



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **5TH DAY OF NOVEMBER, 2008** AT 9:30 A.M.

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

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

COMMUNICATIONS	Disposition:
<p>1477 Request of Peter Fournier to address Council regarding recycling theft (Communication)</p>	PLACED ON FILE
<p>1478 Request of Roger P. Grahn to address Council regarding Water Bureau construction policies and costs (Communication)</p>	PLACED ON FILE
CONSENT AGENDA – NO DISCUSSION	
Mayor Tom Potter	
Office of Management and Finance – Human Resources	
<p>1479 Create two new Nonrepresented classifications, Therapeutic Recreation and Inclusion Supervisor and SUN Community Schools Recreation Supervisor (Second Reading Agenda 1452) (Y-5)</p>	182303
Office of Management and Finance – Purchases	
<p>1480 Amend Intergovernmental Agreement with School District No. 1J for Portland Public Schools participation in the Integrated Regional Network Enterprise (Second Reading Agenda 1454; amend Contract No. 51864) (Y-5)</p>	182304
Commissioner Sam Adams	
Bureau of Environmental Services	

November 5, 2008

<p>*1481 Authorize the Bureau of Environmental Services to acquire certain permanent sewer and temporary construction easements for construction of the NE 32nd and Weidler Sewer Replacement Project No. 7419 through the exercise of the City's Eminent Domain Authority (Ordinance)</p> <p>(Y-5)</p>	<p align="center">182305</p>
<p>1482 Authorize the Director of the Bureau of Environmental Services to execute Intergovernmental Agreements with the Northwest Service Academy to support the goals of the Watershed Management Plan (Ordinance)</p>	<p align="center">PASSED TO SECOND READING NOVEMBER 12, 2008 AT 9:30 AM</p>
<p>1483 Authorize an Intergovernmental Agreement with Multnomah County to accept payment for joint National Pollutant Discharge Elimination System Municipal Stormwater permit compliance activities (Second Reading Agenda 1456)</p> <p>(Y-5)</p>	<p align="center">182306</p>
<p>1484 Authorize Intergovernmental Agreement with Multnomah County Drainage District No. 1 for support services for flow management in the Columbia Slough (Second Reading Agenda 1457)</p> <p>(Y-5)</p>	<p align="center">182307</p>
<p align="center">Commissioner Nick Fish</p>	
<p align="center">Bureau of Housing and Community Development</p>	
<p>*1485 Amend contract with Decisions Decisions to increase the contract amount to \$86,110 for meeting design and facilitation services and provide for payment (Ordinance; amend Contract No. 37570)</p> <p>(Y-5)</p>	<p align="center">182308</p>
<p>*1486 Authorize subrecipient contract with Caritas Housing Initiatives LLC for a maximum of \$185,000 for access to the Risk Mitigation Pool and provide for payment (Ordinance)</p> <p>(Y-5)</p>	<p align="center">182309</p>
<p align="center">Fire and Rescue</p>	
<p>*1487 Apply for a \$321,221 supplemental grant from the Department of Homeland Security through the State of Oregon for Portland Fire & Rescue continued response development in the Metropolitan Medical Response System (Ordinance)</p> <p>(Y-5)</p>	<p align="center">182310</p>
<p align="center">Commissioner Randy Leonard</p>	
<p align="center">Water Bureau</p>	
<p>*1488 Authorize the Portland Water Bureau to acquire fee ownership of property located at 3733 SE 100th Ave needed to expand the Portland Emergency Coordination Center (Ordinance)</p> <p>(Y-5)</p>	<p align="center">182311</p>

November 5, 2008

<p>*1489 Authorize the Portland Water Bureau to acquire fee ownership of property located at 3741 SE 100th Ave needed to expand the Portland Emergency Coordination Center (Ordinance) (Y-5)</p>	<p align="center">182312</p>
<p align="center">Commissioner Dan Saltzman</p>	
<p align="center">Office of Cable Communications and Franchise Management</p>	
<p>1490 Extend term of a franchise granted to MCI Metro Access Transmission Services, Inc. to build and operate telecommunications facilities within City streets (Second Reading 1462; amend Ordinance No. 169230) (Y-5)</p>	<p align="center">182313</p>
<p>1491 Extend term of a franchise granted to FTV Communications, LLC to construct and operate telecommunication facilities within City streets (Second Reading Agenda 1463; amend Ordinance No. 172863) (Y-5)</p>	<p align="center">182314</p>
<p align="center">Office of Sustainable Development</p>	
<p>1492 Authorize a \$35,000 Intergovernmental Agreement from Metro for the administration of the Master Recycler Program (Second Reading Agenda 1464) (Y-5)</p>	<p align="center">182315</p>
<p align="center">Parks and Recreation</p>	
<p>*1493 Authorize a contract with Berger/Abam Engineers, Inc. for engineering, permitting and construction administration for the repair and partial replacement of the Circle Avenue Bridge (Ordinance) (Y-5)</p>	<p align="center">182316</p>
<p>1494 Amend Lease Agreement with Sprint Spectrum Realty Company, L.P. and T-Mobile West Corporation for their continued use of Portland Parks and Recreation property above the Vista Ridge Tunnel for wireless communication purposes (Ordinance; amend Contract No. 50777)</p>	<p align="center">PASSED TO SECOND READING NOVEMBER 12, 2008 AT 9:30 AM</p>
<p>1495 Authorize lease with Distant Sun for café space at Director Park (Ordinance)</p>	<p align="center">PASSED TO SECOND READING NOVEMBER 12, 2008 AT 9:30 AM</p>
<p>1496 Amend contract with Trout Mountain Forestry, LLC for consulting services for the Portland Wildfire Fuel Reduction Project (Second Reading Agenda 1466; amend Contract No. 36971) (Y-5)</p>	<p align="center">182317</p>
<p align="center">City Auditor Gary Blackmer</p>	

November 5, 2008

<p>*1497 Assess property for system development charge contracts and private plumbing loan contracts (Ordinance; Z0769, K0106, T0119, W0001, K0107, T0120, P0081, P0083)</p> <p>(Y-5)</p>	<p>182318</p>
<p style="text-align: center;">REGULAR AGENDA</p> <p style="text-align: center;">Mayor Tom Potter</p> <p style="text-align: center;">Bureau of Planning</p>	
<p>1498 Adopt and implement the North Pearl District Plan (Second Reading Agenda 1475)</p> <p>(Y-5)</p>	<p>182319 AS AMENDED</p>
<p>1499 Adopt the Action Charts and additional implementing measures of the North Pearl District Plan (Previous Agenda 1476)</p> <p>(Y-5)</p>	<p>36642</p>
<p style="text-align: center;">Office of Emergency Management</p>	
<p>*1500 Authorize application to the Department of Homeland Security for a grant in the amount of \$9,681,010 to plan for chemical, biological, radiological, nuclear and explosive events through training and equipping first responders (Ordinance)</p> <p>(Y-5)</p>	<p>182320</p>
<p style="text-align: center;">Office of Management and Finance – Human Resources</p>	
<p>*1501 Authorize a Letter of Agreement with Portland Fire Fighters Association to pay Fire Fighter Paul Corah at the Staff Lieutenant pay rate for the duration of his assignment as Fire and Police Disability and Retirement Liaison (Ordinance)</p> <p>(Y-5)</p>	<p>182321</p>
<p style="text-align: center;">Commissioner Dan Saltzman</p> <p style="text-align: center;">Office of Sustainable Development</p>	
<p>*1502 Adopt a Waste Reduction Program and enter into an Intergovernmental Agreement with Metro to receive Metro Waste Reduction Challenge funds of \$256,755 in FY 08-09 (Ordinance)</p> <p>(Y-5)</p>	<p>182322</p>
<p style="text-align: center;">Parks and Recreation</p>	
<p>*1503 Authorize acquisition of approximately 4 acres of property in the Gateway Regional Center Urban Renewal District in accordance with an Intergovernmental Agreement with the Portland Development Commission (Ordinance)</p>	<p>REFERRED TO COMMISSIONER OF PUBLIC AFFAIRS</p>

November 5, 2008

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **5TH DAY OF NOVEMBER, 2008** AT 2:00 P.M.

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

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

<p>1504 TIME CERTAIN: 2:00 PM – Tentatively deny the appeal of Northwest District Association and uphold with conditions the Historic Landmarks Commission’s decision to approve with conditions the application of GFV Enterprises LLC, William V. DeBellis and Singer Properties for an 87-stall parking garage at 2311-2317 NW Irving St (Findings; Previous Agenda 1398; LU 08-121424 HDZM)</p> <p>Motion to accept three staff proposed amendments in memo dated November 3, 2008: Moved by Commissioner Adams and seconded by Commissioner Fish. (Y-5)</p> <p>Motion to adopt the Findings, deny the appeal of the Northwest District Association and uphold the decision of the Portland Historic Landmarks Commission as amended: Moved by Commissioner Fish and seconded by Commissioner Saltzman. (Y-4; N-1 Adams)</p>	<p>Disposition:</p> <p>DENY APPEAL AND ADOPT HISTORIC LANDMARKS COMMISSION’S DECISION WITH CONDITIONS</p>
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At 2:26 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.

November 5, 2008

Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

NOVEMBER 5, 2008 9:30 AM

Potter: We're going to recognize our veterans. Veterans' day is next tuesday, november 11th. First we're going to talk to some young people. We've got some young people from humboldt grade school, and this is a very special school. This last year they were awarded as a beacon school in the state. And it's an award of honor and excellence in education. They've been working very hard, and I have -- and have done some amazing things, and one of the things they've done is they've elected a student council. Much like our security council. So i'm going to ask the council to come up, or some of the following folks, and -- angelisha, curtis, tabitha, and amatai. Ok, whoever wants to speak, go ahead and you can speak. When you speak, if you point the microphone towards you so everybody can hear what you're saying. Who wants to start?

Angeleesha Frierson: I will.

*******:** Ok. Introduce yourself.

Frierson: My name is angelisha. Good morning, how are you doing today? I'm running for school president. I was born a leader, so i'm experienced with leading groups, Discussions, debates, various types of situations and proper manner. I'm a loving child everyone loves and appreciates. Always setting an example, i'm a role model to younger children. As for being a role model, I would take this role as president to let my potential shine, show everyone what I can do, who I truly am, and what I stand for. I'm not going to -- promise something I can't make happen. I will strive to make things happen. Like, for instance, sixth through eighth would like more school dances, something I would strive to make happen. My focus isn't only focus order sixth through eighth. I just have a better view of it. The issues concerns changes wand by all grades. I will work to make it happen. Triewtsfully my overall goal is to change the opinions of what people outside our school believe. We have to work together on all of this to do good together. I know with the big job comes big responsibilities. I am the right candidate. So anything -- no alonso leon campos my part. My qualities are extraordinary. Characteristic. My personality is not the same as others. I'm one of a kind. I'm responsible, respectful, and safe. I'm a natural athlete. Very talented, trust windsor thirks real. There's very many words to describe me. Most important i'm confident, I support others. I don't care if other people's opinions of me. They can love me or hate me, I will not let it break me. I am a star, I will shine as you all are. Big things will happen. My attitude is to strive for you, all the qualities I have explained to you are all what I stand for. Rigor, relevance, relentlessness, and respect. That's me, I stand for all of you guys. I'm a great candidate, along with that, do not vote for me because i'm popular or your favorite student or friend. Vote for me because i'm a leader and you believe that I will take this role and fulfill it. Plus when you have a chance to make a change, take it. Don't take it for granted. Thanks. Vote angelisha for president. [applause]

Curtis Waters: My name is curtis, i'm in seventh grade and i'm running for vice-president of humboldt school. I'm proud to be a hum beaumont student because you get to become leaders of our school. Here are many things I would do on my role as vice-president. I want to make a better lunch choice for people who are vegetarian. I also want to help the school by having a student store to fund-raise money for our sports activities. I want to be on student council because I will give -- it

November 5, 2008

will give me the opportunity to take a role in school. I want to help kids who are not learning properly to be tutored or pulled aside with more help much. What makes me a great candidate is that I love to help people, i'll always come to school with a smile on my face, even when i'm satisfied. Some skills I have are that i'm open minded and I love to learn about new things. Some personalities traits that I have are, I love school and I want to go to stanford. Some interest I have are that I love to do a lot of science, math, reading, and writing, and these skills will be great for the job. I hope to fix the school garden because my class has some great ideas for the garden and I want to get them out there. I also want to have more dances and night activities. I will have the be safe rules displayed in the school hallways for the younger kids and older students and adults who forget or don't know. I also want to have another great assembly which stance for gang resistance education and training because g.r.e.a.t. And great. I also would like to say thank you and have a great day. [applause]

Tabitha Stumpf: My name is tabitha. I believe I should be elected vice-president of the school. I will be your voice. If you want something to change i'll try to make that happen. If you have a trouble with classmate, you can come to me. Nobody has to know. If you have trouble with school work I can help you with that Too. I want this school to be a fun school that is welcome to everyone. That is why I think I am what this school needs. Thank you very much for your support. [applause]

Amitai Bravo-Chavez: I am proud to be a humboldt student because I get good grades, every year I succeed more and more. As humboldt secretary I would make a car wash to earn money to get a better playground, to get more basketballs and soccer and all different types of recent equipment, and also get better jury sis for humboldt teams. I would be a good match for the job because I am organized, a good thinker and a good role model. Why I would like to be secretary. I would like to be secretary to make the school more exciting, to convince students from all over Oregon to come to humboldt school. What I hope to make humboldt a better place for all students is making recess funner for all students by adding different activities like adding swings to our playground. By ending this speech I will continue humboldt students being safe, respectful, and responsible by making tickets for the teachers so when a teacher sees a student doing the right thing, the student will earn one. For example, a student is walking in the hallway with a couple of other students on the right side of the hall on the third square. They will earn one and contribute them so at the end of the month there will be a drawing in morning assembly and get cool prizes. Thank you for giving me some of your time and thank you for all of you that will vote for me. [applause]

Potter: Did I understand that you had your election yesterday?

Waters: Yes.

Potter: How did it turn out?

Waters: It turned out great. [laughter]

Potter: I think I know who won, then. Could the rest of the students from humboldt please stand up too? [applause]

Potter: You guys did a great job.

Waters: Thank you very much.

Potter: Thank you. You can stay if you wish, but if you need to get back, that's fine. We understand. The next, we're going to be issuing a proclamation for veterans day. And that -- this came as a request from the deep, which is the city's diversity employees group that reminds from us time to time some of the things that the city can do better. And in this particular case, deep wanted to honor our veterans. Could you folks come forward? I'm not sure exactly who is going to be doing the talking, but whoever wants to is fine. If you want to pull up another chair -- after they complete their part we all read the proclamation for veterans day. Please proceed and introduce Yourself when you speak.

Karl Harn, Bureau of Development Services: Thank you, mr. Mayor. I'm karl haren.

November 5, 2008

Hank McDonald, Bureau of Development Services: Hank mcdonald with bureau development services.

Mikal Shabazz, Bureau of Development Services: Me kell, bureau development services.

Erin Mick, Bureau of Development Services: Mick, bureau of development services.

Teresa Coon, Portland Parks and Recreation: Teresa, Portland parks and recreation.

Harn: Mr. Mayor, commissioners, thank you for your support of your veterans day and your veterans day proclamation. A day to express our gratitude to our veterans and citizens serving in the u.s. Military. I'd like to dwroo mikhail, cochair of deep, the diversity -- recipient of this year's annual diversity champion individual award, and the bureau of development services public information officer and diversity community liaison.

Shabazz: Good morning, mr. Mayor, commissioners, thank you very much for inviting us to be here today and thank you very much as well for the opportunity that you have provided us through allowing us to establish deep, diverse, and empowered employees of Portland as an institution in the city of Portland, and the presentation will be by one of the affinity groups. They are doing very well, and we want to thank the council and the mayor for your support because we know without the head, the body has very little chance of living. So again, thank you very much. At this time I would like to turn this proceeding back over to mr. Carl harn.

Harn: With your permission, we would like to present you with a Veterans honor thank you card and appreciation pin. My colleagues, if you'dlike bring that forward. Our intent su wear the pin to show appreciation of the sacrifices of the veterans, that you hand the card off as a thank you to honor a veteran you know. The front of the card says valentine's day november -- veterans day, november 11th, thank you for your service to our community. The back of the cards set "recognition and thanks for your service from a grateful city, city of Portland, Oregon, bureau of development services, and deep." the idea is that by november 11th we'll have made quite an impression with the city with these. Thank you very much.

Leonard: Before you leave, I believe you served two tours of duty in iraq?

McDonald: I've been gone for two tours of duty. One in iraq and one in afghanistan.

Leonard: You just came back in the last year.

McDonald: I came back from afghanistan in june of 2007.

Leonard: Anybody else that has been active? Thank you, hank, for your service.

McDonald: Thank you. I can't express my sincerist appreciation for the amount of support and the amount of thanks I have received for the time that I was gone. Truly of all the places i've been in my probation, this is the -- profession this, is the most supportive organization I've had the pleasure of being a part of.

Leonard: We value hank a lot. He's one of our recently appointed senior managers. He does an outstanding job.

Fish: If I could just add something, we had the pleasure of working you the other day with commissioner Leonard, as the housing commissioner, I am charged with dealing with another face of the veterans movement, which is the veterans who served our country but are currently homeless. And I want to thank you for your service, but also ask for your help as we tackle that problem. I have come to this issue later in life. In my current capacity I have only confronted some of the statistics you know so well. Over 150,000 people who served our country now have -- don't have a place to call home.

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

Fish: The recently completed vulnerability index the city of Portland did determined that one-quarter of the most medically vulnerable people who live on the streets of our city are veterans. And of those individuals, only 5% are currently receiving benefits from the v.a. That they're entitled to. So as we celebrate your service to our country, we also have to deal with the paradox that people who are willing to sacrifice their life abroad are at risk of dying on our streets. And

November 5, 2008

that's a national disgrace. I'm asking for your help as we move forward on the commitment we've made to build housing on south waterfront. Get the veterans administration to shape up and make people who deserve services get them. We take the most medically vulnerable people off the street and give them immediate housing, and as a council we continue to find ways truly honoring people who have made the sacrifice and have defended us. And I would hope that some day we would not be in this current situation where we -- today we can actually say there are some people who are greater risk as veterans of dying on our streets than in a foreign battle. And that is shameful. So thank you for the example that you set for the rest of us, and I would ask for your continued help as we address the needs of some of the veterans who aren't so fortunate.

Potter: And I have a proclamation to read. Whereas the security and freedoms we enjoy in this city and country have been assured because our military endures hardship and danger on behalf of all of us, and whereas military members who serve in the army, navy, air force, marines, coast guard, and reserves exemplify honor and duty in keeping us safe and free. Whereas our military reservists serve in areas of conflict and strife, home and abroad, to protect us during times of natural and man made disasters. Whereas the families of those who have served and currently serve in this country military endure lonelies in, increased responsibility, anxiety, and grief of loss. Whereas wounded military members and veterans returning home are To be honored for this selfless sacrifice and determination, whereas those who support our military members and families provide encouragement, comfort and assistance to ease their burdens. Now therefore I tom Potter, mayor of the city of Portland, Oregon, do hereby proclaim veterans day, november 11th, 2008, to be a day of appreciation and gratitude to our vet and those currently serving in the united states military. I encourage all the people of Portland to observe this day. Thank you. [applause]

Potter: Tuesday is a holiday for all city employees, but I encourage you to come out to the hollywood district where we celebrate a parade to honor the veterans. [gavel pounded] council will come to order. Karla, 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 1477.

Peter Fournier: Oregonians mayor, councilmen.

Potter: Please state your name and have you three minutes.

Fournier: My name is peter fournier, and my address is 3316 southeast ankeny street. I'm here today to address a problem being faced by the residents of every neighborhood in this city, and that's recycling theft. Besides its nuisance value often waking sleeping neighbors with the sound of clinking bottles and barking dogs in the middle of the night, it also provides opportunities for more serious crime. It brings individuals from outside our neighborhoods to our homes, often while we're asleep or at work. This gives the thieves an excellent opportunity to identify additional targets for theft and burglary. I have observed many individuals casing homes and cars as they sift through the blue cards and yellow bins set out in front of homes. It also enables alcohol imand addiction. I've observed individuals taking recycling from acquisition to the local grocery store where they redeem them for cash to the subsequent push of alcohol often at the same store to the drug transactions, which occur later in other locations. Other major cities have recognized these problems and some of them have laws on the books now criminalizing recycling theft and also criminalizing the use of grocery carts which were stolen and utilized as the primary mode of transporting these stolen goods. It is a crime of opportunity. We're all urged to set our recycling out at the curb. We're required to. And this becomes an opportunity for recycling theft because every day on the same day every week our recycling is set out, so it really becomes a crime of opportunity. We all pay a heavy price for this crime. The money the city's franchise haulers make on the cans and bottles helps defray the cost. Collection. Without this money we ultimately pay higher rates. So we're getting ripped off

November 5, 2008

twice. Along with this loss of revenue comes the frustration for homeowners of watching their efforts go to feed addiction and alcoholism. So since our time is being wasted, we're being ripped off three times. Individuals that take our recycling are mostly homeless, though there are many reports of individuals and small groups with vehicles making larger hauls. If you read the articles I provided you, you'll see where we're headed. We're headed the same place San Francisco, New York, and other large cities are headed. I have a lot more to say on this situation obvious I have three minutes to talk, but I'd like to suggest that you all take a look at both the articles that I've provided you, and I can also provide some model ordinances from other municipalities that might help the council and the mayor's office address this issue.

Fish: I have a question if I could.

Fournier: Yes.

Fish: I live in the Grant Park neighborhood, and there's a gentleman who for a number of years when the recycling is put out, who comes by with a shopping cart. He removes cans and glass bottles, which I understand he then takes down to the Fred Meyer and gets the deposits on those. He's gone through our recycling on a regular basis. He's never left a mess. He comes early in the morning. He's extremely respectful to people that he comes into contact with. I'm just curious, I've never really thought about it in the way you've framed it, what is your view of the harm of that activity?

Fournier: The harm is number one, what is he using the money for? Typically these chronic homeless individuals are receiving services from the mission, food, shelter, a little bit of medical care, etc. The money from my observations is going towards alcohol and drugs. And I think that we're supporting them in their addictions. We're enabling them. When we should be working to help them get clean and sober and get back in the job market. It's just contributing to the chronic homeless problem.

Fish: Let me just say as the housing commissioner for the city, and I respect your right to come and advocate on behalf of anything, but I think to say that based on your impression that you believe we're supporting people's addictions is playing to a dangerous stereotype. I can tell you based on the services we provide to an array of homeless individuals in our community, that would not necessarily represent the larger group.

Fournier: I agree with you. It represents a small minority of chronic homeless who cull these cans and bottles in order to feed their addiction. This is not based on anecdotal information. I have done a great deal of time, spent a lot of time following these people, seeing where they spend their money. And I can tell you the individuals that are taking the recycling are in fact using it for drugs and alcohol. They're not using it to buy food. Also, it takes money out of my pocket. Without the offset those cans and bottles provide the haulers, my garbage rates go up. Additionally it jeopardizes the metro recycling program, because without those materials the program does not function at the level it should be.

Item 1478.

Potter: When you speak, state your name for the record. You have three minutes.

Roger P. Grahn: Roger Grahn. Instead of water bureau policies I want to talk about the general policies. I'm a builder of affordable homes, building apartment project here in town. We build low-cost housing, essentially. We seem to be able to do this for about \$75,000 a unit. I noted the city's low-cost housing project is about \$250,000 a unit. That's in line with the three-to-one ratios I see throughout the policies. I see policies that are designed with attitudes and by people who have -- as some of their goals, and which are primarily designed solely to generate revenue. And no other thing, just to generate jobs and empires as far as we can tell. P.d.c., for example, I'll -- I'm going to come back many times. Once a month I think I'm allowed. We'll take them apart one at a time. P.d.c. Policies that are so untenable and so unrealistic that my lender refuses to participate in a project if I agreed to their conditions. I'm in the Lents urban renewal district, by the way. Water

November 5, 2008

bureau policies that cost three times what the market rate is, my private industry to got thing, and we have no option but to do this. Commissioner Leonard's office says there's nothing they can do about that. Pdot policies, the fee is about 15% of a projected cost for the policy. However my actual cost, because I rebuilt the entire street, was one-third of that. P.d.s. Plan reviews, which netted two small corrections which were red lined on the plans. Promised in eight to 10 weeks but delivered in 11 months. Thousands of dollars spent by b.d.s. Personnel for requirements which had they read their own notes or even reviewed their own policies or reviewed the plans, would have realized we're not in fact required at all. Anybody, I would urge any of my contemporaries who want to try to come to Portland and build Especially affordable-type housing, come and talk to me. Because anybody that wants to attempt to do what I did, their actions, my view, would border on stupid. Not just foolish. I shall return.

Leonard: Since we're going to have a long-term relationship, I think it's important particularly since you've indicated that my office said we couldn't help you, that I would make the record clear, not only did my office not tell you that, we did help you. You've met with my chief of staff a number tiernlings we've had you meet with the assistant chief engineer of the water bureau, and have reduced your fees substantially from what they would have otherwise been. You've gotten a lot of personal attention, and we'll continue to get that, but I think it's unfair for you to suggest the things have you about the employee who's have -- and i've asked for a written assessment of what happened with you, who in my view have bent overbackwards to accommodate you at every turn.

Grahn: Excuse me, circumstance that's not quite correct. The fees were reduced by \$1300 from \$19,000 to 18,000. The reduction in fees that exist today are because I came back with a new idea and said how much would it be if we did this and this and this? Those are my ideas, not your office's ideas.

Leonard: You're right. You asked if you could put in two services instead of one. I have here the fee was reduced \$13,000, not 1300.

Grahn: That's correct. But that's my thinking, not your office's thinking.

Leonard: The point is, we listened and we accommodate you. So I just think it's unfair of you to say the things you are about the employees that have worked with you.

Grahn: The record stands for itself, sir.

Potter: Thank you sir. Youi want to thank the humboldt students. Congratulations on your election. Does any of the council members know what the mascot is of the humboldt grade school?

Fish: If you have to ask --

Potter: I know.

Saltzman: A bull dog.

Potter: Nope. Tell them what the mascot is.

*******:** Humboldt penguins: [laughter]

Saltzman: I like that.

Potter: Ok. Move to the consent agenda. Any commissioners wish to pull any items from the consent agenda? Does any member of this audience wish to pull any particular item from the consent agenda? Please call the vote.

Adams: Aye. **Fish:** Aye. **Leonard:** Aye. **Saltzman:** Aye. **Potter:** Aye. [gavel pounded] move to the regular agenda. Please read items 1498 and 1499.

Items 1498 and 1499.

Troy Doss, Bureau of Planning: What we have before you today is the second reading for the north pearl district plan. As you may recall last week, I think we resolved all the Potential amendments that were before council, and so today we have an ordinance and findings that adopt the plan itself. The zoning amendments, the update to the river district design guidelines as well as

November 5, 2008

the transportation analysis conducted by pdot. Then to resolution we're adopting the objectives and the action charts of the plan itself.

Potter: Do we have to have an amendment for anything?

Doss: No, there are no additional amendments to the plan. 401(k) in the stranger than fiction cat goarks I was at a university of Portland women's soccer game last sunday and someone came up to me and said they were a regular watcher of channel 30. And after telling them I thought they needed to get professional help, we went to the issue of what they -- what they have watched and they said they had watched the north Portland -- north pearl plan hearing that we had. And specifically said they thought the presentation from the staff was very well done. So I wanted to share that with you.

Potter: Are you aware mayor katz watches these on a regular basis? What would be your advice to her?

Fish: Good luck in her new job.

Potter: Ok.

Fish: Was proud of that, so I wanted to share that.

Potter: Please call the vote on item 1498.

Adams: Yes. **Fish:** Aye. **Leonard:** Here. Aye.

Potter: This right wing of the council --

Saltzman: Were you up too late. I said last week, I want to say again, this north pearl plan is a real bell weather of how to do a community principal that speaks to being constructing more family friendly units and other amenities that are essential to families prospering and raising kids and in an inner city area, and this plan has a lot of good things in it related to energy conservation, land use and family friendly policies. So I want to congratulate troy and mauricio for doing great work here and for the community. This will be the standard by which we'll measure all other plans that come before us. I'm pleased to vote aye.

Potter: I agree with commissioner Saltzman. You folks did a great job. Really appreciate how you brought the community together, and it was through that strength that the plan was developed. I appreciate that. Continue to do that kind of work in the future. I vote aye. [gavel pounded] please read item 1499.

Adams: Aye. **Fish:** Aye. **Leonard:** Aye. **Saltzman:** Aye. **Potter:** Aye. [gavel pounded] thank you, troy, mauricio. Please read item 1500.

Item 1500.

Potter: This is money that comes through the grant, and It's provided Portland handles the financial part of the grant, but it's actually for all jurisdictions in the area. And that this is the authority then to request that amount of money. It don't mean we'll necessarily get, that but it does require us to submit an application to the council to approve that application. If you folks would like further information i'll get someone here. If that's sufficient, we can proceed. Please call the voa. Excuse me, is anyone here to testify.

Moore: Did I not have a sign-up sheet.

Potter: Is anyone here who would like to speak to the sununu please call the vote.

Adams: Aye. **Fish:** Aye. **Leonard:** Aye. **Saltzman:** Aye. **Potter:** Aye. [gavel pounded] please read item 150 wufnl

Item 1501.

Potter: Is someone here from o.m.f.? I don't know if it's appropriate for paul to explain this.

Leonard: I happen to think paul is quite a bargain.

Fish: It's my understanding it's to correct a mistake that was made. It's the position of serving on the liaison position was advertised by the city apparently at the staff lieutenant rate while there may have been a technical overpayment, the -- he would have a very strong argument he was paid at the rate the city advertised, and that it was the City's error. This provides he would be paid at the rate

November 5, 2008

that the city advertised but that in the future the liaison person would be paid at their then current rate as a firefighter. So -- and i've just been briefed by kyle, but my understanding it cures a technical problem, results in fairness for mr. Corah, but make sure in the future the liaison position, person occupying that position to the fire and police disability and retirement fund is paid at their -- his or her current rate. Based on the briefing I got I would urge the council to adopt this.

Potter: This is one of those issues that was brought out through the development of the e.b.s. System. They've been uncovering some of these and we dealt with some of them last week, and this is another one. Is there any council discussion? Do we have anybody signed up to testify on this matter?

Moore-Love: Did not have a sign-up sheet.

Potter: Is there anyone here who wishes to testify on this matter? Please call the vote.

Adams: Aye.

Fish: This to me appears to be a reasonable resolution of a dispute and separate and apart from the legal issues, and since paul is here, I want to thank paul for the leadership he's shown as a member of the campbell memorial fund foundation board the work he's doing for the city to prepare for 2011. Aye.

Leonard: Definitely paul is an outstanding member. Aye.

Saltzman: Aye.

Potter: I'd like to thank you for all your time. I served with you on the old fpdr board and appreciate your involvement. I vote aye. [gavel pounded] please read item 1502.

Item 1502.

Potter: Commissioner Saltzman?

Saltzman: Thank you, mayor. Metro provides local governments with annual challenge grants to support ongoing efforts to reduce waste and to increase recycling. This was the 19th year Portland will receive grant funding of roughly \$257,000 for its programs. This funding is critical to the work that the office of sustainable development does to reach higher recycling goals and continue its work with residents and businesses on waste prevention. I urge adoption. Is there --

Potter: Is there anyone signed up to testify?

Moore-Love: I did not have a sign-up sheet.

Potter: It's an emergency, call the vote.

Adams: Aye. **Fish:** Aye. **Leonard:** Aye. **Saltzman:** Aye. **Potter:** Aye. [gavel pounded] read item 1503.

Item 1503.

Potter: Commissioner Saltzman.

Saltzman: Thank you, mayor. I'm very excited today to bring this item to council. As it's been in the development for a long time. It's always a cause to celebrate when we're acquiring more land for future parks. Many of you may know this parcel that we're buying. If you've ever gone to the gateway area business association and to their meetings at the j.j. North buffet. This property is the site of the former j.j. North buffet, which went out of business earlier this year. It is inbound side the lents -- the gateway urban renewal area, and p.d.c. And parks have been working to acquire this roughly four-acre parcel for a long time. This was a proposed acquisition of three aqers, totalling about four acres and it will help achieve what's been identified in the gateway area plan as highly needed land for parks. This transaction is a willing seller and willing buyer process with the final purchase price to be supported by a city approved appraisal and by the city's staff's expertise with historical property values in this area. So even in this uncertain economic climate, developable park land of significant size is scarce and no reason will substitute -- no reasonable substitutes have been found. So I urge council to adopt this ordinance immediately. We have steve from parks and justin douglas from p.d.c. And linda robinson also is here from the east Portland parks. I think maybe linda will testify afterwards. And before I turn it over to them I want to disclose I do have a family

November 5, 2008

connection on this item. One of the tax lots totalling about 43 acres is owned by my first cousin, Brad Fishel. I have no economic interest in the property, nor does my immediate family. I have not discussed this potential transaction or ordinance with my cousin other than he did inform me of his ownership of some property that was under discussion for acquisition. With that I'll turn it over to Steve.

Steve Planchon: I'm Steve, property manager with Parks. And Justin Douglas and I are going to tag team this very briefly. The ordinance is, as was described, two parts to approve the i.g.a., intergovernmental agreement between Parks and P.D.C. For the acquisition of the property, negotiations and acquisition. And then also to go forward and negotiate. P Justin is going to talk about the property highlights.

Justin Douglas: Mr. Mayor and members of Council, I'd like to say how honored I am to be here on a truly historic day for Gateway. This is something that I've been looking forward to for several years. The people in Gateway, some of whom are going to testify today, have been working towards this for more than a decade. As you probably know, Gateway has long been identified as a Park-deficient neighborhood. Indeed in the Coalition for Livable Future, claimed Regional Equity Atlas, they found three of the city's 10 neighborhoods quote with above average poverty or people of color and poor access to nature end quote fall within the Gateway Urban Renewal Area. And those are Hazewood, and Parkrose Heights neighborhoods. Acquisition of property in Gateway for a priority has been -- since urban renewal plan was adopted in 2001 and we have not been able to add a single eighth acre of public parkland since that time. This site is not only in an excellent low cark's it's about a commercial corridor but also residential neighborhood and is very unusual for its large size. There are very few if any -- opportunities in Gateway due to the nature of property ownership.

We've got a few large properties and very many small ones. I'd like to say if the transaction is not completed and one or both of the sellers or the owners sell their property, this is a unique assemblage opportunity that would be lost to the city. And finally I would just like to say our long-term goals I think that P.D.C. and Parks share one, and that is that we'll become a signature public square open space park with supporting and complementary redevelopment. We have a couple other parks here. The negotiations are ongoing. As you'll see, the purchase price that was offered at the time based on the estimate of value of staff was \$4.6 million. The appraisal came in at \$3.7 million. We noticed deficiencies in the appraisal. One specifically being that some open space requirements that the appraiser assumed would apply to the property of the future most likely won't. So we're actually negotiating to close that gap. And we're going to do a good job of doing that.

Fish: That was the question I wanted to pose. Obviously whenever we can add parkland it's a cause for celebration. Four acres is about the size of the Jerome Sears size southwest. That's a large chunk of land. But could you help us understand why the city would pay an above appraised value for a property? In this circumstance, why would we pay even 10 or 12% above an appraised value?

Planchon: We won't. What we're looking at is the appraisal that came in was 3.7 million dollars. And what we're going to do is look at the appraisal to determine whether or not it's correct. And we've identified some problems with it already that will most likely bring the appraised estimate of value higher. And what we'll do is negotiate a purchase price that is at that price. That's our intention.

Fish: The ordinance reads that the original P.D.C. offer purchase price was 4.6 against an appraised value of 3.7. That's a 24% gap. My understanding from my colleagues is that that's been reduced, but it's your intent to negotiate a purchase price that is in line with what you think is the -- an accurate and supportable appraised price.

Planchon: The appraisal will most likely be revised. We'll determine whether or not they are correct, and they've already -- you've done that to an extent. At that time when we have a number that we feel is supportable by a valid appraisal, we're going to attempt to get the purchase at that

November 5, 2008

price. What the ordinance does is authorize us to do it once the commissioner is satisfied we have done that.

Fish: Let me just say, what gives me heartburn is normally we take appraisals and try to get the price lower to make sure the public benefit is enhanced. Here -- you're saying to an appraiser, we want you to reconsider and lift the price. Does that cause you a little heartburn?

Planchon: Appraisals, we've been doing this a long time, and appraisals, there's no science to it. There's -- they're subjective, they do the best they can to get the right price, five appraisers sometimes come in with different outcomes. We're scght appraiser -- this is a city appraisal. The owners haven't done an appraisal. And what we need to do is make a good faith offer to work with the owners to make them comfortable the appraisal is credible and supportable. It could be that we need to have another appraiser come in and look at the appraisal, an independent appraiser that's separate from the first. We haven't made that decision yet. You're correct, we want to make sure it's a price that can be substantiated by an appraisal. Now having said that, these are difficult times to appraise property. If we're looking at current circumstances. And this appraisal was done before the financial meltdown. So that throws a little bit of a monkey wrench into it.

Adams: What's down side of another appraisal?

Planchon: No down side.

Adams: Let's get another appraisal, based on an accurate assumption.

Douglas: We've already ordered an advised appraisal. There are a can you remember of dedication issues in particular that drove the cost of this to what the 3.7 figure, and we alerted them to the fact I believe council will be having a hearing shortly on the gateway open area code. Planning commission has already approved changes to the open area code such that it will no longer apply to sites of this size, but five acres and larger. So we've asked the appraiser to account for those code changes.

Planchon: An evaluation process that's very significant, that in the old appraisal would change the price by about half a million dollars upwards. The appraisal process, that would be called an extraordinary assumption that we would have to clearly determine was a reasonable assumption and would most likely turn out to be the truth at the end of the day.

Adams: Who makes the decision on this?

Planchon: In terms of the extraordinary assumption?

Adams: Sorry, who makes the decision on whether we'll buy it at a particular price?

Planchon: Well, you do.

Saltzman: I would make it and bring it to council.

Adams: So it comes back to council.

Planchon: The wait ordinance is at this point, it doesn't. We're trying to close the transaction by december 30th. So the way the ordinance is drafted is that if you feel comfortable that we're going to do right thing in getting a price that is supported by a good praisal, if the commissioner is fully satisfied we've done that, you've got all the facts in front of you except for that, then he has the authority to transfer the park funds into escrow and p.d.c. Will transfer their funds and we'll close the deal.

Adams: My preference is that it comes back and you get a new appraisal. That way we'll feel assured that -- I want the stoi get this par set of land, but I also want to pb prudent, and I think it helps you negotiate a price if the sellers know that they have to come back to the city council in an open hearing. That would be my preference.

Leonard: I agree.

*******:** I agree.

Potter: I did want to --

Leonard: I did want to point out one thing. You mentioned this would be the first addition of open space for the gateway hazewood area. I'm sure the water bureau folks that are watching this are

November 5, 2008

displeased because they have spent a considerable amount of money and time developing the hazelwood park on 117th just 11 blocks up the street, including paving a street and putting in sidewalks and putting in bioswales, building a track, and a walking path, and they're in the process of constructing a community garden. So --

Douglas: Agreed. If i'm -- if I misspoke, I was speaking about properties within the urban renewal area boundary. But you're right, that's a wonderful facility.

Leonard: It falls just outside, but it is in the hazelwood gateway community. But it outside the u.r.a . And it's five acres of open space.

Potter: In terms of a new appraisal from scratch, it would seem as if in this current climate that property priceless probably climb somewhat. So a new one rather than amending a particular point or two in the existing one I think would perhaps do the city better.

Planchon: I would agree with that, in terms of determining how to get the best price. That's the approach we should take. We've talked about this quite a bit ourselves internally. The down side risk of course is That what the property owners could do is decide that they don't want to sell at that price. They'll hold it for a while, thinking that it will turn up, the economy will turn up and they'll settle at a later date and the rate of return will be better. That's the risk.

Adams: That's 80 think we should come back and have that conversation, so it's a question of having the information in front of us and I think this is a key piece of property that i'd like to -- i'd like a current appraisal, and have that discussion.

Fish: While I think that is a plausible risk, my sphrens talking to some folks in gateway about the movement of properties generally is that the fact that we are a buyer that can actually close a transaction with some confidence gives us I think an advantage over lots of other folks out there that might be buying. If we sign on the dotted lineup we're going to close. That's not the case with a lot of other transactions.

Potter: Are you going to --

Saltzman: An independent appraisal?

Potter: Do we pull this back?

Saltzman: I guess we would return this to my office.

Adams: Is that the best way to keep it on track?

Potter: I don't know if we can amend it at this stage.

Saltzman: I know we have people here to testify.

Fish: Notwithstanding the price shiewrks thanks for your great work. We're excited.

Potter: Would you call the three snuff

Potter: Each have three minutes.

Alesia Reese: Aleisha reece, chair of woodland park. As chair of the woodland park neighborhood, i'm routinely reminded that woodland park has no park. In fact, woodland park has no nearby park of any kind. As the accessible neighborhood on the cusp of mass transit exit, bicycle and pedestrian design, and the emergence of gateway as the premier regional center for the city of Portland, I am hard pressed to cite available open and green spaces within my neighborhood.

Portland city council has a unique opportunity to support both the density of design and the amenities of livability. In the planning and execution. While the proposal before you today is not a sweeping remedy for park deficient east Portland, it is a start. And we're asking for simply a start. A start for gateway, for east Portland, and a start for woodland park within walking distance to a park. For the very first time.

Jackie Putnam: Jackie putnam, vice chair of the gateway pack. I'd like to go on record that the pack supports the acquisition of this property. I've been attending pack meetings for over six years and I can name maybe two attempts at trying to make a purchase of the property. We believe it will be a valuable asset, it will bring an urban Look to the regional center and so we're hoping that the

November 5, 2008

city council will support us in this so that we can finally say bingo to the bingo parlor. Thank you.

Adams: Good line, I like that.

Linda Robinson: She's been waiting all morning to say that. I'm Linda Robinson. I serve as the parks chair for the Hazelwood neighborhood and as the chair of the park subcommittee for the Gaitway urban renewal area. So you don't know how happy I am to be here before you this morning with actual potential purchase this close to being finalized. We've been this route more than once before in the last eight years, we've not gotten this far, we've had this property and as a potential purchase and things happened, and this time we have two properties adjacent, which makes it even more inviting. It wasn't -- it was a smaller property and the potential was a lot less when we had the bingo parlor, which used to be a bowling alley property. So I'm just really pleased to support this to finally get right in the Gaitway, really close to the gateway area that will be dense having a park that we can offer to potential residents and potential employees. And we do appreciate Hazelwood Hydropark. It's used well and the community gardens actually functioning now, and so we are pleased that that's happening as well. Thank you.

Potter: The two issues, one is to have a new appraisal and the second to bring it before the council. Ben?

Ben Walters, Sr. Deputy City Attorney: The ordinance itself is for the purposes of obtaining two results. One is an i.g.a. with p.d.c. To work with them as a partner in the acquisition of the property. And the second is to approve a form of a purchase agreement to put forward to the sellers. And given the complexity of that arrangement, my suggestion is that it be held over one week so that the commissioner's office could prepare a substitute in line with the council's thinking so that the i.g.a. could proceed with -- for the purposes of getting the p.d.c. involved as an agent in doing the acquisition, negotiations, but it would have to come back before council. So my recommendation is that this be set over for a week to allow the commissioner's office to prepare a substitute in accordance with the council's desires as expressed this morning.

Potter: Any discussion?

Saltzman: Might have to be two weeks because I won't be here next week. We'll do that. We'll prepare --
[inaudible]

Saltzman: We'll prepare --

Leonard: Two weeks -- it could be one week.

Saltzman: It could be one week, I trust my colleagues.

Leonard: Sort of.

Fish: I haven't heard commissioner Leonard this morning defend Boec.

Leonard: As soon as it's a sale -- .

Saltzman: I will take this ordinance back to my office with council permission and will return with an ordinance.

Potter: Hearing no objection, so ordered. That's the last item on the agenda. We're recessed until 2:00 p.m. [gavel pounded]

At 10:34 a.m., Council recessed.

November 5, 2008
Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

NOVEMBER 5, 2008 2:00 PM

Potter: Welcome to the Portland city council. Would you call the roll? [roll call] [gavel pounded]

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

Potter: Thank you. Staff has asked us to consider the following three amendments to the findings. On page 18, replace incorrectly cited ordinance 177820 at two locations with the correct ordinance number 177920. On page 20, to include clarification of, quote, maximum 87 parking stall parking garage. And the third one is on page 20, per condition of approval number two, replace written request with certified letter. I need a motion to amend the findings.

Adams: So moved.

Fish: Second.

Potter: Before we vote on the -- these amendments, does anybody object to any of the three staff-proposed amendments? Anybody in the audience? Those three.

*****: [inaudible]

Potter: You can only testify to the three issues that were raised that needed an amendment. Is that what you wish to do?

Adams: We have a slightly different issue. Is it the issue you and I have been emailing on? I was going to raise that issue next.

*****: I apologize.

Adams: That's ok. Is that appropriate?

*****: [inaudible]

Potter: Please call the -- car please call the vote.

Fish: Aye. **Leonard:** Aye **Saltzman:** Aye. [Sten mistakenly announced by Clerk and corrected]

Potter: Aye. [laughter] [gavel pounded]

Fish: Commissioner Sten is no longer serving on this body. I'm currently the housing and fire commissioner for the city of Portland. I just wanted to introduce myself.

Potter: Before I ask for a motion, did you have something?

Adams: Yeah, Ms Ettinger please come forward. We wanted the—Ms Ettinger is the adjacent property owner, the applicant had offered to mitigate some of the landscaping or visual impacts, and so shane, we've been trying to figure out how to put that in the council action, memorialize that in the council action. I think we're open to -- maybe Tim if you want to -- do you know of this issue? Ok. Maybe we could just sort of figure that out.

Carmella Ettinger: I tried to get all of you different copies of language that I developed -- which basically says -- i'm carmella ettinger. It would set up an escrow account. This would just deal with my property. So dr. Ferguson would have a separate issue. From my property there would be an escrow account established for the landscape offer, since it would be on my property I want to be able to have some control over what landscaping goes in and how it gets put in, and who puts it in. So it seemed to me an escrow account would be the fairest way to do it, and then I could submit

November 5, 2008

bills to the escrow account. And if the money didn't get spent after some period of time, it could go back to Mr. Singer.

Tim Ramis: My understanding of the language is that it would relate to what is now a condition b in the decision. Three quick comments on it. One, the concept of developing an escrow approach is designed to give the property owner a little more control and comfort about how this process gets implemented. And we agree with that. That's a good idea. Second, it's an idea that I called the lawyer for ms ettinger about, and also the lawyer for ms. Lee, and suggested the concept, but I suggested it as part of an implementing agreement for the condition. Seems to me the condition is going to need some kind of implementing process in order for us to make sure that this works smoothly. How would one property owner get on the other's land, who would the escrow be, what's the timing, those kinds of details need to be in agreement so the genesis I think of the idea was that the idea of an implementing agreement that we would put together on the side outside of the condition, I think it would be not workable at this point to substitute the condition for an agreement that we haven't yet really put together. Now, to the end of getting it done, we are meeting friday on the site with ms ettinger and jeff klineman her lawyer to make sure we can flesh out some kind of implementing agreement. But would I suggest the best way to deal with this is through implementing an agreement and not through a change in the condition. It's a good idea, but it needs some work to get the details put together.

Fish: Can I follow up on that? I'm trying to make sure I understand what the back stop is in what's before us in the event that there's some glitch. And ms. Ettinger doesn't believe the pledged buffer and irrigation system work has not been done to her satisfaction. My understanding is that the landscape buffer and irrigation system work must be installed, and that has to be done prior to the issuance of a final certificate of occupancy by the city. So that's our ultimate lever.

Ramis: That's correct.

Fish: It's not done to the city satisfaction, no certificate of occupancy --

Ramis: That's correct. A property owner that feels the work wasn't done consistent with the condition would make that known to the planning department, just as you would a zoning violation.

Fish: That would give us the back stop in terms of, if there's a complete systems failure. But now there's a question raised about the mechanics of how these mitigation measures are worked out with you, how they're funded, and you've suggested this be done in some side agreement, not this agreement?

Ramis: Right. I think this condition would get quite long to get all the details in. That's why I took the initiative to contact the lawyers for the property owners and suggest that we get to work on it.

Ettinger: If I may respond, I guess I feel like I thought I came up with the escrow idea because it seemed the fairest to me. In any case it seems very straightforward. There's money that goes into an account, it seems really easy. I withdraw it for landscaping. I provide the land escaping bills. I don't see why it's complicated or why there has to be a whole implementing decision. I think it's pretty straightforward.

Ramis: It is a little complicated, because the questions, for example, are how much money? That probably ought to be based on some reasonable estimate that we get from qualified landscape installers. Are there easements involved? For example, once the irrigation system is installed and some sort of improvement is put on the outside of the skin of the building to hold up vines, what if their there are maintenance issues? Is there going to be an easement? Is there opportunity for access? Those kinds of issues I think we could work out quickly, but they need to get worked out.

Fish: What's quickly?

Ramis: I'd say the next two or three weeks. Depends on the availability of people's lawyers. We're committed to get this done.

November 5, 2008

Fish: If in a month she's not satisfied with that process, what's her recourse?

Ramis: Well, her recourse ultimately -- .

Fish: I know ultimately.

Ramis: Is the one you've described.

Fish: At some point the city would not issue a certificate --

Ramis: Right. I just -- I find it hard to believe we're not going to be able to put together a simple agreement to make it happen.

Ettinger: I'm raising this issue simply on the landscape buffer. That's what i'm concerned about. I'd be interested in knowing if mr.Ramis doesn't think my amount is fair, that's why I put it in an escrow account, so if it wasn't spent on landscaping on that side of the yard they could get -- it's \$15,000. That they could get money back. And I guess I would ask that if mr. Ramis feels like we need to sort out all of these other things as part of the landscaping decision, that we continue this and come back to the city council when we have an agreement that he can live with dealing with the landscaping issue.

Adams: How did you get the \$15,000 amount?

Ettinger: Talking to my landscape architect. It's a little bit general because I don't know if i'm going to be able to save the tree, and i'm not going to be able to safe the tree, I want to put some new trees in. I might have to take out the tree, that's a big amount of money. A little bit is variable still in terms of how much it would cost. So I put honestly I put it on the high end, but that's why I put it in an escrow account, so if it didn't get spent, they could get the money back.

Fish: One of the things that we're interested in I think, or I am, making sure there's a good faith process. I have no doubt the two parties can't work this out. But i'm just talking out loud. But if we were to provide in the event after dispute we came back to the commissioner's office within a date certain, so you had that back stop, would that give you greater comfort this will be worked out in some fair way?

Leonard: Before you answer that, the bureau of development services has people on staff that enforce landscape agreements that are part of a development. And I appreciate you trying to protect your interests, and I appreciate you reaching high to do that. But it seems to me a better solution than what i've been hearing here is to engage the services of the staff of the bureau of development services to help develop what kind of a landscape plan you would think acceptable -- i'm sorry?

Ettinger: can I respond?

Leonard: I wasn't done. Let me finish, please. If we could use the professionals at the bureau of development service who are truly professionals, to help maybe mediate what is it that would be appropriate in that upper area, and then there would also be the ones that would follow up and enforce to make sure that the agreed-to landscaping was accomplished in a way that was designed.

Ettinger: Commissioner Leonard, they're used to working with the developer, they want to put in landscaping that works in commercial developments and they want the developer to do it. That's who they have a relationship with. They don't have a relationship with me. I want to put in landscaping for a residential yard, and I want to put it in myself. I don't want somebody else to put it in. I have landscape architect that I work with --

Leonard: That's fine too, but I also am a little sensitive to the cost, and I think -- I hear what you say in terms of the work with the developers, but they work with homeowners as well. The requirements i'm talking to are homes and commercial occupancy. And they're skilled at making sure the task gets done. And i'm more interested in making sure that your needs are met than who does it. And i'm sure you are as well.

Ettinger: What happens if I don't like their landscape person, and I don't want their landscape person to do my landscaping?

November 5, 2008

Leonard: It shouldn't be about who does it, but what's planted. And that's why I'm a the bit -- I have a little antenna going up, because it appears there may be disagreements that really don't get to what the substance is, and the substance in my view is making sure have you appropriate landscaping that you agree to. And if they use --

Ettinger: I have a relationship with their people. I work with my people, I trust them, I know when they come and go, I don't have any relationship with their people.

Leonard: That's not the point of this. The point of this is to make sure you have an appropriate landscape area.

Potter: Come on up.

Richard Singer: What I'd like to point out is I think Carmela certainly has a valid point, she wants to make sure she gets what she hopes to get. I've already promised that to her, and I'm promising it in front of you. I've met many times with her already, I've met with her landscape architect more than once to -- I've already made commitments to her. I've known her family since I've been a little kid. Her mother and father are my Hebrew teachers. This is not something I'm taking lightly and this is something I'm making a commitment to her. I told her that I would pay her reasonable landscape architect fees of her person, not my person. And she knows this, and I don't know why this is continuing, because I've made commitments to her already, and I did get a bid. I recently put a parking lot in part of the partially behind Papa Hayden's. You can see landscaping. And based on mature planting going in the three foot by 50-foot strip that Ms. Ettinger has, I got a bid of \$3,250. I am will to put her land -- reasonable landscape architect fees over and above that to make sure the plant materials are acceptable and also there is a tree that Carmela had just mentioned, I would replace that tree with as mature a tree as we can possibly get. So we have a meeting this coming Friday at 4:00 with her attorney. And one of the things difficult is to meet everybody's objectives with just landscaping. For example Dr. Ferguson has told me that he would like to have a mural put on his side. As long as it's acceptable to the historic folks, I'm happy with it. So I will give him the same money and I will escrow it so that he can use it as I am with Carmella. So I have this \$3,250 bid. I'm willing to take that up to \$7500 to -- for each individual. So they can hire their own landscape architect, they can do whatever improvements they want be it a painting, that is approved by historic, or the plant materials. So I think I'm happy to do --

Ettinger: I will accept that offer right now if we can put it into the ordinance and be done with it. And I get control over the \$7500.

Potter: I think if we were to -- we've heard what he has promised. He said it in council. This is recorded. There is a back stop that Commissioner Fish mentioned in terms of the appeal process. It would be nice if you could get together and make this decision. I don't see it particularly since we're trying to find it in enough detail to put it in. I'd rather much leave you folks up to it. If you're accepting his offer -- we just heard you say that. Get together and make that decision. If for any reason it turns out you don't, there's always that back stop, you can go to the appeal process. It's in your favor in your -- at this stage.

Fish: Ms. Ettinger, Mr. Singer no doubt in the future will have matters before council, Mr. Ramis will occasionally have matters before council. I had a statement pulled up, which he made on the record where he made a firm commitment on behalf of his client, we have this commitment. We take very seriously commitments that are made in this body before us. And we expect them to be honored. And you've made a record of your concerns if they are not, and I --

Ettinger: You understand that I should be able to control how that money is spent -- how that money is spent?

Fish: [cell phone ring] I apologize.

Potter: It sounds like --

Adams: He'll deposit money into escrow, you decide how it's spent. If you spend more than \$7,000 some you won't get anymore money from him, it sounds.

November 5, 2008

Singer: Yes.

Ettinger: That works

Adams: Spend less -- what if she spends less? You're not going to spend less.

Potter: She said it would go back to Mr. Singer. Ok. Thank you very much.

Adams: It's a matter of legislative record, you're covered.

Potter: Call the vote on the amendments.

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

Potter: Aye. [gavel pounded] I need a motion to adopt the findings, deny the appeal of the northwest district association and uphold the decision of the historic landmarks commission as amended.

Fish: So moved.

Saltzman: Second. Please call the vote.

Adams: No.

Fish: I'd like to thank tim heron again for development services for his terrific staff work and the long and challenging project, and to kurt Krueger and for his staff work on the traffic safety questions associated with the garage. Aye.

Leonard: Aye.

Saltzman: Aye.

Potter: Aye. [gavel pounded] we're adjourned until next week.

At 2:26, Council adjourned.