



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **22ND DAY OF OCTOBER, 2008** AT 9:30 A.M.

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

Mayor Potter and Commissioner Adams left at 11:49 a.m.

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

Items 1430, 1438 and 1439 were pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS	Disposition:
1425 Request of Carol Cima to address Council regarding Montavilla in Action (Communication)	PLACED ON FILE
1426 Request of Fritz Hirsch to address Council regarding Montavilla in Action (Communication)	PLACED ON FILE
1427 Request of Patricia A. Trice to address Council regarding family rights including rights of grandparents raising grandchildren and adoption (Communication)	PLACED ON FILE
1428 Request of Midge Purcell to address Council regarding family rights including rights of grandparents raising grandchildren and adoption policies (Communication)	PLACED ON FILE
TIME CERTAINS	

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<p>*1429 TIME CERTAIN: 9:30 AM – Approve the 30-year tax exemption requested by the Shaver Green Limited Partnership for the Shaver Green rental housing project (Ordinance introduced by Mayor Potter)</p> <p>Motion to amend both the ordinance and the regulatory agreement between Portland Development Commission and the applicant to specifically require annual filings of the financial records for purposes of determining eligibility and compliance with all provisions of the transit oriented development program: Moved by Commissioner Fish and seconded by Commissioner Leonard. (Y-5)</p> <p>(Y-5)</p>	<p>182283 AS AMENDED</p>	
<p>CONSENT AGENDA – NO DISCUSSION</p> <p>Mayor Tom Potter</p> <p>Bureau of Fire and Police Disability and Retirement</p> <p>*1430 Authorize settlement agreement with Rocky Balada regarding disability benefit and employment claims (Ordinance)</p>		<p>CONTINUED TO NOVEMBER 19, 2008 AT 9:30 AM</p>
<p>Office of Management and Finance – Business Operations</p> <p>1431 Authorize a \$225,000 grant agreement with Portland Metropolitan Exposition and Recreation Committee for the design, program and budget development for the renovation of the Arlene Schnitzer Concert Hall (Ordinance)</p>	<p>PASSED TO SECOND READING OCTOBER 29, 2008 AT 9:30 AM</p>	
<p>Office of Management and Finance – Human Resources</p> <p>1432 Change the salary range of the Nonrepresented classification of Police Human Resources Manager (Second Reading Agenda 1405)</p> <p>(Y-5)</p>	<p>182278</p>	
<p>Police Bureau</p> <p>*1433 Accept a \$2,000 Target Corporation 2008 Law Enforcement grant for Crisis Response Team training (Ordinance)</p> <p>(Y-5)</p>	<p>182279</p>	
<p>Commissioner Sam Adams</p> <p>Office of Transportation</p> <p>*1434 Authorize Intergovernmental Agreement with Oregon Department of Transportation to accept a Transportation Growth Management grant for the Central Eastside Employment Opportunity Subarea (Ordinance)</p> <p>(Y-5)</p>		<p>182280</p>

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<p>*1435 Authorize procurement of Calcium Magnesium Acetate Chemicals (Ordinance) (Y-5)</p>	<p>182281</p>
<p>1436 Amend Intergovernmental Agreement with the Tri-County Metropolitan Transportation District of Oregon to disburse additional federal grant funds to the City for the production of a domestically manufactured streetcar (Ordinance; amend Contract No. 52626)</p>	<p>PASSED TO SECOND READING OCTOBER 29, 2008 AT 9:30 AM</p>
<p style="text-align: center;">Commissioner Nick Fish</p> <p style="text-align: center;">Fire and Rescue</p> <p>*1437 Extend contract with Art Anderson Associates for six months and up to an additional \$42,000 (Ordinance; amend Contract No. 36992) (Y-5)</p>	
<p style="text-align: center;">Commissioner Randy Leonard</p> <p style="text-align: center;">Water Bureau</p> <p>*1438 Execute contracts for development of a solar electric generation system at Portland Water Bureau Groundwater Pumpstation Facility (Ordinance) (Y-5)</p>	
<p style="text-align: center;">Commissioner Dan Saltzman</p> <p style="text-align: center;">Parks and Recreation</p> <p>*1439 Authorize contracts for the development and operation of a photovoltaic system at East Portland Community Center (Ordinance) (Y-5)</p>	
<p>1440 Apply for a \$656,600 Economic Development Initiative Special Project Grant from the U.S. Department of Housing and Urban Development to plan the development of the Washington Monroe Community Center, a new full-service community center in southeast Portland (Ordinance)</p>	<p>PASSED TO SECOND READING OCTOBER 29, 2008 AT 9:30 AM</p>
<p>1441 Accept a \$656,600 Economic Development Initiative Special Project Grant from the U.S. Department of Housing and Urban Development to plan the development of the Washington Monroe Community Center, a new full-service community center in southeast Portland (Ordinance)</p>	<p>PASSED TO SECOND READING OCTOBER 29, 2008 AT 9:30 AM</p>
<p style="text-align: center;">REGULAR AGENDA</p>	

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<p style="text-align: center;">Mayor Tom Potter</p> <p style="text-align: center;">Office of Management and Finance – Human Resources</p> <p>*1442 Authorize a Letter of Agreement with Portland Police Association authorizing the hire of particular police officers pursuant to the Multnomah County Sheriff Office Lateral recruitment at a reduced six-month probationary period (Second Reading Agenda 1419)</p> <p>Motion to restore the original language to include 12 month probationary period and the emergency clause: Moved by Commissioner Leonard and seconded by Commissioner Fish. (Y-5)</p> <p>(Y-5)</p>	<p style="text-align: center;">182286 AS AMENDED</p>
<p style="text-align: center;">Office of Management and Finance – Revenue</p> <p>1443 Revise Pay and Park and Non-Pay Private Parking Facilities regulations (Ordinance; replace Code Section 7.24.020)</p>	<p style="text-align: center;">PASSED TO SECOND READING OCTOBER 29, 2008 AT 9:30 AM</p>
<p style="text-align: center;">Commissioner Sam Adams</p> <p style="text-align: center;">Office of Transportation</p> <p>1444 Vacate a portion of SE 63rd Ave north of SE Main St, subject to certain conditions and reservations (Second Reading Agenda 1423; VAC-10049)</p> <p>(Y-3; Mayor Potter and Commissioner Adams absent)</p>	<p style="text-align: center;">182287</p>

At 11:56 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **22ND DAY OF OCTOBER, 2008** AT 2:00 P.M.

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

At 2:21 p.m., Council recessed.

At 2:38 p.m., Council reconvened.

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

<p>1445 TIME CERTAIN: 2:00 PM – Tentatively deny the proposal of Haertl Development Company, applicant and Colwood Partnership, owner and uphold the recommendation from the Hearings Officer for denial of a Comprehensive Plan Map Amendment and Zoning Map Amendment for Colwood National Golf Course located at 7313 NE Columbia Blvd (Findings; Previous Agenda 1301; LU 05-138386 CP ZC)</p> <p>Motion to adopt the Findings and deny the proposal of Haertl Development Company, applicant and Colwood Partnership, owner and uphold the recommendation from the Hearings Officer for denial of a Comprehensive Plan Map Amendment and Zoning Map Amendment for Colwood National Golf Course located at 7313 NE Columbia Blvd: Moved by Commissioner Adams and seconded by Commissioner Fish. (Y-4; Potter recused)</p>	<p>Disposition:</p> <p>FINDINGS ADOPTED</p>
<p>1446 TIME CERTAIN: 2:30 PM – Appeal of Eastmoreland Neighborhood Association against the Hearing Officer’s decision to approve with conditions the application of Reed Institute for a conditional use master plan amendment for Reed College at 3203 SE Woodstock (Hearing; LU 08-114298 CU MS)</p> <p>Motion to amend the Findings on page 12 of the application to correct a scrivener’s error: Moved by Commissioner Leonard and seconded by Commissioner Adams. (Y-5)</p> <p>Motion to deny the appeal and uphold the Hearings Officer’s Report: Moved by Commissioner Leonard and seconded by Commissioner Saltzman. (Y-4; N-1, Potter)</p>	<p>APPEAL DENIED</p>

At 4:55 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

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

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

OCTOBER 22, 2008 9:30 AM

Potter: Before we begin the official part of the council, each week I ask a question of the community, how are the children? The reason that I ask that is that when our children are well, the community is well. And each week I invite experts in to talk to us about children and youth. This morning we've got some students from emerson school, in downtown Portland. They're third graders, and they've been learning about different aspects of Portland with these classes. And today they're here to share with us a special project they've been working on. They've done surveys, written poems and spoken with their classmates in order to portray what is most important to kids in our city and where the most kid friendly places are here in Portland. So i'm very pleased that they're willing to come down to council and share their information with us. Could we please welcome the students? Thank you for being here. I don't know which of you is to speak first, but anybody can. When you speak, let us know your first name. You can pull the microphones down.

Berkeley Franklin: Hello mr. Mayor, city council. I am berkeley franklin, a third grader at the emerson school. This poem is supposed to be a warning about future buildings. I hope you take it well. This poem was written because I heard about a building being built that was very tall, but people decided to tear that down because they didn't like it. Then built it back up and tore it back down again and kept doing that until it finally suited them. It made me feel like resource were being wasted. That made me feel like everybody's hard work and the use of those resources was for nothing. Here's the poem. The building was an idea at first. When it was built, it was a dream come true to most people. But to some people, it was a mistake. It was a tall building, true. It attracted people, true. But they changed their minds. So they wasted material and fuel and time and energy to bring it down. Up and down, down and up. But when they were finished, they were happy, finally. The moral is, fuel, time, energy, and material can be wasted all because of people who wanted something not one of them had seen.

Potter: Very good.

Mikala Capage: I live just over the Broadway bridge between I-84 and Broadway. Every week on Sunday we have a party night where a host makes soup or barbecue and then the people that come bring a side dish to share. Also, we have a bunch of fun parties, like mulch in the gulch, and the big garage sale. I think it is a good way to meet your neighbors. I go to the Emerson School downtown. One thing that is different is that it is not in a school zone. And the park is for everybody, not just for the school. I wish we could go down to the courts more, because it is a lot of fun so you can have a soccer game, two soccer games, and a basketball game going at the same time. I think what would make school a little bit more successful is if we had homework which would make you -- which would challenge you, after school as well as in school.

Potter: Thank you.

*******:** I don't know what to say. Oh, god. [laughter]

Fish: A tough act to follow.

Leonard: I feel like that about twice a day. Don't feel bad. [laughter]

Potter: Why don't you just tell us your first name.

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Eamonn Connor: My name is evan, and i'd like to tell you about some things we do in our school. We have a project to get kids from other states of the country to Portland to -- oh, god.

Potter: You're doing great.

Adams: So you bring people from other parts of the country?

Connor: We study places from all of our class goes places, and studies them, and sees why it's kid friendly.

Leonard: What's one of the places you've gone to?

Connor: Portland ya. -- Portlandia.

Leonard: Just right across the street.

Adams: What did you think?

Connor: It was -- big. [laughter]

Potter: A lot of people say that. Did you know Portlandia is the second largest copper statue in the united states? Do you know which one is the first in big size?

Connor: Statue of liberty.

Potter: Good answer. Very good.

Leonard: Nice.

Potter: I want to thank you guys for being here.

Fish: [inaudible]

Capage: I am 9.

Franklin: I'm 8.

Connor: And i'm 8.

Potter: Good job.

Adams: Wow.

Potter: Excellent job. Thank you very much. Let's give these folks a hand. [applause]

Potter: You guys don't have to stay for this. It's not going to be nearly as interesting as what you said. City council will come to order. Please call the roll.

[roll call]

Potter: Prior to offering public testimony to city council, a lobbyist must declare which lobbying entity they are authorized to represent. Please read the first communication.

Item 1425.

Moore-Love: She indicated she will have to reschedule.

Item 1426.

Moore-Love: He too will be rescheduling.

Potter: Please read the next.

Item 1427.

Potter: Please come forward.

Potter: When you speak, please have a seat.

Patricia A. Trice: I'd like to request part of my time be given to carlin smith.

Potter: Only one person can speak in a three-minute segment. Thank you.

Trice: My name is patricia trice. I've been married 38 years. The married -- nine grandchildren of which one is deceased. Ranging from the age of three years old to 15 years old. I've had the awesome opportunity to help care for and raise my grandchildren as an aide and a help to my children. I am an active member in the cornerstone community church, teaching young children from 3-19 years of age. I have been a past brownie leader, bluebird leader and campfire girl leader.

I've taught youth arts and craft at king elementary school, served on several p.t.a. and ptsas and school councils throughout my children's schooling. I've down countless hours of volunteer hours in nursing homes and children's hospitals. I have a heart, a mind, and a conviction, and a very strong compassion for our children, and not just mine, but all children. I'm an active member of true dialogue mentoring and counseling agency, i'm also an active member and board member of

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grandparents, raising grandchildren, and a community activist. It is a fact more than 6 million children approximately one and 12 are living in household headed by grandparents, which is 4.5 million children, or other relatives, which is 1.5 million children. In many of these homes, grand parents, which are approximately 2.4 million, or 34%, are taking on the primary responsibility for the children's needs. Often they assume this responsibility without the parents being present in the home. 29% of these grandparents are african-american. 17% are hispanic-latino. 2% american indian or alaska native, and 47% white. 71% of these grandparents are under the age of 60, and 19% live in poverty. In Oregon, in Oregon, the state of Oregon, there are 37,535 children living in grandparent head households. That's 4.4% of all the children in the state of Oregon. 22,103 grandparents report that they are responsible for the grandchildren living with them. In Portland alone, there is 3,122 grandparents reporting that the grandchildren live with them. However, many grandparents who are in fact raising their grandchildren do so informally, without legal rights or recognition, because they fear revealing this information to federal agencies or even state agencies. Why? Because across the united states, families are losing custody of their children, or you should reverse it around that children are losing their families. At an alarming rate. Instead of helping grandparents with housing needs, child care, or special medical needs, or even giving training or in some cases abuse, g. D.h.s. is not doing what it should according to its own policies and procedures. Many state agencies have guidelines --

Potter: Ma'am, do you know how much longer have you? I'll give you another minute.

Trice: I am here on behalf of carolyn smith fighting to stop the adoption of her two grandchildren for october 30th, because of procedures and policies that were not followed by d.h.s. She was not given the opportunity or the right according to procedures and policies of d.h.s. to legally become an adoptive parent. She applied for adoption. She was denied. She went through all the loopholes of doing everything that d.h.s. asked her to do to qualify to adopt. Individual state home investigation was done by a christian adoption agency that qualified her as a suitable parent, grandparent to raise her two children that she's fighting to get. D.h.s. is bound on adopting them out, outside of the family. She fights to keep her children with her family, to keep them together. She has five other siblings belonging to the two she's trying to adopt.

Fish: [inaudible] sc -- asking us to take?

Trice: I am asking mayor Potter and all of you as commissioners to help us put a halt to the adoption for october 30th, that a full investigation of the procedures and the policies of d.h.s., that they have followed every policy, every procedure according to adoption outside of mrs. Carolyn smith's family.

Leonard: I've had to deal with these issues a lot in the legislature, and would I strongly urge you contact your state representative and state senator. They are your direct representatives in salem in dealing directly with d.h.s. They would be -- i'm assuming you're from Portland.

Trice: We are from Portland.

Leonard: I would suggest that that be the recommendation.

Potter: Do you know who your state senator --

Trice: Yes, and we have. We went to the capitol, we have lobbied and rallied and talked to them. We are now in the process of requesting an audience with them. D.h.s. Has -- she has just found out that d.h.s. Is trying to make this adoption final on october 30th, which is why we are here.

Potter: Thank you.

Trice: Thank you. Thank you very much.

Item 1428.

Potter: Please state your name for the record.

Midge Purcell: Midge purcell. I'm with the urban league of Portland. Good morning to the mayor and council. I'm here to speak in support of carolyn smith who is fighting to keep our families together and stop the adoption of her two grandchildren. This is a -- she is a member of our urban

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league grand apparent support group. I know it's not in the gift of this council, and the mayor to reverse a decision made by another state agency, but i'm asking this body to use its good offices to question the practices in any authority that undermines viable families and have poor outcomes for children and families of color. Miss smith is not atypical, she's one of the growing number of grandparents raising her grandchildren for a whole range of reasons, like divorce, teenage pregnancy, substance abuse, and incarceration. And miss smith did everything right. She stepped up to the plate and is raising her five grandchildren and she did what our families have done for centuries. It is our culture, and it is our way to find a way, even if we're poor, even if our -- we're short on space, even if we're over 50. She stepped up to the plate and I think she should be commended for that. When her two youngest were taken into care she petitioned to adopt them. And every obstacle was placed in the way. In spite of policies that are supposed to give families priority when determining custody. Oregon has an adoption policy that prohibits race or culture as being a factor for fostering an adoption, and it's for the right reasons, but the result is that the practice of color-blind adoption has meant losing sight of the cultural and heritage needs of children of color and they need to be connected to the community and to their families. The urban league would like to see a review of adoption and fostering policies and practice that would flut more culturally and racially sensitive placements for kids of color. Children certainly should not languish in care, but every effort should be made to keep families together. And number two, ensure that p grandparents and biological family members are able to retain these children by additional resources, by housing needs, and services. And every effort should be made to place children in families that reflect their cultural and racial hair tan so they can be adequately prepared for what the challenges that they'll face. In a racially and discriminatory society. So I urge the city council as individuals to support the attempt to stay the adoption. There's a hearing on october 30th. We're asking people to write to the judge to consider staying the adoption while the case is further reviewed. So thank you for your time.

Potter: I had a question for you. Have you as the urban league tried to contact either the state senator or state representative --

Purcell: We have. And -- including the governor's office.

Potter: What's been the response?

Purcell: There's an acknowledgment that the practices of d.h.s. needs to be reviewed, and I think we've had a positive response from d.h.s. as well. These practices need to be reviewed. And it's very difficult at this stage to -- as I said, reverse what's happened, although we will attempt on october 31st to open this for review, for further review. But we're very -- we're particularly concerned about the policy issues that led to this outcome, and really strongly urging review so other families don't face similar circumstances.

Potter: Thank you very much for coming. We're going to move to the consent agenda. Between last week and now we've had three items pulled from the consent agenda. Items 1430, 38, and 39. I'd like to hear them after the 9:30 time certain. Any problems? Please read -- let's call the vote on the consent agenda.

Moore-Love: Did you ask the audience for pulls?

Potter: Anybody wish to pull any item from the consent agenda? Any commissioners wish to pull any items?

*****: [inaudible]

Potter: I'm sorry. [gavel pounded]

Potter: Please read the 9:30 time certain.

Item 1429.

Barbara Sack, Bureau of Planning: -- represent by wayne armstrong, who is here today. They request a 30-year tax exemption under the city's program for the proposed shaver green rental project. The todd program is one of the city's two multifamily programs and is available in areas

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outside the central city where the city has planned for transit oriented development. This project is located in one of those areas, it's located on the west side of m.l.k. Boulevard north of shaver. The project is a six-story building and has 85 rental units, a combination of one- and two-bedroom apartment and one three-bedroom apartment. There's no ground floor commercial use in this building. Four units in this project will be affordable to very low-income households at 30% median family income and the remainder will be affordable to low-income households at 60% median income. And there will be one manager's unit. All the units are affordable to low-income household and will be covered by affordability agreements with the state of Oregon and the Portland development commission. The length of the state of Oregon's agreement is 30 years and p.d.c.'s is 60 years. This project will also provide 10 permanently supportive housing units with services provided by life works north. These will be reserved for developmentally disabled individuals. This project will provide three public benefits from the public benefit option list in the tod regulations. They are net density, at least 80% of the maximum density allowed by the r.h. Zone, the project will pursue leed silver certification, and they have over twice the percentage of affordable units required by the tod affordability requirements. As you might remember, back in 2006 when council made a number of changes to the todd program, you approved a change that would allow a longer than 10-year tax exemption for low-income housing projects subject to a low-income housing assistance contract. To provide low-income housing. And these contracts are the state of Oregon affordability agreement and p.d.c. affordability agreement. Both these entities have provided public financing for this project. P.d.c. reviewed this application back in august of this year and they found that the tax exemption was necessary to the financial feasibility of the project. They found the internal rate of return for the first 30 years would be about 4.58% which is well below the 10% internal rate of return allowed by the code. Without the exemption, the internal rate of return would be minus 2.68 purse. Their loan committee approved a recommending approval of this request planning commission, planning commission held a hearing on this request on september 23rd and they recommended approval, provided that the project provided the three public benefits listed in the application. So the planning commission recommends to city council that they approve this tax exemption request for 30 years with the condition that the three public benefits be provided. This project will provide needed affordable housing in an area of the city that's experiencing gentrification and also can provide housing for people employed at nearby workplaces such as emanuel hospital and the loyd district businesses. One final thing, as you know, there's a \$20 million cap on the improvement value of new todd projects that come before council in a tax year. This is the only project, this project applied for the todd in may 2008 and they were the only project applying for the todd tax exemption in that tax year. Thert only new project that applied. The value of this project is going to be about \$17 million, so it's under the \$20 million cap. So wayne armstrong is here from the project and dan williams is here from the Portland development commission, so if you have any questions -- .

Fish: Would it be helpful to put this in the context of the discussion we had prior to this about the todd program and the abatement? First of all, you're going to get two documents in advance of being put on the calendar for next week. One is the report prepared by p.d.c. and the bureau of planning reviewed by my office which is a response to the audit that was done of the whole abatement program. And commissioner Leonard, the report will zero in on the new measures being taken to ensure that occupants of units that are abated qualify. And new methods for monitoring compliance. That's a big piece of the response of the audit and concerns raised by the council. The second document we're going to distribute is a document that p.d.c. and the bureau of planning and my office have been working on which is the fist annual report on tax abatements which gives you a 30,000-foot level of all abatements under all five categories and includes the -- the actions taken within the year at compliance actions that were taken, for example, highlighting units that were taken out of abatement programs because it was determined they were no longer in compliance.

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Wall street have a chance to brief the council on the steps we've taken time prove these programs. The question you may be asking, we had a similar kind of proposal come before council a couple months ago where we were struggling with an extension of a tod abatement program. And there's a couple of key differences I want to raise so that you're comfortable that we're not setting a precedent that's inconsistent. If you'll recall, a prior project that came before us involved units many of units that were in excess of 60% of m.f.i. This council has been pretty clear that the affordability component is 60 and below. And when you start creeping up to 80%, while that may be the definition of other governmental jurisdictions, it's not our definition of affordability. That's a key -- affordability. This is not an example of someone who came -- put together a project with a pro forma that assumed a 10-year tod abatement, and then financial viability beyond that. This is an example of a developer at the front end of the process coming and saying, i'm prepared to maintain a affordability for 60 years and provide an amenity. In terms of analyzing this, if the developer in this case was a nonprofit developer, they would get the abatement. What this council has done has said that for-profit developers under certain circumstances would also be eligibility for an extension of the 10-year tod, and that's where there rah binding regulatory agreements that maintain affordability for the whole 30-year term. Under those circumstances, a for-profit and nonprofit developer become undistinguishable from our point of view because we're getting affordable exponents we have regulatory agreements in place which ensure those units remain affordable. So from my point of view after studying this, I believe that in granting this we will be acting consistent with prior council actions and in addition we will not be setting a precedent that will get -- that will get us in front of ourselves in terms of the discussion we'll have at the broader level about abatement policy. It was my view we should postpone those until next week so we don't conflate these issues. I want a chance for council to ask robust questions about our abatement policies, what's working, what isn't and what steps have been taken to tighten the bolts. On this one to summarize, this is a request being made at the outset of the project, it's consistent with the council's view that a tod abatement can be extended if affordability is mandated by regulatory agreements for the full term, and it meets our definition of affordability which is 60% and below. In fact the number of the units are 30% and below, and as barbara has noted, there are also additional units that are permanent supportive housing units which -- where they're partnering with life force northwest which meets or 10-year plan to end homelessness goals. Hopefully that's context which puts this -- which distinguishes this application from when we -- one we dealt with a couple months ago.

Leonard: I appreciate that explanation, and I would say it's the best synopsis of our program that i've heard here yet. It's very helpful. The -- in 2003 the council adopted a resolution that said that abatements when granted must by the grantee cause a financial statement to be filed with the city every year. And the reason for that is that based on everybody's best work in applying for an abatement, as in this indication, where you take into account what you anticipate to be the costs and the rents, they can be wrong. And the best way to look at whether or not the financial projection is wrong or not is to look at a financial statement each year to see in fact how the project performs. I didn't see that in here as part of the conditions of approval that they will submit an annual financial statement. Is that not here because --

Sack: It's in the code. It's part of the regulation. If you remember, there -- before it got into the code we used to make that a condition, when requests --

Leonard: That -- before that got in the code that was not something that was done. I spent a lot of work on that and there weren't financial statements being given. If there were the people I asked at the time did not know about it.

Fish: I think the point was it may have been in a tran tract wall agreement, but more honored in the breach than the observance. It's now in the code so it doesn't have to be listed as a condition.

Leonard: Just so i'm at ease, and I understand better, it's such an accepted policy now that you somewhere put it in a document for the --

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Sack: It's in the tod regulations. It's one of the regulations governing the program.

Leonard: I understand that, but does the applier for the tax abatement know that up front? Or do you assume that the person applying reads the code?

Potter: Could you come forward?

Leonard: I'm just curious -- I understand it's in the code, but why wouldn't you have it in the document so when they sign it they're understood that they're required to submit that?

Potter: Please state your name for the record.

Wayne Armstrong: Wayne armstrong, developer along with my wife, of the shaver property.
Good morning.

Dan Williams, Portland Development Commission: Good morning, dan williams an underwriter with p.d.c. In answer your question, we have p.d.c. financing on the project already, separate 40-year loan. So they're going to be reporting annually on that. That's already in our loan documents. There will also be a separate --

Leonard: What is it you're getting in a report?

Williams: It's monitoring the rent levels to make sure they're meeting the affordability requirements, and then we're monitoring the cash flow and calculation of payments on the loan.

Leonard: But specifically what -- the section of the code requires that i'm talking about that the financial conditions that were submitted that caused the abatement to happen remain throughout the term of the abatement or the abatement goes away. That's specifically what the code says. How do you monitor for that?

Williams: I think that will be covered in the regulatory agreement for the abatement.

Sack: Within the tod agreement, there is specific things --

Leonard: I'm just asking who monitors that.

Williams: That would be the asset management department at p.d.c.

Armstrong: It was under my impression p.d.c. would be the recipient of the annual reports that would be going to the state regarding the correct enforcement of the people that are moving into this building along with the financial analysis it's getting every year.

Leonard: Has it been made clear to you if you do better financially on the project than what you anticipated, and better beyond what the rate of return that you projected that you could lose the abatement?

Armstrong: That's correct.

Leonard: Ok.

Armstrong: It's within the 4% range, so we do have some ability to move up, but we have a long way to go before we get to that threshold.

Fish: This is helpful for me as part of our presentation next week, we'll actually pull the regulatory agreement, the code and the contracts and see if there is specific language, because I think if there isn't, it's an easy thing to add to make sure that the applicant is aware of it.

Leonard: In addition to being in the code, it's clear in the agreement when you sign it and future applicants apply for and sign what the conditions of abatements are. I don't know if I need to move to amend -- .

Fish: I'm assuming the agreement says you're bound by all applicable law and code, but it seems to me that the agreement could be modified to specifically highlight that provision and have the applicant understand that they are bound by that agreement and the consequence of a bridge.

Leonard: And the other side of the coin, that's true that p.d.c. is focused on asking for this information, because in the past they had not been.

*****: I -- .

Fish: I would view that as a friendly amendment so it's a condition of our action today.

Leonard: Thank you.

Sack: Do you want us to add it to the ordinance?

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Leonard: Is that the document that -- is that the most appropriate place for it to be?

Adams: I think it's --

Sack: Is it in your regulatory agreement?

Williams: Referring to adding wouldn't be in there right now.

Adams: I think the agreement -- I like the idea and I think the agreement that you sign with the beneficiary should include that language and I think it's important not only because it stairs everybody, all parties at the face for the many years to come, but if anything changes on the council over the next however many years this is in force, that's the agreement, those are the terms and conditions that you agree to, regardless of what we do with other potential partners in the future.

Fish: So in that spirit -- My suggestion, because I think commissioner Leonard is correct, that we should just do a friendly amendment so the ordinance states this is a condition, and the regulatory agreement or whatever the term of art you use, which is the agreement with p.d.c. and the applicant that authorizes the tod abatement specifically have this provision as well. That can be done through an amendment to the agreement, or however you choose, but we would condition our approval on that being executed.

*******:** I --

Leonard: I appreciate that. Thank you.

Potter: I had a question for ben. Does that then require us to vote on the amendment and then come back next week? It's an emergency ordinance.

Ben Walters, Sr. Deputy City Attorney: It's an emergency ordinance. It can be amended and voted on today. The agreement itself is not before the council right now. But the approval -- this is an ordinance approving the exemption. It would be added in as a condition of the approval of the exemption and then the agency would have to go out and implement it, but I think the agency has received a strong signal from the council as to what this council's desires are. Adding it into the ordinance would enforce that.

Adams: The work you've done with p.d.c., I think it's really important work. One message I want to signal, since I don't get to interact with you necessarily very often, and also folks at p.d.c. and in the bureau, the office of management and finances as part of our companion efforts to improve the overall reliability of the tax abatement program in terms of people monitoring and enforcing the terms and conditions, I also as I have long held, believe that these -- the forgone revenue should be booked or show up in our budget as an expenditure. So we'll be -- I will be pursuing that, hopefully with the support of council so that the public knows we're making an investment in a project and the forgone taxes are a contribution to a project just like our tax incent resources or contribution to affordable housing projects as are general -- our general fund of which we give millions and millions of dollars for affordable housing. So I want that information daylighted and accessible to the public as part of our budget document. So just heads up.

Fish: One thing the report does contain is not only a chapter on forgone revenue, but we've tried to break it up by jurisdiction. So we can see how our partners are bearing the load on these abatements. So I think that will be interesting information for the council.

Adams: What we've never had in our budget documents is a notation of that forgone revenue. And I voted against and for different portions but it needs to be daylighted we have ongoing accountability to the public.

Armstrong: My impression p.d.c. will be the recipient of those annual report and information. They will be our -- the group would you like to see us report to on an annual basis.

Adams: Correct.

Potter: Further questions? Thank you, folks. Is there anyone signed up to testify?

Moore-Love: No one signed up.

Potter: Is there anyone here who wishes to testify to this specific issue? Thank you. Thank you, folks. Please call vote.

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Fish: I would first move the ordinance as amended with the condition that both the ordinance and the regulatory agreement between p.d.c. and the applicant be amended to specifically require annual filings of the financial records for purposes of determining eligibility and compliance with all provisions of the tod program.

Leonard: Second.

Potter: Call the vote on the amendment.

Adams: Aye.

Fish: I want to thank barbara for her good work, from the bureau of planning, and the team at p.d.c. I think when we get to the discussion next week the council will see a lot of hard work has gone into meet can the concerns raised by this council about how the abatement programs operate, and how they are monitored, and I think in turn we will be moving forward to restore public confidence in this important tool that we use to build housing that meets the needs of some of our lowest income citizens. Aye.

Leonard: When I first got on the council in 2002, one of the -- I think the second council meeting I came to I asked that an abatement for a project be pulled from the consent calendar. And it was not received warmly when I did that. So from that to this, and hearing commissioner fish talk the way he is today in terms of actually analyzing the whole program, is really refreshing, and much appreciated by me as i'm sure commissioner Saltzman feels as well, having been present for those same discussions as I was, the change and approach is excellent public policy and very much appreciated by me and the public. Aye.

Saltzman: Well, I think this is a great project, and I want to thank wayne armstrong and stafford for making this happen. This is affordable housing, rental housing where it's needed. It will come with services, at least some of the units, and that's so crucial to making people successful, is having the services as well as the housing. And it's a very -- not with stand its name, shaver green, it's a very green project, shooting for leed silver and I believe the o.s.d. green investment fund made an investment in this project too because of its pioneering green attributes. So this is a great project, and i'm very pleased to support it. I was also pleased to have participated in a very hot day last spring or summer to -- at the groundbreaking of shaver green. So pleased to vote aye.

Potter: Aye. [gavel pounded] please call the vote on the emergency.

Adams: Thank you commissioner nick fish for bringing this forward to us in a much improved manner and mayor Potter in a much improved manner over previous projects. Thank you for doing good technical work on it and thanks to our partners for willing to be so transparent and -- and you're part of this partnership. I look forward to the additional policy discussions before us and I voted against tax exemptions when I thought they were not in the best interest of the public, and I vote for this one because I think it is. Aye.

Fish: Well, mr. Armstrong, I want to thank you for having the persistence to pull this project together and move forward with it. As everyone knows, we're experiencing very tough times, and about a week ago I was at the opening of esperanza court, and it's a beautiful development in southeast. Yesterday I was at the jeffrey opening, which is on the backside of the art museum, which is also a tremendous addition to our low-income affordable housing inventory, and shaver green will soon take its place. What I think you are telling us during tough times is that we still here in Portland, Oregon, when we work together, can achieve great things. And the 85 units that will be added to our inventory of low-income housing, the multi-year affordability program that's in place, the p. S.,s.h.s we're adding and the other dividends, the green components, really make this a model. And as our housing commissioner, when folks like you keep lifting the bar, it makes it easier to hold other nonprofit developers and for-profit developers to the same standards. So i'm very pleased to vote aye.

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

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Potter: I want to thank the planning bureau, Portland development commission, and you, mr. Armstrong, for proposing such a great development for our community, and I think it will serve the needs of many of our poorest communities. So thank you. I vote aye. [gavel pounded] thank you. Please read item 1430.

Item 1430.

Moore: Authorize settlement agreement with rocky balada regarding disability benefit and employment claims.

Potter: Thank you for being here.

Linda Jefferson, Director, Bureau of Fire and Police Disability and Retirement: Good morning mayor Potter and city council members. I'm linda jefferson, the director of the bureau of fire and police disability and retirement. I'm here this morning to request your authorization for the settlement of the rocky balada claims for disability and employment benefits.

Stephanie Harper, Deputy City Attorney: Good morning, i'm stephanie harper, deputy city attorney with the city attorney's office with the city of Portland.

Jefferson: I would like to say before I take any questions that you may have that in considering what action would be appropriate moving forward on this particular case, which was a very unique situation in that it was incurred under the prior form of review which was by the board of trustees, unfortunately the issue was never resolved before the charter reform, and so the review or appeals process is now before administrative law judges and so the process is very different than it was historically. So there were a number of considerations with regard to this case, but I do want you to know that I think that this is a very good resolution for both the city and for fpdr. I would let you know that the exposure, had we gone to hearing and not prevailed, would have been very significant. We have determined that our disability costs would have exceeded half a million dollars if we were directed to approve the claim under the fpdr system. We would be responsible for any medical costs that were incurred prior to that time, and any going forward. We would also be responsible for any post-retirement medical benefits once this individual did retire, which would be a disability retirement rather than a service retirement. There would be the cost, the court costs associated with litigating the claim, and it was estimated that the trial or the hearing would last at least three weeks because there were numerous witnesses that would be called to testify. There would be the cost of expert witnesses, there would be of course attorney fees, and so when we looked at what the cost and benefit would be and knowing that you'd never go into a hearing feeling confident or 100% confident that you would prevail, we really felt this was a good resolution at this time. So with that, I would ask if stephanie has anything to add or we can open it up for questions.

Harper: I just had one thing to adjust to clarify. The recommended settlement, there are two parts that are before you. One is that there's a payment that comes from the Portland police bureau that resolves any employment related issues, and --

Leonard: What's that amount?

Harper: That's a \$500 amount. Mr. Balada then leaves sometime employment by retirement, he agrees never to work for the city in any capacity and come platey waives any potential employment issues, including issues that might be associated with the city return-to-work program. And then the other amount that comes before you for your approval is the \$92,300 that would come from fpdr, and part of the charter reform that occurred in 2006, november 2006 with respect to fpdr, one key component with the professionalized -- the facilitation and administration of the disability claims process under the fpdr system to fpd&r board of trustees from that decision-making process with respect to the individual claims and grants the administrator the authority to make decisions about disability claims. And then provide the city council the authority to actually approve settlements that are recommended by the administrator. So I just wanted to --

Leonard: Doesn't the board still have the authority to hear claims of disability?

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Harper: No, the claims of disability go before a hearings officer.

Fish: Board of trustees has contracted and by charter is required to contract with the hearings officer to handle the disability hearing process. So disability -- individual disability claims do not go before the full board of trustees.

Leonard: Why did not this claim go to a hearings officer?

Harper: This claim is scheduled to go to a hearings officer now, currently. That's the current status. The attorney that was hired by.

Fish: I think a couple of years ago, outside council, was to take this case to hearing and it's actually -- they had two prehearing conferences on the case, and we're in the process of getting scheduled for hearing -- a hearing -- the hearing initially in this case, there was a hearing requested by mr. Balada, and that was under the old fpd&r system. That would have occurred in 2000.

Leonard: Just so I understand the process, somebody is injured, a firefighter, a police officer is injured under the current system, and they file a claim for disability or medical payments or both. What happens to that claim?

Harper: I think --

Jefferson: The claim is evaluated and the determine --

Leonard: By staff?

Jefferson: By staff. The determination under my authority is made by the staff members. If the decision is adverse to the member, then they have the right to request a hearing before an administrative law judge which we have contracted with Oregon administrative hearings office to conduct those hearings.

Leonard: In this case -- I understand it's messy claim originated under the old system, but does it make any difference in terms of this case, could you make a judgment about the claim? Still?

Jefferson: Well --

Leonard: Or have you?

Jefferson: I did.

Leonard: And you denied it?

Jefferson: It was not a formal denial issue, but I did not approve the claim.

Leonard: What's the difference?

Jefferson: The difference is in that a decision had not been formally made under the old board process. The claim has remained an appended status for the past nine years.

Adams: What was the word?

*******:** Pended. Pending. It was pending a hearing.

Leonard: How does a claim remain pending for nine years?

Jefferson: Could I not answer that for you. It's fairly clear in the notes that i've reviewed that there were attempts by fpdr to reschedule a hearing. It had originally been convened in 2000 and the hearing was an executive session, the member had an opposition to that and asked for postponement to look into the legality of the hearing not be held an open forum. And then it appears fpdr tried to pursue resetting the hearing, but was not able to come to any agreement with the member through his representative. It's not clear what authority the board of trustees had during that period to forts issue, if you will, or maybe dismiss it, or it not going forward sooner.

Leonard: I'm assuming the claimant was not receiving any salary from the police bureau?

Jefferson: That's correct. And in fact, in 2000 mr. Balada filed a nonservice benefit claim with fpdr and that claim was approved.

Leonard: So is he receiving --

Jefferson: He did receive benefits through I believe july or august 2006. At that time fpdr had medical evaluation that he was able to return to his regular work. In 2006. So his benefits for nonservice disability were terminated.

Leonard: Was he ordered back to work?

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Saltzman: That's not clear to me in the record.

Harper: At the time he was either close to or -- very close to being eligible to retire, and the -- we -- in that process my memory is that fpdr requested that we stay put until we can try to negotiate with mr. Balada.

Leonard: In 2006 he would have been eligible for how many years credit towards retirement?

Jefferson: In 2006 he would not have been vested to service retirement at that time, which is one of the issues.

Leonard: He would not have been vested?

Jefferson: We're hoping to resolve that at this point, because of him being on a nonservice disability benefit, he didn't accrue it the same rate that he would have had had it been a service connected claim.

Leonard: Would it have given him some amount of credit.

Jefferson: It would -- and I don't remember what that amount would have been at that point. But once it -- it appears once the nonservice disability benefit were terminated, that's the earliest that I see that the discussions began on some type of settlement to resolve the issue.

Leonard: Do you recall if he's eligible for retirement in July of 2006?

Harper: I don't. I don't recall if he was eligible at that time. It might have been -- i'm going back in my memory banks, and it seems like it might have been maybe february of the next year that he would have been eligible, but I would have to go back and --

Leonard: But because he wasn't getting any more retirement credit he couldn't retire in february.

Harper: Correct. And -- right. He -- it seems like he wasn't yet at the -- he hadn't hit the 55 years. So we were just looking for years of service.

Leonard: And the obvious question is, if his doctor in July of '06 said he was recovered enough to return to work, why did he not return to work?

Harper: His doctor did not say he was recovered.

Jefferson: An independent evaluation.

Leonard: So his doctor said he wasn't, your doctor said he was, and you had a third party make a determination that he was.

Harper: As I understand it, there were four medical evaluations conducted, and -- and I don't know the details of all of those. But the bottom line is there was going to be a dispute in the medical evidence about -- as to whether or not mr. Balada could be cleared to return to work. His doctor is saying he wasn't cleared.

Leonard: But --

Jefferson: And the i.m.e. from the fund saying he was.

Leonard: I.m.e., that's part charter.

*******:** That's correct.

Leonard: And our i.m.e. said he had recovered sufficiently to return to duty? Is that right?

Harper: That's my understanding.

Leonard: So is his position then that his doctor said he wasn't recovered and therefore wasn't return something.

Harper: Yes. He has two issues that are currently scheduled for hearing. The first is whether he should have received service connected benefits as opposed to nonservice benefits between 2000-2006. The second issue is whether fpdr appropriately terminated his nonservice connected disability benefits in August 2006.

Leonard: Did you make a determination on either of those Linda? Or is that what you're saying, there was a nondecision, no decision?

Jefferson: There was no decision, and so me coming in a little over a year ago, I again reevaluated the claim because we had this pending -- pending litigation. And could have approved the claim. We wouldn't be having this discussion today.

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*****: But I didn't think that would be appropriate.

Leonard: Because?

Jefferson: Because I felt that had the process been different under the old board, and as it is now, a denial would have been issued once the evaluation of the claim was completed and an actual decision would be made. The claim would have been accepted or proved or denied within a specific period of time.

Leonard: I guess the part that's disturbing me, I mean, having lived through these wars on a variety of levels, I am disturbed that i'm being asked to make a decision that is more appropriately made at the fund, where all of the facts are the as -- his file, his history, I don't have any of that. And i'm reluctant to agree to something not because I don't agree it's a good settlement, but I actually might conclude that after having the benefit of reviewing the file that maybe his claim should have been approved. But i'm not in a position to make a decision on either because of a lack of information I have. And I guess one of the things I was hoping would happen in this new system is that when we got items on appeal like this, you would be able to sit and characterize to us why you deny the claim. And that's not what i'm hearing.

Harper: I think we have had -- to a certain extent this, is only the second settlement i've been involved with that's involved this joint fpdr and a city settlement agreement, we do have -- we had a few situations that basically were from the past that we needed to figure out what to do with them and get them resolved, so the system can move forward. With the new system in place and the new rules in place, I do think that claims -- if they were to come to you today and were claims that have been filed since the implementation of the new system, there would be greater clarity for you.

Leonard: I hope you can if not agree at least respect what i'm trying to articulate, and that is, am I creating a process that was an -- want envisioned at the time we reformed the charter that allows very controversial decisions to be kicked to the council to decide? And that the staff nor the board wants to get involved with and that you're ageing that yeah this, is an exception because it's an old claim doesn't hold water because it falls under the processes just like a new claim would, in my view, I don't understand why we wouldn't adjudicate that and let the facts fall as they may. If he qualifies, he qualifies for the claim, if he doesn't, he doesn't. And we use the process. And -- there might somebody small amount of irony in the position i'm taking, but if we're going to establish a credible system with voters, I think we ought to let the system work. And this feels like -- i'm not saying this is the way it is. I'm open to being challenged by you, but it feels like i'm allowing the system to be a little bit abbreviated by agreeing to something here without all the facts and feeling as though I don't think we were envisioned to be the fact finders or the arbiters of contentious claims of which i'm very familiar with, by the way, having sat on the board for 12 years and sat through an era of a lot of stress claims -- there are hard decisions to make and I appreciate how challenging that is. I also don't appreciate being back in that position having left that spot and hoping you all did what your job requires you to do. So i'm just having some deep reservations procedurally about agreeing to this settlement.

Jefferson: I guess one thing that maybe I could add that may bring some additional clarity to it is for me having come from the risk management system and having similar situations that would be brought before you that were workers' compensation claims which is comparable to the service connected claim, other than issuing a formal denial, the process that we've gone through is consistent with that process that we would go through under that program prior to bringing it to council for your consideration. So if there's some additional information that going forward that we should be aware of that would help to better educate council, if you will, on the history and bring more clarity to what our recommendation is, then that would be very much appreciated.

Leonard: I've had all the history I can take for one lifetime. My bigger point is that I feel like i'm being asked to make a decision that more rightfully should be made at the fund, where have you the benefit of the entire file and the entire context within which this discussion being made. Within

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which this discussion is happening. And that's just -- I don't know if i'm the only one that feels like that here, but I think --

Saltzman: Not the only one.

Leonard: I think i'm -- now I feel stronger having heard dan feels the way I do, that just -- i'm not actually questioning whether the claim is good or not good, I don't know. I feel as though question create add system that we went through a lot of blood, sweat, and tiers to be done, some of which I didn't like, but in the end it passed, and I supported bills not like what I agreed to.

Fish: Can I ask a question piggybacking on your comments? You're raising a fundamental policy question, what is our role, and I frankly I had focused more on how would I review the recommendations and the stuff we reviewed from council. So the policy question is important to me. So is this particular matter time sensitive in some way?

Harper: It's time sensitive in that they are in the process they've had two prehearing conferences, and the next step would be to schedule the case for hearing with outside -- with outside counsel.

Fish: One issue is about process and about how we got here. The other one is about the merits of a proposed settlement. And if I don't see how we can resolve a process question just by talking about it here. That's a question where commissioner Leonard has raised issues that I would like to know about before I get to the merits. If no hearing has been scheduled, technically we could set this over if we chose, and have further consultation with council on some of those questions before it came back to address the merits of the claim. Is that correct?

Harper: That's correct.

Saltzman: We could wait -- you talk about a hearing being scheduled. To determine the service connected disability benefits and also the return to work issue.

Harper: The termination of nonservice benefits. Those would be the two issues to be heard by --

Saltzman: Those would be moot if we approved this settlement.

Harper: If you approve the settlement, it would resolve all of those issues, there would be no hearing, and mr. Balada would retire.

Fish: In terms of scheduling a hearing, while that's the next step, you have to agree to a hearing. So there's no pending hearing date that's been scheduled.

Harper: Since i'm not the lawyer who is handling the hearing process, fpdr has outside counsel who's been handling the hearing. As I understand it they don't have a hearing scheduled. I know they set over another conference call about the hearing last week because this was coming to council. If council decided to postpone and have further discussion, and postpone approval of the settlement, then I imagine they will work that into -- .

Fish: I'm not hearing if we don't act today there's a drastic consequence -- consequence. When a fundamental question of process is raised about what is our role, I don't think frankly we should do that on the fly and just try to come to some accommodation. Because until that issue is resolved, I don't see how we can appropriately get to the merits of what's been suggested. And so i'm inclined to if there's an agreement on the council, to set this over so we can have further consultation with council -- with council.

Potter: I had a question questions before we get to that point i'd like to talk about the process. Does the new fpdr charter change require fpdr to go through with the hearing?

Jefferson: Yes.

Potter: And so to not do that would be contrary to the carter? I'm going to make sure i'm hearing your answer correctly.

Jefferson: There is some -- actually it's the administrative rules, those in place, those most recent to the charter reform where they actually put some time frames around how long a hearing could be postponed. How long that had been in effect I just don't know. But the current process going through the straight office of administrative hearings and what that whole administrative process is

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is very structured and at the outmost hearing possibly could be postponed for up to a year and a half. But there would have to be some extreme circumstances that would cause that to occur.

Potter: does the charter allow to you intervene and request or determine if there's a settlement that could be agreed to to sort of postpone a hearing that the city could either win or lose? Is there – do you have the legal authority to bring this situation to us as you have today to agree to a settlement?

Jefferson: Yes, I do have that authority.

Potter: That's in order to not have the hearing go forward because of the potential consequence?

Jefferson: That's correct.

Potter: I'm not sure where the problem is with the process.

Leonard: Because the only part that I would question about your inquiry is I guess I would understand that if you denied the claim, but what i'm hearing has happened is there has been no adjudication on the claim. At the fund and the larger point i'm making is that it strikes me first of all as unusual on a claim that's nine years old to be told there's no add adjudication. The other part that bothers me is that if july of 2006 his benefits stopped, my recollection of the way the rules worked is he's directed to return to duty and it would appear for some 2½ years he's been absent without leave. And what has the city done about that? It sounds to me like he's abandoned his job.

Jefferson: I cannot answer that question because I --

Leonard: You can answer

Jefferson: I don't know.

Harper: At the time -- at that point in time if you'll recall, we were actually in the process of launching the return to work program and -- which was to identify individuals who were capable of coming to work in either a full or restricted duty capacity, and I know mr. Balada was identified as one individual who could come back and there was quite a bit of processing that was going on and I know that there have -- the police bureau has been waiting pending settlement discussions to give him an order to return to work.

Leonard: So he has not been ordered?

Harper: He has not been ordered to return to work.

Leonard: What's his status for 2½ years he's essentially been a nonemployee -- what do we call that when a person has no authorized leave, is not on any kind of leave, essentially has abandoned their post. What do we call that?

Harper: Well, it gets somewhat complicated when an individual is off on leave when there's disputes about whether or not the person is capable of working. If --

Leonard: We made --

Harper: If the employee doctor says that the person is not capable of working and we -- when I say "we" understand that at the time things like independent medical evaluations that might be maintained by fpdr are not documents that the bureaus would have in their file, so that wouldn't --

Leonard: I was on the fund for 12 years. I sat through a lot of hearings where there were disputes that were resolved by independent medical exams. And consistently when an employee lost they were ordered to return to duty. And that happened -- there's -- I don't mean to argue, i'm --

Harper: I don't mean to argue with you either. I think some of this is because both linda and I are kind of -- we weren't here when this started and things were happening, and so some of it is trying to sort through all the pieces of what we actually know and what are pieces that we are pulling.

Adams: I think this exchange has been useful. My question is sort of what message does this send to other city employees that you cannot show up to work for extended period of time -- for extended periods of time and we will continue to pay you? And then if you file a stress related claim, we will settle with you.

Jefferson: Well, we've settled a number of disputed claims over the years.

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Adams: Do we have many city employees that have not shown up to work for years that we continue to pay?

Jefferson: Well, I want to remind you that from 2000-2006 fpdr did pay a nonservice disability benefit. There was time loss authorized by mr. balada --

Adams: How long has he been off of that but being paid and not showing up to work on some other program?

Harper: He's not been paid in the last two years, since fpdr stopped paying him.

Leonard: July 2006.

Harper: I think it was august 2006. And he has not been paid since then.

Potter: And this agreement makes his retirement date then effective the 1st of september 2006?

Jefferson: Yes.

Harper: Correct.

Potter: So it's contiguous to that ending of his medical leave. As I remember, the return to work program said that you could return to work, had you to be recertified if you'd been gone longer than two ½ or five years?

Harper: Under the state department of public safety standards and training, which certifies police officers, they require that if a person has been absent from work more than 2½ years and they have to attend a career officer training program, if an officer has been off work for more than five years, then they have to go back and repeat the basic police officer academy, and those are the rules that are required by the state. So what the Portland police bureau would have to look at in returning a person who has been off on medical leave for some time is how long has the person been off on leave, and what do we need to do in order to bring this person into compliance with the state training standards? So those would have been issues that certainly would have been considered. And i'm remembering one other piece of information that might be useful for commissioner Leonard's sake, I do understand there are actually -- there actually was a letter sent to mr. Balada that indicate he has been medically separated from employment because he wasn't able to come to work according to his medical provider. And with the return to work program, we were starting to reimburse medical separations and recall people back.

Potter: If they had been gone more than five years, which he had been gone more than five years, they would have to go back to the basic academy including all of the physical parts of the academy, self-defense tactics, etc., was it determined if sergeant balada could actually complete that physical part of going back to the academy?

Harper: I don't know if a determination was made, but just logically I think the positions the Portland police bureau would take is that if the medical information from fpdr is that this person is capable of performing police officer duties, then they would have sent him back to the basic academy to perform basic academy and become fully certified as a police officer. That's the logical extent of the -- if you play out what the medical information was. And then there would be a dispute there of course because mr. Balada's doctor didn't believe he could perform police officer duties.

Potter: If for any reason, whether it's because his attorney or medical provider said he could not perform, but if he did not go back to the basic academy, then he would not be certified under the state law certifying who is and who is not a police officer, so thus he could not actually perform the duties of a police officer. Is that correct?

Harper: That's correct. State law requires dpst Certification.

Potter: Are you saying that at that point in 2006 that the independent medical evaluator determined that he was capable of coming back to work and that would have included going back and performing basic academy at the state dpsst.

Harper: I think that's how the Portland police bureau would have to look at it, yes.

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Potter: What happened at that point? Why wasn't he -- because I remember we were working very hard to get as many of those officers back to work as possible, we even had a list of who we thought could come back.

Harper: Again, my recollection of that is that some negotiations between fpdr and mr. Balada about their two disputes had begun, and we were asked to hold off until those discussions could be completed and then following that we had the charter reform, we had numerous transitions within fpdr, and so it just went along until we could try to complete negotiations. And we have had numerous attempts over the last 12 months to negotiate these claims and finally reach this tentative settlement in a mediation with the professional mediator last month.

Saltzman: If we turn this down, table it, or set it over, then this will provide to a hearing.

Adams: Not necessarily.

Harper: If you turn this down this will proceed to a hearing, yes. And then the Portland police bureau will need to look at the employment pieces.

Adams: We set it over ---- along the lines commissioner fish talked about, that's another option.

Harper: Send it over to discuss the procedural part of things?

Fish: There are procedural issues, but also issues covered by attorney-client privilege which we're not allowed to raise in this public forum. I would support a motion to set over so I could learn more about the policy question that commissioner Leonard has raised and get a briefing on that, but that has in turn raised other issues covered by an attorney-client privilege which i'd like to discuss with city attorney.

Leonard: Second.

Adams: I agree.

Potter: Call the vote.

Adams: We

Walters: What time period is the council setting? In the motion itself, what's the time period for the setover?

Leonard: Two weeks.

Potter: Is two weeks enough? I don't -- I am perhaps -- perhaps we would want to give some clarification to fpdr as to what is the policy issue we're looking at. I am trying to figure out what the policy --

Leonard: It's very clear in my mind. We're getting this not based on an appeal of a denial. There's been no decision made one way or another on the case and I have a problem with that.

Potter: She said she had the authority to bring it to council.

Leonard: That's part of the question I'm not clear about. I don't want there to be a precedent set where difficult claims are kicked to us. I think they need to adjudicate them and then if the charter allows for an appeal to us, I understand that's my role. I didn't know I was signing up for hearings here that the fund decided they didn't want to decide.

Adams: Is this a transition issue between the two systems, or does this set a precedence?

Potter: A lot of the information that they'll be presenting occurred prior to the --

Adams: Maybe you could help us, stephanie.

Leonard: As I understand it doesn't change the process.

Harper: Maybe I should just clarify. Under the charter, the city council's role is -- it states that the fund administrator with the approval of the city council shall have the authority to settle and discharge all or part of it's future obligations to any member, spouse, or beneficiary of a member for disability benefits as to any and all claims or entitlements to disability benefits as part of a settlement. So the fund administrator has the authority to settle disability claims with city council approval.

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Fish: I don't think that general authority has ever been in question, because we would always have the right, but I think commissioner Leonard's point is after some official action, we can react to. And I would suggest that we set this over for four weeks, there is no hearing scheduled --

Potter: What the charter says is that this is part of the process, that it's not a requirement to have a decision. The recommendation coming from fpdr, which is their decision, is to settle this case.

Leonard: That may be. And all i'm saying is, we may be correct, that's what the charter allows. I'm not comfortable with that process. I want to send a message that I want them to make an adjudication to the claim and then if there's an appeal that comes to us, fine, but I don't want to start this thing where we start doing settlements. That for whatever reason the fund don't want to decide.

Potter: If the charter allows for it or we're comfortable with it or not --

Leonard: You can vote yes and I can vote no. That's my position.

Harper: You can either approve the fund administrator has the authority to settle this, or say that she doesn't, and in either case appeals of an -- on the merits of the claims aren't things that come to your attention as part of the process.

Adams: I wouldn't describe it that way. We can decide on this particular case whether we want to take her recommendation in this particular case. If not, it goes and finishes the normal old process, right?

Harper: It would finish -- not under the old process, but under the new administrative hearings process with the state hearings officer.

Potter: I think we're trying to figure out, is that worth the risk or should we take the recommendation of --

Leonard: My point is, I don't know. Because all I know is what i'm being told. I don't have the benefit of the file to look at --

Adams: Setting it over allows us to review the confidential individual -- .

Fish: Would I suggest that we set it over for a four-week period because as I understand it, since no hearing has been set, we can have some confidence that we won't get jammed on the time.

Potter: Linda did you want to make a statement?

Jefferson: I did and I want to ask Stephanie a question. Do you think -- setting this over for four weeks -- may impact our opportunity if the council later does approve a settlement?

Fish: I want to say as a recovering attorney if you have a former supreme court justice who acted as a mediator, and has got the parties to put points and authorities in paper and the message of the council is that they'd like a little more time to evaluate the proposal on the merits, my guess, my hunch is that it won't result in any detriment to the proposal provided that we don't get jammed on the time of a hearing --

Potter: That's not the point commissioner Leonard is making, he's concerned about the process, not the merits of the case.

Leonard: Well that and if you're hearing what I'm saying, the context i'm saying, if you're not making a recommendation to me, then I have no basis upon which to decide whether this is a good idea or bad idea. I said earlier I may well look at the file and agree you should have gotten a retroactive service-connected disability to 1999. I don't know in looking at the file, which I will do very reluctantly. I was hoping never to have to do such a thing again. But having been put in a position where i'm going to do that, i'll do what it is I would have thought the fund would have done, looked at the file and made a judgment as to whether it was a good claim or not and vote based on that.

Jefferson: The fund did do that. Since i've been there, that's what i've done.

Leonard: On the nonservice?

Jefferson: No. On the service claim. The nonservice claim was approved back in 2000.

Leonard: Ok.

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Jefferson: The board approved the nonservice claim. I reviewed the service claim during the past year and have determined that it would not be appropriate to approve the claim, which is why we're in the litigation.

Leonard: But did you deny it?

Jefferson: I did not issue a formal denial because, again, this claim comes from the prior form of evaluation, and it's in the new system now. I guess I could have issued a tool, but in that the claim had not been approved, just like under the prior system where it was set over for hearing rather than approving or denying the claim initially, and all intents and purposes the claim is currently denied. There just has not been an actual formal document or notification to the member that the claim has been denied.

Adams: Linda, I just need to understand more. What was the reason? Why didn't you deny the claim? The nondenial denial.

Jefferson: Well, you know, I -- there was a number of claims that had been set over for hearing that were in existence from the prior form of evaluation that had not been approved, and the member had of course challenged that because the individual felt that they're eligible for benefits or entitled to benefits, and there was no formal denial issued on those claims. We just went through the hearings process. We have heard several claims that are cases that were incurred prior to the reform.

Adams: Right.

Jefferson: There was no formal denial issued on the claim.

Adams: Why wouldn't you move to a formal denial? You did a nondenial denial for some reason.

Harper: I think prior to the new system, the way, as I understand the structure worked is that, if a member filed a claim for service-connected benefits and the staff that reviewed the claim would not -- they didn't have the authority and there weren't rules in place where they actually denied claims the way they do now. What would happen is that they just would not approve the claim, and then the matter would go to the full board of trustees for a hearing on whether or not to approve the claim.

Adams: You're acting consistent with past practices?

Harper: That had been handled on these particular cases that arose under that old system.

Fish: But under the new system, there would be some action taken, and then it would go to a hearing officer.

Jefferson: Yes.

Fish: I would think, under the new system that, a hearing officer might be persuaded by a relevant piece of the hearing officer's inquiry, whether there's been a denial or not by a fact finder prior to the hearing. And the hearing officer might even want to give some level of deference to that. I don't know how the new system works, but I'm guessing a hearing officer would be interested in knowing whether it's been approved or denied.

Saltzman: Haven't we been notified that we're being sued by six members of the fund on issues very similar to this about return to work and receiving disability payments?

Harper: No. We've received a complaint that's filed by -- I can't -- I'm not the attorney litigating the case. I believe there are four former -- four firefighters who have filed litigation related to essentially being directed to return to work.

Saltzman: There's no precedential value, I think, with how we handle this case potentially.

Potter: I disagree. Those four firefighters are basing it on the current f.p.d.&r. changes. Is that correct?

Harper: Those individuals, as I understand it, actually were cleared by their own medical health -- excuse me. Their own medical professionals to actually return to work in the restricted-duty jobs.

Potter: I think it's a different fact situation.

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Adams: If I could ask, what is the down side -- if the council has a preference for you to formally adjudicate your decision on this claim, if we just have a preference, call it our intuition -- what is the potential down side of that? I just want to make sure i'm fully aware.

Harper: If there's an adjudication by f.p.d. and r. to --

Jefferson: Issue a notice of claim of denial.

Potter: This isn't an adjudication. This is request to pay the claim or settlement prior to adjudication from a hearings officer.

Adams: Correct.

Potter: What you're saying, in terms of risk analysis, it's better to make this decision at this point, and you've made the decision. Now we either have to confirm it or deny it, make that decision so that we can not go to the hearings and face further risk.

Jefferson: It will be a much greater financial burden to the taxpayers of this city for us to go to hearing and not prevail.

Walters: If I might, the settlement also involves the release of potential claims for which the city has received notice by mr. Balada, so it is a release. The risk is two-fold. One is to f.p.d. and r. and the other is to the city, and the city is part of this settlement and is obtaining a release of claims as against the city and a fairly significant one.

Adams: I know, cause I was -- barged in on the mayor recently, and he was very dutifully reading the claim background, which I have not read, that was this thick. You've read through that, and I think I need to do that as well and I apologize for not having the time to do that prior to this particular meeting. I'd like to hold over just to get familiar --

Leonard: It hasn't been given us.

Adams: But we're allowed to look at that?

Harper: We'll have to -- i'll have to consult with the f.p.d. and r. attorneys.

Leonard: If your asking us to make a settlement --

Adams: Assuming we can get access to that, I just want to make sure. So the risk of us asking you to make a determination that would then go on to -- could be appealed to a hearings officer or we just go to a hearings officer and they decide denial or approve value?

Jefferson: That's correct either way. I mean, at this point, we can issue an instrument that says that the claim has been denied, but again, for all intents and purposes, that's already occurred. The language in the settlement document acknowledges that the claim is not approved.

Adams: And you've given us that information before, so we're in the lightning round here.

Jefferson: Yes.

Adams: I'll try to frame my questions for short answers. Thank you for being patient with us.

Jefferson: No problem.

Adams: So the potential down side of you sending a letter of denial is that it would go -- could be appealed and, in that appeal, we could lose.

Jefferson: It's already in the appeal process, though. There's no effect.

Adams: If it continues, then we could lose money.

Potter: This is to shortstop that.

Adams: This is to shortstop that. Do we set a precedent -- this is one of those in between cases right?

Jefferson: Yes.

Adams: It was from the old system. It's going to be settled after the reform?

Jefferson: Yes.

Adams: I would like to know during the holdover how many other potential claims there are. So that's an area of questions i'm interested in.

Harper: From other individuals?

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Adams: Correct, are there any other in between. And in our council potential actions on these issues or f.p.d. and r. actions on these in-between claims, do we set any sort of precedence for the new system moving forward and claims with in the new system? Are we doing cleanup here are we unintentionally setting some sort of precedence with claims under the new system? I'd be interested in answers to those two areas of questions.

Potter: Could you answer them now? To me, this is a unique fact situation. I'm unaware of any other police claim that is even similar that its founded in one f.p.d. and r. system and has rolled over into the new one and that there's a lot of unresolved issues. What I felt this was doing was resolving the issues through a settlement rather than take the risk of going to a hearing.

Adams: So this is cleanup.

Harper: I don't know about the numbers, but I considered this to be a cleanup.

Jefferson: I would agree.

Adams: Do you have any initial thoughts in terms of does this set precedence for desire to have a much more transparent, fair for all involved system under the new reforms? Does this set any sort of unintended precedent?

Harper: I have to give thought to that, but --

Jefferson: I would not think so. I'm very well-aware of any action that you may take on a claim in this respect could send an unintended message. I'm very well-aware of that. But I think that, because of the age of this claim, the uniqueness of all the issues that are associated with the claim, the fact that we have gone from one system to another system, and knowing that the actual administrative review will be done probably very different than had it been -- the review been before the board of trustees, I think it increases our risk of being responsible for dollars that are far greater than what we can pay now to resolve all the issues.

Fish: As the author of the motion to set over, can I just state my purpose, mayor? I'm agnostics on the policy question, because I don't know enough to make a judgment. I think ms. Harper has done an excellent job in her memo to us outlining the risk assessment, and it's within the boundaries of what we normally get on risk assessment so has been helpful to me. And I learned in the course of this hearing that a setover will not cause any prejudice to the process since no hearing is scheduled. Just speaking for myself, the benefit of a setover would allow me to confer with counsel and learn more about the process to make a more informed decision. It should not be construed in any way criticism of how we got here or a specific statement about how I think we should go forward, but it would give the knew west member a chance to learn more about the process and to consider arguments raised in this hearing.

Adams: Then only for you.

Fish: I think the motion has been made and seconded.

Potter: Is it a motion or do we just ask that it be set over?

Moore-Love: You probably just ask for it to be set over.

Walters: That's generally the process, so no vote would be necessary if the council is in agreement on a setover.

Potter: We set it over then for four weeks?

*****: Thank you.

Potter: The gentleman who did wish to testify, is he signed up?

Moore-Love: I didn't have a sign-up sheet. This was pulled from consent.

Potter: Ok. Please come forward.

Moore-Love: Mr. Monk.

Michael Munk: I'm michael monk.

Potter: You have three minutes.

Munk: I have three minutes. Thank you very much. I am here to present a view of a Portland voter and taxpayer on this issue based on solely my reading of the "oregonian's" article about this

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and the testimony that i've heard here this morning. The discussion has been focused strictly on the process, but i'd like to suggest that there is an issue of substance here that Portland taxpayers need to be aware of. I have no connection about sergeant balada or his attorney or anyone else, and I have no other information to give you than the views of a concerned taxpayer. My understanding of the case is that sergeant balada was charged with corruption in allowing police officers to work on overtime without actually getting paid to work overtime without actually getting paid for it.

Potter: Mr. Monk, we can't even discuss that issue today.

Munk: May I discuss it?

Potter: This is not pertinent. As a person testifying, you are welcome to. Yes, you can, but i'm saying, in terms of our discussion today, that is not something that we could discuss.

Munk: Really. That's why i'm bringing up the substance rather than the process.

Potter: Ok.

Munk: Finally, he apparently agreed that he had conducted himself in that manner, and his defense was that this was standard procedure within the police bureau. And it seemed to me that, based on what I read in the "oregonian," the history of this case is a history of trying to avoid a public hearing, because sergeant balada has proposed to bring before the hearing multiple witnesses to testify to that kind of corruption, including top brass of the police bureau. And if this is the reason why we are here today to discuss how to settle this case without a public hearing, without allowing sergeant balada to bring his witnesses to make his case, then this is a concern that I have as an individual taxpayer. And the reason given that this will save the city money strikes me as exceedingly narrow, because the principle of whether or not there is uninvestigated corruption within the police bureau would seem to be worth investigating regardless of the cost.

Fish: Mr. Monk, I just had a senior moment, and the light went on. I just want to say I enjoyed your last book, and I shared it with the mayor, who also enjoyed it.

Munk: Thank you very much.

Potter: In fact, I think I endorsed it.

Munk: Thank you very much mr. mayor.

Potter: That's been set over for -- what's the date?

Moore-Love: That will be heard November 19th in the 9:30 a.m. session.

Potter: Is that the day before thanksgiving per chance?

Moore-Love: No, it isn't.

Potter: Good. Just want to make sure there's enough people at council to --

Moore-Love: I show everyone currently in.

Potter: Please read item 1438. Can you read 1438 and 39 together?

Items 1438 and 1439.

Leonard: I think that's a great idea.

Leonard: Thank you, mayor Potter, commissioner Saltzman. I asked for these two projects to be pulled off not because of anything even approaching our prior discussion --

Saltzman: I hope not.

Leonard: -- but actually for dan and I to once again try to see whose green is bigger. In the case of the water bureau, we have -- and these folks are going to present both sides, and i'll let dan talk about 1439. But on 1438, as the council is aware, I think most of those at home watching are aware, we are gifted in Portland with two outstanding sources of water. One's of course up at bull run. The other is the ground fields out along the columbia river. The primary pumping facility also maintains about five acres.

*******:** Five to seven acres.

Leonard: Five to seven acres of property that we keep pristine, fenced off because, under that, we are drawing potentially lots of water that supplying the entire metropolitan area. And shortly after you assigned the bureau to me, mayor Potter, we were out looking at the site and were struck with

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how perfect of a place that would be for a solar panel field and, as it turns out, would be one of the largest solar panel fields around. And I don't know if you had a stat on that, mike. How big would it be compared to other ones in the united states?

Mike Stewart: In the u.s., I don't know, but the size we're proposing right now, it's probably in the top 10 in Oregon. That will change very quickly.

Leonard: Yeah. So this is a very exciting project that I asked to be pulled so you could all hear what it is that our fabulous engineers and employees at the water bureau have envisioned. Dan, do you want to talk first before they start talking about your project?

Saltzman: I'm really pleased. This is a great example of multiple city bureaus and the private sector working together and the directors working together to get some real serious solar electric going.

Potter: I did notice yours is only solar. His is photovoltaic. Sounds a little bit more high-tech.

Leonard: We might have to do a little more engineering before we approve the project we cannot be outdone.

*****: [laughter]

Saltzman: It's a great example of bureaus working together to make a serious dent in the city's energy consumption of nonrenewable resources and moving in the other direction.

Potter: I was curious about the percentage of the photovoltaic systems at both ground wells as well as the east portland community center, what percentage of electricity would supply to the two entities.

Stewart: Do you have the percent number? I can talk generally, but maybe he knows.

David Peters, Portland Water Bureau: Percentage of electricity that it is providing to ground water?

Potter: Yes.

Peters: It will offset our base load at the facility. I don't have an exact percentage, but all the offices, computers, lights, treatment equipment will be operated by this facility over the course of the year.

*****: Everything but the actual pumps.

*****: When the pumps kick on it greatly overwhelms the solar.

Leonard: We have to notify p.g.e. when we kick on our pumps to prepare their system to provide that amount of power.

Peters: And at epcc, it will produce about 12% of what's needed for the aquatic center.

Potter: 12%?

Peters: Yes.

Potter: What is the cost on those two operations then to provide this? Do you eventually get it back? Do you get tax credits?

*****: We have a presentation.

Leonard: Those are excellent questions, but --

Peters: We do have it covered. We have a short power point presentation we'd like to give you at this point in time. I'll first start we are excited to be here today to present these solar power generation systems. Two of them that are being done for the water bureau and for the parks bureau. I'm david peters with the water bureau, and i'd like to start there with introductions.

Stewart: I'm mike stewart chief engineer of the water burau.

Zalane Nunn, Portland Parks and Recreation: Zalane Nunn with parks bureau.

Peters: And we have several other folks in the audience that are with us today that have been invaluable inputting this project together. We have sandra walden with commercial solar ventures if you want to stand, dave tooze with the office of sustainable development, and lisa pederson with sera architects that have also joined us today. We're here with the two ordinances to approve all the agreements necessary to make these two projects come to life, so that's what we'll be asking for at the end is your approval of those agreements. I wanted to make one statement before we move into

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the presentation itself. This is just the first step in a wider use of solar within the city. The water bureau has also taken the lead in developing citywide r.f.p. where we're working with parks, maintenance, bureau of environmental services to fit together an r.f.p. That will be coming out in november for further projects that will be done in 2009. So these are just the first two out of the box to get started with.

Stewart: So in some respects we're kind of like the third grade class that came and talked with us this morning. This is the fourth grade of solar venture school.

*****: [laughter]

Stewart: We're hoping to graduate to high school one of these days. Why solar? Both under the direction of both of our respective commissioners early in their supervision of the bureaus, they encourage us to adopt alternative energy strategies, which we've been working on. The water bureau has our biodiesel initiative, and we've been searching for a good solar project. Two years ago, in our sustainability plan, one of our requirements in the sustainability plan was we wanted to be able to produce 100 kilowatts by 2010. Our particular project will produce over 200 kilowatts, and if all goes well, we will have it done before 2010. We wanted to figure out how to leverage all the incentives floating around out in the marketplace right now for solar and sustainable projects, and hence the school part of this exercise. So we ought to capitalize on these incentives, and we also, in the end, wanted to own what it was we built so that we gain the financial benefit of it. Why particularly now? Well, Oregon right now is deep into encouraging solar projects of all types. What we have capitalized on here is a whole bunch of efforts across the state. We have energy trust of Oregon supporting that we're doing, Oregon department of energy, the federal investment tax credit which we were all on pins and needles for, because the availability of the tax credit makes this thing an economic enterprise for the investor, and i've got a cute little chart to show you how complicated this is in a moment. We watched as the economy took a little bit of dive, and then we had investor hesitancy. We're not used to having to worry about that, but we have been counseled by our teacher in this enterprise, commercial solar ventures, tube patient, and we were sitting on the edge of our chairs. Portland general electric, who cooperates in hooking whatever we build up to their distribution network, the environmental foundation, a key financial player, and office of sustainable development. There's two other entities that have helped with this that aren't sitting here today, and that is we've had the able assistance of our city attorney's office. This required new contract documents for us and looking at risky things we don't normally thing about and also the bureau of purchasing as we worked our way through a very creative setup for the city. The cute little chart before you is an illustration of how complicated this is. Usually we're pretty simple at the water bureau. It's usually a pretty linear chart. Here you see lots of players, commercial solar ventures, who's skilled at putting the financial arrangements together -- this is so small, I can hardly read the print myself sitting here. We've got commercial solar adventures -- ventures here, the bonneville financial institution, c.s.v., a limited liability corporation that sits in the middle of it, and they're a key player. You can see the rest of the players there. So what we're doing here is learning. In our case, we're also test-driving this small solar project for a much larger one as we proceed with our response to l.t. 2 and if the appeal to congress doesn't play out, we may very shortly be building a u.v. Plant up in the watershed, and it's our intention to plant a 35-acre solar well field or solar cell field, photovoltaic cell field, as you choose, up in the watershed that will completely offset the power that's required for the u.v. Plant, which is substantial, about four megawatts. This is kind of a training exercise for us. Other benefits that we will receive from this is we're putting an investment in the local economy. I note that there was a big groundbreaking ceremony in salem by sanyo to build the solar cells down in beaverton or -- excuse me -- salem. We used local consultants and local contractors to build these projects, and so I think it's a good deal all around. We're being sustainable and are supporting our local community.

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Peters: Previously one of the advantages of the program that we have set up here for these projects is that each bureau will have ownership of the facilities. After about six years, those facilities will be turned over to the bureau, and then we will, from that point on, have the benefit of having the electricity generated from those facilities simply for the cost of our operations. And what we found for the water bureau is that, over the life of that facility, which is anticipated will be about 30 years, we would have an offset in electric costs of about \$1 million.

Potter: Is the offset the same as a net savings?

Peters: Yeah. Yes, it is. It means we will not have to buy a million dollars in electricity over that period of time. The picture in front is an aerial view of our pump water site. That's airport way in the north and the columbia slough to the south of that property. The area in red, we have about an acre and half that has been unused up to this point in time. With the current design for the photovoltaic solar system, we have shown there what the panels will look like once they're installed on the site. These panels will be mounted on the ground. They'll be sitting just a few feet above the ground surface. This is an example of a two megawatt facility installed in colorado to give you an idea of what that ground-mounted facility may look like in the end.

Nunn: The parks project is a little different in that it is a rooftop installation on the aquatic center that's currently under construction at Portland community center. Thanks to our partners, parks will not or the city will not have any cost for construction of this project. It will then generate power, and it will heat the water, what should be considerable savings to the city in utility costs over the term of the agreement. Another added benefit is that, because of the installation of this solar facility, we should be able to achieve platinum leaf status at the aquatic center. The epcc project should be completed bid end of the year. The waters project should be done in the first quarter or so of 2009. Like david said, parks is also really excited about the opportunity to do future projects like this, and we thank you for your continued support. Projects like these are great examples are private/public partnerships, like you were saying. In this case, it enables us to meet some of our city sustainability goals and do a project we probably otherwise wouldn't be able to do. We'd like to thank both water and parks. Some of the partners, nug the energy trust of Portland, Portland general electric, and private investors, sandra walden for her heroic efforts to pull all this together, pull the partners together and coordinate every facet of this project.

Stewart: I think it's safe to say she's actually the brains of this enterprise.

*****: Yeah.

*****: [laughter]

Stewart: So commissioner fish always likes to ask what do we want from you. We hope you vote yes naturally on the two ordinances. Thank you. Any questions?

Potter: Questions from the commissioners?

Leonard: Just thank you for the great work on this. This is another exciting project, mike, that you're shepherding through, so I appreciate you and dave peters doing such great work on this.

Potter: I was looking at the news the other night and saw, I think, p.g.e. was putting up some solar panels on a building, but the solar panel itself rolled out. It was so thin that they had rolled it up, and it rolled out rather than being the fixed larger models? They said that was the latest technology.

Stewart: What we're putting up is fixed panels, but there are lots of creative panels out there. They're actually manufacturing things that are akin to roof shingles that generate power. Once they've tied the technology down, they can do amazing things with bedding and gel and so on.

Stewart: The glass ends of the building in china are photovoltaic. It's really amazing.

Potter: This will be the panel version of the photovoltaic?

Sandra Waldon: Mayor Potter and the commission, sandra waldon. Just to answer your question about that, the thing you're referring to is actually not a very efficient production medium, so the panels that we're installing at the ebcc project meets the production requirements that give them the

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12% for their lead requirement. It bumped them from gold to platinum. That's why we're using that. Also the thin film is a relatively new technology. It's been around for a while, but it hasn't been around long enough to meet the acid test for a lot of investors who are not particularly willing to take the new product risks. So that's another reason that the ground water will have a more traditional panel.

Stewart: And that's why she's the brains of this operation.

*****: [laughter]

Potter: Further questions? Thank you, folks. Do we have folks signed up to testify on either of these?

Moore-Love: No one signed up.

Potter: Anybody here who wishes to testify to either 1438 or 1439? Please call the vote on 1438.

Adams: Very innovative, really smart and green. Congratulations, commissioner Leonard and Saltzman for continuing to push the green agenda on the ground. Thanks. Aye.

Fish: I'm pleased to vote aye.

Leonard: And thank you again to dave and mike for grabbing this by the horns and runs with this. Done a great job. Thank you, aye.

Saltzman: Well, I again want to thank sandra walden of commercial solar ventures for truly being the glue that held these projects together and bringing the investors to the table. I know, in recent months, i've been put on the phone to call several lending institutions to see if we could get them to come to the table. I think it probably wasn't the ones that we actually called, but we ultimately reached success because these projects needed to be started by the end of this calendar year in order to get the tax credits. I also want to thank zalane nunn. Portland general electric's been an amazing partner on this for the east Portland community center. They have helped out hinkley, a staff member of mine, in making this happen. Last but not least is our office of sustainable develop and dave tooze for making this project go forward. Dave is really the go-to guy here in the city to draw those complicated drawings that mike stir showed us. I'm sure dave, too, probably has had a hand in this. I've been told, as daylene said, that the east Portland community center we will achieve platinum, which is the highest rating, and i'm told, on this air after firsts for Portland always, that this will be the first platinum-rated pool in the united states. In the world. Excuse me. In the world. Anybody challenges us on that, we're sticking to that story.

*****: [laughter]

Saltzman: So great work by all and meeting these deadlines, it's been really good, and this is important stuff and an important direction for our city to continue to invest in. Aye.

Potter: Aye. Please call the vote on 1439.

Adams: Aye. **Fish:** Aye. **Leonard:** Aye. **Saltzman:** Aye. **Potter:** Aye. Please read 1442.

Item 1442.

Leonard: Robert king is here and dave benson. After our meeting last week, mayor Potter, where we had a discussion about focuses on attempting to eliminate as many as practical to speed up the hiring practice, robert king invited me to come to the p.p.a.'s executive meeting on friday. I did, and we had a robust discussion that i'll let robert speak more to.

Robert King, Bureau of Police: I'm robert king, president of the Portland police association. I just wanted to say this is officially my last time i'll testify before the city council as the president. I've enjoyed my eight years working with each of you. Through issues just like this one. Your coming to the board on friday was important. What I understand from last week and the conversation we had on friday, you're attempting to bring energy and momentum to a really critical issue, and it's essentially recruiting and staffing in the Portland police bureau, and we heard you say is that you're looking to find ways to improve the process that brings people in, puts them through training, and gets them on the street so that we have the officers that we need on the street to do the job every day and the budgeted positions that you all in the city council have provided for are filled.

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We appreciate and understand that and agree with both of those sentiments. Ultimately the executive board, I think, indicated that reducing the probation period in this agreement to six months alone didn't solve enough of the problems or address the issue in the way that satisfied all their concerns, and so therefore they said they preferred to stay with 12 months in this case but that it was in no way an indication that they were unwilling to work with you or the city council or the chief of police to find ways to accomplish both of the goals that I already talked about: Bringing more people n getting them on the street, filling budgeted positions.

Leonard: Great. I think that's a great summation. We had, as I said, a robust discussion, and I came out unscathed fortunately, and it was clear to me from our discussion that there were a number of issues that weren't directly related to this subject that influenced how at least the executive board was reacting to the proposal to reduce the probation for the officers that came over from Multnomah county from 12 to six months. Just to be clear about that, in listening to the frustrations that were articulated to me about the lack of meaningful discussions with the administration, with even the city council of which i'm a member of about issues that are important to them, I came away having a better understanding than I would have otherwise why what I would have originally thought a decision to try to improve the number of people on the street to help with safety and workload was not going to be agreed to in that narrower context but rather the members wanted a. Broader discussion of which obviously I don't have the ability to do. Had I -- I heard some things there that I agree should be resolved. Sleep deprivation, for an example. I think we should have a policy that's adopted on sleep deprivation that allows, after a certain number of hours of being on duty, a minimum number of hours off. I think that makes sense, and i'm sorry we haven't been able to resolve that up until now. So I will be asking the council to revert this back to 12 months in that context and want to close by saying that I was a wear, before you mentioned, this would be your last time here. I've told robert a number of times that I think it's appropriate for me to say here I have a long history in union politics, dating well back into the '70s, and I have never worked with a more effective unit president, including fire unit presidents. And knowing our historic friendly competition between our professions, I hope you appreciate what that means. And in my view, you are the model by which people ought to look at themselves if they want to be an effective advocate, knowing the fine line bean advocating and then crossing over to being offensive not one all of us always figured out in our careers in union leadership. You have mastered that in a way I have never seen before. And the city will be poorer for your not being at the helm anymore, but I am also heartened to know that you have recently taken a professional exam and done rather well. I look forward to seeing you with two bars on your collar here soon.

King: Thank you.

Leonard: And I know that your focus has always been the police bureau. And I wished everybody I dealt with over there had that as their frame of reference. More than just union leaders could learn from how you've conducted yourself. A I think you have a future at the police bureau that's only limited by your own personal desires.

King: Thank you.

Leonard: And I look forward to seeing you in future leadership positions and to be watching you from afar over here and regret that I won't be able to work with you, as I had hoped, but I am looking forward to maintaining the friendship you and I have developed.

King: Thank you. I look forward to that as well.

Leonard: Thank you.

Potter: Questions? Do we have anybody signed up to testify on this matter?

Moore-Love: This is a second reading. We did not have a sign-up sheet.

Saltzman: Before robert leaves the table, i'd also like to echo the comments of commissioner Leonard and say it's been a pleasure working with you over the many years. Certainly we haven't always agreed, but I think you've always been a reasonable person and have always strived for, I

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think, achieving results for thorny issues which crop up quite a bit. So I am sorry to see you leaving your union position but I feel comfortable knowing you'll be back out there protecting us. Thank you very much.

*****: Thank you.

Potter: We need a motion to amend.

Adams: So moved.

Fish: This is a second reading. Could we just get the guidance of the city attorney on this?

Potter: It's a second reading. We make a moment, amend it, and it goes to -- since it's a nonemergency, it goes to a second reading next week.

Fish: Since it was originally a 12 month and was amended, if we undid that, could we vote on it today?

Walters: Is the sense of the motion -- there's not a motion pending --

Fish: If we made a motion to revert to the original matter that was before us without the amendment, could we vote on it today as a second reading or would we have to put it over to a second reading?

Walters: If the motion is merely to add back the 12 months and have this remain as a nonemergency, then it would be continued to another reading next week. If the motion was to go back to the original language and have both a 12-month period and an emergency clause, then it could be voted on today.

Leonard: So moved.

Fish: Seconded. Please don't make him say it again.

Potter: Call the vote.

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

Potter: We are voting both on the emergency as well as the returning it to the 12 months. Correct?

*****: My understanding of the motion is that the amendment is to restore the ordinance to its original language, 12 months and an emergency clause.

Potter: Vote aye. Administrative now we vote on it. Right?

Adams: Now we vote on the amendment. Don't go anywhere, robert.

Potter: Please call the vote.

Adams: Robert, I want to thank you for your service in the capacity as, I think, one of the most innovative and problem-solving union leaders that we've had, and i've enjoyed getting to know you and consider you a friend and look forward to working with you in your new capacity. So aye.

Fish: I'll just say, robert, that commissioner Leonard said everything that I would have said with the exception that, while he says he has deep roots in union leadership position to the '70s, actually I think you and I first got to know each other because, as an attorney, I represented someone who might have been in conflict with the association. So the fact that we have developed the kind of relationship we have since then underscores what randy says about the kind of person you are, and I have cherished the times we've gone out for coffee or lunch, and we've talked confidentially and directly about issues of mutual concern. I've enjoyed past endorsements and even nonendorsements, even enjoined what i've been endorsed but wasn't actually endorsed.

*****: [laughter]

Fish: I don't have enough history to put you in the pantheon, but I will simply say I consider you a friend and someone whose advice i've come to respect greatly, and you will be missed but i'm delighted you'll continue in another capacity with our bureau. Aye.

Leonard: Aye.

Saltzman: Aye.

Potter: Aye. I have to get to a meeting, and i'm turning it over to the president of the council --

Saltzman: Item 1443.

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Item 1443.

Potter: Welcome.

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

*******:** Give us your name.

Anne Holm, Revenue Bureau: I'm anne holm from the revenue bureau regulatory program administrator. Our bureau is responsible for the administration of the pay and park program under city code section 7.24.020. Pay and park and nonpay to park facilities are private businesses. But if the operator wants to monitor the facilities and issue penalty notices to vehicles that are parked without authorization or beyond the time they've paid for, then the facility must be registered with the city through the revenue bureau and the facility and the operator must comply with the requirements of 7.24.020. The amount that a registered owner can be penalized is specified in this code section. It's now \$16 that can be doubled to \$32 if it's not paid within 30 days. There are currently 141 registered facilities. About a year and a half ago, the bureau received a memo from the mayor's office endorsing earlier recommendations that the amount of the penalty be indexed to the overtime parking penalty set by Multnomah county and that the lot registration fee be increased. Those are two of the major changes in the ordinance before you today. The amended chapter will also require the registered operators to have parking expiration times printed on valet tickets and will give a recipient of a penalty notice 10 days to pay the penalty before an additional fee can be charged to recoup the cost of obtaining registered owner information from d.m.v. Exhibit a was posted on the revenue bureau's website in august and was mailed and emailed to all city pay and park registered operators. Some minor changes were made in response to feedback. Two emails of support have been provided with your packets, and i'd be happy to answer any questions you have.

Adams: I'm prepared to support this, but I do have a question because twice in the last month the same thing has happened which is i've parked in one of the lots that would be covered by this. There's been no attendant, and i've used a pay -- an electronic box where you put your card in and you're waiting for a printout but it then goes in the front of your dashboard.

Fish: In both instances, nothing printed. And so, if you believe that you've paid but, for whatever reason, the box is inoperable, what is your remedy if you get a ticket?

Holm: You could call me.

Leonard: Take a bus.

Holm: They post signs at the lot near those payment machines that say, if the machine does not issue a ticket, don't park in the lot. There are difficulties with the machines, and sometimes is the way a person puts their card in. Sometimes it's a machine problem. We haven't been able to come up with a good solution for -- you know -- just not paying to park when the machine does --

Fish: I understand that the default would be that the person parking gets stuck with the tab, but I would think, just in terms of our oversight of these lots, if we could inquire as to what the problem is as to why you don't get a receipt -- because we are actually trying to encourage people to use them. And twice in the last month i've been in a lot where it processed, so I believe I got charged, but I did not get a printout. These are not city dispense service coordinations. These are at other lots. It's a little frustrating.

Holm: And so did you park there? Those are the kind of complaints that come to the bureau that I mediate with people. So I would be happy to talk to you about it.

Fish: I wasn't fined. I did park, but it struck me as odd, so i'll follow up.

Saltzman: I would just add, on commissioner fish's point there, it does seem kind of -- people are usually rushed to get somewhere if they're going downtown to get to a 7:00 show or something like that. To get up there, pay, and then be told or to read on the sign i've got to go park somewhere else isn't very realistic.

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Holm: Yeah. That's the policy. And because they are private businesses, we see a limit to how far we can go with -- I mean, you can imagine that, if not having the machine work or it apparently not working as a way out of paying, then there could be some pretty serious abuses of that as a way out.

So the compromise for many years -- i'm not sure how long, but the program's been in place -- the program's been in place since '83 and I think these signs have been posted this way for a long time that, if the machine doesn't give you a ticket, you should just go somewhere else if there isn't an attendant there that could help you.

Fish: Just for the record, I did not take out my frustration on the box in any instance. Any damage done, I would defer to someone else.

*******:** There was a construction area, and some people did get mad and hit the machine with some hammers.

Saltzman: I'm sure that wasn't the commissioner. Thank you. Anybody signed up or wishes to testify on this?

Moore-Love: No one signed up.

*******:** I can really clear a room.

Saltzman: It goes to a second reading then. Item 1444 is a second reading. Please call the roll.

Moore-Love: I'll read the title.

Item 1444.

Saltzman: Please call the roll.

Fish: I'm going to vote aye, but i'd also like to acknowledge my friend, gary gaten, who is a distinguished visitor from seattle who is here. Gary, welcome to our city council. Aye.

Leonard: Aye.

Saltzman: Aye. Ok. We are adjourned until 2:00 p.m.

At 11:56 a.m., Council recessed.

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

OCTOBER 22, 2008 2:00 PM

[roll call]

Potter: I would like to remind folks prior to offering public testimony to the city council, a lobbyist must declare which lobbying entity they are authorized to represent. Please read 2:00 p.m. time certain.

Item 1445.

Potter: Do any members of council have ex parte contacts to declare or information gathered outside of the hearing to disclose?

Adams: I was at a function and a representative of the developer shared with me his feelings on our tentative decision, and I nodded and backed away slowly.

Potter: No other council members have ex parte contacts to declare. Do any members of council have questions or preliminary matters that need to be addressed before we begin the hearing? As I was not in attendance at the hearing I will be recusing myself from voting on this matter. Council has before them findings. I need a motion to adopt the findings and deny proposal of haertl development company applicant and colwood partnership owner and uphold the recommendation from the hearings officer for denial of a comprehensive plan map amendment and zoning map amendment for colwood national golf course, located at 7313 northeast columbia boulevard.

Adams: So moved.

Potter: Second.

Fish: Second.

Potter: Ok. Karla please call the roll.

Adams: Aye.

Fish: I had a chance to put my substantive comments on the record at our last hearing, but I just wanted to read briefly from the following report. Quote -- the remaining great landscape feature of the city is that of the columbia slough. Which border the eastern part of the city on the north. The region is low and distant from the city and seems to be at present comparatively valueless for any other than farming purposes. It is therefore to be hoped that a much larger park of the meadow type than can elsewhere be afforded will gradually be acquired here by the city. It goes on to say, "it may seem to your citizens a decidedly foolish proposition to secure large areas of land for a park in the columbia slough district. And some explanation of the purposes to be accomplished is therefore called for. The report goes on to say "no other form of park has been proved so attractive and so useful to the masses of the people as a meadow park, particularly where there could be associated with it long stretches of still water as a landscape attraction and for boating purposes. The report goes on to say "to properly provide for the future in the matter of a meadow park it is necessary to secure many hundred if not several thousand acres, and it does not appear there is any better or more economical place to make this provision in the neighborhood of a city than along the columbia slough." and the report concludes "it is possible that golf, the sport of golf, may not retain its popularity for so many years as to be permanently provided for. Yet as this large park would be able to provide". I'm quoting of course from the 1903 olmstead report which addressed the question of the possible use of the land adjacent to the columbia slough. We have a historic opportunity through this vote to honor the vision of olmstead over 100 years ago to maintain the current

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designation of open land and in my judgment, to correctly apply the law to the facts before us. Aye.

Leonard: Aye.

Saltzman: Aye. [gavel pounded]

Potter: Next issue to be heard is a 2:30 time certain, which will be in nine minutes from now. We'll take a short recess and be back at 2:30.

At 2:21 p.m., Council recessed.

At 2:38 p.m., council reconvened.

[roll call] [gavel pounded]

Potter: Please read the 2:30 time certain.

Item 1446.

Potter: The city attorney's office will describe the hearings process.

Shane Abma, Sr. Deputy City Attorney: This is an on the record hearing. This means you must limit your testimony to material and issues in the record. During this hearing you may only talk about the issues, testimony, exhibits, and other evidence that were presented at the earlier hearing before the hearings officer. You cannot bring up anything new. This hearing is designed only to decide if the hearings officer made the correct decision based on the evidence that was presented to him. If you start to talk about new issues or try to present new evidence today, you may be interrupted and reminded you must limit your testimony to the record. We will begin with a staff report by the bureau of development services staff for approximately 10 minutes. Following the staff report, the city council will hear from interested persons in the following order. The appellant will go first and will have 10 minutes to present their case. Following the appellant, persons who support the appeal will go next. Each person will have three minutes to speak to the council. This - - it is going to be three minutes? Or two?

Potter: I have to find out how many folks have signed up to testify. Karla? That will determine whether it's three minutes or two.

Abma: This time limit applies regardless of whether you're speaking for yourself or on behalf of an organization such as a business association or a neighborhood association. The principal opponent will have 15 minutes to address the city council and rebut the appellant's presentation. After the principal opponent, the council will hear from persons who oppose the appeal. If there's no principle opponent, the council will move to testimony from persons who oppose the appeal after supporters of the appeal conclude their testimony. Again, each person will have three minutes each whether you're speaking for yourself or on behalf of an organization. Finally, the appellant will have five minutes to rebut the presentation of the opponents of the appeal. The council may then close the hearing, deliberate and take a vote on the appeal. If the vote is a tentative vote the council will set a future date for the adoption of findings and a final vote on the appeal. If the council takes a final vote, that will conclude the matter before the council. I would like to announce several guidelines for those who will be addressing city council today. First, this evidentiary record is closed. Again, this is an on the record hearing. This means 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. You may not submit new evidence today. If your argument includes new evidence or issues the council will not consider it. And it will be rejected in the city council's final decision. If you believe a person who addressed city council today improperly presented new evidence or presented a legal argument that relies on evidence as 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

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person has raised issues today that were not raised before in front of the hearings officer, you may object to the council's consideration of that issue.

Potter: Thank you. Do any members of the 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 any ex parte contacts to declare or information gathered outside of the hearing to disclose?

Saltzman: I have an ex parte contact, probably over a year ago I met with reed college's president, I think it was our first meeting, and this was certainly something ha came up more or less in passing.

Adams: I've met with the neighborhood association where this issue was discussed among other issues of concern to the neighborhood, eastmoreland neighborhood. I've met with reed college president, and staff who -- as part of issues relating to reed college, and its relationship with the city. And walking door to door in the neighborhood as a candidate I had a number of residents in the area express their opinion to me.

Leonard: And I too have met with the president of the reed college in the same period commissioner Saltzman did and also one of the advocates in the neighborhood.

Potter: Any members of council have questions or other preliminary matters that need to be addressed before we begin the hearing? How many people are signed up to testify.

Moore-Love: We have six people on each side, six who oppose and six who support the appeal.

Potter: Ok. We'll limit the time at three minutes per person. Staff, please come forward. You have 10 minutes and state your name for the record.

Sylvia Cate, Bureau of Development Services: Good afternoon, council. I'm sylvia. The assigned planner for this review. Before I get started, i'd like to remind council that the 120-day clock has been extended by the applicant until next wednesday, october 29th. In addition, besides myself, my colleague bob haley representing Portland transportation, is here today as well to answer any questions council might have regarding transportation issues. Reed college proposes to amend their current master plan with major amendments, which include an expansion of the master plan boundary, a list of potential development projects that may occur over the next 10 years -- thank you. And identify potential building sites on the campus. Amendments also include revising the maximum student enrollment cap and the reconfiguration of parking on campus to relieve pressure on the east parking lot which at times gets full and results in spillover parking into the neighborhood. However, the most significant request by reed college is a proposal to change the use of the parker house from residential to a college-related institutional use. This change requires a conditional use approval. The parker house is proposed to be use for college-related meetings, formal breakfast, luncheon and dinner mediums, small to medium college related social gatherings and occasional larger events. The college has proposed to make the facility available to neighborhood community options for meeting as a community service. This proposal is the most significant element included in the college's proposed update of the master plan. The proposal for the parker house is generated both support and opposition by neighbors to reed college. At the hearing the college submitted additional materials that included clarifications and revisions to the original proposal for the parker house, most importantly, a reduction in the number, frequency, and scale of the events. The hearings officer approved the master plan amendments and specifically approved the conditional use request for the parker house based on a sickly reduced schedule of events, activities, and number of guests. The hearings officer imposed 17 conditions of approval governing the operations of the parker house, which includes a condition that requires the college to construct frontage improvements along southeast woodstock to provide for a two-vehicle loading/unloading zone which pdot also supports. The other conditions of approval require limited hours of operation, landscaping, maintenance, keeping logs of guests and events, grievance process, neighbor and neighborhood notifications, and most importantly limiting the number of guests and events that can occur on a daily, weekly, monthly, and yearly basis. Most of the amendments

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proposed for the reed college master plan are campus projects such as the addition of more student housing and other academically oriented amenities. The eastmoreland neighborhood association voted to appeal a portion of the decision that grants conditional use approval of the parker house as a college-related meeting and event venue. The majority of the campus lies within the multi-dwelling r2 zone. It is bisected with environmental zoning that follows reed canyon and crystal springs creek. A portion of the campus to the east is zoned r5 and the northwest corner of the campus is zoned neighborhood commercial two. Directly south of the main campus near southeast 28th and woodstock is the parker house, which is zoned r7 and has a comp plan map designation of r5. The main campus is divided by crystal springs creek and reed canyon, which creates the north and south campuses. The north campus primarily consists of open green space with formal playing fields, newer dormitories, and associated parking lots. The south campus includes the main academic quad, student housing, the library, auditorium and the west parking lots. The parker house is across southeast woodstock from the main campus directly south of the former president's house, now known as prexie, and is approximately two to 300 feet from the west parking lot. The college proposes to expand the approved master plan boundary to include additional properties that have been acquired since the last master plan update, plus identify areas of potential future expansion which are identified by the blue boundary lines on this map. The college also identified various areas on campus as potential building sites for proposed projects that may be developed during a 10-year term of this master plan. The hearings officer approved these development projects. The college also proposes to expand the master plan boundary to include the parker house, which was acquired in 2004 and renovated extensively. The college request conditional use approval to change the use of the parker house from residential to a college-related use with the parker house serving as a meetings venue. West from the main entry to the campus is the west parking lot. The parker house is directly south of that and is accessed from the west parking lot by a sidewalk. The college proposes to manage vehicle traffic and parking associated with parker house use by requiring all visitors and guests to park on campus and arrive on foot to the parker house. Most of the meet cans and smaller events are anticipated to be attend by faculty, staff, and students who are already on campus and will simply walk from the main campus to the parking -- parker house. Off campus visitors will be directed to park in the west parking lot and walk over. A large stairway takes the pedestrian up to the parker house, the main lawns at the back of the building, which we see here. On-site pedestrian pathways allow guests to circulate around the house to a main patio area, which we see here, and then to the front door, which faces southeast eastmoreland lane. The parker house faces southeast eastmoreland lane which is an unusually narrow street. The parking and traffic management plan proposed by the college and row viewed by Portland transportation includes a number of strategies to keep the parker house traffic off of moreland lane except for some deliveries, which will be received in a driveway. Conditions of approval in the hearings officer's decision include additional measures to ensure that traffic impacts on moreland lane are minimal. As I mentioned before, due to the narrowness, moreland lane, the hearings officer found it appropriate to require the college to construct a two or three-space loading zone along southeast woodstock next to the parker house. The college's transportation consultant submitted commentary and a conceptual plan for the loading area along southeast woodstock for vehicles servicing the parker house. This indentures any valley parking shuttle buses or small deliveries will not occur on southeast moreland lane. The hearings officer found all of the proposed amendments and "for the change of use of the parker house made all applicable approval criteria with conditions of approval. The crux of this application is of course a request for the parker house and it's that portion that the neighborhood has appealed. After publication of the hearing's decision that was determined that the findings incorrectly attributed a quote in opposition to a citizen who in fact is supportive of the proposal. The hearings officer has requested that this error be corrected in the final decision by city council. As mentioned earlier, the college submitted a number of

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revisions and clarifications to their proposal which included significant reductions to the activities principled for the parker house. Conditions of approval require parking and traffic management strategies to ensure that guests arrive on foot or if accommodated by a valley parking or shuttle bus, activities occur on southeast woodstock. The hearings officer placed conditions that limit the number of people. At first glance these may appear confusing, but when applied as written various thresholds result in limits -- intensity of the use is moderate. The examples of schedules that the college submitted into the record indicate that the college --

Potter: How much more time do you need?

*******:** Two minutes.

Potter: Ok.

Cate: The schedules the colleges have submitted into the record indicate that these thresholds are at the maximum of the amount of use they envision for the parker house. The hearings officer also placed conditions that limit the hours of operations for the events so that the activity that the house will not be disruptive to the immediately surrounding residential neighbors. The eastmoreland neighborhood appealed the decision and listed a number of code citations they feel were not met by the applicant. The first three you see before you are all required components of the master plan which must be submitted with the application and i'd like to note that both the staff report and the hearings officer's decision found that these components were adequately addressed in the application. The eastmoreland neighborhood also noted multiple conditional use approval criteria were not met. Of the ones listed on the screen, would I just like to note for you that the first citation 815.010 is not an approval criteria but rather the purpose statement for the conditional use chapter. The neighborhood also feels the conditions of approval imposed by the hearings officer are not adequate and do not provide medication for the significant impacts that will result from the conditional use of the parker house. The slide and the next summarize the language of the approval criteria that the neighborhood feels have not been met. In general the appeal statements expresses the broad themes that the conditions of approval are not enforceable and therefore do not provide any mitigation for the impacts anticipated from the use of the parker house. Finally, the neighborhood association states that the traffic management and parking analysis failed to address safety issues parking impacts, spillover parking in the neighborhood and overall the proposal and conditions of approval imposed by the hearings officer failed to meet the approval criteria. This concludes staff's presentation. I'm happy to answer any questions now or return after you hear testimony to provide clarifications or answer follow-up questions at the council -- that the council may have.

Potter: We'll wait until the presentations are complete and then bring you back for questions.

*******:** All right.

Potter: The applicants please step forward -- appellant, please step forward. You normally have 10 minutes. But as city ran over, you get an additional 2½ minutes as well.

Mike Fisher: Thank you. I don't think i'll need it. My name is mike fisher. I'm the vice-president of eastmoreland neighborhood association. I'm here today as the spokesperson for the neighborhood association. I know you have considerable demands on your time and resources but I hope you have been able to review the application and the decision of the hearings officer and are able to review our written submission before you make a decision. We are of course here to appeal the hearings officer's decision regarding the reed college master plan, specifically the portion that details use of the home at 2840 southeast woodstock boulevard, now called the parker house. Additionally we expressed our concerns in the public hearings officer about the incompleteness and ambiguity and inconsistencies in the overall master plan and we still have concerns about those. However, we lack the funds to retain professional traffic engineers, planners, and attorneys to continue to pursue our concerns about the increase in student enrollment and the fact that there are no limits placed on the overall population of the campus as the plan is now written. We have

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addressed this in detail in our written submission. On to the parker house. We have opposed the nonresidential use of this home since we first found out about the proposed change from residential to college-related use in april of 2005. We are still concerned. In fact, we're so concerned, when we called an emergency meeting of the board on september 16th to consider the hearings officer's decision, 11 out of 14 board members were able to attend. The vote to appeal was 10-0, with only our newest member abstaining. That should give you some indication of our level of concern with this issue. When I started preparing this argument, I was unsure where to start. Then it hit me like a ton of bricks. There are over 40 individual conditions attached by the hearings officer. A reasonable person might think that if the hearings officer has to attach over 40 conditions, there might be something fundamentally flawed with the plan to begin with. We are not going to argue that some use is not workable. Hearings officer simpson and hearings officer franks stated in their decisions that with the proper level of use and controls, some use could be accommodated and at loud. Clearly, that sets precedence that the hearings officers believe that some use is acceptable. We accept and agree with that decision. The differences that mr. Frank in his decision of august 3rd of 2006 denying use of the parker house decided that he would rather the college return with a new application for use of the parker house than time pose his own conditions and restrictions. Mr. Simpson decided to take an option available to him and to approve this change of use by adding over 40 conditions. In fact, if you examine the staff reports for this application, and for the previous application, even the city planning staff can't seem to come up with a firm conclusion. The planning staff recommended in 2006 that a plan allowing more use than the current plan be approved, but in 2008, recommended that the current plan be denied even though it called for less use. Then when the college came in the morning of the hearing with a new plan, the city planners decided it was then ok. P we believe that shows what a troublesome decision this is for everybody. So the question is now not whether or not the use will be grand, it is how much use will be granted and what protections will be given to the neighbors to ensure that the livability of this neighborhood is maintained at the level it is now and that the burden of compliance and monitoring be placed with the college and the city and not on the neighbors. In our written submission we have addressed the areas of code we believe are not satisfied by this plan or the conditions. We indicate a generally what these areas are in our appeal application, and I would ask that you read our written statement for details. The details we haven't been given the time toll address here. I would like to address one specific code area in this testimony. According to code section 33815105, the burden is on the college to prove that the use of this home would not significantly conflict with the appearance and function of residential areas. However, the use proposed does significantly conflict with the appearance and function of our residential area. 450 people per month. 5,400 people per year. Use allowed every day, up to three individual events per day. If you use the numbers put in place by mr. Simpson, you could conclude that in any given week, the home could be use on saturday from 8:00 a.m. until 11:00 p.m. for an outdoor party of 75 people, then again on sunday from 11:00 a.m. to 10:00 p.m. for another outdoor party of 75 people, then every day monday through friday the following week until 11:00 p.m. for evening events. Code section 33.815.105a says to comply the overall residential appearance and function of the area will not be significantly lessened. How does use of this size not significantly lessen the appearance and function of the area? The appearance and function of the area is a residential neighborhood and a place for people to make their homes, not a location for a quasi convention center. This one failure to address code is by itself reason enough to reject this plan. Again, we have addressed other specific concerns about the specific conditions in our written submission. Let's consider what might work and what plan you could ok or course could you take to get this issue behind us and for all parties to move on. One of the more serious issues that have come to light in this whole process is the fact that the college falsified information on their building permit application. The college stated on their permit applications and the record has copies of the permits and subsequent emails between city staff that the use of the parker house

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would be for the residents of the president of the college. This fact has been ignored by the city staff and the hearings officer, it has a significant importance on this whole proceeding. According to city code 24.10.070j, change of use must be approved before construction permits can be issued. Several officials at the college have stated several times to the neighborhood association that the home was never going to be the home of the president. Yet the college told the city several times the home was to be used as the residents of the president and all building permits issued were for residential construction. So all the testimony about how wonderful a job the college did on the remodel should be disregarded and the fact they have poured a large sum of money into this house is basically an unfortunate action on the college's part. In fact, we should still be deciding whether or not this is an appropriate use and no construction work should ever have been done on the Parker house based on the fact that indeed, a change of use was the intent. That is what the code says. This is very relevant to what the appropriate use should be. Something that approximates residential use. Something that approximates the use as if the president of the college were to live there. Not 450 visitors per month. Not 5,400 people per year. Not daily use. The president of the college has always lived in the Eastmoreland neighborhood up until this point. He has used his home to entertain staff, faculty, visiting dignitaries, and the like, with very few disruptions to the neighbors or complaints from them. But not every single day and not certainly to the magnitude this plan requests. This historic type of use is the type of use we can endorse and in fact have suggested and proposed. The hearings officer chose not to incorporate our suggestions into his plan. We believe that a use like this could be accommodated with vigorous enforcement by the college and the city of the condition set by the hearings officer, without this disrupting the normal lifestyles of the residents of Moreland Lane and the Eastmoreland neighborhood. We believe that a use closely approximating residential use could meet code with just a few conditions. First allow a use by the college of the Parker house that would approximate residential usage in the number and frequency of events, and the number of attendees using historical data from the previous presidents' homes as a baseline. Second, allow this use as a standalone conditional use and not include the house in the boundaries of the college nor in the master plan. Third, require an annual type three hearing and review for continuation of the permit for such information as the reports of the standing committee that the hearings officer established in his decision could be reviewed, as well as the testimony of neighbors and college officials. The review of any code compliance issues, and review of the Reed safety officers' logs. The stand alone use and reviews are the keys here. These two things provide the protection to the neighbors that the master plan and conditions do not and put the burden of compliance where it belongs, on the college and the city. Once the home is included in the master plan and the college boundary, the neighborhood has no direction to take except the filing of code compliance complaints after complaint, and the home will never be removed from the master plan no matter what the adverse impact it might have on the neighborhood. It is up to the college and the city to insure compliance, not the residents of the neighborhood. This plan is how that can happen. Not some self-policing, hope everything goes good unenforceable plan. The neighborhood association is willing to participate in mediation, arbitration, or any other facilitated negotiations that the council feels appropriate to determine starting point of use for the Parker house. We hope you will agree with us that the Reed master plan and the hearings officer's decision failed to meet the applicable codes and fails to provide sufficient protection to the neighbors of the Parker house, and that you will consider our proposal as a workable solution or at least a starting point when you make your decision. Thank you for listening.

Potter: We'll now have persons who support appeal. Could you read the first 3 names.

Gretchen Sperling: I'm Gretchen Sperling, I'm president of the Eastmoreland neighborhood association. But I'm really here more to speak to the issue of livability. Today we have an opportunity to continue the long tradition that Portland has established in working and sometimes

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fighting for maintaining the livability of this city. Portland enjoys a national reputation for having kept a viable downtown, but we were in danger of losing very core of the downtown to a business that wanted to keep the property that is now known as pioneer courthouse square as a parking lot. Committed citizens understood that once lost the quality that made downtown special could not be regained with the same vigor. We have an opportunity to remember our mistakes as a city, and learn from them. Urban renewal wiped out south Portland, and a tight-knit jewish community. Emanuel hospital expansion december made an active inner city neighborhood. Both neighborhoods lost family owned businesses and a sense of place that has yet to be recaptured. The application for remodeling parker house by reed was made with a stated intention that it was to be the president's house. This has become clearly untrue, conference rooms and a commercial kitchen don't belong in a single family dwelling in a neighborhood designated as single family homes. We're here today to plead our case as stewards of the land and citizens of this remarkable city which I appreciate nick fish making reference to mr. Olmstead and his commitment. We have demonstrated that sometimes individually and collectively can make a difference. Margaret strong, bud clark, connie mcreedy and all of the other people who started simply to preserve their piece of the world found that in working together and obeying the regulations of the city, we could move into the future with an appreciation of our heritage and including all of its citizens in this community that we call Portland. Might doesn't make right. Once used as a convention center, and an entertainment facility, the genie cannot be put into the bottle, the bell cannot be unring. Perception is everything. Does mistating -- staight intend use on a building permit go without consequence because the offending applicant has political clout and sums of money to defend an action that was wrong at the beginning? Does our liking the applicant color the decision and allow usage that clearly violates written codes? Our neighborhood has taken on this because we have an obligation in partnership with the city to honor and uphold its laws. We ask that you find in favor of neighborhoods because this is really about presoisk what -- preserving what gives Portland its national reputation. Unique livable neighborhoods that we can each call home. Thank you.

Fish: -- we're struggling with this notion of what is the president's house and what are its possible uses. Let me offer you an example. My wife teaches at p.s.u. We were once invited to president bernstein's house. He invited a couple hundred people to come for some reception. My understanding is there were periods of time he did or did not live in the house, but it was considered the president's house and it was in his case it was located near lewis and clark college. Is there -- I want to understand, I was following your testimony very hopefully carefully, is it important -- is it essential that a president actually occupy a president's house and in addition, in light of the role that a president plays, doesn't the house often become used for ceremonial functions like fund-raisers and alumni gather cans and the like in the matter as just a matter of course?

Sperling: Yes. And i'm glad that you brought that up. Because it's not only the spirit and the intention of the use of space. So in terms of the amount of use that they have requested, it is out of bounds that would be considered an appropriate use. And in the past we have had presidents live in the neighborhood who have used their homes in the functions you've described.

Fish: Holiday parties --

Sperling: Exactly. And we are absolutely willing to support that, because that's a level of use that is significantly in keeping with how a president would use a home. And the best of all worlds would be that the president would live in the home. And over the years of talking with reed officials, i've encouraged that they look into that, they offer that as a package when they invite someone to become president of the clenl, that it's actually a bonus to live within the neighborhood. So it's a matter of degree.

Fish: If I may follow up on that, what's the line? How can we draw that line and what's the precedent? You could have a president, for example, that is committed to raising a billion dollars and does a fund-raiser for 250 people every day, and that I could see would have a certain impact.

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Or could you have someone who delegated that function and just lived as a hermitt in their house. How do we determine at what point you reach that tipping point, where it has an adverse impact on the neighborhood?

Sperling: I think looking at the historic use of other presidents' homes as a guideline, and also to consider the impact on that particular home in the moreland lane where it's a very small, narrow lane, that it would have a deleterious effect on not only the lane, but the neighborhood.

Fish: Thank you.

*****: Thank you.

Jim Wygant: My name is jim wygant, i'm a former president of the eastmoreland neighborhood association and a resident of the neighborhood for over 30 years. When reed filed its master plan proposal in 2006, they stated that the student body will grow no larger. That's a quote from their proposal. The student cap was 1325. And they concluded, this is another quote, the 15-year average student population of approximately 1215 may be taken as good indicator of future expectations. That was in 2006. Two years later, this yeerp, they asked the student cap be raised by 45%. The college is expanding and has directed considerable effort to fund-raising. Parker house is a part of that scheme. But parker house is a residents located in a neighborhood that's almost entirely residential, in fact, there are only three businesses in the eastmoreland neighborhood, not counting parker house. Reed would like to argue they have improved the property, then proved it by adding an elevator, multiple phone lines and a commercial kitchen. They did that under false pretenses, as you already heard, having obtained remodeling permit from the city under the misrepresentation that they were remodeling a residence. They now concede they never intend for never one to live in parker house. The argument activities planned for the house are essentially the same as would occur at the president's home is belied by the fact the president will not live there. Parker house should never have been accepted into the master plan, and reed should never have been granted a conditional use permit. Reed presidents have lived in the eastmoreland neighborhood over several decades. One former president still lives there. Their homes were never part of any master plan, and they conducted themselves and their functions in the manner of anyone else living in a residential area. Over several decades, that arrangement worked fine with virtually no conflict with the neighborhood. The conflict that exists now is largely of reed's making. They did not disclose their plans for parker house until it was impossible to conceal them any longer. They held a series of public hearings at which they repeatedly heard complaints about their plans for parker house, but those plans emerged unchanged at the conclusion of those meetings. Reed has reversed the normal process. Building first and asking for permission afterwards. I ask that you remove parker house from reed's master plan and compel reed to conform to existing zoning regulations. Thank you.

Mark Ferrin: My name is mark, I live at 2802 southeast moreland lane, across from the parker house. This proposed conditional use permit would be very bad for the neighborhood. It would detroit livability. I think that should be clear to everybody. I'm just going to make two points here. Most of them have been made before. But first reed college violated the building code in making improvements to the parker house without permits. They clearly consider themselves above the law, and yet the city now plans to reward them for their illegal behavior. The proposed conditional use permit has numerous conditions it must be satisfied by reed. But clearly an entity inclined to violate city code will not hesitate to violate the conditions of the permit. We would be foolish to think they would comply with those. If the city approves the permit, it is tantamount to condoning code violations. Second, reed college and the hearings officer have proceeded with this permit request despite naments opposition from moreland lane residents. So the clenl has no respect for its neighbors. In addition to no respect for the city code. The city also would be demonstrating a lack of respect for its constituency if it approved this permit. How does the permit benefit the city in any way, I would ask. Can anybody answer that question? On the other hand, it would have a serious

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detrimental impact on our neighborhood. We live on a very quiet, peaceful street, and that would be destroyed. So I urge you to overturn this conditional use permit application. Thank you.

Potter: Thank you.

Potter: You each have three minutes.

Richard Pierce: My name is richard pierce. I live at 2916 southeast woodstock. I'm the next door neighbor to the parker house. I live in the pierce house. The pierce house has been there since 1999 when I bought it from reed college. Prior to reed buying the parker house, it was the liliorn house. It has been a residence since was built in the 1920s. I believe in previous testimony you have seen moreland lane, at least I hope you have, and I hope some of you have walked it, because it's a very narrow, irregular lane that could only be done by subdivision over time. The challenge I have with reed is beyond what you've heard today in terms of less than a clear goal for the parker house, has been the fact that they're willing to basically throw the 11 residents that live ajay stoant moreland lane, their considerations have not been adequately addressed in terms of the livability that's been established in that lane since the 1920s. It's a small, very quiet little lane, it's part of eastmoreland neighborhood, but because we're completely cul-de-sacked, it's a segregated part of eastmoreland. The -- my house is literally 25 feet from the front door of the parker house property. I wanted to address commissioner fish's question about, you know, when the -- when does a residence stop buying a residence? I guess I have asked a spouse, and I would ask all of you commissioners and commissioner Adams as to, how many times do you have 40 people a day from 8:00 a.m. Until 10:00 p.m. Over as visitors?

Adams: Don't ask.

Pierce: You exceed that number? Ok. I think it's pretty clear here that what we're talking about is the if for a fine institution like reed -- remember, I bought my house from reed. We've been -- we've mentored three foreign exchange students from reed, we even used their cafeteria when I was remodeling my house. I'm on record in "the Oregonian" in 2004-2005 supporting the parker house because I thought it was going to be the president's residence. We have been involved, my wife and i, in a number of charitable events where we've had 75-100 people in our home for a fund-raising event. We've also seen what happens when that -- when the parker house was sold and they've had several estate sales where the lane becomes very clogged with traffic and those pictures are in the original testimony. So i'm struggling with how we got to this point, and the fact that I don't think the city has done an adequate job of protect our concerns about the livability of our little lane. And I think I speak for the 11 residents of moreland lane and the sense that on a my cocome we're a neighborhood within a neighborhood and wayne ellis you have a use that's been used as a residence for -- since was built, and now you're considering an institutional use permit that is slightly flawed I think in the process how it got this far.

Fish: May I ask a question? Two questions. Are you within walking distance to the building on reed that houses chamber music northwest concerts in the summertime?

Pierce: I am.

Fish: And i'm just curious, when there are concerts, I forget the name of the building, but --

*****: [inaudible]

Fish: When there are concerts there, my understanding is that a lot of people park in the west parking area. That's a place where there's space. View had any impact where you -- have you had any impact of where you live of people causing congestion or create other -- when there are concerts?

Pierce: Yes. Because I live on woodstock, next door to the parker house, there have been several occasions where in a very bicycle advocate county like Multnomah county, i've had people knock on my front door saying my guests were parked in the lane. The woodstock lane on the -- the south side woodstock has a parking strip and it has a bike lane. And what happens is that the overflow parking from that parking lot, sometimes not even the overflow, just some events at reed, they park

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along woodstock and block the bike lane. I've had at least three incidents of bikers coming up to me and assuming they were my guests because they were parking in front monday night football house blocking the bike lane. I have major concerns that because reed does not have a parking permit system or an enforcement system of their own, that we're going to be left to try to basically police the area.

Fish: My second question is, in looking at the hearings officer's decision, I come up with 17 conditions, the neighborhood association -- so 17 categories.

*****: [inaudible]

Fish: I'm just curious, because a big issue that you're raising and the neighborhood association is raising is that either insufficient conditions or there are conditions which don't mitigate the impact.

Pierce: Yes.

Fish: So help us with that. Are there any additional conditions which you think we ought to consider which would address any of the concerns you've raised today?

Pierce: Yes. I think that the activity around the house at 40 people per day is not a residential-like use. I believe that that will compromise the noise, lighting, egress to the system -- to the parker house. Many people have walked to my door thinking my house was the parker house. I live next door. I've had people during the estate sale that happened prior to reed occupying the house where they trespassed on my property. A good number of people.

Fish: You would argue that we should limit the number of people who can visit per day?

Pierce: Yes.

Fish: Are there any other additional I ream eyes you're not here as the attorney for the association, but i'm curious, are there any other conditions which you would ask us to consider which would address some of the impact you've identified?

Pierce: I get back to your original point, commissioner fish, and that is that what makes a residence a resident? It has to have a resident in it. I supported reed as long as I p understood the new president was going to live there. If mrs. Diver were living there I would tell you I think a spouse would have some control over the number of people to go in there from 8:00 on monday to 10:00 on saturday, including some sundays. And that while the reed college president has always demonstrated at least when i've attend those events, a decent participation, it wouldn't be the 8:00 to 5:00 meeting schedule they proposed.

Fish: Thank you.

Potter: Thank you.

Bert Sperling: My name is bert sperling, and commissioners, mayor, mayor-elect, thank you for the opportunity to talk to you. Basically my perspective is a unique one. I'm a resident of the neighborhood, i'm a member of the board, to disclose of eastmoreland neighborhood association, but I live far enough away this wouldn't realistically impact me at all. But i'm also a nationally recognized expert in livability, and for instance, I brought a couple of my best-selling books, cities ranked and rating, Portland figured quite well. That places -- best places to raise your family, and I do work with richard florida's group and the contributed to his blog and also the freakonomics block in the "new york times." so I am quite familiar with livability. And of course Portland is great these days as far as livability. And mostly Portland is great because there have been some hard decisions that have been made. There have been hard decisions, for instance, to keep the downtown livable, to keep it vibrant. To resist the temptation to go with the mount hood freeway. In my experience and my judgment, doing these type of livability studies for 25 years now, what we have is this would erode the quality of life in the neighborhood. There have been other instances where universities have and schools, institutions, though well meaning and though certainly contributing to the welfare and the betterment of the community at large, are at the wrong place. For instance, we can look at Portland state university, miss sperling brought up about how Portland state had

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taken away complete community. And when we look at eastmoreland as a neighborhood, let's not just look at a neighborhood, but a microcosm, this small lane of moreland lane. Parker house is the wrong use for that lane. I think it would be certainly much more suitable in another place where it is a larger street that can handle things more. But moreland lane is a very small microneighborhood that I think would be severely affected by this. So you're at a point right now where you can make a very tough decision. It's a tough decision, but it's a crucial one to stop this degree of education. Reed has the resources, they have the land where they can construct it, they have the prexie house, which would be perfect for this type of venue, they have money, they have land, and there are many alternatives available to reed without the erosion of a little slice of Portland that could be lost forever. Thank you.

Potter: Thank you folks. Is that it?

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

Potter: We're now going to hear from the principal opponent or the applicant for this. Please come forward. You have fifteen minutes because the city went over by 2 ½ minutes, you have a total of 17 minutes.

Steve Abel: For your record, I'm Steve Abel. I'm a lawyer and I represent Reed college. With me are Hugh Porter the vice president of college relations for Reed college as well as Jennifer bates, the director of public affairs. And before I proceed, responding to the arguments this morning, I'd like Hugh to say a couple of words about this request.

Hugh Porter: Thank you. My name is hugh porter, vice president reed college. Reed college's proposed use of parker house will support and enhance the college's educational mission. In particular, the house would strengthen our ability to present education as a continuous conversation between students, teachers, and other members and guests of the college community. From our perspective, the college, the parker house is unique in its size, its location, and its ability to accommodate college uses. It is located across the street from an on-campus parking lot and is well connected to campus via sidewalks and crosswalks. It offers a diverse collection of separate internal spaces that can hold small and medium-sized gatherings and the occasional larger reception after public lectures or board meetings and can welcome visiting lecturers for overnight stays. We do regret the majority of neighbors on the street mere parker house and some neighborhood in eastmoreland generally --

Potter: Excuse me, sir. One person at a time. Listen to your side. Please proceed.

Porter: Thank you. And some neighbors in eastmoreland generally have found our plans alarming. Other neighborhood residents support our use were pleased by the restoration of a neighborhood landmark and hope neighborhood groups could use the parker house to advantage. Many, many efforts and informal discussions with opponents in the neighborhood to address concerns and to reach consensus have not proved fruitful. Several meetings from the city office of neighborhood involvement also did not produce agreement on the college's proposed use. Altogether there have been more than 80 meetings over the past three years. Disappointingly throughout all these meetings we did not progress beyond fundamental disagreement over the college's request for the parker house. These discussions and guidance from city half, however, were useful in informing the conditional use guidelines written and revised and that would address reasonable concerns. The final plan approved by the city's hearings officer contains important compromises of the type, size, frequency of activities and a robust set of guidelines for the candlelight vigil's operation of the parker house. So in closing I simply want to reiterate the described use that parker house is important to the college, would strengthen our ability to do our educational work. Thank you.

Abel: Thanks, hugh. And hugh would be available for questions, too, when I conclude. As hugh indicated, there have been substantial numbers and I think the number of meetings that occurred was something like 80 with neighborhood representatives to try to resolve issues with respect to this

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particular application. All of which went for naught and in our application materials we submitted to the city, we listed those meetings so you could have a sense of when those meetings occurred and the folks that were invited to those meetings. There is division on this particular issue as you can tell. But as Hugh said, those meetings led Reed College over the space of 2006 into 2007, and into now this year to understand what some of the issues are with respect to the Parker House, and respond to those issues in its application that was submitted. Now, today you have heard some applications about the Parker House, in its application and I want to respond to some of those. And one of them I didn't expect would come up again but let me just speak to it quickly. That is this question of student count. As you know, the Reed College application is about the entire master plan, and just to take you back a little in history that master plan has been in place since 1990 at this campus. And so when there are fleecy numbers thrown around about numbers of conditions many of those conditions are carrying forward from the master plan that has been in place for Reed College since as early as 1990, some almost 30 years ago. But at any rate, if you look at the prior master plan, there is confusion about how to count students. Do you count students as full paying equivalent? Do you count them as head count? And I think there's a couple of other terms that are within that particular document. And unfortunately, we received -- Reed received a complaint through the city's bureau of development services that its student count, however calculated, was too high by a few students. And that led Reed to say, well, let's get our apples and oranges into one place and let's decide what the right student count is and how to calculate that so there's no confusion when a complaint like that comes in. And ultimately, the master plan that you have before you concludes that head count is the appropriate basis of calculating count, student count, and then we have a number and we support that number with the transportation work that was done by Kittleson Associates to make a determination about capacity that's available in a transportation system and capacity that's available for parking. That's how student count folds into this and is a part of the master plan. We think we have done everything and the hearings officer agreed to respond to the issue of student count and make that clear for all, and also demonstrate that there's adequate capacity on the campus for those students and the remainder of the faculty and staff. The second thing that I heard today, and it's actually one of the most disturbing parts of this application to me, is this ongoing question about what representations were or weren't made by Reed College about what this house would be used for. And I am going to suggest to you that you not take those into consideration, and instead look at really what's going on here, which is that you must look at the land use code for purposes of what goes on in this particular residence. Now, what the allegations are, and -- we don't agree at all about the -- what the record shows. There are allegations the house is going to be used in some instances as the president's house and in some instances not the president's house and there's a confusing record and what happens is you get contractors that submit permits to the city and they may submit all kinds of things and there is no record on any position on that. All of that is irrelevant and this goes to Commissioner Fish's question, what's the litmus question? What's the touchstone for purposes of making a determination? And is what you are looking at is the criteria that exists for purpose, in this particular circumstance, institutional uses that are allowed in the residential zones? And that's where the focus of the inquiry is is what are the criteria that you are obligated to weigh and the hearings officer did weigh for purposes of understanding what uses can take place in a residentially zoned property? Before I talk about that, you should know, and I think you probably saw it when it was shown to you, that the -- that all of the Reed buildings and present campus are located in the R zone. So the entire campus is presently in the R zone, residential zone. It's on residential land. And that's the way our city code works is we put these institutions, whether they be a hospital or a college or a school, in residential zones and they follow then the criteria for a conditional use master plan. So this use, the entire master plan, is obligated to meet the criteria for a conditional use master plan. We are obligated to do a master plan under the code because of the size. Now, every one of these master plans is going to have

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different dynamics. It's not an institutional use. It's the use of an existing residential structure that currently exists as a residential structure that will be used for college purposes. That's the use. Now, there are two basic criterion and I don't want to get too lawyerly here on these criterion but I think they are important and I think the hearings officer did a lot to understand what those criterion require. The first is, the question of, you know, is the overall residential appearance and function significantly lessened by the proposed use? And in viewing that, the hearings officer had the obligation to try to figure out, what is the scope of the residential neighborhood that I look at for purposes of that criterion? And that criterion is called proportion of uses and it goes to the question of are these uses? The appropriate inquiry is as a neighborhood as a whole, not moreland lane, not to look at any immediate property next to the campus but to look at the neighborhood as a whole. And the hearings officer found, and it's quoted on page 31 of the hearings officer's decision, that, no, this particular parker house doesn't do anything of the nature of outweighing the proportion of uses and it maintains the residential appearance and function of the neighborhood. And I think you can easily contrast that with perhaps a hospital that might want to put a parking structure and office building in a residentially zoned land. This is far different from that. The scale, the intensity are all different. The second criterion is whether there's significant impacts to the livability of nearby residential zone land. And, in fact, in that instance, the hearings officer said, yeah, it is relevant in that circumstance to look at those nearby residentially zoned lands, those include in this instance, moreland lane but they also include by the way, the remainder of the college campus located to the north. That's all residentially zoned land. And your code says that you look at basically five or six categories. Luke at noise, glare from lights, late night operations, odors, litter, privacy and safety and restricts that inquiry to those particular elements. The hearings officer found and he spent it looks to me like something like 10 pages of his opinion walking through each one of those particular items and saying, you know, I think that I conclude that, no, the college has done enough to reduce the amount of noise, there's not going to be the late-night operations, they've done what they need to do to prevent the glare from lights. They have done what they need to do on the odors and litter. That then resulted in what have been called the 17 conditions that have been, that are before you. And I think it's important to go through those 17 conditions because, frankly, the hearings officer didn't just dream those up. Those are reed college's suggestions about how best to manage the parker house after having tried over and over for the space of two years to come to an accommodation with the neighborhood. These conditions, yes, they are strict. These conditions are very detailed and they are very detailed because that's what the hearings officer wanted to see. And just categories here, overnight guests, there are aloud at parker house, not more than four per night. There's a limitations on numbers of guests at the house. And I think it's interesting by the way just to think about this for a moment. 450 people in one month with my house that housed my daughter no longer lives there, two people, if my wife and I go out once and return once in a day, and she does it, I do it over the space of 30 days we are up to 130 trips. You can see how 450 is a small limiter if you will on this house. A tight limiter, is a better phrase. The hours of operation, the neighborhood says those will go on from 8:00 to 10:00. One, they are not parties. They are college meetings. And, no, they don't take place for 14 hours straight. That's not realistic at all. Notices are required to be given to the neighborhood of parker house events. That's to individual. That's through website. Through all forms of communication. There's parking and traffic management for the events and I am going to speak more particularly about that in a moment but the invitations have to appropriately disclose where people are supposed to go, not using the parker house as an address, if they go to. They will be temporary signs required. There will be permits -- this is an important fact, I think overall -- the college is required to seek a permit from the city to put "no reed college" parking signs at, on moreland lane. In fact, if the city council wants to say that that's what the city should do, we would accept that. I assume that the neighbors would assume that right now without going through a permit process. A reed college staff member will be placed physically outside to

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help cars get the right location and not get confused and not end up parking on moreland lane. That's all the parking requirements. There's delivery and service vehicle requirements and then a long, long list of other requirements and I think most importantly in that list are record keeping requirements, condition 13 as well as monitoring enforcement and grievance provisions. Reed's obligated to keep records on the use of the house, submit those records to the city and to the eastmoreland neighborhood association board so they can see those, and then finally there's a grievance procedure so that there's an ongoing communication that is institutionalized between the neighborhood and reed. And I know reed wants that. That's the kind of communication that reed has always wanted with the neighborhood with respect to these issues. So we don't have rough edges. Those are conditions of approval. As to transportation, kittleson found, kittle son engineers found there's adequate transportation, that the parking is adequate on campus to serve this proposed use. It doesn't add very many vehicles at all. Most people, as you can tell, would go from campus, walk to that particular building. The impacts are pretty minor. P-dolt, your own representatives who said transportation system is adequate. But even with that, we have decided that we would voluntarily agree through this condition of approval to put in a loading bay, if you will, on woodstock so it makes it even more vent for the people who might want to be dropped off there. Then they won't be going to the moreland lane side. So there are these very particular and precise requirements on traffic management. So through this process, and bear in mind that in 2005 or six, whenever that was, the hearings officer denied the parker house after approving the remainder of the master plan, and the hearings officer at that time said, you know, go back and really fine-tune this and make sure there's a closer constraint on what's allowed. That's exactly what reed college has done. It's gone back through the hearings office, after having dealt with the student count issue, which it didn't expect would be the subject of a complaint from the neighborhood. And it got approval from the hearings officer. And the 17 conditions that are there with respect to the parker house are the ones that reed college as a part of its application process submitted to the hearings officer to say we can agree to these conditions. We think these conditions assure compliance with the conditions -- i'm sorry -- the criteria under your code for purposes of institutional uses in the residentially zoned lands. And I guess this is one of those instances where you've got an 83-page hearings officer decision, and I think that hearings officer heard lots of testimony. And as I look at the hearings officer work, it was very thorough, it was very sensitive to the issues that were raised, and it made an appropriate conclusion. I think a conclusion that you as a city council can be proud of, your city hearings officer understanding this and looking at the criteria, not getting hung up in what I think are some allegations that are simply not relevant to the application and granting approval to reed college. And with that my time is running out. I would be happy to answer any questions. Either of us would be happy to answer any questions you might have.

Potter: I have a question. And it has to do with something you determined wasn't relevant. I would like to find out, the reed college response to the eastmoreland neighborhood, the folks that set original application or intention to about it house was to be the residence of the president. Is that true?

Abel: I don't believe that to be true. I don't.

Potter: Is there -- ok. You are saying that reed college did not make any such written statement or oral statement?

Abel: The house came on the market and became available to reed. It's a house that is an asset that's important to the community. Reed decide decided to buy it as a part of the reed campus.

Potter: There was no intention expressed or otherwise that it would be used as the president's house?

Abel: I don't know of any intention that way.

Potter: Can you find that out?

Abel: That certainly I can find that out but --

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Potter: Maybe the vice president knows.

Abel: I can tell you it was part of all the internal discussions there was never a thought that the president would live in the house. I think the confusion may have arisen from the phrase "president's house," functions like in a president's house.

Potter: The intention for reed was that the president would reside in the proxy house?

Porter: No. The president would reside in his own house. He made it clear that he wanted to buy and maintain his own residence rather than live in a college-owned facility.

Potter: I have one more question. This is for you, Mr. Able. You referred to the student population, the best way to determine the student population as head count.

Abel: Yes, sir.

Potter: Why wouldn't you use the number of students who are enrolled?

Abel: Enrolled is one calculation. Let me just go through a couple of the calculations. You have full paying equivalent. You can have students there who might not be paying full so that number doesn't work very well. Enrollment can be used if enrollment means students that are enrolled in their various capacities. Now, you should note that students are there not only as college students. There are some high school students that have attended the school for one class, for example, on Portland public schools cooperation programs. So that becomes more difficult. Head count we thought was the most inclusive number that would then be a calculable number that we could understand the traffic demand and the parking demand from.

Leonard: On the subject of the head count did I understand you to say the reason that became an issue was that a complaint was filed with the bureau of development services?

Abel: That's correct. And the complaint came in and city code enforcement contacted Reed College, and indicated that the Reed College's website using a number of students had a number that was in excess of the master plan that was adopted in 2006 -- by I want to say a handful. I know it's less than 10. When we went back to the master plan we saw there was confusion about how this was calculated and we decided rather than to kick 10 students off campus we would submit as a part of our master plan update a better number, a number that is calculable and submitted that number with our transportation studies to understand what the impact would be.

Fish: I have a few questions if I could. You mentioned a grievance procedure that you had set up. And so could you explain in greater detail how neighbors can be assured that the conditions of approval would be faithfully implemented?

Abel: Yeah, let me start with the fact that Reed College is a long-time institution and I think a valued institution in this city and it does not have a history of complaints from the neighborhood. The master plan that exists has a series of conditions of approval dating from 1990, with respect to operations on the campus and we don't have a history of complaints about violations of conditions of approval. As to Parker House, the grievance committee -- and I don't know if you have it in front of you. I don't want to just read it to you. If you have got it in front of you I will just paraphrase it for you. It's condition 14. What that committee does is it establishes with representatives of the college and the neighborhood association a committee that is a joint standing committee to address concerns or issues arising from the use of the Parker House. Though each will appoint three members to the committee. The committee has two code chairs so it's an equally balanced committee and the committee will meet periodically to discuss specific issues that arise over the use of the Parker House. A very typical sort of committee structure that allows the neighborhood to participate in identifying concerns that have arisen. Now, as to the questions of what happens in the circumstance of a city or this particular circumstance where Parker House -- let's say there's a violation. What are the city's enforcement powers? The city's enforcement powers are quite strict, if you will. The city has powers through title 33, title 3.30, as well as title 22 for enforcement of conditions of approval. And among the remedies that the city has when there's a violation of conditions of approval, are penalties, abatement, requirement and the like. Now, I can

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assure you that there's no effort on the part of an institution like Reed College to ever be in that situation. Your city has, though, an enforcement branch in the bureau of development services. Many cities don't and frankly that's a good thing that we have that here. That allows for enforcement of conditions of approval. And so your city code is very, very strict on that. But I don't really want to rely there. I want to rely on the fact that these conditions of approval create at least an effort to provide structured cooperation between Reed and the neighborhood. I think they are very good.

Fish: Mr. Able, my second question is, were there other conditions that were requested by the neighborhood but that are not included in the hearing officer's decision? And I would mean material substantive conditions.

Abel: Yeah, you may have to ask the neighborhood about that. I don't recall the neighborhood having supplied any particular conditions of approval to the hearing officer, and I could be wrong on that. The posture of the hearing was what I would think of a little bit of kind of all or nothing. And that it wasn't in that hearing in particular circumstance in which it was something that I think the neighborhood wanted to do.

Fish: And my third question, sir, as I am looking at the summary.

Porter: I'm sorry, Commissioner Fish. The one thing that we have discussed with the neighborhood would be the possibility of having a caretaker live in the house. We would be willing to do that if that would be useful. That was not, didn't seem to address their concerns, however. So didn't become part of the final version.

Potter: Aid question. Are you done? I'm sorry.

Fish: I can come back to my question, sir.

Potter: I just wanted to find out on the hearing officer's report, trying to see what page number, looks like it's page 41, it said that during a Parker House event, it would be nearly impossible for an emergency vehicle to get through. However, it should be noted that Mr. Bob Haley from Portland Transportation stated in the July 14th public hearing that Southeast Moreland Lane is not considered a safety problem. Someone asked a while ago if any of us had walked Moreland Lane and I have but I've also been in a police car and I can tell you it's a very narrow street. And it's probably just wide enough if a fire truck had to get up in there that it could get there. I think any cars parked in that area would present a fire safety issue in my mind. And tell me a little more how you would tend to control the parking on that.

Abel: Well, and I did find that language. I think Mr. Haley's here if he wants to speak further on that. One of the conditions of approval actually goes further than the existing condition. That is that it asks Reed College or I guess requires Reed College to come to the city and seek a permit for signage on Moreland Lane that would say "no Reed College parking." We support that. That actually would better the existing condition at Moreland Lane. And as I say, if this City Council wants to just make that a requirement that those signs go up without the permit process, we would be happy with that. But I think, in fact, we better that condition, the existing condition.

Fish: Mr. Able, in the summary position we received from the East Moreland Neighborhood Association that's part of the record that we as council members have, the, there's the fondle statement is -- following statement, the neighborhood association urges us to grant a stand alone conditional use permit and not to include Parker House in the boundaries of the revised master plan. Would you care to respond to that suggestion?

Abel: Yeah. Reed College is obligated or the city code obligates Reed College to include all of its properties in its master plan as a part of the conditional use. And the reason for that under the code is that one wouldn't want to be having to manage a large institutional use with a series of independent conditional uses. We frankly wouldn't like that. The city wouldn't like it either because you would have independent decisions if you will and different land use decisions. You know, it's the master plan conditional use requirement is there for a reason. It's to say we got to

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look at all the impacts together when we take a look at one of these institutions in the neighborhood and so I don't think the city code allows for that to be stand alone. I frankly don't understand the purpose for that but the purpose is for reed is that the application that we submitted is one that puts it in the master plan, it's governed by the master plan. You know, if it's a conditional use, I will tell you the other part if it's a stand alone conditional use none of the rest of the master plan provisions would even apply to it.

Fish: Thank you. Any other questions?

Saltzman: I was curious about the mobility access issue. How are people with mobility impairments to get there? Are they supposed to be dropped off on woodstock and climb the stairs?

Abel: It's a little inconvenient. The house will be a.d.a. They will need to be dropped off on woodstock and move down the sidewalk to get to an entrance that will work.

Saltzman: Is that the stairway? Is there another --

Abel: We will be a.d.a. compliant and if it requires that particular location some form of a lift on the stair well we can put that in.

Saltzman: Isn't that what -- I mean -- i'm trying to figure it out. Moreland lane is concerned about this. So it's a legitimate issue. If somebody -- let's say somebody is dropping somebody off, with a mobility impairment, are they expected to get off at woodstock and climb that stairs?

Abel: I don't know if the right word is climb the stairs because -- but we will make accommodation to make sure that their access is a.d.a. Compatible and whether that's through a lift or some other mechanism I can't tell you at this point.

Saltzman: What if somebody decides they are going to drop this person off at moreland lane?

Abel: Well, the least the transportation strategies that we have undertaken at this point, again, have signage that people don't go on moreland lane, have on-site monitor to keep them off moreland lane. We are doing everything we can to keep that from occurring.

Saltzman: So reed would have an on site monitor in the form of a person stationed at moreland lane that would direct people to the west parking lot or to the woodstock and would not allow them to come in? And do their thing?

Abel: That's correct. That's required under condition five.

Saltzman: So if this person be specifically posted with that authority in mind? That's the message to somebody who pulls up and wants to drop their grandmother off?

Abel: When an events, this is how it's worded. When an event includes off campus invitees a reed staff member shall be placed at the entrance of the parker house to confirm with people as they enter the event where they park. Guests are parked on moreland lane or southeast woodstock boulevard the staff members must ensure the vehicle is moved to the appropriate parking areas."

Saltzman: That's not quite the same as a person stationed at moreland lane. That sounds like a person stationed somewhere else saying I hope you didn't park on moreland lane. If you did, please move your car.

Abel: Well, I think that's --

Saltzman: Moreland lane is kind of, you know, one of those streets I can imagine a person very easily doing that function of saying, please don't enter here and would probably also be able to tell who is a resident and who is not. But that's not quite what's in the condition.

Abel: Actually, hard to tell who's a resident and not, I think, when it comes to those but I think we have to look at each one of the requirements for the transportation to understand how this will be managed so let me just kind of walk through those. The invitations that go out to whoever it may be for the event will address, will have the address of the reed college not the parker house address. Instructions directing people to the west or proxy will be included in those invitations. And we will include complete instructions. We will then have temporary signage at the event.

Saltzman: Directions to prexy meaning what?

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Abel: I'm sorry. The instructions show what lot to park in. There will be the monitor at the house and there will be, well, service vehicles. We didn't talk about that but service vehicles can use the driveway but only to any individual time. I think I hear a transportation engineer who wants to respond to some of that, too, mr. Saltzman, so let me do that.

Judith Gray: I'm Judith Gray, 610 S.W. Alder. We did earlier talk about having somebody posted at the intersection of Moreland Lane to direct people away but then realized that that might be a problem if you're making people stop and maneuver at that intersection and decide it was effort to take every court to direct people to park in the appropriate location but to have a staff person at the house to check and make sure the people parked where they are supposed to and if not they can either send the person back to park their car or that staff person will do it. The purpose is to make sure cars are getting off Moreland Lane.

Potter: What is the authority of that person if that person chooses not to move their vehicle, what authority does that person have?

Gray: I am not sure it's a matter of authority. These are guests coming to, these are guests coming to a small event in a private facility. I suppose they are there by invitation.

Abel: If the street is marked with city signs that say "no Reed College parking," that would be a violation of the city code and would be enforceable by the city.

Potter: The city would have to post that in order for it to be enforceable.

Abel: The city would have to post the signage, yes.

Potter: Not Reed College.

Abel: That's correct. The condition of approval that we are burdened by is to ask you for permission to put those signs up and we certainly are going to be doing that.

Saltzman: I guess to belabor this, I guess, seems to me from what I recall about that intersection, if you had somebody positioned at right place, such that they wouldn't make the turn into Moreland Lane in the first place, you are not talking about a traffic problem necessarily, you're either directing them further east on to Woodstock or -- I guess that's where you would.

Gray: I think the college is open to doing it either way. We discussed those options and this is the way we landed on the determination this was the most efficient and safe way to do it. That was the only thing we were trying to achieve.

Saltzman: Was the neighborhood, they can speak for themselves in a minute but is this something they were not willing to engage in or was this something they, that was actually put on the table? They agreed backup movements might --

Porter: I don't think they agreed one way or the other. One concern they expressed was that we would be stopping neighbor cars and asking, who are you? And it becomes a feel of a gated community.

Saltzman: That was kind of more --

Abel: The transportation engineer hired by the neighborhood had thought that it was not appropriate to put someone out on that corner. And so we ended up with a resolution that I think, with all of the requirements, satisfies what I think goes far beyond what any other particular user in any particular structure has been burdened by, if you will, within the city.

Saltzman: My last question, I just want to test your extensive knowledge of these things. Is it, how atypical is it for a conditional use to have 17 or 40 conditions? A big difference between 17 and 40.

Abel: Yeah, well, depends on the count, I guess. You know, I have done conditional use permits where there might be in excess of 100 conditions. I have seen them as low as no conditions, of course. And it's sometimes those conditions are well crafted and understandable. And those right countries that it doesn't really matter what the count is, if you will. Here we have well-crafted, understandable and enforceable conditions. I think you would find that if you were to ask the folks

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in the bureau of development services about the enforceability of these conditions they would say, yeah, they are clear and objective and that's what you are trying to get to.

Potter: Other questions? Thank you, folks.

Abel: Thank you.

Potter: Now we will go to persons who oppose the appeal. How many folks are signed up for that?

Moore-Love: We have four.

Potter: Four? Please call the first three.

Potter: Thank you for being here, folks. When you speak, state your name for the record. You each have three minutes. Anybody can begin.

Robert Hogg: Ok. I'm Robert Hogg and I own the house directly across from Parker house at 2830 s.e. Moreland lane and I bought the house five years ago and there's probably four or five people who bought houses along that street in the -- after Parker house was developed and we all knew it was the president's house. So we knew, I knew it was going to be having certainly events there and Robert Smith who had the house prior knew about the house and as being the president's house and that the university or college events there. I have attended four universities in my life. I know what a president's house is. I know what events go on there and whether they are parties or fundraisers or whatever so I knew it was going to be a house having events after I purchased the property. But the thing I have a concern about is a lot of people who bought houses after the fact. It's like a developer buying land next to an airport and having all these houses there. People moving in and then three years later complaining that the airport is making noise and they want the airport too be reduced. Well, we purchased our houses there knowing that was going to be a president's house, and that there was going to be events there whether it's a residence or whatever or commercial kitchen, it's going to be major events there. And so I have a problem trying to change the rules of the game after the fact. Yes, Moreland lane is very narrow and I think the university has done a good job saying they won't have any traffic on that road and how they want to have no parking along there. And the university has done a lot for the community over the last, over the years there. And helps Woodstock and the businesses there, and by having the students there it helps the community overall. I think it's a good university and the community gets more advantages from it than not having it there at all. My only recommendation is that to let Reed College implement this plan in phases, review this in 12 months, see what's happening, and make revisions at that time. What was the other thing? Sending out notices and letting us know what events are going on so we can partake, that would be great. More important to have lights on in the front like residential lighting, they are not on and I think for security and safety I would like to recommend they stay on or be on at least all the way to midnight for safety along the lane there for people walking or driving along that area. Thank you.

Potter: I just had a question for you. You apparently have been to a few president's houses. Tell us what you think it means.

Hogg: Well, I think the president lives there and has major functions and also he lets the house out to other functions within the university. When I was at Penn State -- in state the graduate school would have different events there and he would let us use the major part of house for our events. There was a separate living quarters in the house for the family and they didn't mind that at all. It was a multifunctional type facility.

James Kahan: My name is James Kahan. I live at 2835 s.e. Lambert street. I live in Eastmoreland but I wear two hats. I am an alumnus of Reed College, 1964. My wife is an alumnus of Reed College, class of 1967, and the reason we bought our home in Eastmoreland is to be close to the college. From our perspective, the college and the community are intertwined. They are really inseparable and if you look at the historical record this is true from when Eastmoreland was started and Mr. Ladd owned his farms out there. And our impression and the impression of our neighbors, the

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people we talk to when we are walking our dog is this is true. Then we get material from the neighborhood association and I look at it and I scratch my head and my wife looks at it and she scratches our head and our neighbors look at it and they scratch their head. That's not what we recognize. Now, mr. Sperling is a nationally recognized expert in livability. If you will forgive a little immodesty I am an internationally recognized expert in consensus formation and when the college says they had 80 meetings with these people and nothing came of it, I can believe it when we hear as part of the testimony that this is the way to go further. The college falsified information.

When people attribute bad intent to the college, now, I have talked to the college. They have actually consulted me and how can we make this thing more liveable? I would like to think I have helped them. I can assure you that the intent of the college is to have this community that works. And if it hadn't been, you better believe I would be telling them they have done the wrong thing because one of the reasons I want to live there is to have this comfortable community. I think that's about all that -- I have previously written to you and previously given testimony at the original hearing and I have to say that we have many, many different views of the elephant here and I would like you to just look at the record to find out which elephant you are going to believe in.

Thomas Hansen: I am tom hansen. An eastmoreland resident for 20 years. I spoke at the july hearing because I understood that one of the criteria for conditional use by reed was that the uniqueness of the property and the situation. So I would like to speak to the uniqueness of the parker house. First of all, the Multnomah county de facto has labeled it a unique residence. It has a class 7 plus rating. There's one other magnificent home in eastmoreland what has a 7. Every other home in eastmoreland is a 5, 5.5 with a few 6s and 6 pluses. I'm not sure there's another 7 plus residence in southeast Portland. So it is unique by that. It's unique because it was built for a large family with multiple servants. It has 30 rooms. It has multiple rooms in the servants' quarters. The previous owners were overwhelmed by the house. They were overwhelmed in terms of the cost, the upkeep and the maintenance and that's well known in the record. The real estate market spoke about its uniqueness. It was put on the market in 2002 for two years. During the height of frenzy for in buying houses in east mother land. And the price was lowered over \$1 million. There were no offers that I know of. Reed college did not push anybody else out of the way, outbid anybody for this property. I think this house didn't sell or doesn't work as a residence, didn't sell as a residence because it's what I call a trophy home. And trophy homes are usually in dunthorpe and other places, and it isn't an eastmoreland home in terms of size and structure and quality and all that kind of stuff. And I think another reason it didn't sell is it didn't have enough parking. If I could buy that house, could afford it, I would want to entertain and use the house to show off as a nice house and I would have to send out invitations that say, please park illegally in the reed college lots across the street. Because they don't tow. But anyway, there is not enough parking. [laughter] right. 33 anyway, and one of the ironies from the discussion today, to me, having walked moreland lane many, many times is that that property can easily be isolated from moreland lane. And why do I say that? Because the property due east, another large property, nice property, has actually done that. You can walk up and down moreland lane and not see into that house or into that yard. And reed college can do the same thing, can copy that or hire the same landscape, landscaper and do the same thing to that property and isolate it from moreland lane.

Potter: Your time is up, sir.

*******:** Good. Thank you.

Potter: Thank you, folks.

Potter: So that's who moshe is.

Moshe Lenske: I want to read my statement. S.e. Crystal springs boulevard, Portland. I want to get through my statement and I hope somebody will ask me a question about the number of students at the college afterwards. Ok. I'm -- i'm basing my comments on three pertinent perspectives. Within is on the territory. Our family moved to eastmoreland in 1935, and I purchased my house in

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eastmoreland heights in 1955. Eastmoreland originally was platted and planned as the residential adjunct to the college. That was the idea. And plenty of both presidents but a lot of faculty -- I can probably rattle off at least a dozen faculty houses in the '40s in eastmoreland faculty there. Reed was the neighborhood meeting place, summer swimming pool, gym classes and programs, tennis courts. All added to the cultural and academic events. It would be great if I had a representative of the extensive eastmoreland dog population here to talk to you today. Maybe a talking dog who could extol reed's green grassy fields with its owners watching from eastmoreland. I'm the product of great teachers at duniway in eastmoreland and also exemplary professor at reed which is my second perspective. I've been active in the alumni association president, I was nominated to be on the board of trustees, and i'll just go on to the still hanging around. I'll go to the third perspective with history and land use. As you probably, many of you know, I have chaired the neighborhood woodstock neighborhood association, and southeast uplift coalition of neighborhood coalition, served on the city club 18-month research study on urban growth, the mayor's east bang freeway committee, mayor's spirit of Portland award. Anyway, i'm trying to establish the credibility for a balanced approach on this matter. And i've been in the house, parker house several times. I've had a close friend whose home was directly across south, across moreland lane, someone who just testified in favor of the thing. I have socialized with the family next door to the east and as kids we sometimes visited a playmate in the second house over. And I recall the parker spread before it was cut up into little lots that you are hearing from now, when there used to be a tennis court alongside martin street and a swimming pool. I mean, it was a real estate before moreland lane and the, what's happened since then. And students have had digs in the house over time. Finally, it's my belief that parker house restored and maintained should be a great source of pride for all of us. We need the most, to seek the most appropriate function for this the far and away most stately structure in all of east mother land. It isn't just a house, you know. If memory serves, the family, after mary parker, consisted of seven kids to give you an idea of the size of this --

Potter: Mr. Lensky, you have to wrap it up.

Lenske: I am almost down to the last line. Thank you. The two lines are, defined written monitored, known program of rights and responsibility is much more desirable than the prior neglect of this house and any possibility of unknown large family of folks of many uncontrolled vehicles, basketball hoops, music, sports, motorcycles, friends, activities, parties and so on and so forth 12/7, 24/7, you could get something that we had no control over it. So the staff has negotiated what might hopefully be a win-win or even for the public a win-win-win, and I urge the support of the staff report.

Leonard: Long line. Moshe. I have a question for you.

*******:** Oh.

Leonard: Do you have any thoughts on the student count at reed college? [laughter]

Lenske: Thank you for the question.

Adams: Just came to him.

Lenske: There's been -- however the numbers that have been mentioned here go, for traffic control or other reasons, including ad min is a different formula than the actual purpose of the college which is to keep the level at a certain level 1250, the student/faculty ratio, we've been told is the same. And i've never heard anybody say that, argue in favor of an increase of the student body. It varies from time to time because you don't know exactly which students are away for a year and are coming back, which students are accepted and not accepted. There is a variation. But the basic structure is not intended in my view to be increased. Another question that came up I thought was - [laughter]

Potter: We will now have rebuttal by the appellant. Please come forward.

*******:** After all of that?

Potter: Frayed so.

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Adams: Folks who have only live there had since the '50s. The newcomers. The squatters.

Potter: You have five minutes.

Fisher: Not surprisingly I have a couple of rebuttals to mr. Abel's testimony and a couple of the others as well. First, mr. Abel gave you his impression of all of the conditions. And I am sorry, when I count them I still count over 40, each individual one. And if you have had a chance to read our written submittal these conditions do nothing to protect the residence of moreland lane. If you can please tell me how getting mailed a calendar will ensure that the livability of moreland lane stays the same, can you tell me how the word, on the invitation is going to protect my livability? I see a lot of these conditions and they don't, they don't satisfy any codes. They don't solve any problems. All they do really is create something for us to pay attention to, something for us to keep track of to make sure the college is doing what they're doing, creates a burden for the college or, you know, sorry. I have a real problem with most of those conditions. Second, I wanted to go back to the enrollment issue for a minute. Our issue is not with the enrollment or the number of students. Our issue is with the fact that there is no cap in this master plan of the total campus population. In the 2006 master plan the hearings officer installed a cap on the total campus population, which we feel is a very important and serves to protect our community from the campus growing quite large. In fact, we have made a, we have made a suggestion in our written, our written submission of -- I don't recall exactly the number. But allowing for some expansion of staff and keeping the same 10 to one ratio. But we really believe that it is important to establish a total population on the reed campus.

Adams: You are not asking for that as parts of this issue, are you?

Fisher: Not as part of the parker house issue but as part of the appeal issue, yes, we are. We feel that if you are going to go ahead and ok the master plan, there does need to be a total campus population cap in place. The other issue mr. Abel brought up, was he wasn't sure that we could have a parker house as a stand alone conditional use. I can't find when I wrote this, I looked very extensively, I cannot find anything in title 33 that would prohibit the parker house as a stand alone conditional use. I find nothing in title 33 that compels the college to put every single property they own inside their master plan. And, in fact, historically they have not. And so I cannot see any reason why this cannot be established as a stand alone conditional use and the restrictions on the parker house be kept out of the master plan and review, a review period annually we would suggest be initiated.

Potter: Are you responding?

Pierce: I am. I am a member of the eastmoreland neighborhood association board. And I am one of the appellants. You asked a question about mr. Lilyhorn who has owned the house in poverty for 40 years but he lived there pretty nicely. The question was whether the anybody stated it was going to be the president's house. Mr. Abel either seems to have a short memory or no memory about mr. Lilyhorn telling a group of people including myself and I would say this under oath it was going to be used for the president's house. So that's fact number one. Fact knuckle two is, reed offered to buy my house the following year. I have a written however from reed college. Why would they buy my house? I question whether that's going to be for the president or -- for what reason? The last point I want to make, in terms of impact of livability, we have got one of the conditions, we have got reed cutting out a u-shaped strip along woodstock to allow access to the stairs, and then on top of that we are going to put for disabled potentially an escalator, a chair, something to make it a.d.a. compliant. We are then going to put a person on moreland lane to direct traffic. So basically the other residents in moreland lane are going to have to basically coordinate their social functions around reed's social functions while there's a reed traffic person out there directing traffic? I tell you if you don't think that's impact to liveability on moreland lane, what is?

Adams: If I could clarify you own the property --

Pierce: Immediately adjacent east. I'm 25 feet from their door step.

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Adams: And -- on the same block or it's across the street?

Pierce: I am right next door to them. Literally next door.

Adams: You are where the tennis court or the swimming pool was?

Pierce: My house was actually built there 1927. I am really unclear when Parker house was built. I have heard a couple of dates. But on my deed it says 1927. So my house was built very close to when the Parker house was built. But I am immediately east to them. If you look at the carve out of Moreland Lane the u-shape goes out of the Parker house and my house.

Fisher: Anyway, you have had a chance to hear our arguments and hopefully you have read our summary and read our written submissions. We believe that you can modify this plan to protect our neighborhood. That is what code is supposed to do. This plan as it is currently written does not do that. What it does do is place the burden of seeing that the college complies on the neighbors and gives us no avenues to ever change or modify any conditions once they are engrained in the master plan. And in fairness, it places a lot of burden on the college to perform tasks that in no way mitigate any of the impact on the neighbors. That is why we have proposed our plan to cut the use to establish a conditional use outside the master plan and to institute an annual review. Let's not overlook that the annual review is a two-way street. If the use does not create a significant impact on the neighbors the college should adjust conditions to allow more use. Code is there to protect us from significant negative impacts. By just establishing this use of the Parker house as a stand alone conditional use, and requiring a type three review annually, you could put in place the conditions that will protect the neighbors and do what code is supposed to do. Thanks.

Potter: Thank you folks. Now for council discussion. I'd like to have staff come back up including Bob Haley. I'd like to ask staff, how does city code define residence?

Cate: Residence would be a household living use.

Potter: It would be an occupied household.

Cate: Yeah.

Haley: I believe there's also a limit of no more than six unrelated people living in the house.

Fish: Could I get a clarification of where we are on the 120-day clock and under what circumstances that could be extended?

Cate: The applicant has extended the 120-day clock until next Wednesday.

Fish: Under what circumstance can that be further extended?

Cate: The applicant always has a right to extend the 120-day clock. I'd have to check the record, but they've got plenty of additional days. The state law caps the extension to a total of 245 days, and I believe they have well over 100 days left in that bucket of extra days. I could give you the exact number if you would like, but there's plenty of opportunity here to extend the clock if the applicant agrees to that.

Potter: I wanted to ask, Bob, on page 40 of the hearing officer's report, it indicates that you testified at a public hearing on July 14th of this year that the South East Moreland Lane is not considered a safety problem. Yet in the prior part of that paragraph, it states that the streets are so narrow that a vehicle parked on one side of the street makes it difficult for another vehicle to pass and most residents do not park on the street. It also indicates that it has limited parking space. It's challenging to protect pedestrians and especially children on bicycles and tricycles from vehicles. How did you come to your conclusion that there's no safety problem?

Haley: I think one is just based on traffic crash data that gets reported for that street, and we couldn't find any that rose to that level in the five-year crash history. The second is, while Moreland Lane is much narrower than many streets in Portland, it isn't unnecessarily narrow compared to many other streets that the city has that people do continue to park on. It does not meet -- if the fire bureau were to say -- was to cruise down that street, they would probably come to the office of transportation and ask that, in every section where it's not at least 26 feet from curb to curb, that we assign it for no parking. There are many streets in the southwest that would meet that criteria. Our

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parking operations staff would talk with the fire bureau, talk with the residents, does it does have the impact of removing all the on-street parking, which would also be available for residents and their guests. So we try to be a little sensitive, too, about measuring the scale of it. The plus side for moreland is that it does have access from two different directions. It's not a long dead-end, narrow street. Also about half of the residents or maybe fewer have frontage on woodstock. So from a fire response standpoint, there is two means of egress to the site, especially the ones on eastmoreland. Responding to a problem that may come up at the parker house because of the number of activities, it essentially has frontage on three streets, even though two of them are moreland on a corner. So we didn't see it as that big of an issue. Fit becomes an issue to the residents, we could look into signing the street for no parking in every place that it's 20 feet or less in width from curb to curb. But, again, that would have impacts also on the residents that are there.

Potter: Did you say that you had talked to fire or consulted with them about the access to that moreland?

Haley: No, I haven't. I've just been around long enough reviewing subdivisions and new streets and subdivisions that get created on existing streets that aren't quite that wide, so i'm fairly comfortable. I have a good working relationship with don krantz, who is the person who responds to land reviews.

Adams: Do you have an impression of the efficacy, the quality, the effort, the goodwill of both parties to try to come up with something that they could both agree on? Has that effectively occurred? Are you aware of it?

Haley: I have been the office of transportation staff person assigned to review land use cases for reed college since I started in pdot probably about seven years ago, so i've been involved in any conditional use upgrades or master plan reviews since then. I was involved in reviewing, I believe, a few years ago -- they came in with the parker house as kind of a stand-alone amendment to the conditional use master plan, and this was the one referred to that was denied by hearings officer frank. At that point, I think transportation -- transportation has always been with relationship to parker house and what reed has proposed with the appropriate conditions for managing parking and traffic. Has always been -- I wouldn't say we were supportive of it, but we were not objecting to it. It has never been, from a pure transportation standpoint, as far as the approval criteria go, for adequacy of transportation facilities an issue with pdot for this application. We take a look at what eventually the college proposed and the conditions of approval that they submitted and whether or not they were reasonable and enforceable. One thing that was mentioned, I think, by mr. Abel was to place no parking for reed college student signs in the right-of-way along moreland drive. That is something obviously the council could impose. But from a pdot perspective, it's one of those feel-good conditions that I don't know how we would enforce it. There's nothing that would distinguish a car that's owned by a reed student or guest from anyone else on that street. So I don't believe our parking operations would cite that car or tow a car based on a neighbor's complaint that they saw a reed college student park there and walk away.

Adams: Do you have an impression you want to share?

Cate: For?

Adams: Have the stakeholders or players in this situation exhausted their ability to work there issue out amongst themselves in your opinion?

Cate: I have been involved with all three applications for the parker house. I can tell you, from my impression in trying to be open to all parties, that there's been a high degree of opposition among a portion of the neighborhood. I think reed has, in my opinion, tried very hard to work with the neighborhood and find a middle ground. I believe that, as indication of some of the frustration in trying to get people to the table in a productive way is in the exhibit, and I believe you got a packet from mr. Abel that has an exhibit under tab b that includes a copy of what was in your initial application for this review as an appendix that documents all the meetings and all the outreach

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efforts that the college has engaged in. And it appears, from that documentation, that their efforts have been rebuffed, which tends to create a situation where it's difficult to come together and problem solve when parties won't even agree to attend meetings. So it's -- from that perspective, this has been a difficult application, and I can tell you I want to give a nod to mr. Haley. We have spent quite a bit of time trying to come up with ideas and recommended conditions of approval to help address what i'm sure you've heard today is one of the primary concerns of the residents on moreland lane. They don't want the traffic. They don't want the parking. We felt we looked at the possibility of a second curb cut off woodstock. The grade change there prohibits that, but the unloading zone along woodstock seems like a very viable solution to get at the concerns.

Adams: So it's time for us to make a decision. Sounds like this has been going on a long time and sounds like a lot of effort has been made.

Haley: I would agree with your assessment that it's probably the council's time to decide on this. I don't see where -- in the past, we've been able to say go away and work it out. I don't see that was a possible thing. I know commissioner Saltzman raised a question of a.d.a. access when mobility-impaired people come to these events. The number of vehicles that would be coming to the parker house for catering, maintenance, overnight guests totaled an equivalent to a single-family home. We had no problem -- and the numbers were very, very equivalent. About 10 trips a day for both what parker house is being proposed as the way it's conditioned and what a typical single family was. That analysis also included if you took a look at a nontypical single family home that was larger that had three vehicles I know dead of two or five people instead of three that the trips would be even much higher under a single family home that had three vehicles than it is what the parker house proposed. So the idea did come up that pdot has no objection -- and I don't even know if the neighborhood would. I can't speak for them. During these events, when there are people with mobility issues, to simply drive up moreland lane u drive up the driveway, drop that person off at that front door without the grade change, and then turn around and leave back out. We don't see, from a capacity level of service, safety issues on moreland lane that that is going to create any significant issues, so we would not objection to, if it's not explicitly clear, allowing people with mobility issues to be dropped off on moreland lane at the main entrance to the house.

Fisher: Mobility issues, if they were dropped in the driveway, it wouldn't be a significant issue for us either.

Saltzman: I just wanted to ask --

Potter: It is for the city of Portland.

Saltzman: Kind of a follow-up on this point. Not so much the mobility -- mobility, but up to the definition of residence, up to six unrelated people. Is the college well within its rights if it wanted to make it student housing or wanted to rent the house to up to six unrelated people? Is it within its rights right now?

Haley: I think it's all related plus six unrelated so it could be a family of six plus six.

Saltzman: So it could be student housing or rental housing?

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

Saltzman: You were saying it would have a substantially greater impact than what is proposed.

*******:** It could. And I could address the head count if you wish.

Potter: Do you wish to make a motion? I want to state for the group what our choices are. At the end of the council deliberation, we must ask for a motion in one of the following ways. Council denies, 2 council denies the appeal but asks new information be considered or asks for amendment language or, 3, council grants the appeal. Commissioner Leonard?

Leonard: Mayor Potter, i'd move to denial the appeal and uphold the hearing officer's report.

Saltzman: Seconded.

Potter: Call the vote. Discussion?

Saltzman: Nope.

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Cate: Excuse me, but if I could remind council, there's also that little matter of a scrivener's error, so I think you perhaps need to have a second motion to uphold the report but correct that scrivener's error.

Potter: We should do that first.

*****: Yes.

Leonard: In what form would that be?

Abma: You need a motion to correct the scrivener's error. And then, once that's seconded --

Leonard: Does it need to be more specific than that?

Abma: I don't know what the exact scrivener's error is. It's been referred to in her testimony.

Potter: What's the exact scrivener's error?

Cate: That a citizen in the findings on page 12 of the application -- a quote in opposition was incorrectly attributed to a citizen who had also written in, but they wrote in in support. It was just reading the wrong line and the wrong name got in.

Leonard: If I said I'd move to -- if I said I'd move to amend the findings on page 12 of the application to correct the scrivener's error, would that get to --

Abma: I think that would do it, commissioner Leonard.

Leonard: So moved.

Potter: Seconded?

Adams: Seconded.

Potter: Discussion?

Leonard: On the scrivener's error?

Fish: I have very strong feelings on this.

*****: [laughter]

Potter: I can tell.

Fish: I'm sorry. I'm overwhelmed by today's testimony. We have had celebrated authors --

Leonard: Do you have a relative from the civil war who's been a scrivener?

Potter: Actually, he did.

Leonard: I'm sure.

Fish: If I had a relative, no doubt they worked for ebenezer --

Leonard: Be careful.

Fish: I have no discussion.

Potter: Please call the vote.

Saltzman: I think we want to have a discussion on --

Fish: This is just the scrivener's error.

Leonard: Uncle scrivener.

Adams: Aye. **Fish:** Aye. **Leonard:** Aye. **Saltzman:** Aye. **Potter:** Aye. Discussion on the main motion?

Fish: I just have one question for my colleagues, and I am prepared to vote. When we vote in these matters, there's the chance one or both parties could be unhappy with our outcome.

Leonard: There's no chance.

*****: [laughter]

Fish: There are also occasions where we consider giving the parties a last chance to try to come up with a middle ground, and I appreciate commissioner Adams' questions to staff. I think he's done an excellent job. I just want to make sure that my colleagues feel that we have exhausted those avenues and that this is right for adjudication. If it's a strong feeling, I'm prepared to vote.

Adams: I haven't been tangentially involved with this issue as a staffer, and then my encouragement to the neighborhood association, when I met with them however many months ago - - my encouragement to the college over the years has been to try to work something out. I think it's time to make a decision and let the process move from there.

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Fish: Ok.

Leonard: And I would have to say that I normally look to find an opportunity where you have sides disagreeing to find some middle ground, and unfortunately the tenor of this not just hearing but leading up to the hearing led me to believe some time ago what was confirmed by our able staff here today that that was just not going to happen unfortunately. So it's not that i'm married to what the hearings officer said, but it is that it was clear there is no room for compromise, and there's no use putting everybody through the agony of further process when it's clear the outcome will probably be no different. So that's my response.

Fish: Appreciate your perspectives.

Potter: Further discussion? Call the vote.

Adams: I want to thank representatives from both sides and those that testified that spoke from all sides. Indeed a very reasoned and well-spoken and esteemed group of people. I know a number of you on both sides of the issue and have great respect for you, and hopefully a lot of this conversation falls under the category of reasonable people can disagree. But I do think we need to make a decision and let the rest of the decision play out however it's going to play out, and I know there's motivation on both sides to allow for and to pursue the steps after the city council. So i'm going to support this motion. Aye.

Fish: First I want to say I want to acknowledge all the folks who took time to come testify today. I thought the testimony was extremely thoughtful, and it was helpful for me in clarifying, as I reviewed this matter. As I understand my job, it's to review the code -- applicable code provisions - - to look at the hearing officer's decision and any submissions we receive and to listen very carefully to the testimony, and I think you've gotten a fair hearing from this council who are very attentive at these meetings. Maybe it's because i'm a middle child and also a libra. My natural instinct is to seek, if there is a middle ground position on some of these issues, and that's why I engaged my colleagues who are a little more grayer in the beard than I am on the question of whether there was room to go on this particular issue. As I listen to the positions of the parties, i, too, have concluded there's not much of a likelihood we're going to bridge any of the divide here, and I would say that my normal inclination would be to see if there was some give and something that a further set of meetings could bring the parties together around. I, too, am persuaded that is probably a fruitless exercise, and I appreciate very much the work of staff on this as always. So, as I again look at the law, the decision, and listen carefully to the testimony and I am thinking about good balance land use planning, I feel compelled to join in this motion and to vote aye.

Leonard: Aye.

Saltzman: I do appreciate the testimony from both sides, but I do feel it is time for us to make a decision on this, and I think that the 17 to 40 conditions largely emanate from the discussion process that's been pursued by the college with the neighborhood over at least four years, and I think that's -- it's kind of hard on one hand to say that 40 conditions in and of itself should sing this when, on the other hand, those 40 conditions emanate from the discussions about how to make this more acceptable. I do think there probably will be an impact on those on moreland lane. There's probably no doubt about that. But I also think, just the line of questioning I just requested, somehow the idea that this could also be student housing for up to six unrelated individuals or rented out to six or more I think would have far more of a livability impact on residents on moreland lane, and I think the college has met the approval criteria, and therefore I do vote aye.

Potter: I guess i'm the lone vote on this. When I look at the general explanation on how city council evaluates information, it says that the applicant has the burden of proof to show the evidentiary record compiled by the hearings officer demonstrates that each and every element of the approval criteria is satisfied. Going back to page 40, there were several things I was concerned about, but the one that struck me the most had to do with the safety on moreland lane. And i'll quote the hearing cents officer. It is already moreland lane with limited parking spaces already

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challenged to protect pedestrians and especially children on bicycles and tricycles from vehicles. Parts of the street are so narrow that a vehicle parked on one side of the street makes it difficult for another vehicle to pass, and most residents do not park on the street. A fire truck or emergency vehicle would, due to the small shaped intersection in the middle of the alley, have to enter at the parker house end of southeast moreland lane. During a parker house event, it would be nearly impossible for an emergency vehicle to get through. Then he goes on to quote bob haley. Having been a police officer in that area, having driven that street on more than one occasion, I do not feel that the applicant has demonstrated a burden of proof to me that safety on moreland lane would not be diminished as a result of the approval. And although I dearly love going to reed college -- I hope you won't quick me off the campus because of this -- I also think that the neighbors have a certain amount of rights in terms of their liveability and the safety of that particular area. I'm also concerned about woodstock boulevard. I traverse woodstock boulevard 'cause I live about 15 blocks away several times a week, and I do notice a lot of cars parking on woodstock. I would hope that no cars would ever park in the driveways that would preclude anybody being able to either leave or a fire truck getting into that piece of property because of what's going on at parker house. So I am voting no because I believe that they have not met the burden of proof on this issue. It's passed. We are adjourned.

At 4:55 p.m., Council adjourned.