

**Potter:** What's the reasoning use to describe it --

**Adams:** Low, moderate, high, and that.

**Potter:** In the first contract, what did you say, confidence, low?

**Adams:** Low.

**Potter:** And where is it now with, with the second amendment, and now this third.

**Diede:** We considered that the cost amendment that we're asking you to adopt today that we are in the medium to high range, probably closer to medium. We're at the 50% level. We've got an outside opinion that, that our contingency and our inflation numbers are good, that we can get through the project.

**Potter:** And, and does the p.s.i. contract have the same type of specific deliverables that, that the --

**Diede:** Yes, it does. The project, the project management side, the services that come from p.s.i. Are to manage this host of consultants and subconsultants that you can imagine will be doing the designwork and coordinate those activities as well as, as well as, you know, picking off the important high, high critical items and making sure that, that those are dealt with. So, they are, they are intimately involved with the ability for, for the design contractors to be able to deliver their deliverables, as it were. And in addition to that, I was going to say, in addition to that, they will also manage the, the construction and the community relations portion of the plan as we continue to meet with the community as the design develops, and they will be very important to us as we put together the construction contractor procurement documents, as well as the, the procurement documents for the vehicles. But again, if you would like more detail of what has already happened, I can do that. The two contracts in front of you do have the deliverables listed on them.

**Potter:** Ok. Will there be additional amendments to these two contracts with p.s.i. And, and the subcontractor?

**Diede:** Yes. The next phase will be in that we will have amendments to these contracts for services during construction. It will be, um, for, for project management during construction, for design services during construction, and again, for the total coordinating activities that are so necessary to build these things efficiently and on budget.

**Potter:** Well, how many more will these, will we have in terms of the, of the ones that we have to go back to bid for a new contract?

**Diede:** This contract, the solicitation for this contract was set up, as the contracts would flow through construction. From the time of the conceptual design until you are done.

**Potter:** So how do we then, contain cost?

**Adams:** As opposed to the region that, that, the reason that, I understand, it was set up this way was so that, it was set up so that we chose the contractors to, to build us a streetcar. We are only going to be sanctioning their work and paying for their work and coming back to council at each

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phase of the work so that council is satisfied that the contractor has, um, been delivering on each of the phases before deciding.

**Diede:** Absolutely.

**Adams:** That they want to move forward.

**Diede:** Absolutely.

**Carter:** If I understood your question, mr. Mayor, the, the next time that we come back, um, we will be coming back relative to construction. To construction services, so we would likely, historically, we would come back at the same time with the ward of the construction contract, so it all comes really as a package, again, relative to the budget and, and, you know, having some assurance that, that we have had adequate funds to finish the project. So, that's, I think that that's we're, we're we would be, the next time that we would be back here.

**Potter:** Of my concern arises from the fact of the increase of the project management and, and the design phase, that we've, we've taken about 16% of the contingency to pay for that. And i'm just concerned about, about how we're going to protect that contingency for, for say construction costs or other things to make sure that, that contingency, as you said, will be sufficient to handle any overcost.

**Carter:** The services we anticipate, so, so the, the, I think you, perhaps, you are referring to this change in the engineering and administration piece of the project we're, we're it has gone up since september in the overall? I will tell you most of that is related to the city staffing increases and the consulting increases in that number have, have stayed the same or gone down. So, city staff is included in here, and as well as we pay Multnomah county because they want to be paid from the time they spend from viewing the plans and working with us on the design. They have inspectors and etc., so that covers more than just the consulting work. They have stayed consistent in the budget.

**Potter:** You said city staff, who do you mean by that?

**Carter:** City staff would be vicki, and city inspectors, multiple ones on this project. There will be, will be, um, management and design work from, from the bureau of water that, that and from b.e.s., so there are multiple, you know, city bureaus involved in this activity. We also pay the railroad a fee because we are crossing over the union pacific railroad. That's not city staff but that is in that e.n.a. Number.

**Potter:** Anybody else?

**Saltzman:** I had a question. I thought you mentioned there is a finding in here about using the cmgc process.

**Diede:** Only that we are going to pursue that, and there is a process you have to go through in order to do it. We haven't done it yet but we will be bringing that back to council.

**Saltzman:** Who chooses under that process, the council that decides or Portland streetcar that decides?

**Diede:** It is also a council's decision. The cmgc process, we run that through the bureau of purchases, and we ask for the criteria for the selection, make our recommendations and bring it to council for approval.

**Potter:** What is it?

**Diede:** A construction management general contractor. What it does is there is a process that the state allows us to go through that ourselves from low bidwork when it's a very complicated and big, significant project, and if we put the proper findings to go and get approval, we but the in place a different project, but we're not dependent and on low bid to choose a contractor. I think we used that in many of the bureaus of the city.

**Carter:** I think it is a similar process.

**Adams:** Is how many of the streetcar projects have been ontime and onbudget?

**Saltzman:** All.



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**Adams:** And is this not just using the prior approaches that were successful but learned from those, those approaches to, to give the best possible work on this particular phase?

**Carter:** We like to think that we learned from the past.

**Adams:** This is not the, the payment of the contract, contract starts here, competitively bid, came through council. We told the council we would be back to them for extensions of the planned extensions of the contracts when certain milestones are back.

**Carter:** Right, absolutely.

**Adams:** We have a couple of folks here to testify. Thank you very much.

**Michael Powell:** It's quiet outside. It goes to show you, enough public testimony and it will bore everybody.

**Adams:** I don't know about you, but I'm pretty sure that it was a protest against Randy Leonard.  
[inaudible]

**Powell:** I'm Michael Powell, Portland streetcar board, and here to add a few brief comments to what you heard to date. I want to thank the people involved in the project. For what seems like six years now that there's been an advisory committee so I want to thank and good evening the work of the citizens advisory committee and the project advisory committee that worked on this project for so long. And diligently and continuously and, and still meet monthly. Who worked hard on the alignment, scale, scope of the project, the budget, the stops, every aspect of the project. I want to thank the folks at Metro who worked so hard with the federal government in achieving what we hope will be the funding from the f.t.a. It's been a difficult process. We're the first city to apply and have a reasonable hope of getting the money out of the small starts program for a streetcar project, and the first dolly by the car has been extremely difficult, but conscientious and hard work, many trips to D.C. in order to satisfy the f.t.a. That we're eligible for this money, and I think that these people have been very impressive, certainly I have been impressed with, with their willingness to do this work. It's the work of Tri-Met, and Metro, particularly, have been very helpful in this area. And I want to remind briefly some of the successes. You mentioned how many were on team and budget. I think four of the five projects were under budget. They were all on time, and they operated for six years. Current ridership is over 10,000 weekdays. Approaching 3.5 million riders a year. We have never had a serious accident. I think that is a remarkable effort in and of itself. 3.5 million of development now along, along three blocks of the alignment, that is the three block wide swath, and in the center part of town between 10th and 13th, and through Portland State and down to South Waterfront and up to Good Sam. Almost 10,000 units are housing, and, and 100 million all together. 48 million have been recovered in special development charges, and, and annually, um, it appears that we're getting about \$30 million in either, either county or, or school taxes move out of that of development. And that's after discounting the land projects set aside for affordable housing, [inaudible] return tax to the counties or school. So the project has paid for herself. Perhaps more than once. And, and continues to be iconic for the city and, and a very successful project. Trying to get you numbers on the footprint of this, it's all new work so it's difficult but if you move 3.5 million people in analectically driven people and the trip is not taken by car, [inaudible] has to be wonderful and remarkable and you deserve a lot of credit for that, and I don't think that we're always, always ready to acknowledge that because we are not used to thinking in those terms, but we have to be thinking in those terms, so, so all of that is, I think, to the plus side. I've been part of the planning side for the east side, optimistic we'll get the funding from the federal government. We have a plan B involving our congressional delegation. If we need one, and, and I think it will be available to us. Obviously, if we don't get it, we don't move forward, and we don't obligate any additional money or start construction or the final money until we do that. That's our assurance to you. The p.s.i. Board is diligent in reviewing the work of the consultants on a monthly basis, and are confident that they have the capacity and the experience and, and the energy to drive this project forward to success completion. The record speaks for itself. I think you

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have reason to be optimistic that we'll deliver what we promise. We always have. Thank you very much.

**Chris Smith:** Good afternoon, mayor and members of the council, I am Chris Smith, and I am appearing today wearing a couple of hats. I am the chair and the authorized representative of the, of the streetcar citizens advisory committee, that is the committee pointed by the commissioner of transportation to advise the commissioner and the council on issues around the entire streetcar system. I'm also a member of the project advisory committee for this project so in the first capacity let me pass on the, the enthusiastic support of the citizen advisory committee to move forward on this project, and, and I'd say the, the great enthusiasm and patience from the advisory committee get this going. We are waiting for the federal government to dot the i's and cross the t's so we can move forward. I think it's important to understand by moving forward today what you are doing is positioning Portland to act immediately when we can resolve the issues as quickly as possible which minimizes the risk of cost adjustment due to inflation, so the sooner we can push the button, the greater our chances of not having to worry about the adjustments in the project that will chew up contingencies. From the project advisory committee point of view, you know, again, I want to echo what Michael said, the community is behind this. We have worked with, with the stakeholders on the east side and the Lloyd district, OMSI, and there is competent enthusiasm to get this project moving. It delivers an incredible array of benefits to the community, becomes the, the anchor for, for city-wide streetcar system that will, that we're beginning to plan for, and, and I look forward to seeing this open in 2011. Thank you.

**Adams:** Thank you both very much for your service.

**Potter:** Did anybody sign up to testify? We have one more person. Kathi.

**Cathy Rakers:** Hi, I'm Kathi, and I am just, just a transit rider. And I have concerns about the streetcar, actually. I'm concerned about, about the traffic impacts that are going to happen on M.I.K.

And grand because of the streetcar, concerns, I mean, I like to see people get out of their cars and take transit. I'm a, a transit rider myself, but, but there are a lot of trucks and, and businesses that depend on M.I.K. And grand and trucking to, to get their jobs done every day. I'm also concerned -- I'm wondering how, how this can be an improvement when there is already transit that exists on the M.I.K. and grand arterials now. How will it be an improvement for riders going from northeast Lombard to southeast Portland when they have to ride a bus and stop and get on a streetcar. That concerns me. I am also wondering why other streets served by transit, such as 11th and 12th or 20th and 21st avenues, which are major arterials, that don't currently have buslines on them, and I understand that you want something to go to OMSI, but, um, could make a nice loop down 11th and 12th to OMSI, and hopefully across the new bridge, crossing the Willamette. Hopefully that will happen in the future. I'm also concerned, just because, um, development seems like a big part of this project, redevelopment on M.I.K. And grand, and that seems like that's a big focus of why we want this to happen or why people want this to happen here, and it seems like the redevelopment is happening, and I think it will happen with or without the streetcar line. That's all that I want to say. Thank you.

**Potter:** Is that it?

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

**Potter:** Is there anybody here who wishes to testify to this matter? Please call a vote on 375.

**Moore-Love:** There is an amendment. The amendment.

**Potter:** On.

**Moore-Love:** On exhibit a, substitute exhibit a.

**Potter:** Is it in the packet?

**Moore-Love:** Delivered yesterday.

**Adams:** What's the change so council knows?

**\*\*\*\*\*:** Just further detail -- [inaudible]

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**Potter:** They had a 50% confident level. This particular exhibit a?

**Adams:** Does it get us to, to, once the completion of the next phase, what level of confidence will he be at? We're at moderate now. After we spend this money, who will we be at?

**Diede:** We'll be at the high level of confidence because we will have, have completed engineering. We will have construction documents, we will have had the numbers reviewed by the contractor, and, and so, so at that point in time, we'll have a very high, optimal is not until you are done.

**Potter:** The budget itself is at a, is at a 50% level?

**Diede:** Right now. Right.

**Saltzman:** I'll move the amendment.

**Adams:** Second.

**Potter:** Call a vote.

**Adams:** Aye. **Leonard:** Aye. **Saltzman:** Aye. **Potter:** Aye. [gavel pounded]

**Potter:** Please call the vote on 375.

**Adams:** I just wanted to, to, I forget your name, kathi, I just wanted to let you know that council had a similar concern when this was first aired and, and have given me the direction to, in terms of implementation of the loop, to make sure that, that folks using those don't have to get off for a portion of the bus line to get on the streetcar just to get back on so that's the direction I got from council to negotiate with tri-met over the next couple years and we will be pursuing that. Aye.

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

**Potter:** Well, as I expressed earlier I am concerned about the increased cost, particularly, with, with the, the project management and design in civil engineering and it would be nice it there was a way for council to get by well in advance so that we can understand, whether than just approving the next check list, understand what that will get us in terms of the deliverables so we are voting on specific criteria. Aye. [gavel pounded]

**Potter:** Item 376. Call the vote. Is there anybody who is here to testify?

**Moore-Love:** We had one signup sheet for all three.

**Potter:** Oh, ok. Please call the vote.

**Adams:** Vicki, why don't we make sure that we have a sit-down briefing with the mayor on, on this work and offer a sit down briefing well before the next time that we come back from council. I know that we did that with staff but make sure we get it done. Aye.

**Leonard:** Aye.

**Saltzman:** I just want to commend Portland streetcar, inc. And all of the supporters for, for delivering the projects ontime and under budget, that's great. Aye.

**Potter:** Aye. [gavel pounded] 377, call the vote.

**Adams:** Aye. **Leonard:** Aye. **Saltzman:** Aye. **Potter:** Aye. [gavel pounded]

**Adams:** Thanks staff team. Thanks.

**Leonard:** We have three minutes, mayor, the 379 is just, just, this is kind of a technical, can we do that before?

**Potter:** Could you read 379?

**Item 379.**

**Potter:** Commissioner Leonard.

**Leonard:** Lori. [laughter]

**Lori Graham, Bureau:** Thank you, commissioner Leonard. Mayor tom Potter, commissioner Leonard, members of the council, I am a lori graham, I worked at the bureau of development services. Beside me is ed marihart, who works in our bureau's neighborhood inspections team, and we bring before you a proposal that makes some changes to our title 29, which is our, our, our nuisance and inspection section of our code. And while most of the changes generally bring the code into closer conformance with the state laws, we have gotten definition changes that corrects some things. And we've made some changes to how section 2930, which contains our minimum

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standards provisions function, so that they function more like a building code should, setting more explicit dates. There are some new enforcement rules included in this proposal. Primarily, or the primary one is the one that adds the language, um, which allows us to address chronic offenders in a separate way that, that, or a different way than how we addressed them in the past. And at this point, I would like to defer to ed to be able to address any technical issues you may have with that section.

**Ed Marihart, Bureau of Development Services:** Would you like me to go into more detail or, don't need to?

**Potter:** Unless council would like to.

**Saltzman:** Did the commissioner come up with the extra enforcement conditions.

**Marihart:** I came aground --

**Graham:** I want to say that --

**Leonard:** This is probably a good idea do point out this is not my idea.

**Graham:** There was an interbureau taskforce that worked on these items. [laughter] , so they were in public form.

**Saltzman:** Thank you.

**Leonard:** We have jeremy and stephanie.

**Jeremy Van Keuren, Mayor Potter's Office:** I'm jeremy with mayor tom Potter's office.

**Stephanie Reynolds, Office of Neighborhood Involvement:** And I am stephanie reynolds with the office of neighborhood involvement crime prevention program.

**Van Keuren:** And we're here to represent the interbureau taskforce as the two co-chairs. The taskforce was convened by council to address crime and livability issues and selective neighbors, and we support all the amendments but wanted to single out the one that refers to members of the housing [inaudible] in particular. One of the lessons that we learned early on is that it really only takes one irresponsible landlord to, to drag down the livability of an entire neighborhood.

**Reynolds:** In the course of our work, neighborhood inspections, work with the taskforce to proceed with the violation areas, however, chronically offending landlords with several properties maintain absolute minimum standards, and it leaves the door open for repeated offenses at these properties, and there are no substantial consequences for multiple violations.

**Van Keuren:** Property owners will have a greater incidence to avoid multiple property code violations, and this will improve livability across the city so we would like to recognize the work of b.d.s. and the city attorney's office to put together these code changes and offer our support. Thank you.

**Leonard:** Thank you very much.

**Potter:** Thank you. I want to say, I appreciate what the taskforce has done under commissioner Leonard's leadership, and it really has been a collaborative effort, and I think it shows how, when we work together on issues, we can solve a lot more than just trying to go it alone. Thank you. This is a non emergency, moves to a second reading.

**Leonard:** Thank you very much for your work.

\*\*\*\*\*: Thanks.

**Potter:** Do you want us to wait? Please read the 3:00 p.m. time certain.

**Item 378.**

**Potter:** City attorney will describe the hearing process.

**Kathryn Beaumont, Sr. Deputy City Attorney:** Good afternoon. I have several announcements to make that are required by state law before we begin the hearing. These concern the kind of hearing we're having today, the order of testimony, and guidelines for presenting testimony. First this is an on the record hearing. This means you must limit your testimony to the material and issues in the record. This hearing is designed to decide if the hearings officer made the correct decision based on the evidence that was presented to him. If you start to talk about new issues or

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try to present new evidence today, you may be interrupted and reminded that you must listen, limit your testimony to, to the record. In terms of the order of testimony, we'll begin with a staff report by John Cole from the Bureau of Development Services staff for approximately 10 minutes.

Following the staff report, the city council will hear from interested persons in the following order. The appellant will go first and will have 10 minutes to present the case. Following the appellant, persons who support the appeal will go next. And each person will have three minutes to speak to council. The applicant will have 15 minutes to address the city council and rebut the appellant's presentation. After the applicant, the council will hear from persons who oppose the appeal.

Finally, the appellant will have five minutes to rebut the applicant's and opponent's presentation.

The council may then close the hearing, deliberate, and take a vote on the appeal. If it is a tentative vote the council will set a future date for the adoption of findings and final vote. If the council takes a final vote today, that will conclude the metro before the council. Finally, just a few brief guidelines for presenting testimony, when you speak to council today. Again, a reminder, this is an on the record hearing. You must limit your remarks to arguments based on the record compiled by the hearings officer. You may refer to evidence that was previously submitted to the hearings officer, but you may not submit new evidence today. It was not submitted to the hearings officer. If your argument includes new evidence or issues, the council will not consider it and it will be rejected in council's final decision. If you believe a person who addressed the city council today improperly presented new evidence, represented illegal arguments that relies on evidence that's not in the record, you may object to that argument. Finally, under state law, only issues that were raised before the hearings officer may be raised in this appeal to city council. If you believe another person has raised issues today that were not raised before the hearings officer, you may object to the council's consideration of that issue. And that concludes the opening announcements.

**Potter:** Thank you. Do any members of council wish to declare a conflict of interest? No council members have a conflict of interest to declare? Do any members of the council have an ex parte contact to declare or information gathered outside of the hearing to disclose? No councils have ex parte contacts to declare. To any members have councils or other primary matters that need to be addressed before we begin the hearing? We will begin the hearing with the staff report from the development services and they will have 10 minutes.

**John Cole, Bureau of Development Services:** Thank you, my name is John Paul, with the Bureau of Development Services. Before I begin the power point presentation, I think by way of directs, I will let you know the issue in front of you here today is on a fundamental level, a disagreement over what the appropriate size of a building on a particular piece of property is. The architects on behalf of their clients, proposed a building that the neighborhood association feels is too tall and is too large. There are some related concerns about the architectural elements, but I think that those are secondary to, to the issues of size. And this is also a case where history is important. Usually, we don't talk about building size there is a land division case, but in this particular instance, the proposed building site is part of an earlier land division that was approved in 1996, and at that particular point in time, one of the conditions of approval that was attached to that land division was that the buildings that got built subsequently on the lots involved met certain standards or, or were, in fact, in substantial conformance with some, some building elevations that were, that were included as, as exhibits. So for the remainder of the presentation I hope to take you through the 199 decision briefly. Talk a bit about the most recent 2007 decision by the hearings officer, and describe the, the appeal in brief.

**Adams:** Before you continue, for the record's sake, I have no ex parte conflicts to clear. I'm good to go for the hearing in this case.

**Cole:** I also would like to say there is a lot of detail involved in these cases. And it's not my intent as part of this to go over all of that detail, but if you have questions, I will be happy to answer them.

As I indicated, the purpose of the hearing is to consider an appeal of a hearings officer decision that

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would amend a 1996 decision that was a land division with adjustments. And the amendment replaces an approved set of building plans with a larger set of proposed building plans that still meet the underlying high density residential zoning district standards. The appellant is guy tile, the co-chair of the neighborhood gulch association, and the applicant for the original amendment is tuan luu of ankrom moisan architects on behalf of the property owner, holladay park plaza, inc. This is the zoning map of the, of the property at issue that's shaded in the center of your screen. I point out it is located outside of the central city plan district. The surrounding neighborhood includes the lloyd center, off the map to the left. To the right, you could see that we get into, into a more traditional residential neighborhood configuration. Although these are low density, multi-dwelling r-2, the characteristic of the neighborhood are, are predominantly single family. The property, itself, is zoned high density residential. And the lloyd center is, is kind of over here in this particular area. You might recognize weidler street up here along the --

**Leonard:** Otherwise known as weidler street?

**Cole:** Thank you, sir.

**Potter:** Not if you are a weidler.

**Leonard:** I grew up in that neighborhood.

**Cole:** And the holiday plaza senior living center is located on these three particular spots located immediately to the south of them, to the south of the property. The only other item that I would like to point out on this particular overhead is, you notice that the block that the property is located on is also divided up into a number of other, other smaller properties, and these are, are townhome lots, and, and i'll talk about those in a little more detail. This green arrow that's located on the map is, is going to be the direction from which this next slide was taken. This is an aerial paragraph of the property, and you can see the, currently, it's a vacant, unimproved site, it's been cleared, graded, and available for development in one fashion or another. Across the street, there is a multi-family development, and then you could see on, on the right side of the screen, is the holiday plaza. The tower. Again, just to give you a bit of a flavor of the immediate neighbor, neighborhood, this is a picture of the site taken from, from looking northeast on some of these tan buildings, they are the side or some of the townhomes that were approved in 1996 part of the land condition. This is looking south, southeast along 16th avenue. Again, to give you a bit of a streetscape, the red arrow is a little hard to see here on this slide. The location of the development site. And immediately across the street to the west of the development site, you will have this particular multi-family building. In 1996, I had mentioned history is important. A land use application was approved. Divided a 30,000 square foot site into 12 townhome lots, and one lot that was designated for multi-family development at the time that that land division was approved, there were a number of adjustments that were also approved. Heights and setbacks, and not just for the multi-family lots but also for the townhome lots. And townhome lots have all been built out, the only remaining property to be built on is the multi-family lot. Lot number eight. Lot 8 was given adjustments from a minimum lot size requirement at the time, and currently the minimum lot size allotment is 10,000 square feet. Lot a is approximately 8,000 square feet. There were some, some adjustments given to minimum dimensions of that lot, and then there were, there were adjustments from a maximum height and, and from, from setbacks, also, granted in 1996. The approved site plan from 1996 is on the screen in front of you. The green star is located over lot 8, which is the subject of the discussion, and I had mentioned earlier that these other, other townhome lots have been approved and have been built, built out. At the time that the land division was approved, there was a specific reference to some building elevations and building footprints for the subsequent development of lot eight and the townhouses. And, and there were only two, two elevations included in the, in the record from the 1996 decision. These elevations show, show what was the approved building, if you will, from 1996 as viewed from, from south across the clackamas street and, and looking at the west side of the building. Of importance here, I have drawn in a red line, top of the building, and

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that is a 60-foot tall structure as drawn. There was text in the decision that this a building could go up to 65 feet. I point out on the west elevation, you might see that there are four stairways up to, to the street entrances that go into, into the dwelling unit directly from the street. The street level development of this particular building is, is a, a parking structure on the first level of the project. I am going to fast forward to 2000 and start to show you what, what the, the proposal was in front of the hearings officer, for a project that would include 23 dwelling units, would be roughly 46,000 square feet in size. Would be a seven-story tall building, approximately 75 feet tall. The setbacks of this structure were moved a bit to the south and to the west. There is a zero setback from clackamas street, a zero setback from northeast 16th avenue, and a set, the setbacks have been increased from both the north property line and then from, from the, the private alley that this project will share with the remainder of the block. And now, these are, are drawings, elevations of the current proposal, and i'll apologize to the architect, the ex sister of the building is, actually, proposed to be a, a light tan brick veneer, but by the time we got the drawing stand and placed on the overhead, it wasn't much darker than, than the building in real life. I included the 60-foot line on the elevation so you can get a feel for the difference between, between what had been proposed in 1996 and what is currently under appeal. All four elevations are shown in this current proposal. To make a comparison to what you had seen from 1996, this is the south elevation from clackamas. This is looking at the project across 16th avenue. This drawing is, is, um, is one generation earlier in the design development, but the scale of the building is accurate, and it shows the relationship of the building to the surrounding. The application is reviewed against approval criteria. The most important is the approval criteria for adjustments, and in summary, the hearings officer approved the application. He found that the land division approval criteria were met. The adjustment criteria were met, and he did find in favor of a density transfer, incorporated into the application, and he found there was no significant conflict with the, the sullivan gulch neighborhood action plan. I will run over, mayor, but with your indulgence could I have an additional minute?

**Potter:** Yes.

**Cole:** I will wrap up. And in the, the appeal, the sullivan gulch neighborhood association is objecting to three primary components in the decision. The first is, is the density transfer upon which this building relies, violates a particular code section, and I will show you a picture and describe it in brief detail. They felt that, that the project does not meet the adjustment approval criteria, and the proposed building is not as good of a neighbor as what was approved in 1996, and they cite a number of objectives and policies from, from the action plan that support the argument. In terms of the density transfer, staff recommended approval of it. And we believe that it's an appropriate finding, the density be transferred from the holladay plaza site, which is developed with the single building. There is 15,000 square feet available to transfer. We think that that's correct. And the adjustments are the criteria has been met and we did not find the neighborhood action plan provided us with enforceable provisions to deny the project. Sorry to run out of time but there is a lot of detail, and I will be happy to answer any questions that may come up during the hearing.

**Potter:** Any questions at this point?

**Leonard:** I don't know if this is the right time to ask but I want to better understand what it was that was agreed to in 1996. I heard you say a specific building was approved, and I am more interested in what the limitations of the project were in 1996, in other words, what people reasonably could have anticipated. Is it the right timing or do you want to wait until the end?

**Cole:** I can answer that now, and if you will need more information, I will return to it. In --

**Leonard:** I read some of the correspondence, and it would appear that some of those that lived in the neighborhood were relying on, on a decision made in 1996 as to the height of the structure anticipated to be built there and this was higher than that. Is there some validity to that?

**Cole:** There is validity to that. In 1996, a land division was, adjustments was approved and there was a table, both the table that gave some, some height and setback information, and at that

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particular time, the, the height limit in the table was supposed to be 65 feet. There were specific setback adjustments given for the project, which was the 10-foot setback adjustment from the west side, shown eight feet from the northern property line, and zero feet setback from both the south and the east. There was also the specific elevations referenced in 1996, and they showed is a building that was, that was 60 feet tall, and I think that, that it would be fair to include a statement from that particular approval that when, when the, when the 1996 decision was approved, there was a clause in it that this that the approval for the land division was so dependent on the designs of the building submitted, that conditions of approval will require that lots be developed in substantial conformance, so it did contain that particular one.

**Leonard:** How are you interpreting that language? What does it mean to you?

**Cole:** Staff interpreted that substantial conformance language to mean that the current proposal is not in substantial conformance with what was approved in 1996, and that's why we wouldn't issue a building permit directly for a project that comes in that we're reviewing today, but -- the applicant has been notified of that, and that's why they have come before the, the city in the review process to try to get this particular condition of approval amended, and, and they are permitted to do that.

**Leonard:** And that's helpful. So, I guess I'm asking you, what is it that's changed in the intervening 12 years that would cause this to change the conditions in 1996? Very briefly, if you could summarize, from your perspective, what it is that was driving the staff to agree the conditions had changed enough to, to, to increase the, the height of the project. If you would like to save it until the end, that's fine, too, because that may come out.

**Cole:** I'm not so sure that that, so much has changed in the city to cause the particular amendment as much as, to as much as the current proposal does meet the underlying r-8 zoning district standard, and so the question that at least I had to wrestle with a bit at the staff level is, is what was it about the 1996 decision that, that would, that would prohibit a, a property owner from, from developing lot 8 to its full development potential, if you will, under the r-8 zoning district standards? And I did not see a, a, a, an intervening requirement that would get in the way of somebody developing to the full r-8 zoning district.

**Leonard:** Thank you.

**Potter:** So, how is the density transfer impact that?

**Cole:** The lot number eight, the applicant currently is proposing to build on, is in a zone district which would normally allow for an air a ratio of four feet of building for every square foot of building lot, and, and, and the building elevations I have shown you are larger than what would be permitted under that floor area ratio, but the city does also allow, allow, allows property owners to transfer density from, from adjoining lots or, or, or lots within the same block, and it's an interesting discussion, but in this particular instance, the developer is relying on, on the transfer of 15,000 square feet of building area from, from the holladay park plaza building to this particular lot to get to their seven-story structure. If you take a look at the underlying lot, that its built on, and then you look at how big the building is on that property is, as 15,000 square feet of, of leftover available density, if you will, that property is, is under the same ownership as lot 8, that's under discussion today, and their interest in taking that leftover density from the holladay plaza tower and assigning it to this.

**Potter:** Does the city have to approve that process or is that send that if, if an adjoining property is used, it's the right of the, of the property owner to use that density transfer?

**Cole:** The density transfers are reviewed by, by the city of Portland. They are not reviewed through a public process, necessarily. But they are important to this decision, and I think it's appropriate that they get discussed as part of this decision, but the applicants did submit a request to transfer that density in advance of this particular application, and it was approved at a staff level, and I reviewed it, and the hearings officer reviewed the density transfer mechanism and found it to



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be appropriate, as well. But, I know that there are people from the neighborhood association that disagree with that interpretation.

**Leonard:** My question is, if we deny this application, does that mean the f.a.r. Transfer will not happen?

**Cole:** I might defer to the city attorney but I believe it would. I think because of the nature of the property, if they want to build something that is different than what was approved in the 1996, they are going to have to do it through a process that brings it back in front of the city council.

**Leonard:** Including the f.a.r --

**Cole:** That's correct.

**Potter:** Further questions? Thank you. The appellant, please come forward. And because, because the staff report was two minutes over, we'll give you an additional two minutes, a total of 12 minutes for your presentation.

**Harrison Pettit:** Mayor Tom Potter, commissioners, my name is Harrison Pettit and I am on the board of Ed Sullivan's Gulch Neighborhood Association, the appellant in this appeal. I have with me Dan Kerns, who is our legal representative in this case, and joining us are, are supporters, fellow members of the board of the Sullivan Gulch Neighborhood Association, neighbors and representatives from the Irvington Neighborhood Association, and adjoining neighborhood with whom we've collaborated in the past. It's good to be before you but also is cause for regret that this case, unlike so many land use developments in our neighborhood before it, could not find mutually amiable resolutions. Sullivan's Gulch is one of the most densely developed neighborhoods in the city, and I say this with pride. The neighborhood association has actively participated in the land use development process that is permitted well over 300 new units, in our neighborhood in the last seven years, and we don't use urban infill as a compromise, but as an enhancement to the neighborhood. We live in Sullivan's Gulch because of the urban density, not despite it. Dan will elaborate, we feel that there are major flaws in the hearings officer's decision that require your thoughtful attention. The significance of the case goes beyond the boundaries of the neighborhood.

With all due respect to the inherent challenges of the task, we feel that the bureau's recommendation and the hearings officer's decision send the wrong signal to the public who need to be confident that the, of the city's process and says decisionmaking. The basis of the appeal is entered on three critical points. First one, I believe the most important, is one of fairness. A deal is a deal. For 10 years, this neighborhood has participated in this land use case. We were part of the subdivision and adjustment approval amendments in 1996, and the modification in 1998 in which the developer, the city, and the neighborhood thoughtfully and carefully agreed to a comprehensive development plan.

This is how it's supposed to work in the city, and this was a successful example of that. The hearings officer's decision is unraveling that successful process. Second, we feel that further testimony will show that the hearings officer has misapplied the f.a.r. Transfer mechanism in this decision, and as Barack Obama has reminded us, words matter. In this instance, the accurate definition of the words, lot and sight, as applied, really matter. Third, we feel that the decision has neglected to suitably consider important elements of the Sullivan Gulch Neighborhood Plan. It calls for a smooth transition from a higher density, outer section to the lower density neighborhood core.

You saw the images of that. It allows the desired transition to be introverted from a five-story building to the west on the outer portion of the neighborhood to a seven-story building as one moves toward the neighborhood's lower density core. Lastly, let me add that we respect and appreciate the landowners. They are our neighbors. Holladay Park Plaza and an integral member of that neighborhood and is with, it is with some pain that we appear with odds with the current wishes for the property, however as a board we take our responsibility seriously and have passed three separate resolutions to oppose these plans. We are asking you to reverse the hearings officer's decision so that a more collaborative development process can resume that respects the hard work and compromise embedded in the precedent of 1996, 1998 agreement. Thanks.

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**Daniel Kearns:** Good afternoon. Mayor and city council. I represent the Sullivan Gulch neighborhood association. My address is 610 Southwest Alder Street, Suite 910. I think you have in front of you, and this board is showing the lot, the blocks involved here, lot 89, involves lot 8, the lot on 177, just back is block 178 and block 179. I think Mr. Cole fairly presented the case, and, and emphasized that, that history matters, and also, in this case, size matters. Size in the sense that, that the original decision had approved the subdivision here, and I am talking 13 lots. They were created in 1996, and 17 adjustments. And, and not just the substance of this decision, but also, the process that was followed. There was collaboration between the Sullivan Gulch neighborhood association, Irvington neighborhood association, immediate neighbors and the developer all came before the city starting at the conference stage, and you will hear testimony from people who were there part of the process, and at the end, the project changed significantly and they came up with an interrelated setup, 17 adjustments creating the 13 lots. You could see how it's very, very cut up into small pieces on block 177, but it works. Blocks built out now, except for block eight, and the decision that came out in 1996, I think it's part of the packet, but what Mr. Cole quoted was the conclusion. The private alley can meet with conditions of approval for adjustments, all applicable requirements, this approval for land division is so dependent upon the designs for the buildings submitted, conditions of approval will require that the lots be developed in substantial conformance with those designs. And if you look at the, at the next page of the decision, it recites in painful detail all the adjustments granted, and significantly, lot 8 is substandard in size. It was approved at, at -- it's a 10,000 square foot lot size zone. This is approved at, at 9,000 -- 8,905 square feet. So, it's a substandard size of lot. So it's a substandard side of lot. It's the last one to be developed. What the applicant has done is to amend the prior decision to take out the requirements or the receipt next that these are all interrelated, and it undercuts the process and the reliance that the neighborhood association has placed in this project for the past 10 years. And I would suggest, too, another reason why I submitted a letter, and along with it, a cheat sheet of the code sections, I send in full starting with, with the transfer section, but because this is a substandard size of lot under the code, the code section, on the second page of what I submitted to you. It's 33.120.210. Substandard sized lots in this zone can't be developed unless they meet these criteria. And this lot doesn't meet the criteria, mainly that it had no adjoining parcels in common ownership. But it was approved in 1996 as substandard so I would suggest to you the only way it can be developed is under the 96 decision and if you want to undo this one element of the 96 decision, you'll have to go back and reevaluate all 17 adjustments that were approved in that decision because they're all interrelated. And the significant limitation that was imposed for this proceeding was the height limit of 65 feet. And that's reflected in the drawings that were attached and incorporated into the decision. Commissioner Leonard asked how this subdivision application, this adjustment, modification to a subdivision is interrelated with the f.a.r. transfer. And the hearings officer looked at the f.a.r. Transfer provisions which are on the first page of this sheet that I have handed you that you found in your packet. Transfer of density of f.a.r. And he concluded that, well, lot and site are used interchangeably so their meanings and terms are fungible. They aren't. If you look at these provisions in section 33.120 sub e they talk about how to calculate f.a.r., how far you can go with it. What development standards might be applicable, zoning, ultimate density. But one provision talks about whether you can do it or not. So none of these provisions apply until you can transfer f.a.r. And it's subsection e4. And it says in pertinent part except for transfers from sites of landmarks, because you have special rules for landmarks. You can transfer f.a.r. For landmarks within two miles. So you are pretty liberal for f.a.r. transfers of landmarks. The transfers may only be between lots within a block or between lots that would be abutting except for a right of way. You define in your code very precisely what it is. It's a legal lot. It's something that's created by a subdivision or a partition. It's not a tax lot. And what Mr. Cole showed you with the arrow showing the flow of density up from the other blocks, those were tax lots. Those north legal lots. Your code

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defines a lot as a legal lot. Consistent with state law chapter 92. But we show here are the lots that were created through these subdivision, the lots on block 177, the legal lots on block 178 and the legal lots on block 179. Under your code you can't transfer f.a.r. except for lots within a block, and the only exception is if you cross a right of way where there are two lots would be abutting except for the right of way. This project cannot be approved without the f.a.r. transfer. And the f.a.r. Transfer that the hearings officer approved violates your code. Lot and site mean very different things. The site is a collection of lots and tracts all in common ownership. So I would agree that the site here is everything that the applicant owns. A lot is a specific, created legal lot. The subdivision in 1996 created these lots on block 177, including lot eight and the other lots you see illustrated on block 178 and 179 you cannot transfer f.a.r. From these blocks to lot 8. It can't be done consistent with your code.

**Saltzman:** Why do you have that lot in green?

**Kearns:** That's the only one that could possibly be eligible.

**Saltzman:** How many square feet?

**Kearns:** 50 by 100 square feet in Portland.

**Potter:** Why isn't the other lot eight next to it eligible?

**Kearns:** Not abutting. The f.a.r. has to come from block 179. Because there's a giant building on 178. The huge holladay park retirement home is there. So it's my impression there is no f.a.r. to transfer from lot, from block 178. But for sure the theory that the hearings officer is operating under and was illustrated in that drawing that was mr. Cole showed you isn't consistent with your code. Lots and sites are very different things under your code. And the -- also the neighborhood plan, it does impose requirements on this. Land use decisions especially when you are modifying prior land use decisions have to be consistent with the comprehensive plan and this comprehensive plan provision that requires a smooth transition, it means something. Smooth transition, it's an ambiguous term. You get to interpret it but it doesn't mean tall, tall buildings at lloyd center and then shorter buildings then this tall building and then shorter buildings. That's not a transition, much less a smooth transition. And so in this case, I think staff took the position that there wasn't a significant difference between 65 feet and 75 feet. We would beg to differ because the original deal, the agreement that was struck in 1996, that is held for all these years, provided that smooth transition. I would be happy to attempt to answer any questions you might have.

**Potter:** Questions. Thank you.

**Kearns:** Thank you.

**Potter:** Next we will hear from persons who support the appeal. Do you have a sign-up sheet for that?

**Moore-Love:** We do. We have eight people signed up. The first three are bonnie metser, payton sneed and I believe it's koy lutz. We are actual --

**Charlotte Uris:** We are going in a sort of logical order and have our order within our group. I'm going first because I was the one person who was involved in the 1996-97 decision. And bonnie is living, lives on that block. My name is charlotte uros. I live at 2526. As past chair of the irvington neighborhood association. I was at the table when the original proposal for this lot made in 1996. Sullivan's gulch land use chair and I sat at the pre-aoa with the developers, the planning transportation and other city representatives and looked at the original computer sketch plan. A brief response to the proposal was made by each person at the table. Generally, everyone appreciates the attempt to bring high density housing of this scale and height to the west end of the neighborhood. Housing which provided a smooth transition to the lower density of the neighborhood core, as the neighborhood plan says. Everyone had -- of the actual plan, however. There were serious problems with design, park, fire and other issues. As the hearings officer stated in the later decisions, this is a difficult site." and the developers were encouraged to get experienced professional help to create a successful development proposal. The developers hired a very good

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architectural term and after much thought and discussion a good proposal was submitted that many saw as a positive model of design and creative solution. The developer proposed a attached housing units in 12, on 12 lots and a condominium building housing 20 units on one larger lot. The attached housing towards the west and north would be sensitive to the heights of the two large single family houses on the block, and request would be compatible with the scale of the surrounding neighborhood homes. These homes and the alley access to them have already been built. The proposed condominium building for lot 8 was about the height of the four-story lloyd place apartments being built across the street to the west in the higher density lloyd district central city area. The proposed four-story condominium building with parking was 60 feet high. In march '97 a hearings officer approved a 13-lot major land division, an alley with adjustments on this lot. The approval was subject to conditions most significantly, a, the final plat must include the following. I am now quoting from the hearings officer. One, the final plat will include the statement, "this plat is subject to the conditions imposed by the city of Portland in hearings officer file number 9601. Two, lot h will be developed in conformance with exhibit 6, 7, 8, and 9 and those right exhibits that have been mentioned that are the specific designs and conditions of adjustments. So that decision. In conclusion the hearings officer states, "this approval for the land division is so dependent on the design for the building submitted that conditions of approval will require that the lot be developed in substantial conformance with those designs. There is a development blueprint for this block and the lot. Legally, the substandard are r.h. Lot plat must be developed in substantial conformance with the 1997 city of Portland land division decision. The current proposal does not conform at all with the subdivision and design conditions because it's too high and too massive. The proposal should be denied and I would add a deal is a deal.

**Bonnie Mentzer:** My name is bonnie metser. I live at 1608 n.e. Halsey street. And I am a long-time resident of the sullivan's gulch neighborhood. My house is one of two 100-year-old houses on the block where the proposed development is to take place. My house is on the southeast corner of northeast 16th and halsey street. The lloyd place apartment building, which charlotte spoke, is to the west of my house. I attended all of the neighborhood meetings concerning the building plans for lloyd place. I supported the building design and wrote a letter to the Portland planning bureau, voicing my support. It was a good transitional area from the mass of the lloyd center. I also attended all of the neighborhood meetings related to ground place subdivision in the plans. That is the -- referred to as the '96 decision. I made appearances, I made an appearance before the bureau's hearings officer who considered the initial application subdividing these vacant properties and the proposed building plans for the condominium and the row house. Colin james, owner of the other old house, located, which is located on the southwest corner of northeast 17th and halsey street, was also in attendance. We both enthusiastically endorsed the proposal. We felt that the size of the rowhouses and the condominium building were compatible with the surrounding area. We were particularly pleased with the scale and sensitivity of the architectural design. I believe the hearings officer in this case should have denied the application for the -- for the revisions because they built - - treated the matter in some respects as if it were an initial application under the present code, and in other situations, but was willing to adopt the concessions, I would say, that were allowed in 1996. In other words, the numerous adjustments that were made in the '99 -- in the 1996 matter were part and parcel of the history in this case. B.d.s. Seemed to be trying to have it both ways. Am I supposed to stop now?

**Potter:** Your time is occupy. Could you finish your sentence?

**Mentzer:** Pardon me?

**Potter:** Could you finish your sentence.

**Mentzer:** I think I have already. Thank you. [laughter]

**Guy Lutz:** My name is guy lutz. I live in holladay park plaza and have lived there for 23 years. There are only about 139 people who have moved in after I moved in in 1985. I have served on the

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sullivan's gulch neighborhood board. I have served as the land use committee chairman in very quiet times, I must admit. I was at the prior hearing, and I didn't testify because I was given a little yellow slip that said you should be well dressed. And I looked like I had been pushing a cart from safeway's and it wouldn't look very nice. I hope I look somewhat better this time. But this is a new experience for me.

**Leonard:** You got a slip from the city?

**Lutz:** It was a thing passed out at door that said suggestions.

**Adams:** Look at this. Look at commissioner Leonard's tie.

**Leonard:** Exactly.

**Lutz:** Anyway, I live on the 15th floor, and I have a chance to look down on the subject property. And support the 1966 decision, which says there should be a transition from the commercial neighborhood to the west down to the residential street and houses on 17th street. And now I see we come down a little bit and then we go back up and then we go down again and this doesn't seem to me to be kind of a smooth transition. So I would support the work of the sullivan's gulch neighborhood board in this instance and that's all I have to say.

**Potter:** Thank you.

**Potter:** Did you call the next three?

**Moore-Love:** They are going out of order. Charlotte said you were coming up at a certain time. I have payton sneed, lynn cowherd and daniel stern next. What about richard lovie? Why don't you come on up. Ok. Nadine smith.

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

**Lynne Coward:** I'm lynn coward at 1427 n.e. 17th. I am coming in, we are kind of in chronological order. I bought into the first unit here. And I just want to tell you a little bit about our expectations. When we bought in we saw that the whole plan developed. I have a back ground in design and what I really liked was that this was a plan thing that held together in design, which was really important in a small space, that it be co-here rented. And I liked that. And then after the 12th rowhouse was sold we all got together at mcmenamain's in the side room and we went around the table and said why did we come here? What is it 1234 and it was like a unanimous thing. We want to participate in the urbanization, infill urbanization of Portland. It was really a committed to this. And we felt proud of ourselves. And the a.i.a. came out and looked at it, randy gragg wrote about it. Gordon oliver said, here's the new Portland. This is exemplary of what Portland is becoming. And this is the way we have proceeded. The, in fact, in I think it's in 2003, alan kravitz came us to. He had developed the 1620 building and he wanted to buy the property and develop the condo building. He met with our block. This was an informal. It was not a formal land use review. B.d.s. said as long as they were within the envelope of what had been permitted that we could, that they would not have to go through a formal process. So we met. We met with our lan use committee. We met with the block and then we met with the board and I have a memo that I pulled out of my file saying we support this building. This was a 65-foot building of 18 units. So we are as a block, we knew what we bought into. And we are supportive of it. What we want at this point is not to have it get larger. We have, we have seen the plans and the plans keep saying the same. They are larger. And I think the applicant feels they have the right to do what they want to do. And we disagree and that's I guess why we are here. But when you calculate, it's not just the additional 10 feet. It is far with it so the building then if you get too it, the, it increases the building's square footage by 44%. That's significant to us. I thought that was the end of me. No. And actually, I don't know how to say it. It's a painful part of this because these are our neighbors across the street. And has not been, in fact, I have even suggested to the former owner who I knew had a problem that he talk with holladay park plaza because they would make fantastic neighbors. They are a great institution. We would like them to be in the same size as what they started out.

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**Peyton "Pete" Sneed:** Good afternoon. My name is payson sneed. I'm with the sullivan's gulch neighborhood association. I am the co-chair. I've been a board member for about seven years. I am acting land use chair. I always like to repeat lynn's sentiment about holladay park plaza. We hold our monthly board meetings there and as long as I can remember we have always had a resident of holladay park plaza on the board. So we're here reluctantly. I'll go ahead and use my prepared statement. Sullivan's gulch's neighborhood association urges the city council to repeal the hearings officer's decision and allow holladay park plaza to develop lot 8 in accordance with the land uses agreement of 1996-1998. In fact, our board of directors has voted on three occasions oh oppose the proposal as currently envisioned. We voted once to oppose the proposed amendments to the decision. We voted a second time to appeal to the council. We voted again to acquire legal counsel for this appeal. It was a remarkable show of consensus by the board that these motions passed unanimously with one abstention. I am sure each member of our board had different reasons for voting the way that they did, and I would just like to share some of the sentiments that I think represent where the board is coming from. Very difficult decisions that were made. They were carefully considered and discussed. On numerous occasions and we have tracked this project very carefully and tried to work with the development to something that is mutually agreeable. Unfortunately, there doesn't seem to be any middle ground here. We believe that it's unjust and unfair to give one property owner enormous benefits and heap the burden on all the others. We believe the proposed building is far more massive than the one proposed in 1996 and 1998 plan and the mass would create too great a burden on the surrounding homeowners. We believe b.d.s. And the hearings officer were either unaware or failed to recognize the cumulative effect the of the proposed development and changes. I think the board agree that is a 32,000 gross square footing with a maximum allowable building height of 65 feet on a substandard r.h. Lot is acceptable. We believe that a 46,233 with a height of 75 street feat on a substandard r.h. Lot is not acceptable. All the parties to the agreement in '96 to '98, and those who looked at property and were interested in living in sullivan's gulch, looked at the exhibits in that plan and at building height that was allowed, when they do their due diligence. So we believe it's kind of unfair at this point to go back and change the rules. We've also had our citizens investigate the f.a.r. Transfer and find that to be illegal. Thank you.

**Dean Smith:** Good afternoon. Mr. Mayor, members of council, I live at 3 oh 36 n.e. 19th in irvington. I have been there since 1989. I am a board member of the irvington association and I currently serve as co-chair of land use committee. The irvington board strongly supports the appeal put forth by sullivan's gulch neighborhood. We appropriated funds to join with sullivan's gulch in hiring counsel for this appeal. It's a matter in a case we take very seriously. We believe that the hearings officer as you heard has erred in this approval of amendment tots 1996 '98 cases. Mr. Kerns has gone over our legal arguments with you but I would like to impress upon you why we believe it's important for the council to make the right call in this case and why the '96-'98 decision should be upheld. A fundamental issue here is the transition of height and density, as we have talked about from the central city to the neighborhood. As plan manager of the central city plan back in the 1980s I became very much aware of the need to establish transition areas between the higher densities of the central city and the sensitive residential neighborhoods that surround it. Now as a citizen, and a neighborhood association leader, I recognize even more the importance of proper transition into the neighborhoods. That's what I believe was fundamental to the 1996-'98 case and is central to the outcome today. The applicant's proposal is inconsistent with the transition to the neighborhood that the 1996-98 case established. 75-foot-foot tall building would be a step up to the apartments to the west. The strand between the development and the neighborhood. The massing of the structure if council were to allow a f.a.r. Transfer here is fully 44% greater than that which was established by these prior decisions and was available under the base zone. That's half again more massive of a structure than what the neighborhood's property owners on the block and

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nearby residents bought into and understood was a legal limitation for future development on this parcel. I will point out again as others have that this is a substandard size lot. It's 8,000 square feet, not 10,000 square feet for which the 75-foot height limit is based. The 1996 decision resulted in a reasoned, well balanced plan for the future development of the block. Since then others have made decisions to invest in and/or live on this and adjoining blocks based on a belief that the decisions made in the '96-98 proceedings represented a city's assurance that the development plan for the block was approved, final, and a done deal. To overturn the '96-98 decision that the point would not only undermine the faith that we place in the city's land use processes, it would also strike a blow to our expectations as surrounding neighborhoods that the city will conscientiously strive to ensure there's a appropriate transition between the densities and the neighborhoods. If the '96-98 decision was sought to achieve that for Sunday reasons. Based upon an involved public process. That process and a development plan that resulted from it should be validated by this city council. We therefore urge that you uphold the provisions of '96-98 proceeding, limit the height of the new building at 65 feet and void the f.a.r. transfer that the applicant relies upon to achieve the increase in density that his proposed project represents. Thank you.

**Potter:** Thank you, folks. Who are the next three?

**Richard Levy:** Good afternoon, mayor and commissioners. My name is Richard Levee and I am president of the Irvington Community Association. I am here this afternoon in support of our next door neighbor Sullivan's Gulch because I have been involved in neighborhood activities for over 30 years. My address by way is 2611 N.E. 17th for the record. And I have written a speech but a lot of what I had written has been said so I'm going to cut to the chase. I believe that this city council and this mayor and the city are in the right, going in the right direction. We are on the right path. To more listening, better understanding the needs of all Portland's citizens. Looking at the Portland plan, New Comp Plan, city can act in doing more outreach to neighborhoods through O.N.I. Grants, et cetera, will certainly stimulate the two-way flow of communication between the city and the neighborhoods and residents of neighborhoods. Those are the people we want to reach is the residents in all the neighborhoods. It seems to me that this current proposal is sort of a cruel joke on the people who bought their homes in Sullivan's Gulch folks won't say it but I will. People who bought the 12 town homes expected a building when they were sold their property of a certain size. There's nothing, if you don't have zoning next door that you can rely on or if you don't have an expectation of what's going to be built next door when you are buying something, then, you know, you can be fooled. But here they had a 1996 city decision that said a 65-foot-tall building was the tallest that could be built there. Along comes a new owner and a new developer, and they say, oh, no, we are going to go up another story and 16,000 more square feet of building. So think of it from any one of our perspectives, that's certainly not what you would expect next door if you bought one of these town homes. I guess probably the last question that I might want to answer is why is Irvington so involved? And the answer is that because we are a party to these agreements. Not only Charlotte but others on our neighborhood board were involved and participated. Some of us saw the earliest plans for the redevelopment of this block that shows only a four-story building which certainly would fit the pattern of going from the Lloyd Place Apartments, which are about 55 feet down to something that's 45 feet, and then down to homes that are 35 feet tall. However, the 65-foot was the city decision. They can live with it. We can support that. As we go forward Irvington would like to see decision that has been made by the city and negotiations that have gone on between reasonable people to be valued and accepted and to have the city and the folks with B.D.S. stand behind those decisions. So I thank you for your time. I look forward to a positive decision. Thank you.

**Potter:** Is that it?

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

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**Potter:** Well now hear from the applicant or principal opponent. Please come forward. You have 15 minutes.

**John Larson:** Afternoon. My name is John Larson. I am the executive administrator at Holladay Park Plaza. And I just wanted to mention a few brief things just opening and then I will turn it over to Mike Sylvie. Holladay Park Plaza is a nonprofit property continuing retirement community that serves 250 residents which geographically represents about 10% of the overall Sullivan's Gulch neighborhood association. Over 60% of our residents come from within a five-mile radius from the Sullivan's Gulch neighborhood association, Laurelhurst, Alameda and Irvington. And we have been at our current location for just east of the Lloyd Center for over 41 years. Our residents continue to serve vital roles in Portland and the surrounding neighborhood and they share a rich tradition of volunteerism, sponsorship and hosting of events in the plaza. In addition to the services we provide to our independent residents we also have health care center which is a skilled nursing facility which is great to have in the inner city, and a residential care facility that our residents can stay in one location without having to go to other locations. In addition, we have a 55-person wait list. We have actually had a lot of people who wanted to move in over the last three years especially. And over the years we have had to combine smaller apartments in order to make our units more applicable to the residents who are coming in. When the plaza was first built they built the majority of studio apartments that were 370 square feet if you can imagine a person coming from a 2,000, 3,000 square foot home downsizing to that. By virtue of that, we have had to combine units and we have actually shrunk our capacity so that when the lot across the street came open if you looked at the plot, you could see that there really aren't many available options to us to grow in. We knew it was a small lot. And we felt that it would be worth it to purchase and really try to develop it up, develop it up to the highest ideal which was the 23 units which we would have liked to have done and still would because it makes that project much more feasible without relying upon the central operations of the plaza in order to make that happen. I think one of the things that goes with without looking at it is the fact is, the property has not been built on there. There have been several proposals and whether it was 18 units or whatever amount, the prior developers decided they couldn't do it for whatever reason. We can do it at 23. It makes sense for us. I wanted to mention also that one of the things that we are dealing with is difficult is a retirement center like ours, mid-rise or a high-rise usually are built in the suburbs. We are one. Very few that are actually built in the city limits of Portland, and we are looking at expanding and I think this whole process this shows how that's somewhat difficult when you look at a urban mid-rise. This is why we have chosen not to because our residents made a highways to come in, to live in the city, take advantage of a lot of the amenities that are here, the transportation, all of those things. And I believe that in the end our project will actually create a more age-diverse neighborhood and assist people in maintaining their social connection which is very important for our residents. Wheel receiving the services that they will increasingly need without going to other places. So under those comments we therefore ask to you uphold our project as submitted.

**Mike Silvey:** Mr. Mayor and members of the city council, my name is Mike Sylvie. I am an attorney with the firm Foster Pepper and I represent Holladay Park Plaza Inc. My address is 601 S.W. Second Avenue, Suite 1800 here in Portland. As mentioned Holladay Park is the owner of the property and the applicant of the land use application subject to the appeal. I think that the appellants have framed the issues quite succinctly. Basically, they have two major concerns. The first is whether the F.A.R. Transfer is proper. And I will discuss that in greater detail. The second relates to the height of the building. And what is permitted and what is permissible under the R.H. Zoning for that area. They also tie into their own Sullivan's Gulch neighborhood action plan that somehow this is not appropriate transition. And we will talk about that also. Those are really the three issues before this council and also the basis of their appeal. At the time of the hearing, John Cole, the planner, sent a memorandum to the hearings officer that said that the proposed density



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transfer is consistent with city practice. I think it's very important that there's a city practice that we are dealing with and is also allowable. Mr. Cole pointed out at this time that density is actually assigned to sites within the city, not to individual lots. And sites are multiple lots owned by a single owner. He quoted at this time all new housing built or converted from other uses must be on sites large enough to comply with density standards. A number of units allowed on a site is based upon presumption that site development standards will be method. It has already been mentioned, all of the requirements under the r.h. Zone for this site are met by our client's proposal. Our client is not asked for any adjustments from the r.h. Requirement for this property. I think it's very important difference. There is an adjustment from the prior approval that is being requested. The hearings officer, we believe, quite correctly, pointed out term lot and site are interchangeable in Portland zoning code. And accordingly held that the title three considers holladay park plaza senior housing complex to be a site and it may transfer excess floor area that it has from its site to the subject site which is across the street. The hearings officer reported his decision in a number of ways. First of all he pointed out that there are a series of code section, not just the one code section that was mentioned by the attorney for the appellant. For example, 33.120.e dealing with the r.h. Zone states "the density or f.a.r. May be transferred from a site zoned r.h.," which is our situation, "to a situation r.x. Or r.h." it's a transfer from a site, not from a lot. Other code section provide in an r.h. And r.x. Zone an increased receiving site can't be more than a certain four to one ratio. Also another code section provides building on sites receiving transfer density or f.a.r. Must meet development standards. Again, it's dealing with sites. More critical thing somebody asked, have we already transferred the f.a.r.? And we have. There is a process for filing a document that is recorded and is reviewed by city staff and also by the city attorney. That statute says the property owner must execute a covenant with the city that is attached to and recorded with the deed of both the site transferring and the site receiving the density reflecting the respected increase and decrease of potential density. That recorded transfer of f.a.r. Took place back in november of 2007. It was approved by the city bureau of development services, and there are two individuals that handle all of those transfers throughout the city. So it's not just anybody within the planning bureau that was looking at that. There's two individuals. Plus it was also reviewed and approved by the city attorney before it was recorded. We believe that between the bureau of development services, the city attorney, city planning, consultant on this project, and also the hearings officer, have all determined that that's how the city transfers from site to site, not from an individual lot to a site. The height issue is something that everybody from the appellant seems to forget, is in the r.h. Zone for this particular site and for a number of r.h. Zones, which are high density residential. That the height limitation is 75 feet. As a matter of right, a person who owns that property has the right to build to 75 feet. And that decision was made by the city council, amending at a point in time a number of these r.h. Zones in this area to change the height limits to 75. And that's why our client went in on a basis to increase the height from the prior 65-foot building height to 75. So, yes, it is a modification of the prior decisions back in 1996, as further adjusted in '98. But it is consistent with the determination that this is city council has already made that 75 feet is the appropriate height limitation on this property. And as a matter of right to be able to build to 75. The applicants also try and use this issue of, that somehow the approval of a building at 75 feet is in somehow violation of the sullivan's gulch neighborhood plan. It was adopted back in 1988. The hearings officer, we believe, fairly had reviewed the sullivan's gulch neighborhood plan, and said, yes, it talks about general aspirational terms. And a general guide to development. But it has no specific limitations on height. It doesn't talk that this area should have a certain minimum height limitation. It talks about, yes, a transition from this, from one neighborhood to another. We don't disagree with that. The important thing is what are the impacts? And the hearings officer said, he could not determine any negative impacts from increasing the height from 65 feet to 75 feet. Studies were provided, shad dye studies were provided and there is no difference to the immediate property owners as to

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whether it's 65-foot building or a 75-foot building. There's been some talk about the mass of the building has increased. Yes, it has. We have no idea where they get 44%. That is not an accurate number. The accurate number is closer to 32%. Yes, there is an increase. And if there's an increase, in order to be able to try and build a building that's, that will work on the site, and will function on the site, and also something you can build that will work economically. I do want to mention that there was, as if there was no discussions between our client and the sullivan's gulch neighborhood plan association or its land use committee. There were, there have been numerous meetings since january of 2007 on this project. And a number of modifications and changes have been made over those eight to nine meetings that have been held well neighborhood and so our client also feels very awkward being here because we have been able to work very closely with the neighborhood association for a long, long time. And there may be a legitimate difference of opinion as to what's appropriate for this site but we believe that all the requirements of the r.h. Zone have been complied with by our client's plan. And the hearings officer we think has appropriately reflected that in the decision that he has made.

**Adams:** Could I ask you a question?

**Silvey:** Certainly.

**Adams:** What is your response to the testimony that we heard in terms of a deal is a deal?

**Silvey:** Well, I think land use decisions are not deals. I think it would be a mistake because things change over time. And something that was agreed to or compromise between a prior developer going back 12 years ago and what is now appropriate for this site 12 years later, I don't think you can say a deal is a deal.

**Saltzman:** The holladay park plaza was not the owner of block 8 at the time.

**Silvey:** Oh, no, no. As mentioned there have been a series of actual owners to the property that have been trying to do something on that site but haven't been able to do anything.

**Larson:** Holladay park purchased the land in december of 2006.

**Adams:** Were you aware there was a community agreement when you purchased it?

**Larson:** Our thinking at that point in doing the due diligence it was an r.h. Zone that allowed the specifications that were there. Early on as mr. Sylvie mentioned we did try to work with the neighborhood association but it wasn't fruitful to that point but we weren't aware there were this many limitations at the time we purchased it.

**Adams:** You were not?

**Larson:** No.

**Adams:** Thank you.

**Potter:** You have a minute and 50 seconds. You want to finish up?

**Silvey:** Actually, I think we have responded. Thank you, mr. Mayor.

**Potter:** Thank you. Now we will to go persons who oppose the appeal. Do you have a list?

**Moore-Love:** We have six people signed up. Clayton rice, charlotte cresswell, and karen hilton.

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

**Charlotte Cresswell:** I am charlotte cresswell and I live at holladay park plaza. And I am president of the residents association. I feel at holladay place will be an asset to our community. We need a middle-income retirement facility in our area. And the holladay place can fill that need. It's a real big need for the people from our, all of these particular areas they are talking about. We always try to be a good neighbor. We really have and this building goes forward we will still be a good neighbor. Thank you.

**\*\*\*\*\*:** Go ahead.

**Carol Hilton:** My name is carol hilton. And I live at holladay park plaza. I support the holladay place proposal because I think it will be the best fit for the neighborhood. I understand the residence tans of some of our closest neighbors. I come from the hospital community in seattle and

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there as in sullivan's gulch the path of progress sometimes intruded on someone's way of life. But growth will happen in a lot across from the holladay park plaza. No one questions that. And the impact on a few of our closest neighbors will be huge. There goes the neighborhood as they have known it. But it will happen. I spores holladay place because I think it offers the best outcome for us. Its residents will make good neighbors for me and for the rest of the community. Like those of us at holladay park plaza, it will be quiet, friendly, unlikely to litter and likely to pay for nice neighborhood businesses. Nobody who develop that is property will build anything that isn't financially feasible. As a not for property corporation we can be more sensitive to needs of the community rather than developers with investors to satisfy. I think holladay park plaza will make the best use of this land and holladay place will be an asset to the neighborhood. Thank you.

**Clayton Rice:** Good afternoon. My name class ton rice. I live at holladay park plaza and I have been there for 12 and a half years. I have lived in northeast Portland for over 46 years. I sit in the uncomfortable position of being a member of the neighborhood association board as well as a resident of the plaza. I have been on the board and I have attended their meetings for, I haven't been a board member for this long but I have attended their meetings as a representative of the plaza for the last four or five years. During that time, I know that this goes back many, many years prior to my being there but also that we have been good neighbors. As has been mentioned the plaza represents about 10% of the total population in the neighborhood. And we have enjoyed the association with the neighborhood because they have been good monitors of the safety of the neighborhood, the development of the neighborhood, transportation needs, land use and so forth. And we have enjoyed their support all the way. I think that the issue before us is simply that our needs require that the building have as many units as we have proposed in order for it to pencil out. We are a nonprofit corporation. And so we have fixed costs and the more residents we can spread over those fixed costs, the better it is for the residents. I think that neighbors, good neighbors can agree to disagree and in this case that's what's happening. We appreciate their position. But at the same time we feel that the proposal, which has been approved by the city planning department and so forth needs not only the needs that have been outlined before you many times and I don't need to repeat them. Thank you.

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

**Allen Schroeder:** Good afternoon, gentlemen. My name is allen Schroeder. I reside at 1300 n.e. 16th avenue, Portland, Oregon, 97232. Unit number 508. I moved into the sullivan's gulch neighborhood some 51 years ago, when my wife and I started our married life together in a residence on the corner of northeast 19th and weidler. Prior to this he we both lived in the sullivan's gulch neighborhood or in an adjoining neighborhood. Although we have not lived continuously in the neighborhood, the sullivan's gulch neighborhood since then, we are back in the neighborhood now, and we have always felt of the neighborhood as sort of our home neighborhood and a neighborhood that we care about. My comments today are based upon that feeling and also what I think I have learned or hope I have learned in the course of five years of service as a commissioner on the beaverton planning commission. I wish to make two points. The first is that in a rather narrow focus on the height of the proposed facility, and the wording of some of the regulations, the sullivan's gulch neighborhood association has lost sight of what should be their primary concern. That is what effect will the proposed development have on the livability and desirability of the community and of the city? It is difficult for me to envision a development for this property that would have a more positive impact on the neighborhood than this proposal. But it is not at all difficult to imagine many other developments that would have a far more negative impact than this proposal. My second point is that the sullivan's gulch neighborhood association has questioned whether this proposal is suitable for a "transition zone." I would like to point out that the proposal is planned for a -- on a site that is on the western edge of the neighborhood, and there are two facilities both of which exceed 15 stories in height that are located further to the east or, in other words,

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further into the neighborhood than this proposed facility. That would seem to me to qualify very well as a suitable transitional facility. Thank you.

**Potter:** Thank you.

**Kristen Aserlind:** Hi, mayor, commissioners. Thank you for listening us to. My name is kristen, and I live at 1735 n.e. Wasco street. And I want to say right up front that I am a renter there. And so as a renter, I haven't felt -- I don't know, I guess legitimately to be involved in the sullivan's gulch neighborhood association, but as I have spent a lot of time walking around the neighborhood there are a lot of renters there and there are a lot of people that rent in the area. And I want to say, the reason i'm telling you i'm a renter is because my landlord is holladay park plaza. And so i'm speaking on two points that I want to hit on. First of all, fabulous landlords. I mean, wonder fm community citizens, and as landlords, they're thorough and responsive and you could not ask for a better landlord or second of all, I do spend lots and lots of time walking around the neighborhood and go for long walks. And a couple of things that I have seen first of all, are lots and lots and lots and lots and lots of empty commercial spaces, some that have been built on spec. And also many, many, many homes for sale. And I think that that parcel of land that's been shown even in a healthy economy that it's been hard to develop in a financially feasible way. And so I guess I would just caution the appellants that they might get what they wish for if what they don't want is a building there. Then by they may not get that building there and it will continue to be a dirt hole, which I walk by several times a week, and personally, I would prefer to see a nicely developed, built, designed and maintained facility there with, as mr. Larson has already started, they already have people to come in there. So it's not going to be a spec building where it might or might not be occupied. It's going to be feasible. It's going to be there. It's going to be there for the long run. And I also walking 31 the neighborhood, the in terms of the when you are talking about the transition as they mentioned it, the building across the street to the west is what, 45 or 55 feet. And so as I sit in here and I keep look at the pillars and I think, ok, that's 10 feet. What is the difference between, you know, 65 feet and 75 feet? And I think that transition really isn't an issue. Thank you.

**E. John Rumpakis:** Mr. Mayor and members of the council, i'm e. John rumpakis and I live at 2000 n.e. Multnomah street, Portland, Oregon. I am here today because I have been a resident of the irvington area since the early depression. And I served as chairman of the irvington revitalization project in 1966, which received national acclaim. There were two volumes on the restoration of that area and turning it around. We had 18 people, worked amiably. This kind of consternation that I have seen in the neighborhood, particularly this neighborhood and irvington, is something that has scared away a lot of future development for the lloyd center area. And you can look at the vacancies that are occurring now, and I am just outright plain concerned. We have opportunities that I just talked with another developer on 33rd and broadway. And how he was treated for seven to eight years. And nothing has come out of the ground today. First I want to say I agree with the plan that, with planner john cole and the findings of the hearings officer ian simpson. And my chief purpose up here is to explain to you historically that the area between 15th, 16th corridor on the west and the area on the north side which would be weidler, and 21st avenue on the east side and Multnomah on the south, that rectangle was one of the largest takings by the city of Portland propagated by the sullivan's gulch neighborhood association. Now, I will explain to you what happened. This area was zoned and there was supposed to be the pearl district for the area around the lloyd center. This was taken away because the zoning designation at that time, from the year of 1959 through '75, the designation was a.o. Now, I will read to you that this designation a.o. Makes allowances for tall apartment buildings in the central part of Portland. As no absolute height limit is imposed. It was the sullivan's gulch neighborhood association where I live that down zoned all of this area and caused the abrupt change in height. Thank you.

**Potter:** Thank you, folks.

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

**Potter:** Ok. We will hear the rebuttal by the appellant. You have five minutes.

**Kearns:** Thank you, mr. Mayor, commissioners for the record, my name is daniel karens. I would like to make clear my clients have no quarrel at all with the holladay park plaza people. They have always been an integral part of this neighborhood. Many of the residents live, are on the neighborhood association board. Everything that mr. Larson said about the services and facilities they provide is true. I suspect that a number of my clients are among those 55 people on the list for this facility because it's a great retirement opportunity within the neighborhood where people have grown up. And you have seen today that there are quite a few people who have lived there for a long time, those that were part of the original agreement, the original deal that was struck in 1996. And I think also you heard a lot of testimony about how there has been a lot of active neighborhood association work, people have attended countless thousands and thousands of hours worth ever meetings, down here in downtown in city hall, in putting together plans, putting together revitalization plans, putting together this agreement that was memorialized by the hearings officer in 1996. And I think it's important to understand that kind of getting to this deal is a deal argument that 1996 decision, it imposed a number of burdens and granted neighbor of benefits to the developer at this time. And it was a consensus agreement by the two neighborhood associations, the developer and the neighbors who lived there. And mr. Sylvie talks about a property right to go to 75 feet. That's not true. If the property is encumbered by things like the 1996 decision. So we have heard a lot over the past few years about perceived property rights but as regulators you know that there's a lot more goes into it than just the base zoning that the changes every time you change make a legislative change. This decision came about through a very detailed collaborative effort and the last lot to develop a new developer comes in to own the lot can't just cherry pick the benefits and leave behind the burdens, get rid of the burdens, amend out of the decision the burden that is come with it. This lot 8 was approved at substandard size, and it's below 8,000 square feet. It's 7 thousand 9505 square feet instead of 10. Came with a height limit. Came with reduced set backs, multiple reduced set backs and now they want to eliminate the binding nature that is clearly states that all of these adjustments are interrelated. And so if you are inclined to approve this, then you need to go back and undo the deal in all respects. You can't allow this sort of cherry picking. And I would like to make some specific comments in regard to mr. Sylvie's code interpretation. Staff interpretation is not binding precedent in this state. It certainly is not binding on the city council, and it is not binding on any review body above the city council. I understand I work with staff all the time on a number of jurisdictions and staff has their views. But the code was adopted by you and the code language controls. And mr. Sylvie picks out the zoning section from the f.a.r. Transfer, and if you look at the section we are relying on, at the second subparagraph, it says "density or f.a.r. From the site of a landmark may be transferred to any site allowed by paragraph 5," that's what mr. Sylvie is relying on, below within the recognized neighborhood where the landmark is located or to any site within two miles." so he relies on the section dialing with zoning, the different types of zoning where you can transfer f.a.r. From zone to zone. In the context of the landmarks. The only section that authorizes a transfer, it session "transfers may be only between lots within a block or between lots that would be abutting except for right of way." he ignores that and the hearings officer was indirect when he said site and lot are used interchangeably. They are not. It's very carefully drafted provision. It is a significant difference going from 65 up to 75 feet. There's certainly amount of shading, of course, but just the height that's involved, the massing. Structure is significant. That's why it was a hard negotiated agreement back in 1996.

**Adams:** If I could just ask you and give you a little more time, by way of do devil's advocacy or due diligence, why is it significant, 10 feet?

**Kearns:** If you look at the, fluke at drawings that that were incorporated by reference in the '96 decision it fills the whole block and the set back adjustments were granted on this lot 8 loss also.

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So it's not just a building with regular sized set backs. It will fill the block. And if you look at it in context, with the townhouses next to it, with the townhouses across the street, it is very imposing presence. And you deal with these kind of height and massing issues all the time. In the greenway regulation, that's what your step back requirements are. In downtown, to avoid canyon effect, height and massing is significant. Those are important factors and that's exactly the kind of negative impact this structure is going to have at 75 feet versus 65 feet.

**Adams:** Thank you.

**Saltzman:** You mentioned shading. Is there a practical impact on shading?

**Kearns:** There's some. That's not going to be that significant, I suspect. The shading. Of course, 75 feet going up another 10 feet is going to cast a longer shadow, more days of the year, it's going to shade the court yards of the townhouses across the street. So there is -- but you have taken the solar ordinance off the your code and so it's less of a factor. It's more than design issue of the massing, the imposing massiveness of this structure that fills the lot. Because the '96 decision granted a bunch of adjustments to this lot. And so the benefits and the burdens, they come together, they came together, they should not be allowed to be separated in this way. And you have the authority to deny this because of that, that this is not an amendable portion of this decision. That this design is not in substantial compliance with the original provisions. Also the code section 120.210 I cited earlier, you can't develop a substandard sized lot unless it meets two factors and I quote the knows my letter. It doesn't meet those. The only way it's developable is under the 1996 decision. And I --

**Saltzman:** You are also saying that the signoff by b.d.s. on the f.a.r. transfer is not?

**Kearns:** The hearings officer approved the f.a.r. transfer. It's a very important part of his decision. And that decision has been appealed to you. So you decide whether the f.a.r. transfer is proper or not. Also the city attorney grants a lot of emphasis on the city attorney who reviewed it and signed it for form only. The f.a.r. transfer provision is a section of your city code. It's a discretionary land use regulation. I would argue that it can't be made administratively, that it's a land use decision and I as part of this land use decision that's on appeal to you so you decide it. You interpret your code. You are the ones who adopt it and the code language is quite clear. Not withstanding past practice, not withstanding staff's interpretation.

**Potter:** Further questions?

**Leonard:** I will do that as soon as we are done.

**Potter:** I have a question for the staff person. Thank you.

**Kearns:** Thank you.

**Potter:** Will the staff person come forward. There is a lot of discussion around lot versus site. We heard both sides talk about that. How did you folks evaluate that information? And it appears as if the decision that was made is that it was the site of the entire plaza rather than just a single lot. Could you explain that?

**Cole:** Mayor, I will explain it from my perspective. I am familiar with the debate between whether the code refers to a site or the code refers to a lot and in my approach to this particular application. I ended up with an opinion that whether or not you use the phrase "lot" or "site," was not determinative to me. I am sorry for using that phrase. The reason that I didn't think it was important in the final analysis -- and i'm looking for a slide. On the screen you see three tax lots at the holladay plaza tower. And earlier you saw that these were made up of a number of original, originally platted lots, these 5,000 square foot building locks that have now been purchased by and built on by one owner. And there is only one historic lot that is adjacent to the new development site except for clackamas street. However, when they developed the holladay plaza tower, when they were done, they have 15,000 square feet of leftover development rights, if you will. And I don't think anybody is disputing that as an accurate number. And at a staff level, I had to ask, where will, where does that 15,000 square feet land? And in my interpretation, it could just as easily

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land on the upper northwest corner of that property as you would say it accrues to the southern -- accrues to the southern portion of that lot. So I understand there's a distinction and there's a difference in definition in the code between lot and a site. But I think that the 15,000 square feet of available density on the holladay plaza tower site accrues just as much to the lot 1 as it does any other location. And it's not a legal definition but it's also one that played into my thinking. There's also a definition of ownership within the development code. And a property owner can come to the city and they can say, i'm interested in developing on my piece of property. And they can either include, you know, one of their legal lots or they could include a combination of those legal lots when they come into the city for us to review their proposal. At the beginning of the process, holladay plaza, if they thought that there was going to be this debate over density transfer, they could have come to the city and said, "we're interested in developing lot 8 but we are coming to you with our entire ownership." and they could have included the tower in their ownership that they wanted it to take a look at the development proposal from. And if they had chosen that approaching, this density transfer wouldn't have been required because it all would have been under one ownership.

**Potter:** On the appeal, on subsection 2 of the appeal, it refers to the fact that the underlying r.h. Zone district regulations as implemented throughout 96 p-96 and '98 land division approvals." is that the same reference that the appellants are using in describing the agreement of 1996? Or is that something else? Do you understand my question?

**Cole:** Could you --

**Potter:** I just want to make sure. We have been referenced an agreement, and I thought I heard the appellant describe it as the result of a land use hearing officer's decision. I thought I heard that. 1996.

**Cole:** In 1996, it was a hearings officer decision that approved the land division with adjustments that resulted in this large block being divided up into 12 town home sites and one multifamily development site. So I think that when you have heard people refer to a 1996 agreement, they are referring to the 1996 hearings officer decision.

**Potter:** But in here they reference the 1996 and 98 p-98 land decision approvals. I'm asking, are those the same?

**Cole:** Yes, they are.

**Saltzman:** I guess I wanted to ask our attorney, katherine beaumont, to respond I guess to two issues. One is mr. Karens in his letter to us on the issue of lot versus sites, a luba decision, goodland versus city of Portland, which he says basically uphold this is distinction between lots versus site. Although it looks like it all depends what word you put in front of lot because this decision dealt with parking lots. Mr. Karens arguing tax lots. I don't know. You want to weigh in on that? And I guess the other issue is the '96 approval being binding on a subsequent property owner of lot 8 or block 8.

**Beaumont:** I don't have a copy of mr. Karens' letter so I can't respond specifically to the language he's quoting. I think the issue for you on the f.a.r. Transfer is, you have been presented with two competing interpretations of the code and you will need to decide which one you find more persuasive. The appellant, the neighborhood association's interpretation, focuses on a specific provision of the code as a subsection one of several subsections within a appropriation of the -- provision of the code and they focus on that to say the only f.a.r. Transfer here is between lots that are abutting and they argue the only lot that's abutting lots 8 is the one directly across the street. The applicant's interpretation, applicant's staff and hearings officer's interpretation of the code sort of looks at the whole section and the various somebody sections and refers to site and in some places to lot and argues they are used interchangeably and as a result, you can transfer the total 15,000 square feet of f.a.r. to lot 8. The neighborhood association's position as I understand it

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would result in only allowing 5,000 a square feet of f.a.r. to be transferred across the street. So there are two competing interpretations before you.

**Saltzman:** I guess I will ask, do you have an opinion on those two interpretations?

**Beaumont:** Arguments can be made for and against both interpretations. So.

**Saltzman:** That's what I thought you would say.

**Beaumont:** You as the governing body that adopt the code will make that determination.

**Adams:** I have a clarifying question. Do we by making a decision one way or another on this particular case set a precedence?

**Beaumont:** Your decision on any, on any land use review applies to the facts and that's before you.

That doesn't stop people from quoting any decision you make later as a precedent. So your decision is fact-specific but it may come back at you in a later case. To answer your second question, a land use, our code does require land use approval to be recorded, which means they run with the land. They are binding on a subsequent owner. Until the code is either changed in a way that makes it unnecessary or until somebody seeks a different land use approval for the property or until they seek to amend the prior land use approval. So short answer yes, the el nino 96 decision -- 1996 decision is binding and does go with the land.

**Saltzman:** So the applicants are within their rights to ask us to --

**Beaumont:** They are within their right to ask to you change it.

**Potter:** But is it when the land is sold, is it a requirement of the seller to advise the person purchasing or the organization purchasing it that it has these restrictions on it?

**Beaumont:** I can tell you that a land use decision that is recorded should show up on a title report and should be referenced in a title report and that would at least put a subsequent purchaser on notice that they ought to go check and investigate what this land use decision said and if it contains any conditions that would affect their decision to purchase the property one way or the other or their ability to develop it in wait they want.

**Potter:** Do we know that that occurred or not?

**Beaumont:** I have no way of knowing that.

**Potter:** Staff know?

**Saltzman:** I think holladay park plaza said they were not aware of it.

**Leonard:** I'm not sure that's the issue before us. If we are ready, i'm ready to make a motion.

**Potter:** Any further questions? At this point the council make one of three decisions: Deny the appeal, grant the appeal or grant the appeal but ask new information be considered or ask for an amendment language. Mr. Leonard.

**Leonard:** I move to uphold the appeal and overturn the hearings officer's report.

**Adams:** Second.

**Potter:** Call the vote.

**Adams:** I want to be clear that holladay park which I have some familiarity with, is an excellent facility and well managed and whose residence are very active as evidenced by their activity in the neighborhood. So thank you. But thin particular case, I am persuaded that the deal that was reached with the neighborhood has precedent with me in this particular case, but I also want to be clear that my decision or my vote today is based on a site-specific factors and does not set a precedent for me when considering the future cases regarding potential f.a.r. Transfers or any other elements of this. Aye.

**Leonard:** I believe that we have to have as a city integrity in our processes and they need to be, they need to be defendable in the short-term as well as the long term. Today we are dealing with a long term land use issue that was decided originally over a decade ago. And in my view, the argument that a deal is a deal is a compelling argument in this case given that it was fairly clear that the specific criteria that was used to approve the land decision over 10 years ago was very specific as to what the project should look like. And I appreciate the tenor of the discussion between the



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parties. I appreciate staff's hard work on this. These are hard decisions to make. But I think that the neighborhood has done a good job in making their case and I vote aye.

**Saltzman:** Well, I think unfortunately i'm going to disagree and I find that, well, you know, a deal is a deal. It's also provided in our code somebody can come forward to change that deal and present their corresponding arguments to do that. And I think there have been some compelling arguments presented. And I guess really when I look at this transition from the central city district to the sullivan's gulch neighborhood, you know, when you look at the existing building environment that transition, even though the central city district ends at 16th, when you look at the type of development along, between 16th and 17th, it's really to me that represents the transition zone from sort of medium density down to residential standards. And I also think to the extent a deal is a deal to the fact that our bureau of development services did sign off on the f.a.r. Transfer. I think that's something that we have to weigh in terms of even though I guess it's before-wick overturn that I don't buy quite the legal reasoning put forward as to the distinctions between a lot and a site that mr. Karens so eloquently stated. So I would vote against upholding the appeal. No.

**Potter:** Well, I was listening to the attorney, city attorney state that the 1996 land use hearing officer's decision is binding until it's overturned. And I think that the neighborhood has operated in good faith with that as a basis. And I have heard no information that at this point I would feel compelled to overturn. So I vote aye.

**Baumont:** Mayor Potter, this will be a tentative decision. We will need bring this back for adoption of finding at a future date and our code provides that where the prevailing parties represented by an attorney or a planning consultant it is their responsibility to draft the findings and submit them to us for review. So perhaps about three weeks?

**Moore-Love:** April tenth, a thursday, at two o'clock p.m.?

**Saltzman:** Would that be our only reason for meeting at 2:00?

**Moore-Love:** It would. You want to put it in the morning?

**Saltzman:** We could do it.

**Moore-Love:** It would be 10 o'clock time certain.

**Baumont:** Ok. That would be 10:00 april tenth.

**Moore-Love:** April 9th.

**Potter:** Ok. We are adjourned.

At 5:01 p.m., Council adjourned.