



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **25TH DAY OF MARCH, 2009** AT 9:30 A.M.

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

Commissioner Saltzman arrived at 9:31 a.m. and Commissioner Leonard arrived at 9:37 a.m.

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

**Motion to hold a meeting at 6:00 pm on May 20, 2009 for Vision Into Action item:** Moved by Mayor Adams and seconded by Commissioner Fish. (Y-5)

Item No. 308 was pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

<b>COMMUNICATIONS</b>		<b>Disposition:</b>
<b>294</b>	Request of Cheryl Dilnik to address Council regarding Mayor Adams (Communication)	<b>PLACED ON FILE</b>
<b>295</b>	Request of Ron Peterson to address Council regarding tenant and housing rights (Communication)	<b>PLACED ON FILE</b>
<b>296</b>	Request of Anthony Anderson to address Council regarding tenant and housing rights at Central City Concern (Communication)	<b>PLACED ON FILE</b>
<b>297</b>	Request of Joseph D. Pierce to address Council regarding tenant and housing rights (Communication)	<b>PLACED ON FILE</b>
<b>298</b>	Request of Lew Church to address Council regarding tenant and housing rights (Communication)	<b>PLACED ON FILE</b>
<b>TIME CERTAINS</b>		
<b>299</b>	<b>TIME CERTAIN: 9:30 AM</b> – Assess benefited properties for street and traffic calming improvements in the SE 152 <sup>nd</sup> Avenue Local Improvement District (Hearing; Ordinance introduced by Mayor Adams; C-10017)	<b>PASSED TO SECOND READING APRIL 1, 2009 AT 9:30 AM</b>

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<p><b>300</b>    <b>TIME CERTAIN: 10:00 AM</b> – Update responsibilities for the proper management and preservation of City records, including electronic records (Ordinance introduced by Auditor Blackmer; replace Code 3.76; amend administrative rule ADM-8)</p>	<p><b>PASSED TO SECOND READING APRIL 1, 2009 AT 9:30 AM</b></p>
<p><b>CONSENT AGENDA – NO DISCUSSION</b></p>	
<p><b>Mayor Sam Adams</b></p>	
<p><b>Bureau of Planning &amp; Sustainability</b></p>	
<p><b>301</b>    Accept a grant in the amount of \$49,517 from the State of Oregon Department of Environmental Quality and authorize a grant agreement with the ReBuilding Center to divert waste from regional landfills (Ordinance)</p>	<p><b>PASSED TO SECOND READING APRIL 1, 2009 AT 9:30 AM</b></p>
<p><b>Office of Management and Finance – Human Resources</b></p>	
<p><b>302</b>    Create and establish an interim compensation rate for the new classification of Survey Project Support Technician (Second Reading Agenda 270)  (Y-5)</p>	<p><b>182608</b></p>
<p><b>Commissioner Nick Fish Position No. 2</b></p>	
<p><b>Bureau of Housing and Community Development</b></p>	
<p><b>*303</b>    Amend contract with Pyramid Communications for additional services and funding to enhance the presentation for the Bureau of Housing and Community Development FY 2009-2010 budget to City Council and provide for payment (Ordinance; amend Contract No. 30000161)  (Y-5)</p>	<p><b>182609</b></p>
<p><b>*304</b>    Amend the expenditure authorization subrecipient contracts in furtherance of the goals of the Bureau of Housing and Community Development through its Economic Opportunity Initiative and provide for payment (Ordinance; amend Ordinance No. 182031)  (Y-5)</p>	<p><b>182610</b></p>
<p><b>Portland Parks &amp; Recreation</b></p>	
<p><b>305</b>    Authorize Management Agreement with Columbia Slough Watershed Council for its management and use of Whitaker Ponds Natural Area (Second Reading Agenda 276)  (Y-5)</p>	<p><b>182611</b></p>

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<b>Commissioner Dan Saltzman Position No. 3</b>		
<b>*306</b>	Authorize grant agreement with Brother's and Sister's Keepers, Inc. for spring break programming (Ordinance)  (Y-5)	<b>182612</b>
<b>Bureau of Environmental Services</b>		
<b>307</b>	Authorize Intergovernmental Agreement with the East Multnomah Soil and Water Conservation District to partner on the Naturescaping Program (Ordinance)	<b>PASSED TO SECOND READING APRIL 1, 2009 AT 9:30 AM</b>
<b>Bureau of Police</b>		
<b>*308</b>	Extend contract and increase compensation to David Corey, Ph.D. for psychological examinations (Ordinance; amend Contract No. 35139)	<b>REFERRED TO COMMISSIONER OF PUBLIC AFFAIRS</b>
<b>*309</b>	Accept an additional grant award of \$132,000 as part of the 2007-09 Oregon Department of Transportation Work Zone Enforcement Program for officer overtime (Ordinance)  (Y-5)	<b>182613</b>
<b>Commissioner Randy Leonard Position No. 4</b>		
<b>Bureau of Water</b>		
<b>*310</b>	Authorize procurement of Simplot NSF Grade Ammonium Hydroxide to disinfect drinking water per Section 5.33 of the Portland City Code (Ordinance)  (Y-5)	<b>182614</b>
<b>311</b>	Authorize Intergovernmental Agreement with Portland State University for migration and cleaning of data to produce a daily consumption data table (Ordinance)	<b>PASSED TO SECOND READING APRIL 1, 2009 AT 9:30 AM</b>
<b>REGULAR AGENDA</b>		
<b>Mayor Sam Adams</b>		
<b>Office of Management and Finance – Financial Services</b>		
<b>*312</b>	Authorize contract with Wells Fargo Merchant Services, LLC for merchant bankcard services (Ordinance)  (Y-5)	<b>182615</b>

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<p><b>*313</b> Authorize contract with Wells Fargo Bank, N.A. for general banking and treasury management services (Ordinance) (Y-5)</p>	<p><b>182616</b></p>
<p><b>*314</b> Authorize three year term \$4,200,000 flexible service contracts for consulting services for City Enterprise Resource Planning System post implementation production maintenance and management support (Ordinance) (Y-5)</p>	<p><b>182617</b></p>
<p><b>Commissioner Amanda Fritz</b> <b>Position No. 1</b></p> <p><b>Office of Cable Communications and Franchise Management</b></p>	
<p><b>315</b> Grant a franchise to Northwest Natural Gas Company for a period of 20 years (Second Reading Agenda 162) (Y-5)</p>	<p><b>182618</b></p>
<p><b>Commissioner Dan Saltzman</b> <b>Position No. 3</b></p> <p><b>Bureau of Environmental Services</b></p>	
<p><b>*316</b> Amend a grant to the Lower Columbia River Estuary Partnership to investigate the presence of salmonids at selected shallow-water sites in the vicinity of the confluence of the Willamette and Columbia Rivers (Ordinance) (Y-4; Leonard absent)</p>	<p><b>182619</b></p>
<p><b>Commissioner Randy Leonard</b> <b>Position No. 4</b></p> <p><b>Bureau of Water</b></p>	
<p><b>*317</b> Authorize a contract for preliminary excavation and grading of site for Powell Butte Reservoir 2 (Ordinance) (Y-5)</p>	<p><b>182620</b></p>
<p><b>Portland Fire &amp; Rescue</b></p>	
<p><b>*318</b> Authorize the assessment of \$79,925 for a fire watch at 418 SW Washington St (Second Reading Agenda 289)</p> <p><b>Motion to add emergency clause:</b> Moved by Commissioner Fish and seconded by Commissioner Leonard. (Y-4; Commissioner Saltzman abstained) (Y-4; Commissioner Saltzman abstained)</p>	<p><b>182621</b> AS AMENDED</p>

At 11:52 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,  
OREGON WAS HELD THIS **25TH DAY OF MARCH, 2009** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Adams, Presiding; Commissioners Fish, Fritz, and Leonard, 4.

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

<b>319</b> <b>TIME CERTAIN: 2:00 PM</b> – Rigler School Kid’s City Club (Presentation introduced by Mayor Adams)	<b>Disposition:</b>  <b>PLACED ON FILE</b>
<b>320</b> <b>TIME CERTAIN: 2:30 PM</b> – Accept the recommendations in the report on the Long Term 2 Enhanced Surface Water Treatment Rule Compliance Plan (Report introduced by Commissioner Leonard)  (Y-4)	<b>ACCEPTED</b>

At 4:38 p.m., Council adjourned.

**GARY BLACKMER**  
Auditor of the City of Portland

By Karla Moore-Love  
Clerk of the Council

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

**March 25, 2009**  
**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.

**MARCH 25, 2009 9:30 AM**

**Adams:** Good morning. Today is wednesday. It is 9:30 a.m. and this is march 25th and this is the morning session of the Portland city council. Glad you're all here. Karla, please call the roll. [roll call]

**Adams:** Could you please read the -- oh, we have some special guests today. If they would come forward. Welcome to the city council. Please introduce yourselves. And tell us about the project that you're working on and spending a day here at city government.

**Mark Jackson:** Thank you, mayor Adams and council members. My name is mark jackson, and today we're focusing on a leadership institute with our students and program and focus on civic engagement. We have chris odem to share a testimony about his impact and reaping his goals in life. Thank you very much.

**Chris Odom:** My name is chris odom and I would like to tell you about where I stood before reap and after reap. Before reap, I was not too good of a student. I had bad attendance and I was considering dropping out. I -- my own transcript says that I had a 1.5 my first year and a 1.6 the next year. And then the year after that, my junior year, that's when reap came to our school. And my g.p.a. went to a 1.8 and this year, it's at a 3.1. So since reap has come, reap has motivated me and gave me a purpose. My purpose is to lead and to lead other people and inform them about what I think is right and what I think is wrong. I think they made a big impact in my life. I wouldn't have graduated on time if it wasn't for reap and that's why i'm grateful to be in the program.

**Adams:** Well said.

**Jackson:** We'll be here interacting with different staff and glad to be here.

**Adams:** Thank you for being here. [applause] Karla, would you please read the title for council item 294.

**Item 294.**

\*\*\*\*\*: Ms. Dilnik.

**Moore-Love:** She's coming.

**Adams:** Good morning, welcome to the city council. Welcome back. Glad you're here.

\*\*\*\*\*: How are you today?

**Adams:** Doing good. Give us your first and last name and you have three minutes.

**Cheryl Dilnik:** My name is cheryl dilnik and the last time I was here, I didn't get to say everything I wanted to say. So I wanted to revisit the situation that you find yourself in today. And I guess as a woman, the first thing that irritated me in your apology was you were so flip about it and insulted me by not considering it city business. Because I definitely believe it is. As a woman, I guess i've been avoiding let's call them creeps since I was about 10 years old. Adult men tried to take advantage of me. And to let you know how it feels, I guess would be explaining or -- how you would feel about having sex with a woman. That's how it feels. It feels like you're on hot rocks, but yet you're ice cold and you just want to get out of the way. So in your situation, to be so flip about it, I thought, well, what would make you feel like it was ok? And I don't know what your experience is as a young person, but I just feel it was inappropriate the way you consider it. And also, being a straight daughter of a gay man has a whole another -- it's a whole other issue. I don't consider myself a homophobe. Lord knows I wanted my father in my life. My father told me what

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it meant for him to be gay and I tried to put that aside and give everybody the benefit of the doubt and everybody has their own thoughts but here you are with the same thing that my father told me about. And -- in your feeling of what is appropriate and what is not. When I went to hawaii with my dad in '95 after his heart attack, we were [inaudible] I don't know if you're familiar and in all of those years, i've never seen my father do anything inappropriate, no sexual contact with anyone until I was 45 years old. And -- no sexual contact with anybody until I was 45 years old. But I held my own until the point where he came on to someone. And this man told him -- you don't want to go there. I have aids, and my dad turned to that man and said, I don't care, i've had a long life. And it was totally devastating. And I know that --

**Adams:** And your time is up.

**Dilnik:** My time is up. I'll be back again.

**Adams:** I appreciate your testimony today.

\*\*\*\*\*: I want to talk about ethics too.

\*\*\*\*\*: Thank you very much.

\*\*\*\*\*: Have a good day.

**Adams:** Karla, read the title for calendar item 295.

**Item 295.**

**Adams:** Mr. Peterson, welcome to the city council.

\*\*\*\*\*: Good morning, mr. Mayor.

**Adams:** Glad you're here. Just give us your first and last name and you have three minutes.

**Ron Peterson:** My name is ron peterson.

**Adams:** I need you to sit down. So the cameras can get a good focus on you.

**Peterson:** May I address the council with visual aids?

**Adams:** Sure. Thank you. Karla will give it to us. Those are the rules.

**Peterson:** Fair enough. In regards to community, and in regards to homelessness and in regards to parents and in regards to people, people that are bureaucrats, well known throughout society, people that are local politicians, well known within their community. Homelessness is a point of destitution where many -- destitution where people don't know how to play the game again.

Homelessness is a state of mind that people can't seem to get past because they don't realize they can still step back up on the game again. There are different types of people and different types of places. Our parents don't train us to be homeless. There are many, many, many, many, many different things. So we need someone to help stand up for us. We need someone that can step up, we need someone that can take hold of the reins, for those of us that aren't drug addicts and want to get our lives back together and for those of us who really feel we need a nice, comfortable safe environment so we can try and rebuild our lives, there are many, many issues that need to be dealt with here. And I will -- can I give the rest of my time back?

**Adams:** No.

**Peterson:** Oh, well.

**Adams:** But you've got another one minute and 19 seconds. You're doing very well. You should use the whole time.

**Peterson:** I appeal to you, we're set on the same course and I hope the council will listen.

**Fritz:** Did you want to tell us about the packet you gave us?

**Peterson:** Actually, no, I was using that as a visual aid from the bureaucrat to the local politician, from the parent, etc., etc. Thank you, ma'am. I hope we can work something out. I know housing is an important deal. Maybe we can work out something for everybody.

**Adams:** Thank you, mr. Peterson, appreciate your testimony.

\*\*\*\*\*: Thank you for having me.

**Adams:** Karla, could you please read the title for council calendar item 296.

**Item 296.**

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**Adams:** Good morning, mr. Anderson, glad you're here. Give us your first and last name. I need you to sit down, though.

**Anthony Anderson:** I live at the biltmore hotel, a central city concern property. I'm here to talk about the corruption within central city concern. The first time that I became aware of it was with the managers of the biltmore. Carol, when she was fired -- on a friday, she -- before a remodel of the hotel, our mail used to come in and the managers used to deliver it. She hid the mail and then came in on saturday -- central city didn't take the keys away from her. And she hid the mail again. Her coworker, felicia poe, would file them in the circular file, throw them away. She was caught for doing that. They didn't fire her, per se. They said she made a lateral move to h.a.p. And in april of 2006, I had a man named scott miller move next to me, and he was a drug dealer. I didn't know it right away, but he moved in with his girlfriend. We live in a single occupancy hotel. Having two people in the room creates more noise. That was my initial complaint. I discovered he would stay up all night because of always being high on drugs. Anyway, in the course of time, I became aware that the desk monitor was actually feeding him information when I would report things that was going on. He would feed it to the drug dealer. Central city concern would deny anything was happening and didn't do anything about it. I started to report to the guy above him, larone polk. When he was fired two months later, I saw him in the building, two days later and he was up there to buy drugs from one of the other drug dealers in the building. Central city concern tried to repress my testimony when I told them about what was happening in the building, the drug dealing, by saying that they didn't have the resources to investigate things and then when I investigated what was going on, they said I wasn't supposed to do that either. I wasn't supposed to look out my room and see what was going on and report it. My time is almost out.

**Adams:** What would you like us to do?

**Anderson:** I would like you to investigate central city concern, what they're doing. They're not properly representing the homeless. And they're -- they're misusing the funds, basically. Thank you.

**Adams:** Thank you for your testimony. Really appreciate it. Karla, please read the title for council calendar 297.

**Item 297.**

**Adams:** Good morning, mr. Pierce. Welcome to the city council.

**\*\*\*\*\*:** Thank you. This is the -- I want to thank the city council for --

**Adams:** And your full name is joseph d. Pierce.

**Joseph D. Pierce:** Pierce. This is the second time i've addressed city council. The first was when -- in my first address before city council, I moved into the biltmore just after central city had previously been managing the building and then it was taken over by mica properties. Mike and karen. And I had told city council exactly, you know, what it was like from the residents that lived there. Under central city and how it was different and better under private management. We -- central city took over, and it was kind of like the marx brothers doing an impersonation of mother teresa. Many things have gone wrong in their management style and we have so many difficulties, crime, drugs, and stuff like there, there's -- there's no screening of prospective tenants. No transparency in the employee discipline and with the exception of the seismic upgrade, we're a lot less safe and serene than before. It says the road to hell is paved with good intentions. Central city concern has plenty of good intentions. Fabulous p.r., and money on demand. But that's -- the problem is it's not better than it used to be. In fact, some things have gotten a lot worse. And I am hoping that -- that the -- the people will -- at city council and those in the know, will make the biltmore stop having the reputation of being the notorious biltmore hotel as a nice place for people to live there. I've lived there since 1990, '91, and it's not the best place to live. People are ashamed to come and visit me. So thank you very, very much.



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**Adams:** Thank you for your testimony. I appreciate it. Karla, please read the title for council calendar 298.

**Item 298.**

**Adams:** Good morning, mr. Church.

**\*\*\*\*\*:** Good morning, sam.

**Adams:** Welcome to the city council.

**Lew Church:** My name is Lew Church, a coordinator with p.s.u., progressive student union, and we've been talking with and helping to organize tenants of central city since last summer and meeting the last three months, every Sunday night and formed a group called tenant rights comments. You've heard comments about them about problems with central cities. And Joe and Anthony outlined the mismanagement and crime concerns. One of the primary issues is pest control. I'm not sure that the current city council has heard from tenants recently. I know Joe said he talked a long time probably when none of the current councilmembers were on the council. Persistent pest control in a number of buildings. And we feel these problems are systemic and not being addressed. I want to try to make other comments as well. We're basically addressing council today because we feel the council, being Portland, this particular council is liberal and progressive. Recognize that Nick Fish is in charge of housing and so we'll try to be contacting his staff regarding our concerns about this. One of the most activist liberal teachers I've taken classes from is Patricia, and we can talk with her about this. She's helped on a number of projects.

**Fish:** She also is my wife.

**Church:** And we know that. [laughter] I was surprised you get to talk in this format.

**Fish:** She didn't want to take my name when we got married because she didn't want to be known as Trish Fish.

**Church:** And I understand you moved here because she got the job at p.s.u.

**Fish:** This won't take credit against your time. But I'm actually here -- I'm proud of my wife who teaches history at p.s.u., but we're here because Portland State offered her a position.

**\*\*\*\*\*:** It sounds like you had a relative on the water committee at one point. Hamilton Fish.

**Fish:** [inaudible].

**Church:** So to continue, I personally go to -- voted for Amanda, because I hope the -- Amanda, because we hope that she'll be the future leader of the council, in terms of -- not to be high faluting about it, in terms of Cesar Chávez and Bobbie Kennedy and others, we appreciate what Randy Leonard's office did about getting heat turned on in the snowstorm in December and we hope that Dan and Sam live up to what we perceive to be the perception of the council to be liberal and progressive, in spite of the soccer votes. One solution to the central city problems we proposed, as we noticed as systemic, is [inaudible] the corporation off. It has a \$33 million budget -- 60% of the budget and 40% of the budget goes to housing and if there's two corporations -- one of the things as a funding source for central city that Nick or Council might be able to do is central city has a rule against tenants talking at board meetings, we think they ought to be able to talk at meetings.

**Adams:** Thank you, mr. Church.

**Church:** Call me Lew.

**Fish:** Can I take a moment to give a quick update? First, I want to thank everyone who came forward today to speak before council. And appreciate what they said. We've taken notes, specifically about the concerns, but I want to respond briefly. When this appeared on our agenda, I asked central city concern to come in and meet with me to explain what -- what we may likely hear today and what some of the issues are, and they did. And they're one of our best nonprofit partners in the housing arena. They came in and sat down. The Biltmore is a project-based section 8 with about 76 units and -- 76 units and it's an older building. It's a low barrier facility. With no sobriety requirements. It's used to house some of the more challenging people in our community that we have trouble finding proper placement for. It is not a place without challenges. And we recognize

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that. As the housing commissioner, what I want to say is that some of the issues that have been identified go to the heart of something we talk about all the time, which is do we have enough resources to match housing with services? Because without services, we're not meeting the needs. And I don't want to just turn this into a plug for my budget request, but I'd be remiss, that the service component of what we do is what makes the housing component work. Central city is asked to do an important job with inadequate resources. I'll be coming back talking about the service side of the equation. But because of the services framed, we've asked three things as a result of -- the results of the concerns you've raised. I've asked central city concern to review -- provide documentation to my bureau, the housing bureau, concerning the code and safety issues which have been raised. So we'll be reviewing that. The bureau of development services has agreed to provide inspections for tenants who have a pest issue and believe there's a problem. B.d.s. Inspectors are and will take a look to see whether those issues have been adequately addressed. And those of you who are here and those who live there, I urge you to use an access community resources like the community alliance of tenants and other folks who are advocates of tenants in buildings. My job isn't to make a judgment on these things. My job and the city's job is to make sure everybody who is housed directly or indirectly by the city has a decent place to call home. I appreciate the issues being brought forward. We think highly of the job they're doing. We that I can your concerns very seriously, particularly around bedbugs, which is a larger problem in our community that affects lots our housing. You have my commitment that we'll pay attention to your concerns and address them. So thank you.

**Adams:** Thank you, commissioner. Karla, please read the title for council calendar 291?

**Moore-Love:** Do you want to do the consent agenda.

**Adams:** Would you please read -- oh, consent agenda. Thank you. I understand that item 208 is requested to be pulled back to commissioner Saltzman's office. Unless objection, so done. [gavel pounded] any other items anyone wishes to pull from the consent agenda? Hearing none, Karla, please call the roll.

**Fritz:** Aye. **Leonard:** Aye. **Fish:** Aye. **Saltzman:** Aye.

**Adams:** Aye. Consent agenda is approved. Now read the title for 299.

**Item 299.**

**Adams:** This project was initiated by the city in lieu of a petition. It was formed -- we formed the l.i.d. In 2006 and were able to buy down the project by \$225,000 by moving quickly. To use developer money. The land that was to be developed is now one the newest acquisitions by the parks bureau and will forever be green space. Our thanks for commissioner Saltzman and paul grossgene of the pleasant valley neighborhood association, who is here with us. The key objective is to improve fire, medical response. Only one way out to serve 200 homes and now we have two access points. Pedestrian improvements, stormwater treatment, and allowing some of the remaining parcels to be developed in a safe way. I'll turn it over to andrew and the chief.

**Andrew Aebi, Bureau of Transportation:** Thank you, mayor. Andrew abei, local improvement district administrator. I passed out -- a want to make a couple of findings for the record. First, I want to start with a geographical overview. The l.i.d. Is shown in the center of the map. You can see the hawthorne [inaudible] and adjacent neighborhoods are south of foster road. The three traffic signals on foster road are projects that the department of transportation has completed in the last decade. The most recently completed project, and the key project, providing safe egress for the neighborhood, via s.w. 152nd avenue and we completed signal at 562nd and foster and jenny road and foster. But none were funded by a local improvement district. This is an overview of the resources build -- spent building the three other traffic signals. Including the s.e. 152nd, \$10 million in the area. The proposed assessment was \$1 million. So the city has certainly invested a lot of resources in the area but the majority of the resources have not come from this or other local improvement district. This is a close-up view of the s.e. 152nd avenue l.i.d. We have multiple

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assessment zones in the l.i.d. reflecting differing levels of benefit. I would like to call your attention to the pink circle on the right side of the map there. That previously was the only egress for property in the area. All of the traffic had to go out through the intersection of henderson. If you look at the bottom left-hand corner, there's a green circle. That's the second egress route we have built. Finally you can the properties in pink on the left side of the map are in the future development abutting zone and completion of this l.i.d. Will enable those properties to be developed. It's unlikely they would receive permission to develop in the absence of improving 152nd avenue but minimum, we would avoid a requirement to put sprinklers within the houses. And the property in purple, at the bottom to the right of the green circle, that's other future development, as well and completely 152nd avenue more evenly -- the traffic through the neighborhood, in lieu of this route becoming a full future egress route. We built both full and half street improvements. The full street improvement provide a new secondary routine and emergency access route. The half street north of henderson way, we used to have 14 feet of pavement there. We had two-way traffic trying to crowd on to 14 feet of pavement. That's been widened. So we have reduced the potential for a head-on collision. And built new sidewalks connecting to a school bus stop at barbara welch and 152nd straddled by two school districts. Centennial and david douglas. As we got into the project, we began to appreciate how much stormwater was coming off the hill. This is the east side -- in terms of the complexity of the project scope. We added street lighting and traffic calming and most importantly, I wanted to share with you some preliminary findings on emergency response calls. We've had an unusual high number of emergency calls since the road was opened. Six medical calls and one fire call. It's too early for conclusive findings, but so far, the response time has declined from eight minutes to six minutes which is a 25% reduction and quite substantial. In terms of portion of the benefit, these are the basic principles that the new development is paying a hire rate than existing and abutting pays a higher rate than non-abutting. And most of the property in the l.i.d., if you go back to the original map, are in the central assessment zones. There's a small number in the eastern, that pay one-third the rate of the properties in the central assessment zone. And in terms of the objection to the final assessment, this was a very large l.i.d. We had 440 assessable properties and received objections from nine properties. Whose assessments represented less than 1% of the proposed final assessment amount and none of those assessment amounts were over \$679.96.

**Fritz:** What time frame was this 600 and some dollars. Over [inaudible] per years?

**Aebi:** No, that's the total amount. Thank you. I wanted to show you the before and after pictures. The larger picture on the left is what 152nd looked like in the winter the 2001. In the upper right-hand corner, you see barricades placed by a private property owner prevents access to 1,352nd. You can see the water that's -- this is a picture of last week. You can see we built new sidewalks to provide schoolchildren and -- in the neighborhood with access to their school bus stop. In the upper right-hand corner, you see one of our new swales we built to sustainably deal with stormwater and bottom right, you can see a sidewalk we built on barbara welch road to serve as a safe place for children to wait for the school bus. So that wraps up my presentation. I'm joined today by the chief of the fire bureau. Did you want to add anything to that?

**John Klum, Portland Fire Bureau:** Yeah. John klum, fire chief. I wanted to talk about the importance of the response time. Having seven emergency responses into this area that had been challenging for station 29 because of the type of grade with the single point of access in and out of that area. Of 18%. Was critical because what statistics have shown if we can reduce or response times to critical care of six minutes or other, the likelihood of a survivability rate increases drastically. Please keep in mind that we had a significant winter event during this and so we anticipate response times will even improve further than that. But as far as not only increasing the survivability of the care that Portland fire gives on critical care calls, but it's also getting to residential fires pre-flashover and the six minutes plays into that which increases firefighter safety

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and reduces property damage and allows our firefighters to get in there and extricate people. Another issue took place recently with the improvements to Jenny Road. Although as my understanding that they're getting close to completion or near completion is that can affect the primary response route from our second company into that area and how that is significant is that when station 29 is out and other companies have to approach from the south and from the west components in there is that this makes the secondary means of getting into this area even more critical. So they don't have to backtrack and come back around. We see it as positive and looking forward to capturing a whole year's data on this particular improvement and it really improves service delivery into that area. Thank you.

**Adams:** Thank you. Discussion with council? Thank you, gentlemen.

**Aebi:** I wanted to add, timely objections, that those are in our memo and I asked Karla to pass out to you.

**Fritz:** I do have a question on that. There's a concern about the tree planting not being done yet and the response, it says that they're scheduled for May. Is there any possibility of doing it sooner than that.

**Aebi:** We worked with urban forestry to plant the trees on a time line that maximizes the survivability of the trees. We didn't want to plant the trees this winter when it was colder out and less likely they would survive for the two-year establishment period. The other thing, urban forestry has a schedule when they harvest trees from the nursery and we have to work around the nature's schedule rather than our schedule use from my experience, with friends of trees that they suggest you do it in the cold month, so they have a chance to establish before it gets hot. If there's a chance to look at that. That would be good.

**Adams:** Anyone signed up?

**Moore-Love:** Yes, two people.

**Adams:** Paul? Allen? Welcome back to the city council.

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

**Adams:** Why don't you go ahead and begin.

**Paul Grosjean:** I've been involved in seeking a solution to the transportation -- I'm sorry. Paul. Last week I didn't have to do that. I've been involved in seeking a solution to the transportation issues in Clatsop Butte in the 400 some odd homes. The design of the road system was flawed from the beginning as the system was designed by the developer and approved by the city, providing only one road in and one out. It's my understanding that the development would not even pass for a current fire code without the installation of sprinklers in each house. We have suffered through numerous periods of extended isolation. During periods of bad weather where our road where's blocked. Fire and ambulance calls were delayed or made impossible. I've witnessed police cars unable to respond and other issues. When the neighborhood approached city officials many years ago, we were informed it was up to the residents to fund the solution. That was not the solution we sought. Few people would approve self-taxation they consider a government responsibility. Eventually we petitioned city council for this I.I.D. It opened, as noted, in mid December, on the eve of the snow event. It would not have come at a more opportune time. Residents had finally an alternative route when there was a disruption. While the vast majority of the residents are supportive of the new road. There is resentment on the financial obligation. When the project was approved by council, it was expected to be constructed in 2007. Instead, in order to make it more organized and possibly more economical, it was planned for 2008. But allowed the speed -- the speed opportunities were lost. It was not done during warm weather and as a result of that, we still don't have the trees planted, that were planned for last year and still don't have completed steel bumps. So I don't consider it to be a completed project. Bottom line is the road is now open and we get the benefit of this new transportation and the emergency response times will be reduced, actually. It's now proven that they have been reduced -- proven they have been reduced. I wish there was a

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better way to handle transportation issues. A neighborhood only 10 years old should not have to shoulder the expensive design flaws in the original plan affecting safety and critical transportation issues that we have faced since day one. I would also make a request that before the final assessment is approved, that we as the neighborhood association has an opportunity to review the budget. Not just an individual assessment, but on a more global nature.

**Adams:** Happy to provide you with that. And by way of background, it is true for most every neighborhood in the city that the developer at the time of the subdivision pays for the roads, the gutters, the curbs and sidewalks, or after the fact when that's not done, with l.i.d.s. So --  
\*\*\*\*\*: [inaudible]

**Adams:** The city, only on the main arterials does the city invest what little money we have into the streets.

**Grosjean:** I understand that.

**Adams:** Thank you.

**Moore-Love:** One more person. Keith derringe.

**Adams:** Good morning, welcome to the city council.

**Keith Dieringer:** Good morning. Keith dieringer. I've been a long-time resident, actually prior to the heavy development that occurred up there and actually years ago when they started the project, the company, I believe they went bankrupt, but they actually offered me -- hey, you give us the land, we'll throw the road and sidewalk in for free. I was for that. Probably the best way to go, but unfortunately, they didn't seem to have the money and it never went through. Part of my objection to the situation is I have probably the highest amount being a -- billed to me, and when I say they, the stay stated the highest and best use was 22 homes on my property. And i'm not sure where they come out with that, because first of all, me, as a consumer, or the purchaser of the property, not into development and cramming 450 homes on so much land or, you know, I didn't think of the economic -- economics of the value of my home. I thought of it more as a place where I could go that was a little away from the city, but yet in the city. And here, all of a sudden, these large neighborhoods appear and it seems to -- appear, and it seems the road is primarily for them along with future development on top of me. And some of my thoughts were, you know, for me to be charged 109 plus thousand dollars and the neighbors, i'm not sure what they're being charged, I feel that's not a fair part of the portion for the improvement I feel they're paying concerning the use I have of it, the only one living in that home, and I feel like the usage of my property might be best having heavy development, but economically, and environmentally, I don't believe that's true. I feel the impact from what's already occurred up there with actual springs that have popped into my property that never existed before, along with some other water problems, the first time in 2008, december, I had flooding of my daylight basement. My home was built on a six-acre parcel. A lot of problems occurred because of the large neighborhood. I don't think they realized the impact of the large -- why wasn't a little more thought put on this and as far as the project being completed, the tree bit, I haven't heard about that. I don't know where they impose having these trees. If it's down on the property, they would label as mine or not, but certainly that would beautify the area because a lot of my screenage was eliminated and I feel like there's other problems that really have never been looked at. As far as the project being complete, i've asked the city, with the city folks being up there a number of times, including last week when they took pictures --

**Adams:** I apologize, you're over your time. Wrap up here.

**Dieringer:** Completing the sidewalk would be nice. It's a dangerous situation with no barricades and my experience with putting sidewalks on city property, they require barricades and the sidewalk is still empty. I believe p.g.e. Are blaming on that, but it's not complete. As far as assessment, I feel the assessment is unfair. I think the \$109,000 is way over, considering it's environmentally conservative area. R10c. I couldn't build 22 homes on it. And today's situation with building

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homes, it's not a good idea anyway. A lot of the land has hills. Serious stuff needs to be looked at and further down, there's problems.

**Adams:** Thank you, sir. Andrew, do you want to come up and provide respond or provide additional information?

**Aebi:** A couple of things. With respect to the speed bumps, we installed speed bumps last year. Two-inch high speed bumps and we are going to add an extra inch to bring it up to a three-inch lift. All of the sidewalks have been constructed. The sidewalk piece to which he referred was -- there was a piece we would not install because an electrical transformer serving his property was in the way. It's up to p.g.e. To relocate it. And at such time, then it's up to p.g.e. To put in the missing panel.

**Adams:** They have a responsibility to do that?

**Aebi:** Yes.

**Fritz:** How do we get them to do that?

**Aebi:** Well, their operating facility is in our public right-of-way so they operate under a franchise agreement.

**Adams:** Follow up on that and make sure it happens.

**Aebi:** Yes. Mr. Derringer does have the highest assessment in the l.i.d. We spent a lot of money, and he was concentrated for his right-of-way. Had he not participated in this l.i.d., then in the future, when he developed his property, he would have been required to dedicate that right-of-way for free and not get compensated.

**Adams:** How much was he compensated.

**Aebi:** I think it was in the area of \$40,000 or so. And finally, if you were to divide his assessment by the number of properties that he could build on his lot, it works out to four figures per figure. A lot -- another vacant lot two doors away, platted 24 lots, so mr. Derringer, we assume could build 27.

**Adams:** Did you take into account the conservation overlay?

**Aebi:** Yes.

**Adams:** Other discussion from council? Is there additional discussion?

**Fritz:** Yeah, i'd like to make some comments.

**Adams:** Sure. I just want to clarify this, moves to a second reading, right, Karla?

**Fritz:** I want to make comments while everybody is here. Thank you for coming. Thank you for your testimony. I think in any situation like this, the question of who pays and benefits and is that fair. Looking at the numbers it's about a million from the property owners. \$447,000 from ratepayers for the stormwater and vegetation. \$22,000 from the general fund for curb cuts and \$257,000 from the transportation department. It's roughly two-thirds from the property owners and one-third from the public at large and other city revenue. I have a question -- a lot of this development is only 10 years old and why at the time of development we didn't require these kinds of improvements. That -- we need to -- and I know -- when mayor Adams was commissioner Adams, he was looking at that process, and we still need to do that. And working with development services with commissioner Leonard, when development is done, we need the improvements. Because the process of putting the burden on the property owners doesn't work. It's great that this project has been able to be funded in part by public money, as well as by property owners, but I still think there's work to be done. And i'm glad this improvement has been done and it's already been proven to be successful. Thanks, everybody, for your work.

**Adams:** Unless there's additional council discussion, 299 moves to a second reading next week. Karla, please read the title for item 300.

**Item 300.**

**Adams:** Auditor blackmer, welcome to the city council. City attorney linda ming, welcome to the city council. Mark, welcome.

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**Gary Blackmer, City Auditor:** Good morning, mayor and commissioners. We're bringing forward to you, revisions to the city code regarding records management. To inform the city council about the background. With me is the city attorney and mark, director of bureau of technology services. The city charter assigns city reports to my office, regardless of the format and medium. Oregon law is becoming stringent how public records, especially electronic need to be managed and preserved and new federal laws are dictating handles methods to ensure that during litigation they're available. In addition to the legal statutes dictating what we need to keep, we have a historic preservation responsibility to maintain evidence of the city's decisions and policies. Whether this information is required by the public tomorrow, next year or 100 years from now, it's our responsibility to ensure that they're properly managed. In the past, they were -- by secretaries who made carbon copies so and filed them. The responsibility for documenting our decisions and activities now falls to individual employees. However, the city has not established clear expectations, procedures or training for its personnel to manage emails and other electronic documents in compliance with state and federal laws and our preservation responsibilities. The ordinance before you provides a framework for meeting our obligations. But what i'd like to do is give you a little bit of background. Linda will talk for a couple of minutes about the special risks and challenges associated with electronic records from her perspective.

**Linda Meng, City Attorney:** Good morning. I'm here to emphasize the city has responsibilities from two separate but related legal obligations. The Oregon public records law requires documents be retained according to retention schedules for the type of document and not for the kind of medium where it's created or stored and that they be produced for inspection or copying when requested. Court procedures require we be able to provide documents requested in discovery and part of litigation. That discovery is becoming broader and broader as the courts allow nor leeway for the litigants. That exist at the time that the litigation is expected. Both public records law and litigation discovery require we produce documents that exist when the request is received, whether or not under a retention schedule we might have been allowed to destroy them before the request came in. If we have the document, they're subject to being produced either in public records or litigation. The federal rules of civil procedure were amended to address production of electronically stored information and there's a growing body of case law that deals with electronic discovery. Courts are expecting parties to produce records in a timely and orderly manner. This includes email and all electronically stored documents wherever they exist. There are penalties for not doing so, ranging from imposition of substantial fines and costs to more draconian methods such as an instruction to the jury that there was wrongdoing because the documents cannot be found. An important aspect of the court's issue of discovery issues is whether the parties have records policies that are being followed. The a court may not impose sanctions for not -- that is as a result of a routine good faith operation of an electronic information system. The system has such a system, but these amendments are intended to update and improve that system.

**Blackmer:** Thank you.

**Fish:** I'd like to make one comment, linda, in my previous life I was a litigator and to amplify what you said. It's now routine in litigation to go beyond just asking for like all of the emails. It's now routine to actually have the hardware. And to ask to have the computer delivered so that a party's forensic person can find out if anything was deleted and recover information that may not be apparent. As i've learned, computers that have no indication there's anything on them, these high-tech people can recover things that people think they've deleted. And in some cases, they've damaged the hardware.

**\*\*\*\*\*:** Right.

**Fish:** And it can still be recovered. So this is an area where people are pushing the envelope in terms of wants access to information, including taking the hardware and reviewing it.

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**Meng:** And the courts are -- doing forensic analysis if the litigant is able to produce documents in an orderly fashion and if there's not any indication that the documents have been destroyed. But if there's case, where you say we've produced everything and a third party brings in an email that you should have had and you don't have it, and then the courts think you've destroyed it or not playing by the rules. Not producing things. There's a big push for doing that kind of forensic analysis and it's more usual and it's not something that -- it's a good thing to have happen, and it's really important that we be able to produce the documents that we have. And that we have the documents that we should have at the time that they're asked for.

**Fish:** The other thing I want to note, is the problem with emails generally in my experience, is they're too easy to formulate and send. And then they have this viral capacity to be greatly expanded. Someone can just click a button and send it to another thousand people and I'm wondering if we need to put a cautionary note on our website, if you send an email to a commissioner, a, it's a public record, you know, which someone can review, and b, you might want to actually think about that when you compose it. I get certain emails which, you know, my skin is getting thicker. I realize people have a right to vent. But again, emails increasingly are things where people put things down and send them without necessarily thinking about the lifespan of that document. And the fact that it's going to go into the archives and be able to review in the future, might temper or cause people to be not judicious in the way they compose their email. The other thing, in the course of our work, we get emails from a variety of sources that are privileged, and kind of sorting out, you know, how we store that stuff, if it comes from city attorney, or if it is a labor relations matter, how we maintain, store those, how we segregate them because we can't keep them in the body of our other emails in case that's ever discovered. So looking at these material, I hope we're getting training office by office because these are technically very complicated and I'm hoping as we "refresh" Oregon online this summer and look at our system, that we think how we can make improvements to help us comply with the rules. Particularly those getting a thousand emails a day.

**Blackmer:** Those are good points and those are things we're working on. But I think one of the greatest challenges we have, when we get those requests for documentation, how we recover the emails and mark is going to talk about the challenges his office faces when he's being asked to produce emails as a result of courts or other requests.

**Mark Greinke, Bureau of Technology Services:** As you know, b.t.s. Operates and maintains numerous systems vital for the operation of city offices. Collectively the systems store over 44tera bytes of electronic data. Not just each messages, but 9-1-1 voice recordings, police records, engineering diagrams, spreadsheets and diagrams and millions of emails. It would take over 2 million trees to print all of this data out. And the stack would be over 440-miles high. While we provide backup services to restore electronic data in the event of loss, backups alone do not adequately address the requirements to archive electronic data subject to public records laws and legal discovery requests. It's important to understand records retention involves a systemic decision how long a record should be retained based on administrative and research and legal needs and with backup technologies where redundant copies are stored, regardless of the public records retention schedule. The purpose of backups is to restore documents in the event of loss. They include all, whether it's defined as a public record or not. The backup retention policy is six months, however for public records, have retention policies that can vary drastically. Records that must be kept until superseded. Some for three or four years. Some for 75 years and some are permanent. B.t.s. Is asked to complete public records of email messages including those stored on our email side effecters, as well as those kept on backup media that can be challenging to restore specific emails because the backup media were not designed for quickly assessing the proverbial needle in the hay stack. We often need to search through many different email servers and individual sets of backup media. Proper electronics records management tools are different. They not only address the



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requirements to maintain electronic records in alignment with the retention schedules but they enable city staff and the public the ability to complete search requests through our self-search tools. Providing for data protection and recovery, while records management tools provide for records retention and retrieval. Although both technology solutions are needed for proper storage and management, they clearly serve different needs.

**Fish:** Two quick questions. When you get a request for electronic documents, that you could pull off the server, but that are technically housed in let's say, a particular office, do you always contact the office about the request?

**Greinke:** Actually, the requests do typically come through a third party. Often through an attorney's office, or through a public records requests that I understand informs the office.

**Fish:** So you would never pull documents off the server without coordinating with the office that actually is immediately impacted?

**Greinke:** Correct.

**Fish:** And do you keep a list somewhere of all the public records requests on an ongoing basis?

**Greinke:** I believe the ones that we do process, we collect -- the ones we're doing electronically, we do have a list.

**Fish:** Is there any reason why that would not be shared with the commissioners on a weekly or monthly basis so we get a flavor of, a, what's being asked for, and b, so we do our due diligence unless we have a dog in the fight?

**Greinke:** I don't see any reason why we wouldn't do that.

**Fish:** I'd like to make that request. I think on some periodic basis letting offices know what the pending requests are is helpful and helps us about the kind of requests from the public.

**Greinke:** That's a great idea. And those that are through self-service tools as well.

**Blackmer:** You got to understand a lot of people will request and when they get the price tag won't follow through. That's one of the difficulties they face in getting access to our records. The cost for b.t.s. To custom search for them can be very, very high. And that's another thing that the courts are getting less tolerant for, the charges for searches. Let me talk a little bit about the ordinance again, and the context. from our standpoint, just talking about the need for a records retention isn't enough.

That writing city policies and telling city employees and personnel what to do isn't enough either and we really need to provide the tools and training to help everyone comply with it. And that's something that we've partnered with the bureaus to work on. About eight years ago, my office partnered with the bureau of technology services and others to do a r.f.p. And select a records management system. And we selected tower trim software. Known as e-files. We put the state's retention schedule into the e-file system to comply with the retention requirements and installing it around various bureaus around the city and right now, numerous bureaus are using it, either selectively on particular responsibilities or throughout the bureau. The police bureau, bureau of environmental services human resources and purchasing all have it and most of your offices have the tower trim software. We're scheduling those with the two newest commissioners to make sure your staff have the software and are trained how to preserve the emails you receive. The richest source of permanent is within this building. Those communities you have with the public, those policy issues are things that need to be kept permanently, which is a very long time. So what i'd like to do, also talk about some of the advantages that come from this software. The software not only does records retention, but also has some work flow and other advantages to it that can actually benefit the bureaus. So i'd like to introduce officer todd hussey and mark elwood. He's a manager from b.t.s. Assigned to the police bureau. I'm going to turn it over to them so they can give you a real world sense of how it works.

**Mark Elwood:** I'm mark, here to tell me but the trim system or e-files in the police bureau. Historically, the document management systems with needed as part of the original field reporting system being built a few years ago. Because the reports generated by the system were no longer

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going to be paper, but digital in nature. The trim system was purchased in 2006 in part because of the successful implementation of e-files in the auditors office. The trim system used as police was able it use the same document retention schedules as e-files and provide robust security and redaction features useful in the records division. We also knew they had the capability -- or has the capability to archive and exchange email in the future if that was ever needed. Since January of 2007, all case reports and associated documents of have either been scanned or imported directly into the system. The Portland police bureau members are able to use the system to access case reports online using a program known as our rue -- r view, which is what officer hussey will talk about. This year, the electronic field reporting system which allows reports not only to be entered online, including on mobile data computer, but also allow sergeants to electronically approve reports and make them accessible online through r view. Additionally to make it available to other law enforcement agency, the district attorney's office and the sheriff office and community justice. The use of trim is to expand again this year. To start management -- managing documents in fiscal training and the personnel divisions. So we're expanding its use. I'd like to turn it over to officer hussey to talk about r view and his work.

**Todd Hussey, Portland Police Bureau:** Good morning. I've been asked to talk to you about how it works for us in the field. Excuse me. The r view program it is something we use to access the reports kept up at records. It's a self-service process we use now. We don't have to make the requests personally or directly with the records people. We do that without any delay. We have access to it over the desktop [inaudible] precinct or over the mobile computers in our cars now. The records division, no longer has to -- to access those for us. We're able to actually look at them right out in the field. We can make our own copies in those are necessary. Those can do go into case files for future reports that are written. And we were able to print them out ourselves. The old process they had for the reporting, typically it would have been hand-written. It would have been couriered down to the precincts. And they're set in stacks waiting to be placed in files after processed. If an officer needed to find out something in a report, they would have to make a call down to the records division and let them know they think there's a report somewhere. The records people would have to find that report and if it had yet to be filed, in one of the stacks waiting to be processed, they'd pull that report out for you. You may ask them to read the narrative from the report over the telephone or fax a copy if it was needed to go into a future report file you were going to be handling. If you needed that, they would either have to fax a copy of it to you at the precinct where you were, or send it by courier back to the precinct in the next trip out. The r view program itself is simple for us to find things. There's a lot of different ways. By the case number if we know that. By people's names, find reports by addresses that have been written. So there's many different things for us to look up. One of the scenarios that is a pretty common deal, when a stolen car report is made, the -- many times, there's a story that goes with cars that are stolen. So the officer will go out and take the report and submit it to the records division. A patrol officer finds a stolen car, pull them over. The people in the car have their story how they get to too. In the a., we want able to get into -- in the past, we weren't able to get into the circumstances, until we got back to the precinct and got copies of the reports. In real time, now, we're able to access that report in the car, read the narrative that the victim has told the officer, what the situation was, and we're able to actually discuss with the people who were in the car what the circumstances are. Able to make copies of that report, which is needed to submit to the district attorney and we're able to do all of that without even bothering the records people. So it's a very user-friendly and quick system for us.

**Fritz:** How long have you been using the new system?

**Hussey:** The new system, the r view program itself has been a couple of years I believe we've had access to that. The new reporting program and stuff has been in demo and going live as we speak.

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**Elwood:** Just got done deploying the rest of the mobile data computer in the cars. So that's fairly recent capability.

**Adams:** Very impressive.

**Blackmer:** Let me close up. The key points. First, the rules and expectations about records and especially electronic records are changing. The secretary of state's office is circulating new draft rules that will force every jurisdiction to manage its electronic records much more carefully and methodically. Desktop technologies need to comply with current and proposed requirements and many rules are already in place but we did find gaps in consistencies which is what we're proposing in this code change. And we've worked with the -- in developing those, we worked with the city attorney's office, bureau of technology services, office of management and finance to review the current code and policies and rules for completeness. What we hope is that the ordinance before you will make improvements and we'll be work with the bureau of human resources to update the administrative work rules where necessary. We want to make that easy for city employees to comply and take advantage of the benefits. So the city already owns the operational software and it's really a matter of buying more individual licenses and installing them on desktops. The trim e-files are used throughout the city and we're working with the e.b.s. Project, which is our accounting system, to put the contracts into the e-file system and it will track along so that everyone sees the same contract as it goes through its approval process. We have about 1250 tower trim licenses for the city of Portland. And we're looking to install them in other bureaus and we'll be working with accounting around the e.b.s. System and bureau of planning and sustainability as we can in the coming year. Finally, proper management of our electronic records contributes to our sustainability goals. In the past year alone, city employees and members of must be have used the self serve to our record to view 70,000 ordinances photographs and other city record that's in the past would have been copied and mailed to them. Without the trim e-files, electronic repository. Every email classified is permanent which includes many that come from your offices, would need to be printed out on paper and boxed up and preserved in the temperature and humidity controlled section. We've used for years, but what we've done is expanded the universe of oversight to include documents and email in electronic form. These policies combine with the use of existing technology and employee training will ensure the city records continue to be preserved in -- preserved in a way that meets our public access and sustainability goals. Are there any questions?

**Adams:** Conversation from council? Thank you all very much. Really appreciate your good work on this and your commitment to keeping us with the spirit and letter of the law. This is a non-emergency. So it moves to second read next week. [gavel pounded] Karla, can you please call the first regular agenda item -- actually, why don't you read the titles for council items 312 and 313.

**Items 312 and 313.**

**David Thurman, Office of Management and Finance:** Thank you, good morning, mayor -- well, the mayor is not here. Members of council. For the record, i'm david thurman, city treasurer. The items will authorize contracts with wells fargo merchant services as well as bank. For general banking and merchant bankcard services which encompasses a wide variety of services. These contracts will be authorized through march 2013, and there's a culmination of a r.f.p. Process conducted last year, in which we received actually four proposals. They were reviewed by an evaluation committee and interviews conducted.

**Adams:** Which four?

**Thurman:** We received a proposal from wells fargo, bank of america, key bank and u.s. Bank. As I said, the proposals were reviewed. We had interviews and wells fargo was selected. As they were the providing that was really able to provide us the best technical solution at the best price. The proposed contracts will be approximately \$22,000 and \$28,000 a month. And that encompasses the banking services as well the processing costs that go to the bank. In addition to those costs, there are the pass through costs for credit card services that go to visa and mastercard. Range between

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1% and 3% on average city wide but those costs are consistent no matter which bank you happen it choose. Those -- both of those segments of costs vary depending on the city's monthly transaction activity. High peak times or lower peak times. So safe to say, these are services that are basically utilized by every bureau throughout the city and critical to the ongoing business operations. With that, i'd be happy to take any questions.

**Adams:** Is there a reason why more of the locally owned banks didn't respond to the r.f.p.?

**Thurman:** Because the size and volume of the city account. We run in excess. About 50, 60,000 a month. It's a high-volume, high-intensity account. And quite frankly, our accounts in some cases are bigger than the banks that would be proposing. So it's an issue in order to meet the qualifications, you need to be a fairly large, robust bank.

**Adams:** Conversation from council? Thank you very much. Emergency tunnels, anyone wishes to testify on items 312 or 313? All right. Karla, please call the roll.

**Fritz:** I appreciate the question about the local banks and the due diligence and also recognize wells fargo is reducing their pricing, so it looks like the negotiations went well. Aye. Thank you.

**Fish:** Aye.

**Saltzman:** Good work. Aye.

**Leonard:** Aye.

**Adams:** Give miss he an opportunity to publicly thank you for your great ongoing work on our behalf. Thank you. Aye. [gavel pounded] 313.

**Fritz:** Aye. **Fish:** Aye. **Saltzman:** Aye. **Leonard:** Aye. **Adams:** Aye. [gavel pounded] it's approved. Please -- oh, I need to make a motion per council ordinance that the council will meet in the evening on april 20th. So I move that motion. And everyone is supposed to have had this checked out --

**Leonard:** I have an excused absence.

**Adams:** Oh, you do?

**Leonard:** Yeah.

**Saltzman:** April tore or may.

**Adams:** May 20th.

**Leonard:** May 20th i'll be here.

**Adams:** Sorry. I make a motion we have a meeting may 20th gentleman what items on the agenda?

**Adams:** Volunteers in action.

**Fritz:** Vision into action.

**Adams:** Vision into action. That I know of.

**Fritz:** We also had a request to hold the permit center consolidation program hearing in the evening. I think everyone received that email.

**Adams:** My understanding is that I just make the motion on the evening meeting and then it's up to the commissioners in charge to decide whether they --

**Leonard:** May 20th won't work for that.

**Fritz:** I think it may be too late to go to may 20th. I know, charging.

**Leonard:** I'm not going to do that on the fly here. We need to analyze.

**Adams:** I thought this was all worked out with folks. So I withdraw my motion and --

**Leonard:** No, she's talking about a separate issue. So you don't need to withdraw your motion if you want to do vision into action hear, may 20th is fine. Commissioner Fritz is addressing a consolidation. But the 20th won't work anyway.

**Adams:** My motion is we have a council meeting in the evening starting at 6:00 and that --

**Fish:** Second.

**Adams:** Goodness. Any discussion of this item? Anyone who wishes to testify on this item? Karla, please call the roll on this motion.

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**Fritz:** Aye. **Fish:** Aye. **Saltzman:** Aye. **Leonard:** Aye. **Adams:** Aye. [gavel pounded]

**Fritz:** I move we have an evening hearing for the permit center consolidation whenever that can be arranged.

**Adams:** I have a feeling in review of the ordinance we have to have a specific date for --

**Leonard:** I won't support any such motion until I look at the report and what's due, when possible.

**Adams:** If I can ask you to come back with a specific date for the motion. That's the way the ordinance is written.

**\*\*\*\*\*:** I can review that at the break and I don't know the answer --

**Fritz:** Come back this afternoon with something. Thank you could you please read the title for council calendar item 314.

#### **Item 314.**

**Adams:** Mr. Rust.

**Ken Rust, Director, Office of Management and Finance:** Good morning, council. And mayor Adams. For the record, i'm ken rust, the director of office of management and finance. And with me is a face your -- he's business were you up on the 14th floor of the Portland building. This is bruce, for the enterprise business solution project and we're here to talk about ape flexible services contract that we're seeking with council authorization. As you know, we're in the midst of the implementation of our s.a.p. Application. We went live and working on the implementation. And as part of that project, we're seeking post-production support to have available to us consultants that can help us with the implementation -- the post-go-live implementation of this application. This is a very new product and we've learned a lot in the implementation process but we've learned from others that it's best practice to have some type of support available in the areas of finance, the human capital area and technical area. We've gone threw a competitive selection process. Qualifications from firms able to provide the support to us. Over 31 different proposals from 14 firms in these functional areas and we have selected six firms we -- or six contract was five firms we'd like to negotiate a contract with for flexible services. One is northwest based firm with a local branch here in Portland and three of five are certified by the state of Oregon. In year one, spend about \$1.4 million if necessary. We expect a bandage to pay for that out of the e.b.s. Project budget and we can renew each year annually in that same dollar amount but year not certain we'll need that much support. It's providing knowledge transfer to our staff as we run and operate the s.a.p. System and we expect over time, we'll need less of that support as we become more and more comfortable with the system operation. We do need we're going to need some continuing report as we go into the post-go live stages of the project. If we don't need it, our goal is to learn how to use the system with the team we'll have in place to run the s.a.p. Application and over time, we expect to need less and less of this. If you have specific questions, bruce can talk to you about the project.

**Adams:** Questions from council?

**Fish:** Ken, I have great confidence in your management of this whole process, but I just want to make sure I understand the fiscal impact of this request. This would be an additional \$3 million?

**Rust:** Actually in year one, it's additional \$1.4 million we expect but budgeted to be paid for from the current budget of the e.b.s. In year one, this particular contract doesn't have any impact.

**Fish:** Beyond that, there would be a \$3 million hit over eight years.

**Rust:** No, as much as \$1.4 million per year for the next two years after next. If we need that much, and that would be something we'd have to work with bureaus on the ongoing e.b.s. Budget, which we have in place to support the application over time.

**Fish:** I want to put the human face on this. If you do draw down on the 1.4 times two, which is \$3 million and then it's financed, which I take it, it would be paid over time, it would be -- that cost would be distributed among the bureau, correct?

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**Rust:** Right, and commissioner, there may be a little bit of confusion. We have a couple different things going on. One is this particular contract, which has been in the works for some time. And the second is an item we've talked with your council offices about regarding what we think is a necessarily reset of the go-live date and the expected costs so they're separate items.

**Fish:** Fine.

**Fritz:** Your point is valid. It's \$1.4 million out of the general fund budget, or all of the budgets. How much do you think you can absorb rather than passing on to other bureaus in years two and three?

**Rust:** We would have to look at the -- it's early for us to know the right level of that support. We aren't even fully live with all the applications. We have a current plan for e.b.s. Operating support that we think reflects what it will take to run the system effectively. Talking with other government that is run the kind of application we're running. The possibility we can reduce these costs, that's what we're looking to do. Also, as we go beyond year one, we fully expect we'll know thousand run the system ourselves. So the \$1.4 million first year costs should be less. The need to call on consultants to fix things, that should diminish as the knowledge transfer comes into the city. We'll look at those things to figure out how to reduce impacts --

**Fish:** Are you coming back on the other e.b.s. Issue?

**Rust:** Yes.

**Fish:** For me, we're in the middle of budget season and looking at how to fill holes in our own budgets, so building on commissioner Fritz's point, at the earlier possible time having a clear sense of the possible hit to each bureau, I have a -- as you know, as the parks commissioner, the third largest general fund bureau, so these things have a disproportionate impact on parks.

\*\*\*\*\*: [inaudible]

**Rust:** Commissioner, I'm mindful of the budget impacts.

**Fish:** It's spread across, but the -- but the numbers to parks are quite high -- you know, the numbers that we would -- impact us are pretty significant.

**Adams:** As well as transportation.

**Rust:** My goal are to takes the costs and reduce them as much as possible by looking hard at our costs and crunching the consultants on their costs to get the number down as small as possible and looking at ways to spread the costs and other ways, that's what we've done with this program. When we've had other budget issues and we'll continue to do that. I understand the impact.

**Fish:** The mayor is correct. A \$3 million e.b.s. Cost financed over eight years would be an additional \$6,000 a year for eight years to -- but \$34,000 for eight years to parks. That's not an insignificant amount for us to capture. But I go back to my earlier point that I have great confidence in your management of this project.

**Rust:** Thank you, commissioner.

**Adams:** I think that, one, we've established an outside expert panel for this project. And they've been meeting with staff and so as we effectuate this phase of the effort, I want to make sure they review usage, utilization of the flexible service contract. And then also, I think, coming back for regular sort of reports to council on a biennial basis on how we're doing in terms of getting the staff trained so the need for this goes down. I think the council would be well served to have happen as well.

**Rust:** Certainly.

**Adams:** Any other discussion with council? Anyone signed up to testify on council calendar item 314?

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

**Adams:** Anyone wishes to testify? This is an emergency, please call the roll.

**Fritz:** We've been doing a lot of budget meetings at which financial planning has said to other bureaus, when there are cost overruns, you need to find it within your existing budget. But I will be

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-- this is our only chance to say i'm very concerned about the impacts on our bureaus over two and three and i'm hoping you'll be able to find additional savings to take a disproportionate share of these burdens because it clearly has to be done and you've done a good job of getting the contract. It's going to be an additional hit and i'm concerned about that. But I vote aye.

**Fish:** Thanks, ken. I look forward to talking about the e.b.s. Matter later. Aye.

**Saltzman:** Aye.

**Leonard:** Aye.

**Adams:** Aye. [gavel pounded] 314 is approved. Could you please call the roll -- or, read the title and then call the roll for council calendar item 315.

**Item 315.**

**Fritz:** Thanks again to commissioner Saltzman for his leadership of the office of cable and franchise management during the preparation of this agreement which settles something dating back to 1859. And, therefore, it's great that we've got it down and good work. Aye.

**Fish:** Aye.

**Saltzman:** Aye.

**Leonard:** Aye.

**Adams:** Aye. [gavel pounded] item 315 is approved. Could you please read the title for council calendar item 316?

**Item 316.**

**Adams:** Commissioner Saltzman.

**Saltzman:** Thank you mayor. This is a partnership with the lower Columbia river estuary partnership, continues research on fish habitats in the Willamette and Columbia rivers. The type of study is part of the Portland watershed management plan and will extend our knowledge of watershed health including endangered species act, listed salmon and steelhead.

**Adams:** Any questions from council, discussion from council? Is there anyone here who wishes to testify on item 316? Karla, can you please call the roll?

**Fritz:** Aye.

**Saltzman:** Aye.

**Fish:** Aye.

**Adams:** I hope you find the salmonids. Aye. Item 316 is approved. Could you please read the title for council calendar item 317?

**Item 317.**

**Adams:** Mr. Shaff, welcome to the city council.

**David Shaff, Director, Portland Water Bureau:** Thank you.

**Adams:** What can you tell us about this?

**Shaff:** Good morning.

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

**Shaff:** I'm david shaff. I'm the director of the Portland water bureau, and I do have backup if I need it, but i'm going alone for the time being. We are here seeking approval to proceed on the first phase of the construction of what we call powell butte number 2. The property was purchased in 1925 originally for regional water supply. Now the city owns most of powell butte with additional purchases. The first reservoir was made in 1980, making powell butte the de facto hub of our water distribution system. The first powell butte master plan was done in 1985. They include 3 50 million-gallon reservoirs. The current conditional use master plan was started in 1995 and was approved in 2003. These two volumes here reflect only a tiny portion of the work and effort that went into the conditional use master plan, which includes the second 50 million-gallon reservoir, the piping, and appurtenances that go with you had. Maintenance, restroom remodel are all included in the current project and will be built in the second phase of the project when we begin construction of the actual reservoir. The master plan also include ad 20 million-gallon reservoir, a

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pump station to raise the water to the reservoir, and additional transmission piping to increase service areas to the south. Those are not included in the current project. The current conditional use master plan is valid through 2013. This is a project that has had extensive public involvement. Preparation of the approved master plan included an extensive public involvement process, including representatives from various city bureaus, commissioners' offices, neighborhood associations, schools, environmental organizations, recreational interests, and water districts. The master plan also reflects input from the general public at several open houses and areas surrounding Powell Butte. The process started in 1995 and continues through the current project. As part of the implementation plan, the water bureau and parks bureau prepare a public outreach plan that focuses on specific public outreach -- public outreach. We plan to maintain communication with our local citizens and general public. We anticipate being done in 2013. Key audiences include friends of Powell Butte, community residents, Centennial Neighborhood Association, Powell Hurst, Gilbert Association, Pleasant Valley, Powell Butte Homeowners Association, Meadowland Park, Meadow Crest Farm, Estates Mobile Home Community, Portland Public Schools, park users, special interest groups such as the 40-mile loop land trust, friends of Spring Water, Johnson Creek, and Pump, affected local businesses, the general public, and then other governmental agencies. We include commissioners Hale, Lindbergh, Sten, and of course Commissioner Saltzman and Commissioner Leonard. So, in the last few years, 2005 to 2007, we've worked with the Powell Butte study group, representatives familiar with the park and its storm water issues. In August, 2006, we worked with friends of Powell Butte and Pump on projects for bikes. In October of '06, we worked on the Powell Butte risk reduction project, a citizens' advisory committee working on a plan to reduce the risk of wildfires within the park. '06, '07, we were working with the Pleasant Valley Neighborhood Association and the friends of the Powell Butte on plans to create a modular result for monitoring equipment and instrumentation aboveground. The friends provided input into the appearance of the structure and recommended its color. From '03 to '09, water and parks staff have met and continue to meet monthly to discuss concerns, issues, upcoming works, wishes, desires, et cetera. During that same period, parks and water have continued to meet monthly to discuss our overall coordination and management issues for the Butte. That includes David Peters, Till Hall, Tom Klutz, our property manager, Rich Rice, our grounds manager, Kevin Duff, the caretaker at Powell Butte, and Theresa Elliott. All those folks work with the parks and water bureau and friends of Powell Butte. Public involvement for the construction project starting this year, we have a database mailing list that we've compiled that includes immediately affected neighbors, special interest groups, neighborhood community leaders. We sent out an introductory letter to key stakeholders and opinion leaders to discuss the level of engagement, review our outreach plan, collect input on the public outreach and involvement strategy. We've had community meetings, met with community opinion leaders, had public meetings. We hosted a public presentation that is in November and Harold Oliver School. I was at that meeting as well. We've posted information on our city calendar, the public bulletin, and the Powell Butte information kiosk. We mailed notification of the meeting to approximately 7000 people, including all the property owners within at least 150 feet of the project. We're planning another public meeting in April. We've met with public environmental interest groups, the Johnson Creek Watershed Council to provide information on the steps we are taking for erosion control. We've worked with the manufactured home park residents who are concerned about storm water, runoff. We've scheduled a talk -- stop and talk presentation to the residents in March of 2009. And we've been working with trying to get a meeting with Powell Butte Heights Homeowners Association. We had one, but it was scheduled during the bad weather. It got canceled, and we're rescheduling it. We also have created a web page for this project, and we have brochures and handouts. Upcoming, we'll look for input on the relocation of trails. We've determined what businesses will be directly and indirectly affected by construction. We're identifying opportunities and challenges there. We're hosting stop and talk sessions to



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address any questions about the project at the park, the mobile home park, and at public locations, the nearby safeway and fred meyer store parking lots. We'll host a bike/truck safety event because there are approximately 30,000 truckloads worth of material that are going to be coming out of powell butte and then another several thousand truckloads of concrete coming in over the next several years.

**Adams:** If you could make sure the trucks have the side guards on them?

**Shaff:** They won't be our trucks, mayor, but i'll make a note of that, and we'll work on that. We're meeting with groups that hold permits inside the park to discuss restrictions, doing routine reminders to the public to use alternate routes, and we're staging activities to draw public attention, such as a groundbreaking ceremony and that bike/truck safety event. The master plan was done through a land use project which was the most stringent, with a list of conditions and standards that have to be met as part of the project. Type ii land use review is required to demonstrate how any project on powell butte during the 10-year life complies with the requirements of the master plan. Type 3 review is required for any work in an environmental protection zone or anything that doesn't meet the requirement for the type ii review as defined in the master plan. Most of the current project will be included in the type ii review. The only work we're expecting to include in the type 3 review are the emergency overthrow structure, the three pipes at johnson creek, and some of the trail improvements. All of those are things located in the e.p. Zone. Powell butte 2 has been in the water bureau five- and 10-year financial plans since the late 1980's. Construction of the second reservoir in powell butte was identified in the system vulnerability study in 1986 as a critical project. The existing reservoir needs to be seismically upgraded, and that work cannot be done until the second reservoir is operational. This project also gives the water bureau flexibility in how we comply with the open reservoir portion of the rule. If we're successful in getting relief from congress regarding our continued open use of the reservoir, powell butte will still be needed and necessary so that reservoir number 1 can be taken off line for three years while the sis milk retrofitting -- seismic retrofitting is done. Powell butte will serve our water distribution needs for the next 50 to 100 years if successful. If we're not successful, it's the first step in complying with 1. 2. Powell butte 2, phase one, the excavation, has been identified as an economic stimulus project, a general grading and excavation type contract with subcontracting opportunities in fencing, erosion control, traffic control, flagging, trucking, and tree removal. The entire project should be completed in 2013. And I asked my chief engineer to take a quick run across the street to remind me how many jobs we're projecting will be created as a result of this job, and he told me 1516 exactly. In a recent letter from friends of reservoir, it was written that powell butte poses quality and logistic problems as it is removed from the service area and prone to producing a stale quality. There is absolutely no basis for that claim. Our average daily usage in the city of Portland is 100 million gallons. On peak days, it can reach 180 million gallons or higher. Every drop of that water goes into powell butte first before it goes into our distribution system. There are no water quality problems associated with powell butte nor will this second reservoir create any. To the contrary, temperatures in the reservoir should say more consistent in a closed reservoir than they would in an open reservoir, less likelihood of algae growth in covered reservoirs. We don't anticipate midge flies in covered storage like we had in our open reservoirs in the past. We can design the new reservoir to improve mixing and improved flow through the structure, which does improve water quality. Water turns over at least twice a day in powell butte. It's a 50 million-gallon reservoir. We have an average daily flow of 100 million gallons. Do the math. It goes through fairly darn quickly. Water turns over much more slowly in the open reservoirs. Water in reservoir 6 may take several days of to turn over. Our biggest water quality problems in our system, from the standpoint of being stale, occur at the farthest reaches or ends or in sections of town like the industrial east side sized decades ago-for industrial users, but those industrial users don't exist anymore, so the system is oversized, and the water does tend to create water quality problems, because there's too much

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water sifting there. The preliminary design report for the 50 million-gallon reservoir was completed in 2002. A drainage study for storm water management was completed in 2006. Since 2003, we've been working on the early projects. The pedestrian path from 162<sup>nd</sup> avenue, replacement of the caretaker trailer, invasive species removal, a.d.a. Trail improvements and bike parking facilities near the restroom were all conditions of the approval of the conditional use plan that had to be completed before we could start the reservoir. These are done, and we're toured begin. This is the first of two projects. Phase one is excavation, access improvement, erosion control, temporary drainage improvements, trail relocations, temporary parking lot, and tree removal. Phase two is expected to begin in 2010 and will include the actual reservoir construction, the piping, the appurtenances, emergency overflow, pipe and structure, reservoir drain, the relocation of the caretaker's house, the maintenance and storage building in the yard, the restroom remodel, the parking lot improvements, interpretive center, trail improvements and updated plan, storm water replacements and restoration. Phase one costs are estimated at 13.2 million. Total powell butte project costs are estimated to be 138 million total. We've worked with pbot. Construction traffic will be using 162<sup>nd</sup> and southeast division. They're both arterial roads with five lanes plus. These roads are designed to carry this type of traffic. The only other road impacts would be at long the utility corridor southeast of the parking lot. Truck traffic will access the utility corridor from the park and from circle avenue and will be providing traffic control on endreg loop, circle avenue, and southeast 174<sup>th</sup>. The nature park will be open during construction. However, we will be closing the main access road during the excavation because of the volume of construction traffic. 30,000 truckloads of material, I think we've estimated one truck every couple of minutes. The access road will be open to park users during normal park hours and when the contractors are not working. There will be intermittent closures at the -- closures. A d.a. Access for people who want to use other parts of the park that will not be affected even during the construction hours. This project is being done in two phases. Phase one was designed in-house by Portland water bureau staff. Phase two is more specialized structural design, and it will be designed by a consultant. Both projects will be constructed by contractors. They'll have opportunities for mwesb subcontractors. I'd be happy to answer any questions if you have them.

**Adams:** I'm just concerned that your report might not have enough detail in it.

**Shaff:** I was worried that you might think so.

**Leonard:** I will tell you that that's a break from the tradition of my office, but i've reviewed the comments david made. I returned them to him and said, add more detail, because there have been questions raised as to whether or not there's been adequate public process. I told david to include every step along the way what has been done.

**Adams:** A lot of outreach.

**Leonard:** You might not like the project, but it won't be because there hasn't been adequate public process.

**Shaff:** It is our intent to begin excavation as soon as we are able. We're actually a little behind where we had hoped to be. We had hoped to begin groundbreaking this month. So we would like to get it out as quickly as we can.

**Leonard:** And more to the point, the council earlier agreed to move up projects that were otherwise going to be done as part of the stimulus package. This is a shovel, dirt-ready project. As soon as we get this out the door, we can start putting people to work.

**Fish:** Offhand, the relative mix of stimulus dollars versus budget dollars, city dollars?

**Shaff:** It's all budgeted city dollars.

**Adams:** Is there a local stimulus?

**Fish:** That was problem believe the most comprehensive, detailed, and thoughtful presentation. I was trying to follow everything you said. I'm reminded, when you go to restaurants --

**Adams:** Thought it was a filibuster there for a while.

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**Fish:** When they say, would you remind me what the fourth one was, you made a point that we would need to do this regardless of whether we get the waiver, which I thought was a very important point. Could you just, for my benefit, state that again?

**Shaff:** Sure. There are a couple of reasons. The powell butte 1, the existing reservoir, is not -- was not built to today's seismic standards. It has been a project to retrofit powell butte number one for years. We cannot do that until powell butte 2 exists. Once we have powell butte 2, we can actually take our time in deciding when we will retrofit powell butte number 1. We would fit it into our c.i.p. When we can and when the dollars are there because, if powell butte 1 were to fail, we've got powell butte 2 existing. The second piece is that even if -- the concern has been that, if we get a slate tiff grant to continue using our open reservoirs, all of a sudden we have 50 million gallons of extra storage that we didn't wise need. Eventually we are going to need that storage. We don't need it next year or the year after or the next item years, but this is a facility that's going to last 100 years.

**Adams:** That's an important point.

**Shaff:** And it's cheaper to build it now than it will be 20 years from now.

**Fish:** The waiver, how we handicap that --

**Shaff:** It's a stand-alone project.

**Fish:** And finally what are you going to do with all the dirt?

**Shaff:** Well, the top layer will be stored at powell butte to be put back. The remaining 30,000 truckloads, we have tentatively identified a quarry that's a mile, a mile and a half away on, I believe, division.

**Fish:** If parks came to you with a proposal to use some of the dirt to actually level out some fields and --

**Shaff:** If they brought their checkbook, that would not be a problem.

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

**Leonard:** That's coming from the scrooge administrator. We would happily work with parks to accommodate.

**Shaff:** We've actually spoken with them, commissioner. They've told us of a couple of sites that are fairly nearby that they would like --

**Fish:** Including, I think, the soccer complex, for example, at -- in parkrose where we need to actually raise the level?

**Shaff:** It's simply a matter of money, truck mileage, that sort of thing.

**Fish:** But I just wanted to --

**Shaff:** I wasn't being facetious. We've actually spoken to them. The parks manager has had contact. There are a couple places the parks bureau has seriously identified they would like, perhaps, some help there.

**Adams:** Commissioner Fritz?

**Fritz:** Are we being paid for putting the dirt into the quarry or being paid for disposal?

**Shaff:** Commissioner. I don't know.

**Adams:** Usually we pay for the dirt?

**Leonard:** South waterfront, some of the property down there actually needs to be raised, if I recall, eight inches or 12 inches to see if they will purchase --

**Shaff:** Right. I think it's something like 30 feet. They are looking for a lot of fill. So wherever we are going to be able to get rid of the fill the cheapest way and including actually getting somebody to pay us for it, we are looking at --

**Leonard:** With the exception of parks.

**Fish:** I should say with the exception of Ross island is off the table now, I take it.

**Fritz:** So I thought I heard you just say that there aren't any federal stimulus dollars and the ordinance says that there are, that that's one of the reasons for it being an emergency ordinance, that

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it's funded with local, state, and federal economic stimulus programs.

**Shaff:** Not -- it is not federal stimulus. There are no federal stimulus dollars coming to us on this project.

**Fritz:** So do we move to a minor amendment to strike that language?

**Leonard:** Well, I am fearful of doing -- it says by the 2009 local, state, economic stimulus program. Is this somehow what the council's action was labeled when we made a decision?

**Shaff:** You know, i'm going to say yes. We know that there is no federal dollars coming. There are no federal dollars coming to us.

**Leonard:** It says by the 2009 local, state, federal economic stimulus program, so that could be the overreaching policy of the council adopted. I don't know.

**Fritz:** I want to make sure it's tidy.

**Adams:** It is part of it, so do you want to make a motion, commissioner Fritz?

**Fritz:** Do you want me to?

**Leonard:** I don't think it matters one way or the other. It doesn't identify dollars. It could very well be --

**Fritz:** I just want to make sure it's clean and tidy. And then I want to make sure I understand correctly part of this funding is already in the '08 '09 budget and part of it is in the rate increase request you have?

**Shaff:** The lion's share, the part about the '08/'09 is the with everything that theresa elliott, our project manager, has been working on. The lion's share is in the upcoming proposed '09/'10 budget.

**Adams:** Anyone wishes to testify on council item before us, 317?

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

**Leonard:** You don't want to testify, linda? You had a hand in all of this. You should come up and acknowledge your great work.

**Adams:** Welcome to the city council.

**Linda Bauer:** Thank you. Linda bauer. Actually, I would like to thank commissioner Fish's office for opening up a line of communication for me. Thank you all very much.

**Adams:** All right. If there is no further council discussion, will you please call the roll?

**Shane Abma, Sr. Deputy City Attorney:** Did commissioner Fritz make a --

**Adams:** No.

**Fritz:** It does seem to me that we need the storage regardless of our discussion this afternoon and that it's been in the works for a long time. I do share the concern that it's an emergency ordinance and wondering why it wasn't a month ago, but presumably you've been working on it as fast as you can now that we have things in order. Lots of good work. I want to commend linda bauer for the leadership in secure, the parks improvement and the conditional use of approval, and i'm comfortable knowing the phase two construction will go through a type ii process to make sure those things are done and also knowing the water bureau has the intention to do that. Also glad you're talking about women- and minority-run businesses in the contract. A lot of good work on this, and thank you to the citizens who have sent a lot of input, e-mail on this, which i've read, and I vote aye.

**Fish:** Well, i've offered david shaff a position with the housing bureau, and he told me candidly I could not afford him. And after his performance today when he put up further roadblocks for collaboration with parks, i'll to withdraw my offer.

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

**Fish:** But I would say that was -- we do a lot of kidding up here to keep things light during very grim times, but that was one of the most thoughtful, comprehensive presentations i've ever heard. I was trying to find some way to turn your obsession with public process into a joke like why do you hate the public process as part of your job?

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\*\*\*\*\*: Of la laugh.

**Fish:** But I'm surprised you're actually still in this job given the public process you are required to do in the ordinary course and scope of your activities. I, like everyone else up here, received some e-mails. In each and every instance, I've also receive ad lengthy rebuttal response drafted by you or commissioner Leonard pointing out a different side of the story. In our system of government, by definition, we refer to the department in charge, but it doesn't mean we're immune from getting hit by people that raise concerns and want us obviously to get engaged. This makes our job a lot easier, so I want to thank you for that. I know that's an additional piece of your work. We appreciate it. I'm satisfied that, as a stand-alone project, this makes sense. I'm pleased that this has been put into our local package, and I think you've been extremely thoughtful in looking at all the moving pieces here. So I'm pleased to vote aye.

**Saltzman:** Well, I'm pleased to support this. And since I may not be here for this afternoon's work session, I just want to get my perspective out right now on the report that's coming to us at 2:30 or 2:00. I do have concerns that were raised in our budget discussions about the decision of a filtration plant using an ultraviolet radiation. I would not be comfortable at this point locking us into a filtration approach. I mean, we'll try to get a waiver from filtration altogether, but if we can't, I still think u.v. Radiation treatment is cheaper, more state-of-the-art, needs to be looked at, less of an impact on ratepayers. I just want to voice that concern now, because I'm not sure I'll be here for this afternoon's session. But I'm pleased to support this. Aye.

**Leonard:** Let me address that last point first. We did make a decision to move to the sand filter system, although we had supported the u.v. System early on. The reason we recommended the u.v. System early on was only because it minimally complied with the l.t. 2 requirement of eliminating any spores, and that's all a u.v. System will do. It does not kill a number of other potential bugs or if we have an algae bloom, for example, up in the reservoir, it doesn't kill the poison associated with that that causes us to shut down the reservoirs. And so, at a point, we last december realized that agreeing to put in, albeit a cheaper method to comply with l.t. 2, that being the u.v. System, it really was a waste, because we don't believe we have crypto sporidium in the reservoirs in the first place. A sand filter system not only filters out the spores that we're required to eliminate from our drinking water. It also eliminates potential bugs that, in the future, could be cause for the e.p.a. to ask us to clean the water for those as well. It also allows us, using a sand filter system, to draw down a billion more gallons of water in the summer when we would otherwise go and turn on the pumps on columbia boulevard. I will be the first to say that spending 375 million versus 150 million is a tough issue to explain, but I'm actually more comfortable explaining that because we actually get a benefit to the system, not only in the present with complying with l.t. 2, but almost every summer we have an algae breakout so we have to turn off the reservoir, which is very expensive. I can anticipate that future generations will increased requirements for water quality that a sand filter will allow us then to comply with that a u.v. System will not. So, for those reasons, we've changed course, but we'll have plenty of time to discuss that in the future, but I wanted to acknowledge that. I want to thank david for his also very thoughtful presentation but his staff as well, mike, ginny, chris. His staff has worked very hard. At commissioner Saltzman knows as the only other person up here who's overseen the water bureau, these are amongst the most professional here, providing excellent service and excellent public involvement. I'm very proud of the work they do. I trust the work they do. And I believe that what they've done here is again another hallmark in the long storied history of the Portland water bureau of investing dollars to make sure that Portlanders have a reliable source of water not only to drink but to fight fires with and for a variety of other reasons. Thank you all for the good work, and I appreciate it. Aye.

**Adams:** Well, this has been on the "to do" list for the city for a very long time, so I'm pleased to move it forward, especially in the context of such an internal deliberative evaluation and such excellent external outreach. I commend not only the team of the water bureau but commissioner

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Leonard, and this is also going to help get Portlanders back to work, so i'm very supportive of the emergency because of the good work and because we need to get Portlanders to work, and there are going to be other ordinances moving forward and resolutions moving forward in the same vein, especially on a local still package item. So thank you. Aye. 317 is approved. Please read council calendar 318.

**Item 318.**

**Adams:** This is a second reading only.

**Leonard:** Questions to the attorney. Last week we took off the emergency ordinance. Can we put it back on?

**Abma:** For this particular? It's a second.

**Saltzman:** I actually was going to recuse myself because I wasn't here last week.

**Leonard:** I don't know -- can commissioner Saltzman recuse himself?

**Saltzman:** I could leave, too. This is the last item.

**Leonard:** Ok. The other question is can we put it back on?

**Abma:** You need four, so his absence wouldn't make a difference. You're wanting to put the emergency clause back on -- clause back on?

**Fish:** Let's test it first.

**Abma:** I don't have the answer. If it was an emergency ordinance, it would be effective today as opposed to 30 days.

**Moore-Love:** You still have to make a motion to put on the emergency clause.

**Fish:** I manufacture to put the emergency clause back on.

**Leonard:** Seconded.

**Adams:** Moved and seconded. Any council discussion on applying the emergency clause to this ordinance? Anyone who wishes to testify on this issue? Please call the roll.

**Fritz:** Aye.

**Fish:** Yes.

**Saltzman:** I'm going to recuse myself.

**Leonard:** Aye.

**Adams:** Aye. Emergency applied. Please call the roll on the underlying ordinance.

**\*\*\*\*\*:** I don't see why you couldn't, commissioner Leonard.

**Adams:** I think we just did.

**Fritz:** Well, serious allegations have been made in this case by the property owner and by the city, and I appreciate mr. Pappas and the others who are here today both for coming last week and for coming back. Thank you for providing additional information. Thank you to city staff who have also been very helpful to me. I have reviewed a lot of information. Last week, had I had all the information, I would have been comfortable voting for it then. After reading the case files, it's apparent that we've worked very hard with applicants to achieve compliance with the building and fire code regulations and that there are many serious and dangerous violations that are yet to be resolved. The key issue to me is the findings of the fire code board of appeals where mr. Pappas testified on october 10<sup>th</sup> and, while the fines were suspended and he was given another chance to get things in order by april, the fire watch was kept in full force and effect. As commissioner Fish stated last week, this is what we are being asked to vote onto implement the fire code board of appeals decision to assess the lien and to not excuse that lien. That's the only question that i'm being asked to vote on today in my understanding of this ordinance. While I understand that the property owner believes that he's being picked on by the city, I believe the city also has a responsibility to protect the citizens and the customers. It does make sense to have an interbureau code compliance team to assure that buildings and businesses function in a safe manner and that the bureaus are talking about all the issues that need to be resolved. I'm looking for ready to commissioner Leonard bringing forward a resolution with a transparent process -- process that show

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as mechanism for achieving the compliance and which can be used to help the bureaus work together with the proper owners to resolve many issues as in this case. But my research into this issue does confirm the need to assess the lien against the property, to implement the decision of the fire code board of appeals, so I vote aye.

**Fish:** I want to compliment commissioner Fritz for her comments, and she stole a little bit of my thunder, but I appreciate the thoughtful way that she framed the issue and described her thought process, and I think it's a model of how each of us can approach this question. First of all, because this has become a somewhat personal dispute -- and i, like amanda, have had a chance to review the record -- I think it's gotten unduly personal, so i'll just say upfront that, ted, in the last 12 years, i've eaten at your restaurant frequently and I love greek food. I want to be clear this has nothing to do with the food you serve, nothing to do with your and your ethnicity, nothing to do with the restaurant. This has to do with one thing and that is whether greek cuisina is licensed to pay for a licensed and bonded third-party fire watch. Each of us have our own way at looking at issues. On issues of fire safety, my practice is to defer to the fire professionals since we have actually entrusted them with making good judgments for our community. And in this case, both chief norr and chief klum have concluded that a third-party fire watch is required, and I am in absolutely no position to second-guess that judgment, and I have the highest regard for their integrity and professionalism. Again, in reviewing the record, I know they did not reach this conclusion lightly. So on the question of the health and safety of the public, this commissioner will err on the side of the public, but I will also note in reviewing the record -- and commissioner Fritz brought this out -- there's an extensive history of code violations. These violations go to the heart of providing a safe building for people who both are your customers and for people who work for you. And secondly I think also important to note that the greek cuisina has in the past agreed to its own fire watch. So the fundamental question here is not whether there should be a fire watch. It's the question of whether a licensed and bonded third-party fire watch as required and whether a lien should attach. Now, i've stated that I have a practice of deferring to the fire professionals but, as a council, it's our job to make sure that procedurally any citizen coming before us has been treated fairly. We do have that safety valve function, and i've seen my colleagues regularly, on tough issues, ask the questions which go to the heart of have you had a fair process. Have you had some resource, prior to coming here, where you've been treated fairly? I want to note for the record that I concur with commissioner Fritz. The proper place to raise this is at the fire board board of appeals, and they did not strike the watch. As I read the ordinance, chief norr could at anytime, in his judgment, make a reduction in the fines. But, again, that's not the question before us. For anyone watching this and wondering what does mr. Pappas have as options if he thinks he's been unfairly treated, well, he has the right to go to the board of appeals, which he has exercised. He has the right with respect to any law enforcement officer to file a compliant. You've done so, and the complaint was not substantiated. You actually have the right to sue the city at the end of the day. I took it from your exchange with commissioner Leonard last week that you are contemplating that, although i'm not aware we have received a tort claim notice. Lord knows we do have a legal system with checks and balances, and people have the right to sue us if they disagree with our decisions. But when I look at all the options available to you as a business person, as a citizen, I don't think you've been treated unfair live. In fact, in the one place where you brought your appeal, it was denied, so i've concluded you were treated fairly. Mr. Pappas, in this issue, I have been troubled by what appears to be an attempt to divert the attention away from the real issue. And i'm going to say this respectfully, because I do have respect for you. But I do not think it's constructive to our discussion to call a team of law enforcement professionals, who we have charged with epp forcing code, randy Leonard's hit squad. And I know it make as caption in a newspaper, and I know it gets attention, but i'm just telling you my view. Your first amendment protects what you want to say, but it gives me the right to also express my view. And I find the constant references to, quote, randy Leonard's

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hit squad demeaning to the professionals that we've entrusted to do this important work. In addition, in the last time we got together, you made some very serious charges about some other law enforcement individuals, including officer meyers, who you regularly referred to as a liar, and you called out his integrity. Now, again i've looked at the record, listened carefully to you, and i'm troubled by the, in my thought, way you've impugned the integrity of the law enforcement officials we've retained to do this kind of work. It would have a little more credence in my mind if, at some point in the review process, someone had concurred with any of your complaints against officer meyers or anyone else who serves this city. But I will tell you that i've had a personal experience in this matter which I need to put on the record, which is I have been criticized by you for not giving you the courtesy of a one-on-one meeting. As I explained to you when you made that charge and did it in a fairly public way, my practice, because i'm an extremely overburdened city commissioner managing two substantial bureaus and what is the worst economy in my lifetime -- my practice is to take the senior person in my office who was actual responsibility for an issue and to ask them to meet with a concerned citizen in your case to get all the information and then to be briefed. Our system would not function if we did not use our senior staff people in that way. And when I asked you to meet with carmen rubio, I wasn't asking you to meet with an intern in my office but my senior policy advisor who has served with the station previously in mayor potter's office. During the course of your conversation with her, you express ad number of your grievances, and she n keeping with the high level of professionalism that she sad here's to, reviewed with you a number of options that you might have to pursue claims if you thought you were being treated unfairly, and that included letting you know about an i.p.r. Process if you felt that anybody was treated you improperly. That trigger cad communication from you in writing in which you said that ms. Rubio had suggested that you file a complaint against the law enforcement professional involved in this matter. I have to tell you that troubled me greatly. A that there was an incision situation that you had didn'ties the disrespected and, b, in the course of her giving you, like any other citizens, advice as to what your options were, it now was characterized as a suggestion that you take action against someone. And I mention that because all we have in this process today and going forward is our own integrity and our trust and our ability to communicate honestly and openly, and that troubled me greatly, and I expressed to you in a letter why that troubled me. We've been asked to approve a lien so the city can recover its costs. After we do so, the fire marshal has the authority to reduce the amount of the lien or come back to the council with recommendations. After looking at all the information in the file listening to all the testimony, and listening to the thoughtful comments of my colleagues prior to today and today, i'm satisfied that the fire watch was properly authorized and that you, mr. Pappas, have had a full and fair opportunity to challenge that fire watch, and so I vote aye.

**Leonard:** There are times in people's lives when tragedy happens, and they stop when that happens and they look back and think, what could I have done different? Something as -- most people live through their life without having that happen, but there are people who lose a loved one in a plane crash who wonder, if I had just not taken them to the airport that day, maybe they would have lived. There are people who have loved ones who die in a car accident and think, you know, maybe I should have taken that person myself and that accident wouldn't happen. Then there are people who i've interacted with over the years who have been either landlords or occupants of a residence that caught on fire and somebody died in who stand out on the street in the middle of the night and console them saying what could I have done different? Clearly, mr. Pappas, you've never had that happen. And as harsh as this approach appears to you, it really is an attempt for you never to have that happen, any of you sitting there. I do not know how to begin to explain to you if the men and women of the Portland fire bureau and police bureau and bureau of development services weren't doing what they were doing and fire occurred in your building that you've altered without permit, which is basically a fireplace with a nice chimney in it and you lost either customers or employees



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or professional firefighters trying to fight the fire. I cannot explain to you how that would change your life, that there is no amount of money you'd be willing to pay to get back to this point in time. We are in a place where the fire bureau isn't very often where we're telling you you have to do this stuff, but you've put us in a place where we have to do that. It not only is to protect the public and public safety personnel but, honestly, to protect you from the grief that you do not understand you would live under if something bad happened. So I hope that you can listen to my words and listen to the pleas of the fire professionals and police professionals and understand we don't want to be adversaries. We want to work with you, want you to be successful, but we also want people to be safe whether your family, yourself, employees or the firefighters. We want you all to be safe. That's the bottom line. And that's what this is about and nothing more than that. Having said that, I greatly appreciate the kind words of my colleagues before me and appreciate the work of the Portland fire bureau, the Portland police bureau and bureau of services and their standards of protecting the public from tragedies. Aye.

**Adams:** I'm not a strict constructionist on these kinds of issues, but I respect those that are, and I really did want to sort of, as part of hearing this matter, make sure that even though individual efforts might, I know, with the best of intentions been made as part of this overall process that the overall process treated you fairly. No process is going to be perfect but, in this particular case, I agree with my colleagues that you had multiple opportunities to make your case in this process. This has been going on for a very long time. I was surprised when you talked about being asked by the city to move out your residential living situation in the building, which is not allowed. And i'm -- you know -- I want you to succeed, but I also watch you to succeed in a manner that's safe. And so that's why i'm supporting this. I want to thank the team of bureau professionals and thank commissioner Leonard. It's very difficult. A lot of effort was put into this, a lot of care put into it, and I hope that we can resolve this issue very quickly and get you focused exclusively on making sure that your business succeeds. But, again, in a safe manner.

\*\*\*\*\*: Can I comment?

**Adams:** You cannot. You've had your chance. So I vote aye. Item is approved. Council is in recess until 2:00 p.m.

At 11:52 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.

**MARCH 25, 2009**                      **2:00 PM**

**Adams:** Good afternoon. Welcome to the city council. We're in our afternoon session for the -- this is wednesday, march 25th. Karla, will you please call the roll.

[roll call]

**Item 319.**

**Adams:** We are very lucky today to have the rigler school kids city presentation. Can you see yourself --

\*\*\*\*\*: We see you.

**Adams:** Can we change the camera so you're on -- they're not -- there we go. Can you zoom in? There we go. All right. Welcome to the city council. We're really glad you're here.

**Julie Diamond:** Thank you very much for having us. My name is julie diamond, and this is sonya, and we're cosponsors for the I have a dream program Oregon. And we have a group, the dreamer class in Oregon is our fourth graders at rigler elementary, and we have a group of -- how many are we today?

\*\*\*\*\*: Five.

**Diamond:** There's like five today. And we're -- we started the kid city club. We're learning about government, and about our community, and we thought that because of the recent improvement plans for the cully concordia neighborhood, that would be a great place to start teaching our kids about local government. We're very lucky to have debbie bischof help us. She gave us a tour of the city hall and taught us a lot about the neighborhood. So we're going to turn it over to the kids and have them fill you in about what they've been doing and learning, and their ideas biennium improvement for the cully concordia neighborhood.

**Fish:** You're very lucky to have debbie on your side. We think her as the best of the best.

**Diamond:** I couldn't agree more. She's been incredible help.

\*\*\*\*\*: My name is sierra. We are from rigler elementary school. We have been learn ball game government and how the city works. We came to city hall last month and debbie gave us a tour of city exphal we learned a lot about -- a lot of different things. Everyone thought it was fun. We sought time capsule, we met commissioner disprits she let us sit in her office. We rode the glass elevators and looked up at the glass ceiling in the atrium. We met with debbie and we saw the safe.

**Diamond:** That was a big hit.

\*\*\*\*\*: We also learned about our neighborhood and looked at maps, learned what a city planner does and learned about zoning.

**Diamond:** Andy is going to fill us in on the next part.

\*\*\*\*\*: Hello, my name is andy. We have been learning about the cully neighborhood. We took a tour of the neighborhood boundaries, learned about zoning and filled out a survey of our neighborhood. When we were driving around we saw many things that could be improved. We saw a lot of unpaved roads and many roads had big potholes in them. There were trees and branches that had fallen and hadn't been cleaned up. And on many streets there were no sidewalks and no bike lanes. We also saw a lot of graffiti and many road signs were missing or damaged.

\*\*\*\*\*: My name is vanessa. We took a survey when we came to city hall about what we liked -- .

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**Fish:** But the microphone a little closer to your face.

\*\*\*\*\*: What we like, dislike and would like to see in our neighborhoods. We like going to school, hanging out with friends, and riding our bikes. But we don't like many things. There are homeless people. We don't like having no sidewalks or cracked sidewalks. We don't like streets that aren't paved, and we don't like the big potholes in the streets. We don't like seeing so much graffiti and we don't like that the crosswalk signs are too short for people to get across safely. Also we don't like that there are not enough parks, and parks need improvement. There are not enough play areas. There is not enough shopping. We have to take the bus or drive very far to go shopping.

**Adams:** Very well done. Very well said.

\*\*\*\*\*: Hello, my name is brianna. We talked with debbie about what would make our neighborhood a better place to live. We would like better roads, more sidewalks and more bike lanes. We would like to have homeless shelters so people have somewhere to go and didn't have to stay on the street. We would like more shops to make it easier to go get food and clothes. And we would like to have more parks and places to play and a community center in our neighborhood.

**Adams:** Well done.

\*\*\*\*\*: My name is damien. We vote order what we'd like to make our neighborhood better. We decided we would -- we want to raise money for the cully community by running a booth at the cully community fair in may. At the rigler school. This fair is for everyone in the community so people can come and meet each other and learn about rigler school. We will make posters to advertise it so people will come. Then we will run a booth, our principal will give us a spin art machine and we will charge 50 cents for each person who wants to make a spin art picture. We will decorate booths with our own spin art so people can see what it is. We don't know yet what we will do with the money we raise. We will vote to decide how we spend the money to help our neighborhood.

**Adams:** Very well done. [applause] what do you think of city hall and city government so far? What's your favorite thing you've seen in the building so far?

\*\*\*\*\*: The time capsule.

**Adams:** Did they tell you what's in it?

\*\*\*\*\*: They say there's stuff they're going to open in the future.

**Adams:** Yeah. That's right.

\*\*\*\*\*: Do you remember any of it?

\*\*\*\*\*: Huh-uh.

**Adams:** Do you have any questions for us? I understand that you're considering a career as a senator, or as a mayor or commissioner. You're looking at being a senator. Correct?

\*\*\*\*\*: That's what my grandma wants me to be.

**Adams:** And what do you think about that idea?

\*\*\*\*\*: I think it's a pretty good job. On the t.v. It seems like it's pretty boring, though.

**Adams:** Former senator Leonard, what would you say? We really appreciate you being here very much. Do we have more? Thank you very much. You're from the school, right?

**Eduardo Ugarte:** My name is awardo. I'd like to thank you for the opportunity to present here shall are. I believe that we have a really strong school. The children that are behind us are a really good representation of the kids that we have at rigler. Christie is our principal, and she would have been here to address you guys, but she's actually on spring break. So she's asked me to represent our school. I'd like to give you an idea of the makeup of our school and what we do and how we do it. Currently we are a k-7 model. Last year our seventh graders, now eighth graders, went to madison to the madison academy. This next coming school year, we're going to keep our seventh graders going into eighth grade. We've just acquired -- will be acquiring, I should say, a portable. The reason those kids moved on is overcrowding at rigler. Because of the portable they get to stay with us next year. Currently we have 540 students, and next year the numbers will increase given

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we're getting a kindergarten grade additional class, and we keep our 7th graders. Rigler, as you now know, has the dreamers from the I have a dream program. We also have a spanish immersion program, a two-way, that includes k, one, two, three, and next year moving to the fourth graders. I believe rigler is a community that's rich with linguistics and different cultures. We've got quite a diverse population of students. All of these students benefit from the specialty instruction that they get, not from their teachers during the day, but also from the sun program in the afternoon. The population of our students by the numbers it breaks down to 19% caucasian, 21% african-american, 10% asian-american, 45% hispanic, 3% american indian, and 2% other. The boys are 53%, and the girls are at 47%. Commissioner Fish was complimenting debbie, and she actually works closely with us on a program incorporating the neighborhood, the businesses with our community. And part of the issues that are on her docket are safer school routes, bringing the eighth graders back from madison to our school, starting up any accommodations that may be needed in the community, accessing them for families, and she was in the room and can address any other questions about that. I thank you for the opportunity to --

**Fish:** Do you know offhand the number, the percentage of free and reduced lunch?

**Ugarte:** I believe it's 87%.

**Adams:** Good work.

**Ugarte:** I appreciate the opportunity to prou to you our schools, and I tell you we have a strong, strong staff and great, great kids. So thank you.

**Adams:** Let's have another round of applause then we'll get a picture. [applause] This requires no further council action. We're a little ahead of schedule.

**Fish:** In light of this compelling presentation, I make a motion we commit here and now to fix the problems identified. We appoint linda in charge of the oversight process, and -- why don't we give ourselves a week.

**Fritz:** It's interesting, we did a survey at marquam elementary school, the only title one school on the west side, and that was about 15 years ago. And we asked similar questions, and the answers were the same. The one I particular remember was, where would you like sidewalks. And the answer that came from one little girl was wherever there aren't any. So I think it's really -- that is a council policy, that we're trying to provide sidewalks and bikeways and safe streets, and safe neighborhoods in every one of the 95 neighborhoods. So we're aware of the challenges. As the young man said in terms of waiting to vote on how you're going to spend the money, that's part of what we're doing right now, is fixing out the council's budget and trying to prioritize. If you only have a certain amount of money, what do you need to spend it on first?

**Fish:** If I could add one other point, another thing that struck us about your comments, we often have people come before us and they make arguments for things that just benefit them. They say please do this because it affects just me. We understand that. That's their right. But when people of your age come in and say, please do these things because they will benefit a whole community, thאים pressive. That's impressive. And that says you're going to be wonderful citizen activist. So thank you for that. And.

**Adams:** Thank you julie and everyone in the foundation as well. Council will be resesd for seven minutes. [recess.]

**Adams:** Are your remarks as extensive as this morning?

**\*\*\*\*\*:** Probably.

**Adams:** Good.

**Adams:** We are about to consider council item 320, which is a time certain 2:30 wednesday, march 25th. Karla, please read the title.

**Item 320.**

**Adams:** Commissioner Leonard.

**Leonard:** David shaff is going to make a presentation.

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**David Shaff, Director, Portland Water Bureau:** I'm the director of the Portland water bureau. I'm here to present a report to you on the status of the water bureau's compliance efforts in regard to a new drinking water regulation under the safe drinking water act called the long-term 2 enhanced surface water treatment rule. Which we all refer to as It-2. Compliance with the rule would have impact on two separate parts of portland's water system. First, the rule requires the city to provide additional treatment to its bull run supply to either remove or inactivate cryptosporidium. The treatment options available include filtration, either traditional or a newer micromembrane technology to remove the parasites. Ozonation, the introduction of ozone to the water to destroy the crypto-oocysts, chlorine dioxide which is a chemical disinfectant, or ultraviolet radiation. The u.v. lights irradiate to prevent the oocysts from reproducing. It's commonly referred to as inactivation. The rule requires that additional treatment be in operation by april 1, 2014, assuming a two-year extension that's allowed under the rule. I think you will remember that a couple of weeks ago I had a clock with me, it was the countdown clock. It is now down to 1,832 days. Approximately five years and a little less than a week. For us to build a treatment plant under the rule if we're not successful in our strategy with congress. Second, the rule requires that water system that store treated water in an open reservoir, in other words, they use uncovered finished water storage facilities like those at mount tabor and Washington park, either cover the reservoirs or provide treatment at the outlets of the reservoirs to inactivate cryptosporidium, giardia and other viruses. The rule requires that Portland must have an approved schedule for complying with the rule by april 1st of this year. So just a few days from now. Portland's primary source water the bull run is a pristine watershed far removed from the types of human activities and pollution that are associated with the presence of cryptosporidium. There's no human sewage or cattle exposure in the federally protected bull run watershed. The wildlife that inhabits the bull run watershed poses the only potential source of cryptosporidium in the bull run. Because of this, the city rarely detects crypto in the bull run when it conducts regular quality monitoring and then only at low levels. The city samples bull run water for crypto on a monthly basis. It has not been detected since september of 2002. I'm here today to outline the two options that the water bureau is recommending the council follow in order to achieve compliance with the new rule. Please note that I said compliance. In a recent letter from the friends of the reservoir organization, floy jones urged Portlanders to tell the council, quote -- none of these projects should be approved unless and until we do not achieve legislative relief, closed quotes. And asked that they remind you that, quote -- it would take 75 to 100 years of noncompliance penalty fees before reaching the eventual total cost of these projects. Assuming the e.p.a. Decided to actually do so. Maximum assessment for violating an administrative order is \$37,500 per day or about \$13.5 million per year. Closed quotes. Refusing to comply with federal law, and incurring fines of \$37,000 dollar a day for noncompliance, no matter how much the city council disagrees with the law, is simply not a viable option or approach. The potential fine ranges from \$1 to a maximum of \$37,500. It could be a daily fine. However, the e.p.a.'s likely to consider each of the five reservoirs a separate violation. The potential daily fine is actually \$187,500. The potential annual fine is \$68.4 million. For perspective, that's almost my entire annual operating budget of \$69 million. In a letter dated february 11th to the bureau, the e.p.a. Stated, quote -- e.p.a. Can only approve a construction schedule. Under which Portland takes immediate steps toward compliance with the open reservoir components of It-2. The schedule needs to show that you will work steadily and consistently toward compliance, closed quotes. E.p.a. Would not just seek penalties. First, the city would be required to send -- could be required and probably would be required to send regular notices to all of our customers saying we were out of compliance with federal law, and advising of the potential health risks. Second, e.p.a. Would seek injunctive relief demanding compliance and the court could and probably would grant that injunctive relief. If the city refused to comply with the court injunction, a u.s. District court would have power to take charge of the water bureau. A sort of judicial receivership. They would assess

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rates and run the bureau to force compliance. Courts don't like to do that, of course, and i've never worked for the feds and i'm not sure I want to start this way. Once the city's out of compliance, that would be as early as next week if we don't get the approval of the plan by the e.p.a. We will have violated our wholesale agreements. Customers will be in the position to stop buying, if they have alternative sources, or demand a substantial drop in the price of water because it's no longer what they contracted for. In other words, legal water. That would be a major hit to the water bureau. 20% of our revenue comes from our wholesale contracts. I noticed sitting here that a number of our customers are in the audience. They're very interest the in how we approach compliance with It-2. I haven't mentioned the state sanctions yet. They include potential loss of our certification to operate a public water system, in addition to fines, and possible imprisonment in the county jail not exceeding six months. Each day that the violation continues is a separate offense. I'm hoping since i'm recommending we change the law or comply with it, that i'm not the one serving the jail time. However, you can be sure none of the people today urging you not to comply will be serving that jail time either. So it's either me or one of you. The history of the regulation. How we got here. I've outline add brief history to the rule in our efforts to fight it. First, what is crypto. It's a microorganism, a protozoa, that's naturally present in bodies of surface water throughout the world. It's caused a number of waterborne disease outbreaks since 1984 when the first outbreak was reported in the united states. The most serious outbreak of -- from crypto occurred in 1993 in milwaukee, wisconsin, resulting in at least 50 crypto-related deaths. And over 400,000 illnesses. In 1996, partly as result of the milwaukee incident, the congress the directed the e.p.a. To promulgate something called a national primary drinking water regulation for any contaminant that the e.p.a., and i'm going to read a long quote -- determines may have an adverse effect on the health of persons, is known to occur or has a substantial likelihood of occurring in public water systems with a frequency and at levels of public health concern and for which in the sole judgment of the e.p.a. Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction by persons served by public water systems, closed quote. The e.p.a. Determined crypto is such a contaminant and publish a proposed rule in august of 2003. In january of 2005, when commissioner Saltzman was still the commissioner and prior to my coming on board and commissioner Leonard becoming the water commissioner, the Portland city council committed to pursue alternative forms of compliance for It-2. Soon after, the city met with e.p.a. Officials to encourage the agency to alter the final rule, so that it would include alternate approaches that would allow Portland to avoid building additional treatment or covering its reservoirs. When first assigned the water bureau commissioner Leonard contacted community stakeholders in july 2005. That was our first month on board. And learned of their desire that the city fight the proposed It-2 rule. He and I met with them and we pledged to do everything in our power to maintain mount tabor's open reservoirs in accordance with the Mt Tabor independent review panel recommendation to city council that the city developed a risk mitigation plan to come into compliance with the proposed rule. In january 2006 the final rule was publish. Much to our surprise and to our chagrin, it removed risk mitigation as an option for compliance. With the open reservoir requirements. Portland had been planning on pursuing risk mitigation as our alternative or as our way of complying with the rule. As a result the city filed a legal challenge to -- in the Washington, d.c. District court of appeals in early 2006. Community stakeholders were intimately involved in the challenge. They participated in the selection of the nationally recognized law official selected to pursue the city's legal challenge. The firm foley hoag is the only firm in the united states whose efforts challenged a safe drinking water act rule promulgated bite e.p.a. The stakeholders met with bureau staff and participated in regular meetings and every aspect of our challenge, including compiling documents to support the city's case and reviewing and commenting on the legal briefs filed by the city's boston attorneys. Also in 2007, we worked closely with the office of government relations and representatives from Oregon wild and friends of the reservoirs to pass state legislation

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that would enable us or ensure that we had the same opportunities as the city to seek alternative compliance with the It-2 rule at the state level. That are currently available at the federal level. Legislation was crafted by bureau and stakeholders representatives and it was introduced by representative dingfelder and passed with broad support. In november of that year, 2007, a unanimous court of appeals said, quote -- because we find the city's arguments either meritless, irrelevant, or both, we deny the petition for review. Following that loss, commissioner Leonard and I met with stakeholders floy jones, scott fernandez, and frank gearhart and commissioner Leonard expressed his belief city would need to comply with the It-2 rule as written, including building a treatment plant for the bull run source, and ending our use of the open in-town reservoirs. The stakeholders urged commissioner Leonard to pursue a variance to the rule and seek federal legislative intervention by our congressional delegation. He instructed us to pursue the variance option and pledged to convene meetings with the Portland delegation and the stakeholders to explore possible legislative options. This was done, however, with the understanding that the water bureau would begin planning for conventional compliance with It-2 as written so that the city would not find itself in violation of federal drinking water law, should its efforts at obtaining a variance or legislative relief fail. In december of '07, commissioner Leonard convened a meeting, including representatives from senator wydenen, congressman blumenauer, and congressman wu's offices. The city government relations office, the water bureau, floy jones, jeff boly, cascade anderson gelar, scott fernandez, and others. The congressional staffers present indicated that such legislation would be, quote, a heavy lift. But that they said they would work with the city on strategies as opportunities arose within congress. They indicated the city should go through the variance process in advance of seeking legislative solutions because it would be better to exhaust all administrative remedies before seeking a legislative end-around. In early 2008, the water bureau worked directly with county health officer gary oxman, Multnomah county epidemiologist amy sullivan, floy johns, scott fernandez, jeff boli, cascade anderson geller and others on developing a proposal to the e.p.a. For how the city would approach gathering evidence to support a variance. We invited the e.p.a. To Portland to present our proposed variance approach. Although they praised our thoughtful and innovative approach, they ultimately rejected the city's proposed approach for obtaining a variance, and indicated to us what specific water quality monitoring would be required in order to qualify for a variance to the treatment requirement for the It-2 rule. We've since been working directly with the e.p.a. Since then to work out the details of water testing procedures. We've budgeted close to half a million dollars to conduct a year's worth of testing to make Portland's case. At this time when we met with e.p.a., they also indicated that they would not consider a variance application for the open reservoir requirements of the rule. Water bureau staff confirmed the epa's assertion that a variance on the open reservoir provision of the rule was not feasible with both the city attorney's office as well as our attorneys at [boston firm], who litigate the 2007 challenge. Late last night floy jones sent you a note informing you she felt there was a significant error in the report. She indicated that the boston firm outlined in their march 2008 reservoir variance memo to us that a variance is allowed by the safe drinking water act. Foley hoag outline add strategy for pursuing a reservoir variance in the final paragraph of their memo. She requested for the purposes of the water bureau It2 report to you today, the report should state that a reservoir variance is possible as outlined by foley hoag, but informally e.p.a. Has denied such. Early on in our legal challenge the e.p.a. Informed our attorneys that an alternative treatment approach that constituted risk mitigation is not sufficient. Ultimately they ended up saying that is well within our treatment variance approach. Foley was clear that e.p.a. has brought authority under the safe drinking water act to determine whether a variance is applicable and a court would defer to the agency if we were to sue. We can certainly apply for an open reservoir variance. However, e.p.a. Has indicated that variances are not applicable to open reservoirs. Essentially, yes, we can ask, but e.p.a. Has already indicated it will say no. Hence the water bureau's position that an open reservoir variance is not possible or feasible.

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Our efforts to secure alternatives would be better spent on legislative options, rather than wasting our time on administrative process that the e.p.a.s has indicated in person and in writing that it will not consider. It's important to note that e.p.a. Has discretion on this. It may, quote, may grant a variance. So it also has the substantial discretion to not grant a variance. No matter what the evidence may show. The key distinction here between our effort at a treatment variance and our stakeholders' desire for an open reservoir variance is our potential ability to prove equivalent water quality for our source water, which is not possible for us to do for the open reservoirs. We cannot achieve the four, three, and two log-in activation required at the open reservoirs without implementing one of the prescribed treatments in the rule. The stakeholders are aware of that. One of our complaints about the final rule is that the e.p.a. Included language that in effect considers the water in our open reservoirs as raw water. Unless we build a treatment plant at each of the outlets for each reservoir, we cannot meet the requirement of the rule as it relates to crypto, giardia or viruses. That's not the case for our source water. That's why we believe that there really isn't a viable option in getting a variance on the open reservoirs. In august of 2008, the water bureau briefed senator wyden's office staff, senator wyden's staff to date on the city's efforts to date in securing a variance for the treatment requirement, and in e.p.a.'s communication regarding the lack of a variance option for open reservoirs and the city's continued interest in the legislative fix for its open reservoirs. In november of 2008, commissioner Leonard met with stakeholders floy jones, scott feshz and others to come to a common strategy regarding notification to the new obama administration of the city's interest in seeking legislative alternatives to It-2. Commissioner Leonard's office, the water bureau and others collaborated on a letter to the obama transition team. Indicating the city's strong interest in seeking alternatives to the rule. The city has yet to hear back from the administration regarding this latest request. This month, actually it's last month now, commissioner Leonard sent a letter to each member of Portland's congressional delegation to ask for its help in introducing and passing federal legislation to allow the city to continue to use its five open drinking water reservoirs for drink water storage. And to allow the city to continue to use its bull run source water without an additional treatment facility. So what are our compliance strategies? In response to the court ruling, commissioner Leonard directed the water bureau to pursue the following three compliance strategies. One -- attempt to obtain a variance to the treatment portion of the rule from the e.p.a. A variance could conceivably allow the bureau to avoid the expense associated with building new treatment if the city can demonstrate to the e.p.a. That due to the nature of the raw water bull run source, additional treatment is unnecessary. Two -- request that Portland's congressional delegation introduce and pass federal legislation allowing Portland to continue to use its bull run source water without additional treatment, and continue using its five open finish drinking water reservoirs for storage. Three -- plan and budget to achieve compliance with the It-2 rule as written. This includes the development of a filtration plant to comply with the water treatment requirement of the rule, and a plan for developing replacement closed water storage facilities for the open reservoirs at mount tabor and Washington park. Recent actions we've taken under these three compliance strategies obtain a variance. City staff, stakeholders, including Oregon wild and friends of the reservoirs, met with e.p.a. Staff in late february of 2008 to discuss the variance process. E.p.a. Clarified for us what is necessary for the city to demonstrate in order to qualify for a variance. Through additional water quality monitoring we'll need to show our untreated water source is as free of crypto as the drinking water of other systems that treat for the parasites. In other words, our raw water has to be as good as the water coming out of the tap for purposes of crypto in salem, eugene, seattle, tacoma, chicago, new york, everywhere in the country. Our raw water source has to be that free of crypto. The bureau has formulate add sampling plan and schedule that provides the most technical and economically feasible path in obtaining data to demonstrate the crypto levels in our source water are below the .00007500 oocysts/per liter, and is in the process of validating a 12-month monitoring program in



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anticipation for applying from the variance from the treatment requirement in mid 2010. We've selected a nationally renowned lab to assist in setting up the validation process for the variance sampling and we're submitting our proposed methodology to the e.p.a. For review. We expect to begin large sample testing in april of 2009 and we'll collect large volume samples for the next 12 months. Currently we collect 50 liters a month and we're talking about 200 and 250 liter samples, three and four times a week. Our goal is to collect just over 54,000 liters of water over the next 12 months. To our knowledge, this will be the first ever attempt to obtain a variance under the safe drinking water act that attempts to prove a source water is so good that additional treatment is not necessary. We're plowing new ground here with our proposal and we face a number of difficult and technical challenges. But we're up to the task and we expect the start -- to start that sampling, that large volume sampling next month. On the second compliance strategy, seeking legislative relief, as part of our 2009 federal legislative agenda, you all approved, or identified a desire for congressional intervention to continue to use our bull run source without additional treatment and continue to use the five open drinking water reservoirs for storage. In addition, the water bureau and the office of government relations staff have begun working with interested stakeholders, including friends of the reservoir and Oregon wild to develop the legislative language we would present to the congressional delegation with the goal of allowing the city to continue its using its drinking water reservoirs and the bull run source without additional treatment. Public meeting to discuss the proposed legislation with members of the delegation and/or their staff is scheduled next month on april 11th. Finally the third piece. Plan and budget for compliance with the rule as written. Bureau staff has spent last several months developing a proposed compliance schedule for the treatment rule as well as the open reservoir portion of the rule. On treatment, we're working on a plan design and building a filtration plant to comply with the surface water treatment rule by april 1, 2014. The total estimated cost to build a filtration plant is 385 million dollars. Initial funding for this project is currently in our proposed 2009-10 budget. And additional funds will be requested in future fiscal budget years until the recommended project is complete. Engineering and planning staff completed a benefits versus cost comparison of u.v. Versus filtration and that's been provided to you. Just in the last couple of hours. The results were similar to the conclusion of the work of the bull run treatment panel that filtration was the preferred alternative to u.v. Because of the additional benefits that would occur with filtration. The water bureau's deviated from the panel's recommendation on filtration in two important respects. We propose to build the new plant near our lusted hill facility. The panel recommended building the plant at powell butte but recommended the lusted hill site remain under active consideration as an alternate to powell butte should neighborhood, environmental or other issues render the powell butte site an inappropriate location for that treatment facility. And we have concluded that opposition to building a treatment plant at powell butte is such that building at the lusted hill site makes more sense for us. We are also proposing a conventional filtration plant as opposed to membrane filtration. The panel recommended nonbearing membrane filtration but recommended the direct filtration remain under consideration as a backup treatment technology. It found that conventional filtration has a long track record of effective treatment of municipal water supplies, with many installations of the size needed by Portland. It is the state of the art these days in most cities. In our research, in our recent research, the bureau determined that membrane filtration while still a promising technology, is still new. We are aware of only three large membrane filtration plants in existence in the united states today. Two of them are hundred million gallon facilities in san diego and ontario, california. And there's also a 70 mgd plant in minneapolis. Our requirement would be for a 200 mgd plant. So twice the size of that in san diego and ontario. The bureau believes that a conventional plant would serve -- best serve its needs and we don't want tonight beta site for the largest treatment plant in the united states. On open reservoirs, we've developed a proposed schedule that brings Portland to compliance with the lt2 open reservoir provision by 2020. That's 12 years from now. The schedule

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provides the city the flexibility to minimize rate impacts and balance resources, being mindful of our need to balance the bureau's ability to complete a challenging capital improvement program over the next several years, as well as reserve some capacity to perform currently -- work not currently contemplated that may become a priority. An example of that that just hit our plate is the east side streetcar. In 2004, the bureau proposed a 10-year compliance plan, but rejected that approach this time around in favor of the 12 years we've suggested in our proposal for the reasons that i've stated above. However, e.p.a. Has commute indicated to us in person and in writing that it will not approve a compliance schedule that does not require Portland taking immediate steps to comply with the open reservoir components of It-2. How are we going to do that. Powell butte 2 is the logical first step along the compliance path. But it can exist as a standalone project.

Construction of powell butte two was identified in the system vulnerability study in 1996 as a critical project. The existing reservoir needs to be seismically upgraded. But the work can't be done until the 2<sup>nd</sup> reservoir is operational. This project would give the water bureau flexibility how we comply with the open reservoir portion of the It-2 rule, and it gives us leeway and time to work and get our congressional exemption for the open reservoirs. If we are successful in that, the powell butte project would still be done so reservoir -- one can be taken offline while the seismic retrofitting is done, and it will still serve the needs of Portlanders. This is a facility that's going to last us 50 to 100 years. Long after we and our children and our grandchildren are gone. We don't need the storage next year, we don't need the storage in three years. But we will eventually need that storage if we are successful in getting legislative relief under the open reservoirs. If we are not successful, powell butte becomes a critical piece of our compliance strategy. We met water bureau staff met with the e.p.a. In seattle on january 14th, 2009. We outlined a proposed schedule that was achievable and did not attempt to fast track compliance to the bureau's ability to get work done or that increased rates at an acceptable rate over a short period of time. At the same time, the proposed schedule meets the e.p.a.'s requirement that Portland begin taking immediate action to comply with the rule. In its february 11 response to the city, the e.p.a. Indicated that the proposed schedule appeared reasonable to them, but said that all projects that require state review and approval of plans and specifications must identify specific due dates in order to allow the primacy agent circumstance the e.p.a. Or the state of Oregon, to track the city's progress and allow the state to manage its review workload. In addition, the e.p.a. Indicated that in order for the schedule to be enforceable, construction begin and end dates must be broken out as separate items and assigned specific dates. Just as an aside, when we went to the e.p.a. In january, we met with marie jennings, the director of the drinking water program for region 10, and four other people. All four of them were either lawyers or enforcement staff. They came with the expectation that the city of Portland is going to propose something unreasonable, and they were ready to slap us down at that meeting. They've made it very clear, however, that our proposal -- they've made it clear our proposal has got to have dates so they can enforce the schedule that we've proposed. Water bureau staff have revised our proposed compliance schedule and response to their direction. The proposed schedule means the city of Portland will be in compliance with the open reservoir portion of the rule by december 31st, 2020, barring any legislative relief that we obtain from the rule from the congress. The total estimate cost for storage, transmission and system improvements needed an to disconnect the open reservoirs is estimated \$403.4 million. That includes \$236 million already identified in our upcoming five-year c.i.p. Initial funding for this project is currently in our 2008-09 budget. That's for the staff time we've put on the project so far this year. Additional funds will be requested in the fiscal '09-10 budgets and future budgets until the recommended projects are complete. The water bureau recommends that it continue to comply with the new rule by pursuing the strategies i've outlined before. Seek a variance, request legislative relief, and engage in the necessary planning design construction and budgeting to comply with the rule as written. I recommend that the council accept the report and adopt its recommendations. And I am available to answer questions. I'll be

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available to answer questions afterwards, and I have a number of my staff here in the event that you ask me something that i'm not able to respond to.

**Leonard:** Thank you, david.

**Adams:** Thank you. If it's the will of the council to -- that was informative and lengthy, so if it's the will of the council to go directly to testimony and have question and conversations at the end -- great. Karla.

**Moore:** We have 13 people signed up.

**Adams:** welcome to the city council. Glad you're here.

**Randy Smith:** I'm randy smith from southeast Portland. And I was debating whether to -- what hat should I wear as I come today. And I decided one of my hats is i'm the current president of the pacific northwest microscopy society. We have a convention coming to Portland in 2010, the national convention that I guess will bring several million dollars and a fairly large convention. It occurred to me our water system is just as important. There's no reason why we couldn't attract major conventions to show what a good variance we have obtained, should we obtain the variance. The microscopy society is interested in instrumentation of all kinds and in the past i've talked to david schaff and friends of the reservoirs and testimony here about using flow cytometry and other methods, analytical methods to assist in the open clean water reservoirs. As they pretty much exist today. And I did this in part because other countries don't use the system we have. Australia in particular uses flow cytometry as they have an active crypto problem. I've kind of wandered here a bit. Previously I gave both a report and testimony about the applicability of instrumental methods in paracytology and treatment. And we currently have no known crypto problem, yet e.p.a. Bases their regulation on the single organism and just from a scientific viewpoint, I don't think that's the correct way to go, but they are e.p.a. And as david just testified, they do have the clean water program to enforce. Giardia is also a very active organism throughout the northwest, and both of these organisms don't require human or bovine exposure, just our watershed doesn't have human waste or cattle movement. So it's relatively safe and I think a variance, pursuing a variance and a legislative alternate is probably the best way to go. I'm not being critical of the current program. It's a very complicated issue. I'm kind of critical of the poor scientific effort of the agencies. They have addressed several experts but in terms of modern paracytology, it's mostly classical paracytology -- am I running out of time?

**Adams:** 27 seconds.

**Smith:** It's adequate but not great. Currently there are instrumental methods that far exceed what is being offered, and I hope that -- as you read the rest of the testimony, which I will not get to, that you many consider a closer relation with Portland state university. A means of helping develop both the variance and the legislative alternative with a greater use of research at our university system.

**Fish:** I actually contracted giardia. I won't describe the symptoms, let's just say I stayed close to the hotel for the week I was in salt lake, where I got it. When you say both of these organize misms do not require human bovine exposure, could you briefly explain what you mean by that?

**Smith:** There's been some emphasis on contaminant -- possible contamination of the system by animal or human contaminant. But almost any mammal throughout the forest is capable of transmitting crypto and giardia. Even though it's hot and thirsty day, any stream you test around the northwest through the glass of water you're about to drink, giardia is very likely to be there. The treatment methods seem to be perfectly adequate because we don't have an ongoing problem for these organisms. And just like the old adage says, it's not necessary to repair a problem that isn't there. But again, I kind of go back to support for a variance and a legislative assistance, and I think the program at Portland state would be welcome to contribute to david schaff's program to get the variance. Utilize more students and perhaps develop an instrumental analysis system that would support the water program, and maybe be a model for the nation.

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**Kathryn Notson:** My name is Kathryn Notson, I live in the south tabor neighborhood. I've been following this issue for the better part of the last almost seven years now. As far as the open reservoirs are concerned, the city council was told in november 1969 to bury its open reservoirs due to bird fecal contamination. A resolution was adopted in december of 1972 to bury the open reservoirs by 1984. This resolution was rescinded in december 1976. The open reservoirs at that time were drained and cleaned only once per year until a p.s.u. Study suggested in the mid 1970s that the water bureau drain and clean them twice per year, which is now the current practice. Construction of new open reservoirs was outlawed under the interim enhanced service water treatment rule in december 1998. None could be built after february 16th, 1999. For this reason the city council cannot obtain a variance or a waiver from the u.s. E.p.a. To keep the open reservoirs as is. The water bureau said during the february through may 2004 independent review panel process that they would need to build treatment plant in the mount tabor park central facilities yard in order to treat the open reservoirs at the outlets. This would require expensive pumping and a 24-hour industrial operation in a residential neighborhood and would not fit in the park. There's no room to treat the open reservoirs at Mt Tabor park or Washington park at the outlets otherwise. There's a 30-acre land slide abutting Washington park reservoirs on their west side. They were abandoned from 1894-1904 because the landslide went over the parapet walls into the basins. And your archives have photos of these. The reservoirs had to be rebuilt. All the open reservoirs leak, according to a report from the water bureau to the drinking water program, and they are not siesmically stable. I still support the open reservoirs replacement project of 2002. It was a better plan than the proposal to place underground storage tanks on Powell Butte nature park and Kelly butte. The placement of the underground tanks is to avoid the future conflicts for those who don't want to pay for burial of the open reservoirs or treatment of bull run water -- millions of dollars have been wasted since may 29th, 2002, to cater to the demands of people who oppose burying open reservoirs and treating bull run water for crypto. The only reason for their opposition is they don't want to pay for either project. Further delays to prevent the water bureau from complying with lt-2 enhanced surface water treatment rule will be detrimental to our 19 wholesale water customers who have not been consulted at all during the last six years. They will help pay for a project as part of their contracts for the water bureau, Portland is the only city in the united states of america seeking to avoid compliance with lt2. I oppose any efforts to continue stalling as well as seeking legislative or federal changes to the state drinking water act of 1974. Thank you.

**Adams:** Thank you very much.

**Gilly Burlingham:** I'm speaking for myself. After listening to the kids, I decided i'd better make you all laugh, bates hard to compete with kids. I think what happened with the e.p.a. Is they heard the word milwaukee and they panicked. Only they didn't understand it was the wrong milwaukie with an i. Yes, what happened in milwaukie was disastrous, i'm speaking of wisconsin. Where 430,000 people got sick and some people died. I don't have any written testimony, i'm just getting up to speed. My sister is a sanitary engineer for 50 years with greeley and hansen, one of the top two firms in chicago. I've been on the hotline with her. And she said, yes, giardia is the more dangerous, crypto, no. She knows they shouldn't be there. What happened in milwaukee was it was the most unusual event. A huge winter storm and the cattle as you probably know, dairy is the biggest industry in wisconsin. And the cattle are running around, and got into the water. This came down and they had a rather poor water treatment plant there. So joking aside, I feel very strongly that with a is being proposed here is absolutely unnecessary, and I hope you'll go for a variance. I would like to say by the way that while I typed in the city that works, what comes out but my hometown of chicago. And I fully agreed with what randy is suggesting, when he additional I saw your guys down around the mccall restaurant, and it still hadn't been changed, but since we've had that slogan for a long time, I think that you're putting down from forest to faucet is next. My sister thinks you could save a heck of a lot of money if you just put filters on each faucet coming out of

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the taps, she said that would be cheaper. Now, the good news I bring to you is i'm glad to get dish want to go -- i'm going up to seattle and I want to talk to the e.p.a. If that's where I have to talk to them. But just yesterday an e.p.a. Administrator said she stopped the permits being given for the open -- the blowing of the mountaintops off in virginia, and she stopped that. I think we maybe could convince the e.p.a. Because we have a new deal here. The old regime is gob. And un-- gone. Under obama they say it's going to be science, not politics. Politics is another word for big money, and big multinational firms. And by the way, my sister graduated the first woman from the northwestern technological institute and her classmate was named harza, a chicago firm. A lot of chicago connections. And we have interesting water there, including the deep tunnel project, which my sister said her firm didn't think was too bright an idea. But it worked.

**Adams:** Thank you very much.

**Regna Merritt:** I'm the executive director of Oregon wild and of Oregon natural resource council action. Together we have over 10,000 members and volunteers, activists, and most of them drink bull run water. We've worked for over 20 years to protect bull run, often encouraging the water bureau and city council to seek legislation to protect the bull run and working in partnership with the council to secure that legislative agenda. Protecting the legacy of bull run and the public health of Portland residents is a shared responsibility that we take very seriously. This has been difficult journey and though we're not all on the same page at the same time, I do believe we're all working in good faith to protect and preserve our water system and our pure water and the system that delivers it. I have strong faith in the end our combined efforts will serve future generations well. We certainly appreciate the work of commissioner Leonard and council. Your support for the city's legal challenge to the It-2 regs, we and Oregon physicians for social responsibility joined as amicus partners in that legal challenge and your efforts to achieve alternative methods of compliance including the one that we consider to be the best method, legislative relief. We do not support the proposal to build a filtration plant and take our reservoirs offline. This is a tremendously costly fix to a problem that exists elsewhere but not in Portland. With regard to filtration, constructed to filter out crypto, a filtration system won't do that. It won't do that here. Why? Because we have little to know crypto in our protective watershed, no evidence of crypto specifically infectious to humans and no evidence of any crypto infections originating in our drink water system which was put in place over 100 years ago. We have such pure water because of the historic protections against human entry and associated human and bovine waste. The general prohibition on entering into the bull run management unit by human and domestic animals insures that crypto will not pose a public health threat. Consistent water purity is a direct result of the watershed's isolation from human entry and development and exclusion of livestock. That's what makes our watershed unique. Oregon wild and others toiled for years to protect the bull run from logging and development that would force costly treatment. We achieved the highest standard of legislative protection in 1996 and 2001. We are now faced with a bitter irony. Construction filtration system will create new demand to open the watershed to logging development and human entry. The arguement, why should logging and development interests be hampered by site-specific bull run safeguards if Portland's water is filtered? Like that of most other municipalities in the world whose watersheds are open to logging, development, cows and Crypto -- i'm short on time here. I'm going to cut to the quick. The cost of building a plant is mind boggling particularly during these terrible economic times. The city is critical needs that must be met including public health and safety needs. And this is not one of them. These are the reasons why we're focus can our energy on securing a legislative remedy from It-2 and we ask that you not sign the report unless it's modified to number one, request an extension in compliance deadlines from the e.p.a., the d.c. E.p.a., and the obama administration. The e.p.a. Does grant extensions for dirty water systems to comply all the time. Two, request that the Oregon congressional delegation supports the city in its request for such an extension. Three, do not spend any city money on construction of It-2-only projects. And four, implement and

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maintain an aggressive effort to secure legislative relief. And don't give up. Legislation never comes easy. It took years for Oregon wild and the Portland city council to pass bull run legislation. Oregon wild worked with the congressional delegation to protect Lewis and Clark bull run wilderness for 10 years and that legislation passed congress today.

**Adams:** You're a minute and a half over.

**Merritt:** Surely your efforts to protect our bull run and the system are just as deserving as our passion and persistence. Thank you. My apologies for going over.

**Adams:** That's all right. Hi. Who is next?

**Dee White:** I'd like you to vote no and continue to aggressively pursue legislative relief. And I'm turned in a letter that we, friends of reservoirs, wrote to our congressional delegation, it's with the testimony today. And I'm going to read from part of that letter. The It-2 rule was meant to protect citizens across the country from waterborne disease as represented by 1993 crypto outbreak in Milwaukee, Wisconsin. Where a filtered water system failed, leading to grave illness and death. The It-2 rule as it relates to Portland's unique water system and open reservoirs, represents one of the major failures of the Bush administration. The failure to rely on sound science as a foundation for policy. The EPA has never documented a single public health incident related to open reservoirs. The EPA has never conducted any scientific research that compares open reservoirs to closed reservoirs and while the general level of contamination in uncovered reservoirs has never been studied, the EPA documented multiple outbreaks of salmonella and other diarrhea illnesses due to drinking water from covered reservoirs. The most recent outbreak was March, April of 2008 in Colorado. Where salmonella contamination of a covered reservoir sickened at least 16 and caused a death. The level of crypto contamination Portland's in-town reservoirs was studied in the '90s and found to be zero. Current studies demonstrate zero contamination by crypto. There has never been an outbreak in Portland attributed to drinking water. If forced to comply with this EPA mandate the city would be harmed by the loss of the many benefits of the open reservoirs. Including the loss of sunlight on water, which would create the potential for public health problems from nitrofication. The laws of open reservoir venting of disinfection byproduct gasses, the expense, which is the the major thing, as well as construction in one are more nature parks and loss of the opportunity to maintain a well functioning if green system of water storage. Many community stakeholders have concerns regarding corporate involvement in the It-2 rule making process. Montgomery Watson, Harza global was deeply involved in the rule development. MWH builds treatment plants, underground reservoir tanks, dams and other projects worldwide. It is possible the power of the special interests may have determined the final outcome. A rule that would increase their profits at the expense of Portland and other municipalities with safe drinking water. With the near absence of It-2 research, related to water quality in open finished reservoirs, and in the complete absence of research comparing water quality in open reservoirs to that enclosed reservoirs, it is simply bad policy to require drastic changes where no problem has been shown to exist. Whew.

**Adams:** The part of your testimony where you said something may have influenced the recommendation for profit motive. What was -- what were you referring to? Or did I miss understood?

**White:** The recommendation for the rules? On the national level.

**Adams:** I understand.

**White:** We know they helped write the rules.

**Adams:** Thank you very much. Good job.

**Scott Fernandez:** Science is caught up. We now know the advances of science provides a greater awareness of the relationship between crypto and drinking water public health. One example is that catastrophic sewage events are the link to crypto drinking water public health issues where hundreds of pathogenic organisms are present not just crypto. Bull run does not have sewage

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exposure no measurable public health risk. Secondly, pharmaceutical treatment now is available for cryptosporiosis, it was not available in years past. On the other hand, the information used by e.p.a. For It-2 was outdated, incorrect and not scientifically supported. One example is the e.p.a. Said hundreds of people would die each year caused by crypto in drinking water. No one including infants, elderly or immune-compromised has died from crypto in municipally treated drink water since 1994. This translates to a higher risk in dying from bubonic plague than from crypto in drinking water. In the end, it will be the children of the community that suffer the most from the covered reservoirs. Their increased respiration rates of two to four times of that adults make them more susceptible when they're in schools or at home. They would also suffer from the -- from carcinogenic gases that would be vented by the open reservoirs. They would also suffer from carting the burden of 1.6 billion of increased public debt from It2. Taking away resources from needed future community projects. And they would also suffer from the unnecessary bull run system reconfiguration that will provide no measurable public health benefit ultimately to creating our water. The action needed by the Portland city council number one stopped the powell butte two reservoir -- and kelly butte reservoir building process. Number two, stop wasting -- wasteful spending unnecessary e.p.a. Variance process. Number three, keep and maintain the mount tabor and Washington park open reservoirs as drinking water structures. No public health problems have been linked to the open reservoirs. Bacteria that indicate contamination in recent years in thousands of water samples, zero chloroforms have been found in our drinking water distribution system. The disinfection barriers are working as designed. Stop the enhanced filtration plant. The coagulants used end up in our drinking water. Aluminum iron and synthetic chemical coagulants can present public health problems. Number five, please tell the congressional delegation move forward now with the plan to seek complete legislative relief from the It-2 regulation. Thank you.

**Adams:** Before you call, I want to make sure -- your three minutes as long as you speak to the general issue, you can obviously say whatever you want, but the recommendations are sort of three simultaneous actions. And to the extent you can give us advice on that as one person in the council would be much appreciated. Karla?

**Dan Bourbonais:** Good afternoon. My name is dan, I'm general manager of alstone American linen. It's an industrial laundry employing 220 people doing business in the city of portland for over 50 years. As you might know, water is a vital resource in the laundry industry and we are one of the larger users in the city. I am dismayed and disappointed that the water bureau is proposing an 18% increase in water costs this year and similar increases over the next 4 years to over doubling the water costs in 5 years. Those kinds of increases to businesses that use water as a major resource are going to put a severe strain on the viability of conducting business in the city. Especially at this economic time. These increases are in addition to already heavy burden that big pipe has placed upon us. The cost the citizens and businesses have had to bear to solve the combined sewer overflow problem have been onerous and we are now looking down the barrel of another extremely expensive system. Our protected water supply is one of the purest in the world and an additional layer of protection to solve a problem that does not exist. I strongly urge the city council to pursue congressional intervention in the crypto ruling or a variance to the ruling from the e.p.a. Unfortunately, I was recently made aware of the proposal before you, and i, like other businesses, have not had time to completely understand the scope of this proposal and the long term effect on our business. I further urge you not to approve this report until the business community has had time to further study it's impact. Thank you.

**Adams:** Thank you. Go ahead.

**Jane Malarkey:** My name is jane malarkey. I'm a native Portlander. Lived here all my life. Which is something I think is becoming increasingly rare. I can remember my father when I was a child talking about how lucky we were to have this pristine source of drinking water in Portland. I understand that e.p.a. Rules are telling us we must attach a nearly \$400 million filtration system to

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our pristine water in the bull run to filter out contaminants, but there's no evidence that infectious contaminants exist in the bull run area. That's a lot of money spent unnecessarily, in my opinion. We all know the damage that was done by years of logging and road building in the bull run area. And i'm afraid that if we have to build a filtration system, that it will result in the resumption of logging, road building and the introduction of the very contaminants that we have never seen in the water in bull run. Does this make sense? I don't think so. What i'm asking, respectfully asking that you do today is to not spend any city money on construction of the It-2 only projects. And i'm requesting that you ask for an extension in compliance deadlines from the dcepa and the obama administration. I'm also ask that you request that the Oregon congressional delegation support the city in its request for such an extension and i'm asking that you implement and maintain an aggressive effort to secure legislative relief and to not give up. Thank you.

**Adams:** Thank you very much.

**Brad Yazzolino:** Yes, my name is brad. I want to commend commissioner Leonard and the water bureau and david shaff for all they've been doing and I think we have great players involved in this and that's why I think that successful congressional exclusion is a possibility. I'm a Portland native arts and film maker and following this since 1990. Since 1985, Portland has used bull run water, a source that is clean beyond the understanding of the federal district court judge who unjustly ruled against Portland. Our whole system is like a very green gift from the clever engineers of a past and simpler age. All we need to do is maintain it. Let's work with our congressional delegation to preserve and embrace our open reservoirs, not as outdated but as from some harmoniously green future. That's what they're like. Portland is way out in front of almost every other city as far as having a truly green and sustainable water system. That is unless we do as the flawed and schizophrenic e.p.a. Wants us to and destroy what we have for absolutely no measurable health benefit. I'm going to skip up what I say about how logging was started in the 1950s and how a man named joseph miller junior eventually cried out about that and was heard in the halls of congress. With the help of senator ron wyden and others, the logging was stopped. We can get a congressional exclusion this time if we try because our green and environmentally sound water system actually merits one. It's clear that the water industry enacted the It-2 law with the help of the e.p.a. that has been anti-environmentalist in the last few years. Many states have sued the e.p.a. Because they use bad science and that's enough of that. But Portland -- today's Oregonian reports how Oregon is building one of the largest green buildings on earth and real changes are comes fast and one is our economic crisis. When the people find everything harder to pay for and get the idea that they never have to pay for a \$400 million bridge to nowhere just to jump through a water industry hoop, they may lose a little bit more faith in those who govern. We have a little piece of earth we can try to control. Destroying a legacy that is greener and more sustainable than most engineers would design today would be tragic. That's what the e.p.a. Is asking us to do and the water bureau is willing to proceed on that plan a bit too fast. Very little more. Portland should embrace other position as the possessor of an asset. A water system in real harmony with the environment, one that needs a relatively small amount of chemical assistance to be 100% proven safe. If we destroy it, we lock into a constant cycle of build, change, demolish, rebuild and treat with the newest chemicals-- and become the captive consumers of the shifting water industry trends over decades and over centuries. We should proudly say as we maintain our system, we drink the rain and it works fine for us. [laughter]

**Adams:** Thank you very much. [applause] Welcome to the city council. Dave, I think you're up first.

**Dave Johnson:** Hi, my name is dave johnson, i'm the west side representative for the Portland utility review board. I think there's only one bad outcome in this and that is for the city of Portland to be out of compliance with the e.p.a. Rules. And I think it's critical that your decisions avoid that outcome. I believe the proposed approach is a good balance of seeking relief, both through



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variance and federal legislation. While planning for a compliance to avoid further e.p.a. Sanctions. I'm new to the perb, but i've been impressed with the management and the chief engineer and I have confidence in their efforts to implement the three-prong approach to give Portland the most options to move forward. So I recommend that you accept the report. Thank you.

**Adams:** Thank you, sir. Floy, you're next.

**Floy Jones:** I agree with the slogan from forest to faucet. We live the best drinking water in the world and I don't want to see a new slogan from filtration plant and coagulants sludge. To buried tanks. We were once the best, now we're just like the rest. I'm going to speak to the specific proposal, the specific compliance proposals. Indeed, we support a full and vigorous city effort to secure congressional relief. A legislative waiver from the onerous and unsupported requirements of the It-2. We don't believe a filtration plant is a better option than an u.v. Plant or ozone plant. One of the benefits the water bureau suggested we be able to draw down bull run further if we build a filtration plant instead of u.v. But that's unlikely because the bureau entered into a voluntary agreement to draw more water annually for Fish in hopes of returning Fish to bull run after 100 years. We don't support fast tracking reservoir elimination plans. The e.p.a. Does require we submit a plan by april 1st but it does not set a specific compliance deadline. And specifically, we don't support the plans that are outlined. In terms of powell butte and kelly butte and burying storage at Washington park, the current proposal is a \$403 million reservoir elimination plan. And in the end, we'll have 50 million less storage and involve reorienting our system way from the 100 year hub at mount tabor, new problems and new risk without any measurable public health benefit. In terms of powell butte. You heard commissioner Leonard tell you on friday the 13th we don't need additional storage. If powell butte is being built to replace mount tabor, you're going to move storage away from the service area and that's going to create operational problems. If powell butte is being built in addition to mount tabor and Washington park, you're going to build a large tank, of storage we don't need and that the water bureau has said, we're going to create stale water. For \$137 million, does this make sense to replace mount tabor storage at powell butte. Always you know, we've recently spent close to \$25 million at mount tabor installing new automated shutoff involves and piping and other projects. This year we're going to install new security cameras and sensors and we spent tens of millions at Washington park, replacing barbed wire with wrought iron fencing and it makes no sense to go down this path, this compliance path. These projects have not been publicly vetted. Ask you not to approve this particular compliance plan. We need to thoroughly evaluate whether filtration makes more sense than u.v. Or ozone. And we need to look specifically at these proposals for replacing mount tabor at powell butte or Washington park. But our greatest energy needs to go into securing the congressional relief and we need to see that the city is supporting the delegation. Where are those talking points. The congressional delegation heard specifically from the bureau, and enthusiastically how it is we're going to succeed in obtaining congressional relief.

**Adams:** So thank you. Your time is up. Did you have a final thought? All right. Well said. Hi.

**Stephanie Stewart:** Hi, i'm stephanie, the land use chair for mount tabor. I bring a letter. And the association. As well as from the s.e. Liveability community. Neither of the requirements forced on us will add public health value to our water system. The day we break ground on It-2 projects we've committed to writing a \$42,000 check for the next 120 years to pay the construction and engineering costs. Cheaper to pay the fines for noncompliance. Water bureau should offer an explanation why they're not considering the benefits of non-compliance. After a year of telling ratepayers they'll work for legislative relief, water bureaus that developed a schedule that launches now before legislative relief has a chance to rescue us. Water bureau should put an equal number of manhours into these parallel tracks and given that both have the same public health outcomes, the logical approach is to put more manhours into the legislative relief. Lt-2 is flawed and has no business in Portland. I think water bureau should exercise a little more -- clearly allay fears of

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health risk concerns and my bet would be the response would be supportive of non-compliance with the short term. I'm asking you to save our organic water. I know it isn't correct to call it organic, but that's how I think of it. It's naturally filtered through the earth and \$800 million plant would lace it with chemicals. They exactly standards and clear protocols for dealing with the real, not perceived concerns of water that sits out in the open. Seagulls, dog toys, they deal with it and maintain high-quality water. Five years ago, there was a panel that investigated all issues related to open reservoirs, including water quality and this panel found no reason to eliminate them. Why spend to switch away from a system which makes our city's water system sustainably and affordably pure? 20 years from now, when we wonder what happened to our water, some p.s.u. Graduate student will look back at this moment where you set off a chain of events in the name of It-2. Please give legislative relief a chance to work for us.

**Adams:** Thank you all very much. Appreciate your testimony. Karla. Good afternoon. Welcome to the council.

**Jeff Boly:** Thank you. Jeff boly, i'm a resident of the [inaudible] heights neighborhood association and vice president of the neighborhood west coalition. I'd like it say that we are -- i'd like to say our neighborhood association is in support of taking all measures possible to try to avoid having to comply with It-2. What i'd like to speak to is what I think is a further strategy that could and should be pursued. And that is, the opportunity to try to deal directly with our new president on this issue.

Now, I thought that the interview that he gave to steve croft on "60 minutes" where he was asked how often he was making really important decisions and he said it was just constant. And he's the one that makes the tough ones. I don't have any doubt if we could actually get the merits of the bad science that enabled It-2 in front of barack obama, that he would agree with us. The issue was how do we do that. Obviously, he's got so much else on his plate. It seems to me if our congressional delegation -- i'm thinking particularly of our two senators and congresswoman blumenauer -- were to ask for two minutes for him, with the message that the city of Portland is about to spend \$1.6 billion on something that's going to degrade our system and make it less safe, that -- and it's based upon a bush administration -- It-2 rule, that is -- was clearly based on either absent or bad science and come at it from that angle, that this is just one more bush administration unscientific decisions made that needs to be fixed and if you could simply ask the e.p.a. To give us a chance to demonstrate why It-2 is flawed and I think that that would be an effective strategy to get him engaged and he clearly has the power to fix this problem.

**Adams:** Thank you.

**Catherine Thomasson:** Hello, my name is catherine thompson, and i'm a physician and speaking on behalf of physicians for social responsibility. The Oregon chapter. I've been part of this process since the board that was held in 2005 and I really want to applauds the efforts of commissioner Leonard and the water bureau for persisting with a legislative variance for this rule for the city of Portland. I'm sure that's based in the understanding that bull run water is without any significant risk in its current highly protected state. That is it does not induce diarrheal illness with cryptosporidium. And reduced the risk to contamination to open reservoirs. Continuing this route would save us nearly \$800 million in projected costs. I look forward to the upcoming legislative meeting next month regarding this issue and hope that the e.p.a. As it increases funding and starts facing -- bases its decisions on sound science welcome more open to the possibility of a variance for accepting increased monitoring rather than treatment and allowing open reservoirs. The purpose in testifying is to recommend the need to postpone part of this report, in particular, the decision that is listed here in terms of specifically using a filtration plant for treatment. I feel that there are less costly options, that putting that planning into place and providing alternatives instead of having that as part of the report would be the major thing I would amend with this report in signing it. And a also urge the council to join in with randy Leonard and his outstanding efforts in continuing to pursue the variance option. Thank you.

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**Adams:** Thank you. Can we have david shaff and dan bates come back? Some of the issues that were raised, I wanted to hear your thoughts on. Or commissioner Leonard's.

**Leonard:** I wonder if I can articulate a couple of things that I think that -- only because i've been immersed in this issue for so long. I wanted to make clear everybody understood because i'm not sure it's necessarily understood by everyone. You're hearing a couple of distinct messages that I think -- that I want to make sure people listening to this understand the position I find myself in. You hear -- you heard scott fernandez for instance say that one of the points he wants us to agree with is stop the wasteful e.p.a. Variance process. You heard the last speaker, say thank you, randy, in trying to pursue the variance. The division between those two positions is the sense that as I understand it, those who at one point advocated to get a variance and realized the amount of testing we would have to do to qualify for the variance may show because of the volumes of water that would have to test, show some positive hits for cryptosporidium. And so that division of those that are against the rule think that we should drop doing the variance at all. And just pursue a legislative strategy for an exemption. The place i'm stuck in is that our legislative delegation has said to us our help to you will come after you've exhausted your administrative appeals. So I want to make sure that the council understands there isn't unanimity in what you hear today even on that issue. The other part that I feel compelled to say something about is another point scott made and others made is contact the congressional -- you know, the council contact the congressional delegation and ask for legislative relief. I sometimes think there's a perception i'm the gatekeeper of contacting our congressional offices and if you can just get randy agree to contact wyden or merkley or blumenauer, all will be saved --

**Adams:** We've been together in d.c. In their offices.

**Leonard:** I was nearly run out of the capital, in former senator smith's office. It was not a pleasant meeting sam and I were involved in. And I know you've been contacting him too. And if you haven't, you should be. And if you are, you're hearing the same thing I am. The u.s. House or u.s. Senate, tripping over each other, who wants to be the champion to get this variance -- why is that? I know what they're telling me and i've yet to find a politician who usually is looking for something to champion, raise their hand and say, "i want to be the one who champions that for you." we have a meeting coming up april 17th, I had to say to our great lobbyist, i'm tired of being the person perceived as the person deciding -- I want somebody there to explain it to the residents. I'm tired of taking heat over something I have no control over. This is a challenging issue on a number of levels. You have a responsibility too. Write your congresswoman. Email them. When they come home, pigeonhole them. I'm not the gatekeeper. I'm doing what you are and we all have to work on this together. The sand filter versus u.v., I want to talk about that. Originally, when I started working on this, I made a commitment that we would take an approach that was minimalist. That is, where we have to comply with the rule, we would do so minimally. Just comply with the rule. We agree there's no source of cryptosporidium in the bull run we need to filter out. That we don't disagree on. So my approach originally was ok, if we have to comply, let's spend the least amount of money and what is that? That's u.v. Treatment. I went to seattle and visited the plant up there and took a measuring ruler, measured it, went inside and had them show it to me and gave me some brochures and instructed the water bureau to deal directly with the manufacturers. You want somebody to tell you how to design an u.v. Treatment system, hire an engineer. No montgomery watson lobbyist. Hire an engineer. They did that. Then I started getting feedback -- randy, you're going to poison the water. There's mercury in u.v. Treatment. Why are you trying to poison us? I realized that was probably not a good approach. Why even begin a process that could be construed to mean that for whatever reason, even though we were complying with the rule, we might put at risk the quality of our water? I stopped. Ok. We'll go back to the 2002 set of recommendations a citizen panel made. Which was to filter the water. Not use u.v. Treatment. We decided that sand filter made the most sense because -- a couple reasons. One is that in the summer, currently when

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the reservoirs are being drawn down because of the demand on them, we reach a certain level and we have to stop drawing down any further even though there's water left, because it's muddy and has leaves and sticks and people don't like to drink that stuff. When we get to that point, we turn on the groundwater and then we get complaints: We don't like the taste. It's groundwater from columbia boulevard. We're able to draw down another 1 billion-gallons by having the sand filter and I could say, yes, it costs -- the \$150 million provides no benefit and some argue could potentially poison the water with mercury. It is entirely possible that five years from now, a brand new congress says there's another virus that we're concerned about that u.v. Doesn't kill that only sand filters out. And by installing the sand filter, we protect ourselves and grandchildren in the future by having a system that has a spectrum broad enough to filter out potential viruses that could be regulated in the future. For that reason, we agreed amongst ourselves with the citizen taskforce recommendation to do filtration over u.v. And lastly, I want to say i'm the least likely one up here to defend the bush administration but this statute passed under clinton and the rule was directed to be drafted under the clinton administration. So the bush administration didn't pass the law. They didn't direct the rule to be written. It was done under clinton administration and we're lobbying under the obama administration to get some relief from the effects of this rule and results of that are yet to be seen.

**Adams:** I have two questions for dan. One is, what is the likelihood of a new administration providing us with some sort of regulatory relief, legislative aspect of that as well, and then I think that there's an underlying concern that if we adopt recommendations that show -- if we don't get the variance and if we don't get a legislative fix that by sort of outlying as what then -- what would happen then next, hurts us in getting a variance or sort of legislative relief and I wanted your thoughts on those two and a half issues.

**Dan Bates, Director, Government Relations:** Let me -- like clarification on the question on the second mayor. Dan bates, director of government relations for the city. In terms of likelihood of success as i've mentioned to anyone that I dealt with this, I think it is a very high hurdle to be successful either within the administration or in congress. And to commissioner Leonard's point, the e.p.a. Has two components to it. One is staff and one is political. It is my understanding and we're going to seek further clarification, the staff at e.p.a., those that survive administration to administration agree with the premise of this rule. The second point is the political, where which with is where we've heard the folks today articulating perhaps a change in administration could redirect the rules on this. The unfortunate news on that point is that we may not have the political staff in office for several more months. That is the confirmation process is very slow and those that are there will rely heavily on staff reports unless motivated otherwise. I think at that level, yes, you've heard a significant discussion coming about a science-based environmental policy. It will take time to fill that administration, and at this point, I think we have a staff at e.p.a. That agrees with the premise of the rule. The burden there is quite high and we'll learn more as we continue to have discussions.

**Adams:** My point, to clarify, was recommendation no. 3, quote, if the city is unable to secure alternatives, closed quote, we would move forward in the following fashion. This is sort of a policy point. This isn't an ordinance. Does that somehow undermine our effort, in your opinion, to get a variance or legislative relief?

**Bates:** I think it is a curve that with -- as more investment is actually put in place further down the line, it could undermine a legislative solution. At this point, I have no heard that verbatim and my sense is that it -- folks view that as reasonable to pursue both options. But that curve will change as we move closer to full compliance.

**Fish:** Can I pick up on that, a couple of questions for david? There's been a particularly thoughtful hearing with lots of thoughtful points of view and plan to go digest a lot of information. Would you have succinctly tell me what exactly are you asking us to do today. The difference between a policy

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document an ordinance, so what exactly are you asking us to do today and what will you be asking us to do tomorrow?

**Shaff:** I'm asking you to accept the recommendation that we pursue the variance, that we pursue legislative relief, but we also pursue what we call traditional compliance. What I'm asking -- what I will be asking you in the future, is that if we are unsuccessful at some point in the variance, if we're unsuccessful in the -- getting the legislative relief, that you will be supporting and budgeting the necessary resources for us to comply with the rule as it's written. From the standpoint of what I need immediately is I have to have an agreement, I have to have an agreed upon schedule with the e.p.a. On dealing with the open reservoirs by april 1st of this year. So just about a week from now. That schedule -- we can put a red light to absolutely everything if we -- if we do get legislative relief, we'll still have -- we'll have that reservoir that we will built and last us for the next 100 years, but we won't have to have moved on kelly butte or disconnected the reservoirs or built a treatment plant. We have some time. Not a ton of time.

**Fish:** Second question. We have not really focused today on the relative merits of ozone treatment, u.v. Filtration although you and commissioner Leonard in other settings have talked to how you got to this point. Uh-huh.

**Fish:** Does the council have more than one bite of the apple on that question, or does this policy document foreclose further consideration of an alternative?

**Shaff:** No, it does not. At some point it will foreclose it because our proposed budget in the upcoming year, we're proposing to spend \$9 million next year designing a filtration plant. Now, you could tell us, don't spend that \$9 million designing a filtration plant. Spend it designing an u.v. Plant. But at some point, we actually have to design something.

**Fish:** But if the council -- I want to be clear on what I would be asked to agree to and where there's some flexibility. If at some point in the near future, the council wanted to revisit that question, if there was a will --

**Shaff:** There is time.

**Fish:** There would be time to do that?

**Shaff:** There is time.

**Fish:** And, you know, I've been struck in this conversation that everybody seems to be -- with the -- not everybody. Almost everybody has been supporting recommendations one and two, and, in fact, I think we're ready to give -- put randy's profile on mount rushmore and where there's disagreement is point three. What resonates with me is that what I'm hearing you say is that we will aggressively pursue one and two, which is the proposal to avoid this whole mess. That no one at water bureau disagrees with the number of assumptions and positions of stakeholders about the unnecessariness of this, that the lack of cryptosporidium, that the impact on ratepayers and things like that. But that it comes down it a question of federalism. That the federal government gets to tell us what to do on certain things and while I'm prepared you to do some jail time -- [laughter]

**Shaff:** Thank you.

**Fish:** Because of your insulting behavior this morning [inaudible] on behalf of the parks bureau, I've yet to see you apologize for.

**Shaff:** I apologize: [laughter]

**Leonard:** I have to agree with you, commissioner Fish.

**Fish:** Sometimes we have to learn our lessons. You know, I kind of feel in a sense that we're having this argument but we may be basically in agreement on some very fundamental points. But our argument is with something else. And it may be an argument over the federalist papers. It could be an argument over --

**Leonard:** I appreciate you boiling this down to that, because -- and -- and I don't want david to have to answer that question. That's one I need to answer. You're right. You've captured the elements of really the disagreement. It took you -- what time is it? 4:05. Two hours and five

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minutes to figure that out. It took me about three years and one month to figure out that was the real issue and it wasn't until the past december that I finally got that. That the issue wasn't a particular treatment type. An approach, it was really not to comply. That the issue really was we don't want you to comply. And only until recently when I read an email that articulated what the argument should be by the proponents, don't comply, the fines aren't that much. You know, did I finally realize that's what we're coming down to. So really, you know -- and you're talking to a person -- you and I talked about our family histories quite a bit. I'm proud of my fourth grade grandfather who was a member of the boston tea party. Threw boxes of tea in the harbor. We celebrated that --

**Fish:** Just as i'm proud of my son who is a native Oregonian. [laughter]

**Leonard:** Finally, some claim -- exactly, so -- but even I will go so far that challenging the status quo that does not include having david shaff go to jail.

**Fish:** My job, before I had the privilege of this service, was to advise people on how to deal with regulations and decisions that they disagreed with as a lawyer. And so everything i've heard rings true with me. We have a president -- well, we've shifted it back an administration, but still, I prefer to focus on the eight years of bush. And a cast a vote for another president to hopefully put an end to that madness. But we have an executive branch problem. Well, we can't solve that here. We have apparently a federal district court judge we disagree with. Well, i'm familiar with that. You know, the work I used to do, our motto was justice prevails and we're taking an appeal. I'm used to being on the short end of the stick. Ok. I kiss agree but it's not a viable option to disregard a court decision. I'm familiar with regulations poorly drafted or industry-influenced. All of that rings true to me. I invite any of you interested in labor and employment law, we can have an offline conversation in the way those laws have been written in the last years that did not have the interest of the people who were regulating. I understand the frustration of seeking relief through other means, through going to a legislative body to get a fix. Congress does special bills on certain things, immigration law, but they're very difficult. The idea of bad science and us having to be hostage to bad science, sounds like -- we can go to lots of different areas of law where I have been there. The ratepayer argument that we need to protect ratepayers and keep costs down. Particularly in a recession, who can disagree with in a? We're all apparently seeking a variance and congressional intervention because we don't want this to happen and nothing would make us happier than to see our water bills not go up the way they would have. The argument that there's no health benefit. I drink the tap water. I've lived in boston, Washington, new york, and Portland, by far the best water. Not because randy told me I had to say that. There's no question, and the water - - I had to say that. There's no question. The water in our places smelled like a dead Fish. This water is pristine and wonderful. I could go on and on. And I get all of that stuff. And it seems like we don't have a disagreement. Where we have an agreement, the question is to comply with the deadline where we have to put in some proposal, with one or two exceptions in the room, it seems like we have general concurrence on recommendations one, seek a variance, two, work through our congressional delegation to seek ohm positive law change which would include an entreaty to the new administration. And three, my guess is on three, we might have some disagreement -- well, maybe some disagreements or concerns, some based on policy and some on not enough information to make an informed judgment. To be honest. That would be my case. What i'm struggling with is we don't have a great alternative and to say we're going to disregard this order or disregard something, I wish I had the luxury of doing that in my practice, but that's not really -- we don't get to make that decision and I don't think necessarily we're modeling good behavior when we say that. Sometimes we have to -- we have to do what we're instructed. In the labor field, we call it obey now, grieve later. Suck it up and then file your grievance and get recourse. I'm struggling with the fact that the overwhelming has consensus in the room, but where we disagree, what are the -- setting up a contingency. And is this the right one. The consequences of a contingency, having

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worked on the hill, I don't think you're going to get any points taken against you because you comply. I think if you engage in wanton civil disobedience, I don't think that sits well with the congressional leadership. Frankly. In my experience. If we have a gun to our heads is ozone, u.v. Filtration the better option? The folks in this room have spent years studying that. Today, I don't feel i'm ready to render judgment on that conclusively and that's why I asked if there was some give on that point. I want to acknowledge, this is a classic caught between a rock and hard place from what i'm hearing. And i'm struck by the fact that I may very well agree with most of what i've heard in this room and still be in a position to cast a vote that might disappoint you in the room, because of a requirement that I take very -- I took an oath of office, I take seriously that we have to meet 'deadline and have a contingency plan. That's what i'm struggling with. It wasn't a question. It was a statement.

**Adams:** Commissioner Fritz.

**Fritz:** Thank you, that's a good summary of what we're up against. And I agree that the seeking of variance and the congressional relief is -- should be our first option and I agree with commissioner Leonard that we need citizens' help in lobbying for that. We need a lot of help on that, as you've heard it's not something that is going to be easy. Thank you for being there. Looking at the third point, then, what do we do? And we have a deadline of a week today, to have a plan approved or a plan submitted, david?

**Shaff:** Approved.

**Fritz:** What's the turn-around. When do you need to submit it?

**Shaff:** I intend to submit it this afternoon.

**Fritz:** Why did we not have this discussion a month ago?

**Shaff:** Because we've been working on developing the response to the e.p.a. When they rejected our initial proposal so we have been working diligently on getting together the materials and the schedules that the e.p.a. Has indicated we would need to do.

**Fritz:** What's the report -- the reports and recommendations of the 2002 bull run panel except accepted by panel -- accepted by panel?

**Shaff:** No.

**Fritz:** Because I'm with commissioner Fish wondering -- it sounds like I have no choice but to agree to do this, otherwise we'll be out of compliance with federal law.

**Shaff:** Not on the treatment side. The e.p.a. Will not dictate the treatment methodology. All they require is that by april 1, 2014, we have built an additional treatment plant that complies with the rule. So --

**Fritz:** By april 1, 2009 --

**Shaff:** We have to have a schedule for the open reservoirs. That's the deadline.

**Fritz:** Ok. And we haven't had much discussion this afternoon about the open reservoirs and what alternatives there might be. Are [inaudible] reservoir viable options.

**Shaff:** No, we could cover.

**Fritz:** I said tanks in the reservoirs so they're not covered, but tanks are in there.

**Leonard:** That's covering the water in the reservoirs.

**Shaff:** That's actually what the plan was, to build a tank within the footprint of the reservoirs.

**Fritz:** I'm suggesting you put the water back on top.

**Leonard:** That's the plan that was forwarded, opposed by the residents in 2004.

**Fritz:** That was 2004. So I -- the recommendations at the bull run panel suggested and we haven't had a discussion since then, other than the covering of the reservoirs which was covering them, not leaving them on and putting a tank in.

**Leonard:** That's exactly what the recommendation was.

**Fritz:** I thought I saw soccer fields on top.

**Leonard:** There were no soccer fields on top.

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**Fish:** Oh, no, back to soccer. [laughter]

**Fritz:** Reservoir -- in reservoir storage tanks are not viable?

**Shaff:** No, that's actually the proposal we have for the Washington park. That we build a tank within the footprint of upper reservoir no. 3.

**Fritz:** Why is that not proposed for mount tabor.

**Leonard:** I committed to them that we would not do that after all that happened in 2004.

**Fritz:** What's the cost?

**Shaff:** We're going to be very comparable. Tabor is a little more expensive in some ways because of the historic nature. But the reality is that the two of them are going to be fairly comparable. Whether at tabor or outside at powell butte and kelly butte.

**Fritz:** The panel recommendation was to put the treatment facility at powell butte and your recommendation was --

**Shaff:** It was at powell butte, but recognizing there were significant issue and we should continue to look at the lusted hill site.

**Fritz:** Where is lusted hill?

**Shaff:** It's east of here. It's not far from the city of sandy. It's out in the middle of nowhere, commissioner, really hard to point to -- near roslyn lake.

**Fritz:** Ok, there was one part of the testimony -- of your testimony I didn't understand.

**Shaff:** Ok.

**Fritz:** In terms of san diego's done a [inaudible] treatment system and you said 200 million gallons a day.

**Shaff:** Just over 200 million-gallons a day. If we build a treatment plant, we need to build it so it's big enough to deal with our peak flow, which is 180 million gallons.

**Fritz:** And we have storage capacity for 170 million gallons in the reservoirs?

**Shaff:** Right, but that's just in town storage. That has nothing do with how much we use in a day.

**Fritz:** The total tank capacity under the proposal is 85 million-gallons. So how will we manage with that much less storage.

**Shaff:** We're looking at 50 million-gallons less. One of our reservoirs we don't use. We use on half of reservoir six at any one time. The water is always flowing in, but it's always flowing out. That's not going to be an issue for us, commissioner.

**Fritz:** Ok. So i'm troubled by -- accepting the report, with the recommendation -- seems to have really specifics for what we're going to do. It doesn't have specifics on how we're going to pay for it. And commissioner Fish's question, when do we get to discuss this, exactly what we're going to do?

**Shaff:** You'll be discussing it in budgets every year for the next several years. Your first discussion, we've already had in the budget committee. For our upcoming budget. For phase 1, the powell butte project that we talked about this morning. And then the design of a treatment plant, that is approximately \$9 million capital investment upcoming in this proposed budget.

**Fritz:** We don't take citizen testimony during the budget work sessions. We do at budget hearings, but there's so many other budget questions that are being handled then that making a decision as big of that on a difference of \$200 million and the increase being requested this year, includes some powell butte costs but not filtration.

**Shaff:** Yes, it does.

**Fritz:** So the 18% over the next five years pay for the system?

**Shaff:** Yes, it does. And there will be -- just so you know, there will be a separate rate hearing that will be coming in front of you outside of the budget process as well. So there will be a number of opportunities to have that discussion and to have citizen input.



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**Fritz:** But that is part of this decision, the 18% rate increase. We need to have the public, the citizens at large, to let them know this is the opportunity to weigh in on the kind of treatment -- if we have to do it, that's when they weigh in.

**Shaff:** Just so you know, the issue of treatment, whether it's u.v. Or filtration. The first year costs will be the same. So we're projecting a 17.9% increase. No matter what level of treatment we select. If we do end up ultimately deciding to build an u.v. Plant instead of filtration. The lower rate increases will occur in 1011 and 1112 -- and '10- '11 and beyond.

**Adams:** Why.

**Shaff:** Because we're not building anything. We're designing it. The design costs of the u.v. Plant will be the same as the filtration costs.

**Adams:** Are you done?

**Fritz:** Done.

**Adams:** The cost estimate, is that -- because you haven't done the design. I assume that's a low confidence?

**Shaff:** Relatively, yes. We did say this morning that the confidence level on the first phase of the excavation is high. But that's just the first phase.

**Adams:** On powell butte.

**Shaff:** Yes.

**Adams:** And you mentioned in passing, in your conversation with commissioner Fish, a \$9 million number. Did I mishear you. You need to spend \$9 million on planning or --

**Shaff:** That's what we have in our proposed budget for this upcoming year for the design of a treatment plant, yes.

**Adams:** Ok. And then the second line on no. 3 that I quoted earlier, says if the city is unable to secure alternatives, how do we know -- or how do we judge -- and it's a hard question to answer -- but how do we know when we've failed?

**Shaff:** I think I would defer to dan on that.

**Bates:** In terms of knowing when we will have construed -- been through all of our options, it's hard to tell, this can take multiple sessions. This type of legislation. And sometimes it can happen very quickly. And so I don't have a good answer for when we would know that we have no further to go.

**Adams:** Ok. Other questions?

**Fritz:** Yeah, I want to clarify on the budget, since we are now looking at the rates. The information we have from the Portland utility review board says the lt-2 are estimated at \$300 million. Is that -- is that so? In the rate request.

**Shaff:** Not for next year's budget, no.

**Fritz:** The total cost --

**Shaff:** The total cost depending on the treatment methodology would be approximately \$800 million, which includes the open reservoirs and a filtration plant.

**Fritz:** And what is your projected payment -- how much would the rates go up for how long to pay for that?

**Shaff:** We've projected rate increases through the next five years. And they would be approximately double if you build a filtration plant and there are approximately 6% less each year if you built an u.v. Plant.

**Fritz:** But it's not paid for after five years? Or is it?

**Shaff:** Yes, it would be. We'll still have out-year constituents because on the open reservoir -- expenditures, because on the open reservoirs we won't be done in 2020. We're -- 400 and 3 -- there's rate increases out beyond the projection we've made so far.

**Adams:** Any other further council discussion or inquiries? All right. Let's move to a vote. Karla, please call the roll.

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**Fritz:** Water is the most basic service that city provides to the community. Not only to our 95 neighborhoods but several outlying jurisdictions we provide our delicious and wonderful and pristine bull run water to. It's wonderful to see everybody here today caring about our water supply and i'm impressed with the staff work and commissioner Leonard's diligence in seeking and -- and government relations in seeking the alternatives with congress, and also in getting right down into the nitty-gritty of the science and coming to us to give us your advice and I really appreciate that. And I think as i've mentioned we all need to lobby harder to try to get this legislative alternative, because a lot -- the question of do we filter in order to have more capacity for water is to me, different from do we pay \$200 million for a system we don't need in u.v. Versus \$400 million for a system we really don't need either. I think we need to revisit the study and have more citizen involvement in discussing what kind of treatment do we want in 2009 versus 2003, 2004. We're in the most serious economic challenge that most of us experienced in our lifetime, and the cost does matter and we do need to come back and look at what can we afford? We might want the cadillac system but what can we afford. That has to be part of the equation. Having said that, we have to comply -- as an elected official, I promised to obey the law and the letter of the law and spirit of the law and we have to have a plan in by next week. I'm very troubled I have no choice but to vote yes because we have to have a plan by next week and I would have liked to have this discussion at least a month ago so we might be able to amend the report or put in some other promises for a full public process to have that further discussion. As we move forward on it, we have to broad broaden the community involvement, it's not just the neighborhood associations that are closest to the reservoirs that care about this. It is citizens city wide and rate increases, looking at the backlog of other maintenance we have to do in our aging infrastructure system, that's a lot of money. And for people out of work. And I know that you're having the meeting on april 11th. I encourage everybody to come to meet with the congressional delegation staff and continue to work on that point and I believe we need more discussions about the various treatment option so that we -- we may not like our choices, but we're given all of our choices and the whole city engages in making that decision. Reluctantly on the timing issue, but with great respect for what commissioner Leonard has done on the project, I vote aye.

**Fish:** I had a chance earlier in the -- in my statements to ventilate what I was thinking and my concerns, I -- i'm struck by two things. One is something that was said earlier, which is that everyone's been working in good faith on this. And I think this report is a balanced report. I think it demonstrates the good faith. And I think that my take-away from this hearing is that we really want to put all the necessary resources into recommendations one and two. Because all of us would like to avoid the contingency recommendation three. I'm going to support the report as a policy document with the understanding, as I said earlier, that I would like to have the opportunity to revisit the question of the appropriate technology. I'm not at this point comfortable committing to filtration although i've heard commissioner Leonard make two very cogent arguments from a cost benefit point of view, particularly looking forward, to where there might can requirements for filtering that it might be the best option. I just don't feel I have enough information to make that judgment. I think these issues are some of the hardest issues we deal with at council. I'm glad that randy Leonard is the water bureau commissioner and not me. I've got my own headaches. If you read the newspapers, recently, you know what I mean. But I appreciate your leadership on this, randy.

**Leonard:** Thank you.

**Fish:** We often talk about the thankless work that people in public service do. And randy has a lot. With water and b.d.s. And trying to dee deal with cut. And I appreciate the testimony and the written submissions because I get to go back and reread. And if you go online, to get the transcript of our hearings, there are a little hard to follow. The written submission ensures that your actual words are with us and we can revisit them. I appreciate that people took the time to do that. On the

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basis of the deadline that's been established by the federal government, and I think associating myself with most of the commissioner Fritz's remarks, I vote aye.

**Leonard:** Well, I've been on the council since 2002, and so I've observed this issue from afar, and then up close and personal. When commissioner Saltzman had the bureau, there was a number of public processes that occurred, all of which I was a witness to. If not an active participant. And it - - participant. It citizen taskforce, said don't cover the reservoirs and I got the bureau and I told the friends, we will not cover the reservoirs. So in developing the plan, to submit to e.p.a. And remaining true with the prior decisions made by council, I'm open to anybody telling me what other plan you would have submitted to e.p.a. Other than covering the reservoirs that -- that took advantage of processes that already happened up at Powell Butte. And what the plan is that's going to be submitted. I'm very open to learning thousand do better. But saying there was not enough public process is not fair. There's more public process on this issue than any other issue I've been a part of or heard about. And so I'm comfortable we've done publicly what needs to be done. Having said that, if commissioner Fritz or somebody else wants to visit the core issue of whether or not we should bury the reservoirs, I'm more than open on that, but you'll have your name on that resolution, not me. I've been there and done that. Not interested in revisiting that personally. But having said that, I'm committing to doing what I said we'd do. To pursue a variance with the e.p.a. Of the treatment system which I -- to pursue a variance. That needs to be done, and we have an administrative headquarters, David can articulate better. And Michael Stuhr over on state. They have buckets catching water. It's a project that we were going to stop last -- start last year that we had to stop. It's taking away from otherwise truly important work that we should and could be doing were it not for this federal mandate we're dealing with. We're going to work hard to get the variance from the e.p.a. On the treatment. Work as hard with our congressional delegation. But I have to say you, I have no more pull than any of you guys to get them to introduce something. If you know how to introduce an amendment, tell me what that is and I'll play that card. But what you're seeing here isn't what I've been doing lightly and insisting they do something to show they're moving the ball forward on that front. We'll hear more April --

\*\*\*\*\*: 11th.

**Leonard:** Excuse me, the 11th. We have a town hall, so they can make their own case about what they are or aren't doing and why or why not they're doing it. I appreciate everybody being here. It's a good discussion today. Aye.

**Adams:** First off, I can testify because of personal experience that commissioner Leonard is working very hard and has over the past four and some years I've been an elected official worked very hard on this issue back in D.C. I've been with him on some of that advocacy and you also need to know as a former commissioner, now mayor, continue to advocate for what I -- the arguments that you have made on why we are different than other water systems and why Lt-2 is something we need to fight against and push back on. And avoid at all costs. So that advocacy is -- is definitely there from your elected officials, but I do encourage you to take advantage of this forum that's coming up to have in-person, in the room, face-to-face opportunities to advocate our passions on this issue to the federal delegation or their representatives. I think this is -- you know, I think this is a painful discussion for all of us in the sense that it appropriately memorializes that we're entering into a new phase in this discussion and that's painful. It's painful, especially doubly so in the midst of a recession when so many businesses are struggling and people are hurting economically. But I think it might be painful, but I think it's honest. The e.p.a. clock starts, and it is a different phase. And it will clarify for those that represent us in D.C. In terms of 400-odd million dollars, we're going to have to come up with unless we collectively are able to get a variance or legislative relief on the timeline that's been outlined by the e.p.a. We all now know what the rules of engagement are in terms of timeline and cost and benefit. I think this is unnecessary, I want to underscore. I fought the e.p.a. For four years and two months on a quarter billion dollar potential

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requirement. I shouldn't say i, a whole bunch of us did. Including randy and former mayor potter and dan. And we won. And it was a very similar process. There was a point when the clock started and we had to submit some plans. I thought they were unnecessary. We thought -- I thought they were unnecessary. And we prevailed in the end. So it was hard. I think the most recent example on the sewer side was -- this is not an automatic surrender by complying. The initial compliance with e.p.a. I don't view it as a surrender. That's not my intent. But it does frame the trade-offs and these issues are incredibly complicated until you get to the point where it's \$400 million and rate increases we think we should be able to avoid and the decisions will be made on the timeline outlined by e.p.a. And I think this is the opportunity to really sort of make a complex problem much simpler and engage the entire community in letting our federal representatives and federal agencies know that this is unnecessary. And that we should and can avoid it and It-2 only as a last resort. I want to thank the water bureau for their work. I agree with the sentiments expressed up here in these closing remarks in terms of treatment options. I found it compelling, but i'm not an expert. I need to learn more in terms of treatment options and thank you, commissioner Leonard, for bringing this forward. It's a difficult issue. Aye. Council is adjourned. [gavel pounded]

At 4:38 p.m., Council adjourned.