



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **17TH DAY OF FEBRUARY, 2010** AT 9:30 A.M.

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

Commissioner Leonard arrived at 9:38 a.m.
 Commissioner Saltzman 10:03 a.m.

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

Item No. 242 was pulled for discussion and on a Y-4 roll call, the balance of the Consent Agenda was adopted.

| COMMUNICATIONS | Disposition: |
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| 225 Request of Ryan Pittel to address Council regarding January 13th Noise Review Board Decision (Communication) | PLACED ON FILE |
| 226 Request of Angela Moos to address Council regarding January 13th Noise Review Board decision (Communication) | PLACED ON FILE |
| 227 Request of Jared Tormohlen to address Council regarding January 13th Noise Review Board decision (Communication) | PLACED ON FILE |
| 228 Request of Charles E. Long to address Council regarding why Portland Police officers should be residents of Portland (Communication) | PLACED ON FILE |
| 229 Request of Talal Jabari to address Council regarding the film Full Signal, cell towers, health and public policy (Communication) | PLACED ON FILE |
| TIMES CERTAIN | |
| 230 TIME CERTAIN: 9:30 AM – Amend fee schedule for site development permits (Ordinance introduced by Commissioner Leonard) 15 minutes requested | PASSED TO SECOND READING FEBRUARY 24, 2010 9:30 AM |

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| <p>231 TIME CERTAIN: 10:00 AM – Adopt the Memorandum of Understanding between Bureau of Development Services and Bureau of Environmental Services for the transfer of plan review and inspection responsibilities related to City requirements for onsite Stormwater management facilities on developing properties (Resolution introduced by Commissioner Saltzman) 15 minutes requested</p> <p>(Y-5)</p> | <p>36764</p> |
| <p>CONSENT AGENDA – NO DISCUSSION</p> <p>Mayor Sam Adams</p> <p>Bureau of Planning & Sustainability</p> <p>*232 Authorize application to the State Historic Preservation Office for a Historic Preservation Fund Grant of \$17,000 to support the City's historic resources program (Ordinance)</p> <p>(Y-4; Saltzman absent)</p> | |
| <p>Bureau of Transportation</p> <p>*233 Authorize the Bureau of Transportation to acquire certain temporary easements necessary for construction of the Safe Routes to School Project through the exercise of the City's Eminent Domain Authority (Ordinance)</p> <p>(Y-4; Saltzman absent)</p> | |
| <p>*234 Authorize a Ground Lease Agreement with the Portland Development Commission for a construction staging area related to the Portland Streetcar Loop Project (Ordinance)</p> <p>(Y-4; Saltzman absent)</p> | <p>183543</p> |
| <p>*235 Authorize contract with Harper Houf Peterson Righellis Inc. to provide design and construction services for the South Waterfront Intersection Improvements Project (Ordinance)</p> <p>(Y-4; Saltzman absent)</p> | <p>183544</p> |
| <p>236 Grant revocable permit to Jake's Restaurant to close SW Stark St between SW 12th Ave and SW 13th Ave from 7:00 p.m. on March 16, 2010 until 7:00 a.m. March 18, 2010 (Second Reading Agenda 202)</p> <p>(Y-4; Saltzman absent)</p> | <p>183545</p> |
| <p>237 Grant revocable permit to Paddys Bar and Grill to close SW Yamhill St between SW 1st Ave and SW Naito Parkway from 12:01 a.m. on March 17, 2010 until 9:00 a.m. March 18, 2010 (Second Reading Agenda 203)</p> <p>(Y-4; Saltzman absent)</p> | <p>183546</p> |
| <p>Office of Management and Finance – Internal Business Services</p> <p>*238 Pay claim of Portland State University (Ordinance)</p> <p>(Y-4; Saltzman absent)</p> | |

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| <p>Commissioner Dan Saltzman Position No. 3</p> <p>Bureau of Environmental Services</p> | | |
| <p>239 Amend Ordinance authorizing the Bureau of Environmental Services to enter into agreements for the conveyance of properties located within the East Lents Floodplain Restoration project area (Ordinance; amend Ordinance No. 181880)</p> | | <p>PASSED TO SECOND READING FEBRUARY 24, 2010 9:30 AM</p> |
| <p>240 Authorize the Bureau of Environmental Services to acquire certain permanent easements necessary for construction and flooding on the Jameson Partners property adjacent to the East Lents Floodplain Restoration Project No. E07384 site, through the exercise of the City's Eminent Domain Authority (Second Reading Agenda 212) (Y-4; Saltzman absent)</p> | | <p>183548</p> |
| <p>241 Authorize a contract and provide payment for construction of the SE 83rd Avenue Wastewater Pump Station Project No. E08376 (Second Reading Agenda 213) (Y-4; Saltzman absent)</p> | | <p>183549</p> |
| <p>Commissioner Randy Leonard Position No. 4</p> | | |
| <p>*242 Authorize a grant to Northeast Coalition of Neighborhoods on behalf of the Black Citizen's Coalition to provide assistance to displaced victims of Hurricane Katrina (Ordinance) (Y-5)</p> | | <p>183551</p> |
| <p>Bureau of Water</p> | | |
| <p>*243 Authorize the Portland Water Bureau to acquire fee ownership of property for construction and staging of Powell Butte Reservoir II (Ordinance) (Y-4; Saltzman absent)</p> | | <p>183550</p> |
| <p>REGULAR AGENDA</p> <p>Mayor Sam Adams</p> | | |
| <p>244 Authorize the Mayor to sign a new Good Neighbor Agreement for PGE Park on behalf of the City of Portland (Second Reading Agenda 195) (Y-5)</p> | | <p>183552</p> |

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| <p>*245 Approve the updated Comprehensive Transportation Management Plan for PGE Park (Second Reading Agenda 196)</p> <p>Motion to amend to add Directive C regarding implementation plan: Moved by Mayor Adams and seconded by Commissioner Fish. (Y-5)</p> <p>Motion to add emergency clause: Moved by Mayor Adams and seconded by Commissioner Fish. (Y-5)</p> <p>(Y-5)</p> | <p>183553 AS AMENDED</p> |
| <p style="text-align: center;"><u>FOUR-FIFTHS AGENDA</u></p> <p style="text-align: center;">Mayor Sam Adams</p> <p>Office of Management and Finance – Internal Business Services</p> <p>245-1 Accept bid of Brown Contracting, Inc. for the Portland Bicycle Boulevard Improvements for \$626,151 (Procurement Report - Bid No. 111188) 5 minutes requested</p> <p>Motion to accept the report: Moved by Commissioner Saltzman and seconded by Commissioner Fritz.</p> <p>(Y-5)</p> | <p>ACCEPTED PREPARE CONTRACT</p> |

At 10:22 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **17TH DAY OF FEBRUARY, 2010** AT 6:00 P.M.

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

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

| | | Disposition: |
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| 246 | TIME CERTAIN: 6:00 PM – Adopt and implement the River Plan / North Reach (Ordinance introduced by Mayor Adams; amend Title 33 and amend Comprehensive Plan and zoning maps) 3 hours requested for items 246, 247 and 248) | CONTINUED TO MARCH 24, 2010 AT 2:00 PM TIME CERTAIN |
| 247 | Adopt the River Plan / North Reach Action Agenda and The Future of the North Reach (Resolution introduced by Mayor Adams) | CONTINUED TO MARCH 24, 2010 AT 2:00 PM TIME CERTAIN |
| 248 | Accept Memorandum of Understanding between Siltronic and City of Portland (Resolution introduced by Mayor Adams) | PASSED TO SECOND READING MARCH 3, 2010 AT 10:45 AM TIME CERTAIN |

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

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **18TH DAY OF FEBRUARY, 2010** AT 2:00 P.M.

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

Commissioner Saltzman arrived at 2:13 p.m.

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

At 2:45 p.m., Council recessed.

At 3:32 p.m., Council reconvened.

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

Commissioner Saltzman arrived at 3:49 p.m.

At 3:30 p.m., Kathryn Beaumont, Senior Deputy City Attorney replaced Van Dyke.

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| <p>249 TIME CERTAIN: 2:00 PM – Authorize an Intergovernmental Grant Agreement with TriMet for City financial contributions to fund the final design and construction of the South Corridor Phase II: Portland-Milwaukie Light Rail Project (Ordinance introduced by Mayor Adams) 30 minutes requested</p> | <p>Disposition:</p> <p>PASSED TO SECOND READING FEBRUARY 24, 2010 AT 9:30 AM</p> |
| <p>250 TIME CERTAIN: 3:30 PM – Appeal of East Columbia Neighborhood Association against Hearings Officer’s decision to approve with conditions the application of Howard Brandwein and Jeri Geblin for a land division with concurrent environmental review and adjustments for a 49-lot subdivision at 9801 NE 13th Ave (Hearing; LU 09-134484 LDS EN AD) 1 hour requested</p> <p>Motion to tentatively deny the appeal and uphold the Hearings Officer’s decision for approval of the proposal: Moved by Commissioner Leonard and seconded by Commissioner Fish (Y-4)</p> | <p>TENTATIVELY DENY THE APPEAL AND UPHOLD HEARINGS OFFICER’S DECISION; PREPARE FINDINGS FOR MARCH 3, 2010 AT 9:30AM</p> |

At 4:36 p.m., Council adjourned.

LAVONNE GRIFFIN-VALADE
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

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

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

FEBRUARY 17, 2010 9:30 AM

Adams: It's 9:30 a.m. And this is the Portland city council, which will come to order. Good morning, Karla, how are you? Is someone bothering you because we can have him removed? [laughter]

Adams: Call the roll, please.

Fritz: Here.

Fish: Here.

Adams: Here. Can you please read the title for 225. Oh, I apologize, is the mayor of la center here? Oh, that's who is bugging me, please come forward, your honor. We definitely extend the courtesies of the house to our fellow elected officials. We welcome you. How are things north of the river in your part of Washington?

James Irish, Mayor, City of La Center, Washington: Doing great.

Adams: Good.

Irish: City commissioners, I am james, the mayor of the city of la center. I'm not here to talk about bridges or lanes or any of that good stuff. I do have a brochure that I am handing out. What I would like is to take this opportunity to introduce you to, to what our community is, what I consider one of the most important and inspiring and honorable exhibits ever to grace the city of la center, and that's the american veteran's traveling tribute, and it's going to be exhibited in the city of la center from august 4 through august 8, and it's primarily to honor those who have made our way of life possible, and in memory of those who have died, and those of us who are lucky enough to survive. I am a veteran and I speak from my heart on this matter. It is possible, anyway, the american tribute is exhibit, and is an exhibit that travels to the united states honoring those who fought for the freedom that we enjoy today. The focus of the exhibit is the wall, which is a replica of the vietnam memorial in Washington, the wall is 80%, a replica of the vietnam memorial, and, and stands approximately 8 feet tall and 387 feet long, and enlists the names of the men and women who died fighting in vietnam, however, there are also tributes to all veterans, including the second world war up to the present day, iraqi freedom and enduring freedom in afghanistan, and those who perished in the 9/11 attack. And the exhibit will be on display for four days, and the events escort the motorcycles made up of veterans and law enforcement officers, and the grand marshal, who is the relative of the last native, excuse me, navy fighter pilot that died three days before the end of the vietnam war. Anyway, all of that is spelled out in the handout that I gave you.

And what i'm, what i'm, what i'm actually here for is, is, um, we need the collaboration of the entire community, and since I have heard that, that vancouver and southwestern Washington was an unannexed part of Portland, I wanted to extend to the city of Portland the honor, the availability to come and visit the wall and, and the city of la center has underwrote this, and however, we do, we are taking donations, either in laborer, or financial donations. We have set up a 501c3 account, but most of all, it is my privilege to inform you that we are bringing the wall here, and the wall means more than just something to go and see, and an exciting case. It's a chance for veterans in a lot of cases to heal, to put closure on something that we were never able to. And I found that out four years ago when I had the, the chance of visiting the vietnam memorial in d.c., and it's a very moving experience, and we have a lot of communities and citizens that are really, really gearing up and

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volunteering for this, this, and I just wanted to bring it to your attention, and ask that, that if possible, you could help support us, not by, by monetary means or etc., but by word of mouth and knowledge that it's there, and with, that I thank you very much for your time. If you have any questions, I could answer them.

Adams: I want to say thank you for your superb leadership in bringing this, this exhibit to the region, and I will get in touch with travel Portland to make sure that we are doing everything to get the word out here, and in the Portland area of when and where it's at, and we'll visit. So, thank you.

Irish: Jim hopkins, whose card, I think, is on all of yours except one, I think, i'm sorry, but there is a writeup in the very back of the folder that you have, and has the news article from the club, and has on our website. I think it has, anyway, for the record, the website is www.lacenterhonorsets.info, and tim hopkins is the coordinator. I just have the wonderful privilege of working with him and being the mayor of the town here. So I thank you very much.

Adams: Thank you, sir. Appreciate it very much. Karla, can you read the title for item number 225.

Item 225.

Adams: Mr. Pittel, welcome. So you just have to give us your first and last name for the record. You will have three minutes, and that clock in front of you on that big hunk of wood will count down from three.

Ryan Pittel: Ok. Ryan pittel, first mr. Mayor --

Fish: Could you bring up the microphone a bit?

Pittel: I would like if it would be possible to have the other two members of the neighborhood join me since our communication is a joint effort.

Adams: Yes.

Pittel: Jared tormohlen and angela moos are the other two members.

Adams: Come on up, absolutely.

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

Adams: You are welcome.

Pittel: Ok. Again, I am ryan pittel, the canton neighborhood noise subcommittee chair. And mayor Adams and city commissioners, my purpose here today is to thank you, as you know, Portland international raceway, pir went before the city's noise review board on january 13 requesting four variances for the 2010-2012 race seasons. And this request would have granted pir the ford area variances and would tied the hands of the neighborhoods until 2013. The noise review board did not grant it but only for one year, the 2010 race season. Thus allowing the neighborhoods to continue to have a voice in the noise issues that impact them. And the noise review board also lowered the decibel level for the historic race held july 8-11 from 112 to 110 decibels. From my knowledge of how these variances have been granted in the past, the stance taken by the noise review board was a welcomed surprising since they have usually granted multi-year variances to most promoters. This gave the north Portland neighborhoods a small victory and hopes with pir to abate noise and begin productive discussions on how we can attempt to strike a balance between the livability of north Portland and the interests of the racetrack as the 1989 pir resolution proposed. I understand that the noise review board members are pointed by the mayor and approved by city council, and as the noise subcommittee chair I appreciate these appointments containing members willing to take concerns of the neighborhood into consideration, and this is a very positive step and I wanted you to know that we appreciate the city being responsive to noise concerns in north Portland. I also understand that the noise review board has clarification they can finish up the analysis on the green bush study. The review board will doo that work in house and move it forward for consideration by council this spring. I, along with the canton neighborhood am interested to see the study and findings. Thank you for funding the initial stages and for allowing

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the study to be continued in-house. I also want to thank you in advance for your consideration of the findings and the impact on the north Portland neighborhoods. I have heard rumors that friends of pir are interested in taking over the management of pir and doing away with the noise review board governance of the sound levels and variances. Based on recent support for neighborhood concerns from the pointed noise review board i'm optimistic that any decision regarding is a management change would include heavy consideration of the neighborhoods. We are interested in preserving the ability of the citizens to voice their concerns. We look forward to working with the city to determine how any such changes or any suggested changes resulting from the study impact the neighborhoods and how we can move forward and work together to effect solutions in an am I can't believe fashion. Thank you again for supporting sour neighborhoods and respecting the voice of our citizens, and having a voice and having that voice matter to the city officials is one reason that Portland is a wonderful place to live.

Adams: Thank you.

Item 227.

Jared Tormohlen: Good morning, mayor Adams and city commissioners. My name is jared tormohlen. I'm a resident of the canton neighborhood in north Portland and vice chairman of the neighborhood association. I'm here today to share my appreciation of the recent decision made by the noise review board and express my gratitude for pointing and confirming the members. My wife and I moved to canton in the summer of 2007 after purchasing our first home on north halock street. We decided, based on the location, affordability and beauty. In 2008, my wife and I chose to be more involved in the community by volunteering in several of the events happening. And it was in the same year that I became a board member of the neighborhood association. I have taken much pleasure in working with the neighbors of diverse ages, backgrounds, and perspectives. As a neighborhood association we are taking a close look at livability. We have asked neighbors what is important to them, and what concerns they have and what they envision. There have been many wonderful ideas that come out of the process and many projections are in the works. Of the concerns that have been raised, one that I have heard many times is noise pollution. Residents have identified many sources of noise, including street traffic, trains, airplanes, and that from the race at Portland international raceway. This year I have had an opportunity to work closely with my neighbors to begin addressing noise solution. The neighborhood association has created a livability committee and noise committee. The purpose of the committee is a line of communication with the sources of noise. We do not expect to eliminate the noise or the sources but we are interested in lowering the noise and working together with the sources to find a middle ground. In december of 2009 the Portland international raceway went in front of the noise board for the 2010-2012 racing season. It would eliminate the voice of our residents until the 2013 season. In january of 2010 the noise review board voted to limit the requests by Portland international raceway to the 2010 season only. Ultimately, the decision will allow us and surrounding neighborhoods to have a voice and a working relationship with the Portland international raceway. As a young professional who has just begun what I plan to be a lifelong involvement with community activism I am encouraged by the noise review's board decision. I feel our neighborhood was heard and the board is interested in representing both the citizens as well as the raceway. Thank you again for nominating and confirming the current members of the noise review board, and I hope to come to this forum again to share the success that Portland international raceway and the neighborhood have achieved through a new relationship of open communication and involvement. Thank you.

Item 226.

Adams: Thank you, madam president.

Angela Moos: Good morning. Thank you, mayor Adams and the city council members. I am angela moos, I am an 18-year resident of the canton neighborhood and I serve as the chair of the neighborhood association.

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Adams: The mayor of the mayor. [laughter]

Moos: I, too, share the neighborhood's gratitude and appreciation for the recent noise board decision. There is a growing demographics shift in the area with new residents seeking a more attainable livability quotient. The new neighbors are not as willing to give up the disturbance to the noise of the pir and their participation is an example of the newer residents voicing their concerns regarding noise and livability issues. I want to share that the neighborhood association is striving to, to develop a firm, realistic, and fair dialogue with pir management and their non profit support group, the friends of pir, and as we take the initiative to address neighborhood livability. The neighborhood association recently held a very well attended neighborhood-wide general meeting with the focus on neighborhood livability and a forum presentation by the pir, by the friends of pir, and livable north Portland. In the ensuing questioning period, you could hear the frustrations and concerns of our neighborhoods regarding noise, remediation techniques and how we can work together in the future. And as the friends of pir have an interest in future management of the pir, they presented the neighborhood association with the formal letter regarding the importance of their ability to work with us as they feel a need for more active and a substantial role in participation as most of their members do not live there. The letter included four topics for our advice in seeking their goals. I will forward an electronic copy of the letter to your offices. At this point in time, the neighborhood association will start to contact and question our neighbors on how we can respond to these topics, and we'll work towards these responses, as we do so, we may have questions for the bury in the process. We are a neighborhood of 3,500 households, so it will take us time to reach, review, and respond to the input that we receive. However, one of our biggest concerns is whether future non profit management of the pir would lessen the public's voice in regard to more experienced requests or noise remediation solutions. I would conclude that leading the neighborhood associates, I am proud and gratified by our increasing neighborhood involvement and the new leadership responsibility. Especially in the roles that Jared and Ryan have embraced. And it is truly remarkable that we live in such a lovely city of Portland we're our voices can be heard by public officials and we're we can make an impact on the livability in our neighborhoods. Thank you.

Fish: Mayor, may I clarify one thing? Thank you very much for, for testifying and Angela -- Angela, I had an invitation to speak to the north Portland chairs and nothing has changed since that meeting. I'm the parks commissioner and if the friends of pir wish to explore a different kind of management relationship, we would have to be presented to me and go to extensive community process and then come before the council. And the commitment that I made then is the same one, which is if at some point they make a formal proposal, we will have a public process to review it and evaluate it. There is no current deal, you alluded to the rumor. It is true that they have been working on visioning but it has not come to me as a formal proposal, and the moment it does there will be intense community dialogue about that. So, want to be very clear about that and thank you for your concerns.

Moos: We appreciate that. We want to let you know that we are trying to be as proactive as possible and be as well educated on the issues as we can.

Adams: And I am very proud to live there and it has been great to see all these active neighborhoods, and more active now because I'm a decision-maker, I've been advised not to attend neighborhood meetings but I don't need to. You are doing a great job.

Fish: Thank you.

Adams: So thank you for your work, and by way of any conflict of interest, I live in one of the first rows of houses after the industrial area near the racetrack, so I have an interest.

Leonard: The chickens in the backyard.

Adams: The chickens in the backyard. [laughter]

*******:** Who is the most famous resident of the neighborhood? [laughter]

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Fish: There we go.

Adams: Thank you very much.

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

Adams: Please read the title for 228.

Item 228.

Adams: Mr. Long, welcome back. Glad you are here.

Charles E. Long: My name is Charles Long, I appreciate having the opportunity to speak this morning. It is ironic that Portland's high definition assaults, and immorality emanate from our own police department. The former chief of police had to be forced out of office by a sensational sex scandal involve, a police abortment as revealed in the pages of the Oregonian. A citizen who was assaulted, trying to film a police action was awarded \$50,000 for being attacked by a police officer. A slight 21-year-old Portland community college student was pummeled by an officer for walking in the middle of a deserted street. Content raw James, Kendra James, James Chassis, and most recently, Aaron Campbell, all unarmed citizens of this city, have died at the hands of the Portland police bureau. It is also ironic that this city council has failed to go in and out of control despite two reports from the Los Angeles Police Assessment Review Commission in 2003 and 2005. Jesse Jackson, national political activist had to be called in by a desperate citizenry demanding a radical change in the philosophy and practice of our tax paid police force. So major reforms should include first, a change in state law, denying the authority to kill based on fear or imagination. Two, appoint civilians, preferably social psychologists instead of police officers to be chiefs of police. Three, screen out sadistic, racist and emotionally unstable police applicants. And four, require all police officers to be residents of this city. And benefits would include a, the presence of, of 400 or more police officers and their patrol cars to provide a significant deterrent to criminal activity. B, it would tend to have an ethnically diverse police force and c, more police officers would be paying property taxes and help to support our local economy. The city attorney's office told me, contrary to, to Commissioner Dan Saltzman's denial, this positive change can be affected simply by passing the city ordinance. It's time for the city council to stop dallying and start taking control of the disfunctional Portland police bureau as Anna Griffin wrote in today's Oregonian, if only we had a government that forced all our elected officials to lead even when the cameras and tape recorders aren't on. Thank you.

Adams: Thank you, Mr. Long. Appreciate it. We have the consent agenda. Does anyone wish to pull any items from the consent agenda?

*******:** One more, communications, 229.

Adams: I'm sorry. Please read the title for 229.

Item 229.

Adams: Welcome. I almost missed you there.

Talal Jabari: It's all right, good morning, Mr. Mayor and Commissioners. My name is Talal Jabari, and I'm the director of the documentary film [inaudible], and I am here to say that there is evidence of an increased risk of carry-on radiation to people. The biggest people at risk are children, and we're not talking just the cell phones you hold in your hand but also talking about the carry-on -- the cell phone towers. Towers are going up everywhere. Apparently 00 towers are supposed to go up in this city, and many councils, probably like yourselves, feel their hands are tied and that there is nothing that they can do because the Telecom Act of 1996 that says this technology must be rolled out. But there is increasing precedent right now to say that, that you do have a choice, and you do have something you can do. The Ninth Circuit Court of Appeals out of San Diego recently came out of the decision that this as long as the wireless services are there, as long as people can use wireless, there is no need to be rolling out extra towers everywhere. And I suppose that my, my question to you, to ask yourselves, would be when, when you, when you approve the, the construction of a road or a highway, you have to know that it's going from a to b. Can't we expect the same from, from the

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cell phone industry to say, you know, this is we're we expect to be in five years. I understand more often than not they decide this is going to be proprietary information, and I don't know how much of that they share with you. But, I don't think that they should be above that question. To say, to say why do you need this tower being up here, whether when I have, I have full coverage on my phone? And, and if this is because you are planning for the future, how far into the future, and, and are you not, not just trying to put your tower here so that it, that a competitor doesn't put theirs there? In some sort of competition that, that -- which is their modus operandi. I think it's your job to pose these questions and put the burden of proof on the cell phone industry, which you, which right now, um, has, has the freedom to do whatever it wants, citing the telecom act and, and obviously, threatening to sue councils, like yourselves, but I think that, that, you know, the, especially the ninth circuit court of appeals, sort of creates the precedence on the west coast, in san diego, but it's close enough, to, to say that, that maybe there is something that you can do. In my last 10 seconds I wanted to invite you to the screening on sunday, in your package you will have the vip tickets and we would be honored for you to be there at the hollywood theater.

Fritz: Thank you very much for your testimony. I'm in charge of this issue on behalf of the office of cable communication and franchise management so this council unanimously passed a resolution last year asking the fcc to look again at whether there are health impacts from, from cell towers, and we've been talking, especially with congressman wu, who will try to move that forward, so I encourage all citizens who are concerned about this you, to, to contact your congressional legislatures because it does need some citizen pressure at the federal level because we believe it needs to be reexamined nation-wide. We are following the ninth circuit court issue, and looking at different ways to, to regulate, and also, being aware that, that competition does, does keep prices low for our folks who want the service. So, there is many competing issues here. Thank you. Is there a website for your, for this?

Jabari: It is [inaudible] and I wanted to applaud your efforts.

Fritz: And if you could stop by my office and talk with terry who wants to look at the tickets.

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

Adams: Are there any items anyone wishes to pull off the consent agenda? Yes.

Leonard: 242.

Adams: 242. Pulled from the consent to regular agenda. And anyone wish to testify on the consent agenda? Karla, call the vote on the consent agenda.

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

Adams: Aye. [gavel pounded]

Leonard: We could do 242 right away because willie brown is here, and I wanted him to have a chance to talk about this item.

Adams: Sure. Can you please read the title for 242.

Item 242.

Leonard: Thank you, mayor Adams and members of the council, this is an item that, that has been, basically, caught up in the, in the bureaucracy for some time. It came to our sometime, but I can't remember how long ago but it has been quite a bit. He's working with, with, um, the northeast coalition of neighborhoods and, and the black citizen's coalition, and to, to help victims of hurricane katrina of whom we have quite a few still here in Portland. And i'm wanting to give willie a chance to talk about the \$25,000 grant that the council has agreed to give him to help those victims. Willie?

Willy Brown: Yes. Good morning, mayor and commissioners. I am willie brown, the director of the black citizen's coalition of Portland neighborhoods. And I have worked with the katrina evacuees since day one. They were here. I had a position as the housing person for the city of Portland through bhcd. And there is still a number of people here from the katrina area who are in desperate need of help. And whether that's transportation, clothes for jobs, rents, those things, and

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they come to our office and ask to help. We've been on the front line dealing with these folks, but very little money that we have. And so, we came to, to commissioner Leonard's office to ask that they would extend the money that, that the city had, that was donated to the city a couple of years ago. He graciously took it forward and began the work on that. We are here today in hopes that it will be completed because we have obligations out to different landlords for, for funding. So, that's one of the reasons that i'm here today. Thank you.

Leonard: Thanks, willie, for your work.

Adams: Thank you for everything you do.

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

Adams: Anyone wish to testify on 242? Karla, can you call the vote on 242.

Fritz: You've been a leader on this since you were pointed in the wake of the disaster. Thank you very much for your ongoing commitment. Aye.

Fish: Willie, welcome. Aye.

Saltzman: Thank you, willie and commissioner Leonard, aye.

Leonard: Aye.

Adams: Thank you, commissioner Leonard and willie again, aye. [gavel pounded] So approved. Can you read the title for council calender item 230.

Item 230.

Adams: Commissioner Leonard.

Leonard: Thank you, mayor Adams and members of the council, with the camas of the bureau of environmental services, an ordinance has been proposed proposing the transfer of the storm water review and inspections functions and related fees to bes and create a new commercial site review fee that will be effective april 1, 2010, to approve the cost recovery for site development program and the site development program in the bureau of development services has undergone a 60% reduction of staffer and resourcings over the past six months in response to the significant decline in the permit revenue. The changes have necessitated evaluation of the core functions, opportunities for efficiencies and strategies for improving cost recovery. And the programs, the program is focused on maintaining an acceptable level of service for the core functions while including geo technical, and erosion control plan review, and subdivision and private street, land use review, permit review, and inspection, and on-site wastewater permit review and inspection. Paul, do you want to come forward at the same time? Welcome. Welcome to each of you.

Doug Morgan, Bureau of Development Services: Thank you, mr. Mayor and commissioners, and for the record, i'm doug morgan with the bureau of development services, and I supervise the site development program in the development services bureau. I'm here today to request your support for a building permit fee to help sustain existing bds services related to geo technical review in flood, earthquake, and steep slope hazard areas. A considerable portion of property in Portland is affected by flood, earthquake, and steep slope hazards. Insuring development are designed and constructed to minimize the effects of the hazards as a co-responsibility of bds. It is vital to building safety. I want to be clear that we are not proposing any new services or functions. Bds has performed the functions for many years, but is no longer possible for other programs within bds to continue to absorb the costs associated with this. The proposed fee is structured to maintain existing services and recover costs. I would like to provide an example of one of the benefits this program provides to the citizens of Portland. Since 1980, the city has participated in the national flood insurance program business and has adopted regulations for development in flood hazard areas. Through the effective implementation of the program the citizens of Portland are able to obtain flood insurance. Flood insurance would otherwise not be available to the citizens. This program also enables the city to obtain federal flood hazard mitigation funds and disaster assistance funds. The city's flood hazard development standards also helped to qualify the citizens of Portland for a reduction in their flood insurance premiums equal to 25%. And the proposed fee, the

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commercial site review fee, will allow us to maintain the flood hazard development review services.

The fee would apply to commercial and site development permits on properties located in flood, earthquake, and steep slope hazard areas. Based on previous years permitting data, we anticipate the proposed fee would apply to approximately 8% of the commercial and site development permits. This would be quiver lent to 260 permits out of a total of 3,250. And expected revenue is expected to be approximately 200,000. Finally, I would like to conclude with a note that this proposal has been presented to our industry partners on the development review advisory comfort and the, and to receive their support on January 14 of this year. Thank you.

Adams: Any additional council discussion?

Saltzman: Could you explain how, again, that helps people get nature 25% discount on flood insurance?

Morgan: The city participates in the national flood insurance program, and to do that, we are required to adopt federally mandated flood development standards. This enables the citizens to obtain flood insurance. If we were not in that program, it is nearly impossible to obtain flood insurance. The city has some additional standards that go above and beyond the minimum that are required by the national flood insurance program. And we participate through a federal program called the community rating system. And through that program, based on the higher standards that the city meets, we're able to obtain a reduction in the flood insurance program for the flood insurance premiums for the citizens.

Saltzman: Great program.

Fritz: Did I hear you say that it covers the cost of the service?

Morgan: That is certainly what we're aiming for. Bds is facing some significant budgetary challenges right now, and the economic climate is, and the development climate is one that has changed significantly, but that is our intention that this would cover all the costs associated with the program.

Fritz: Is it wouldn't have an impact on the rates?

*******:** The rates for --

Fritz: For the bds doing it?

*******:** No.

Fritz: Are the environmental services staff know or plan to be housed in the development services as part of the consolidation?

Paul Scarlett, Director, Bureau of Development Services: This is a program that's been transferred from, from bds to bes and the co-location, which improves the review inspection process. I believe the employees will be located in the 1,900 building so that will provide some efficiencies.

Fritz: Thank you.

Adams: Any additional discussion? Anyone wish to testify on 230?

Moore-Love: No one signed up.

Adams: Can you please call the vote on 230?

*******:** A non emergency?

Adams: Moves to the second reading, no vote. [gavel pounded]

*******:** Thanks very much. Although I think you will want to hang around for the next one.

Adams: Read the title for 10:00 time certain 231.

Item 231.

Adams: Resolution, commissioner Leonard.

Leonard: It's Saltzman.

Adams: Sorry, commissioner Saltzman.

Saltzman: Thank you, mayor. This item is a great example of how the improved process is underway. In Portland's development permitting system. Are helping us. Before us does a is a

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memorandum of understanding between the bureau of development services and the bureau of environmental services for the review, permitting, and the inspection of the storm water management facilities. Right now, you both bureaus are responsible for different portions of the storm water management facility inspection process and this memorandum of understanding rectifies these inefficiencies and streamlines the process of the permitting process. Streamlines this piece of the process. The responsibility for reviewing and inspecting storm water management facilities will now rest solely with the bureau of environmental services. So, I want to take this opportunity to thank all of those involved at bds and bes. I know they have worked tirelessly to make these changes in the permitting system, and it's a benefit that will pay off for the community as we have here. Donna, doug and paul are here to answer any questions.

Adams: Questions from council? Anyone wish to testify on item 231?

Moore-Love: No one signed up.

Adams: Please call the vote for the resolution 231.

Fritz: I understand the need for these changes and I appreciate the effort of both bureaus to combine the efforts to work and create efficiencies, especially appreciate commissioner Saltzman working with commissioner Leonard to maintain vital services, aye.

Fish: Aye.

Saltzman: Thanks for your hard work, aye.

Leonard: Thank you, aye.

Adams: Thank you, commissioner Saltzman and our group from bds and b empty -- bes for making this work. So approved. [gavel pounded] now to the regular agenda. Please read the title for second reading of 244.

Item 244.

Adams: Call the vote.

Fritz: There was a lot of work done by the neighborhood and the business districts. Many neighborhoods and business districts and, and city staff and this is a good agreement that I was pleased to hear the citizen support for so I am pleased to vote aye.

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

Adams: Aye. 244 is approved. Can you read the titles for second reading of 245.

Item 245.

Adams: Call the vote.

*******:** There was an amendment handed out for this.

Adams: There is? There is an amendment, david? Thank you.

David Logsdon, Office of Management and Finance: Mayor and commissioners, offers of management and finance, following last week's hearing we met with mayor, staff, and transportation, and talked about implementing the features of the ctmp, and we thought it was appropriate to amend the ordinance to provide clearer direction to the city staff to work with peregrine and tri-met on an implementation plan, for the ctmp and to have that done 30 days in advance of the initial 2011 season. So, that's the nature of the amendment.

Adams: I move the amendment.

Fish: Second.

Adams: Moved and seconded. Discussion?

Fritz: So this wouldn't come back to council under this amendment?

Adams: I would approve it or disprove it.

Fritz: And how would we be publicizing was it was? So the people would know?

Adams: Put it on my website and I am distribute it to council, and --

Logsdon: Also peregrine would be a part of the implementation strategy, through their website, and communications with their season ticket holders and fan base and marketing, there is, you know, avenues to get those messages out.

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Adams: The messages.

Fritz: Yes.

Adams: Oh, same answer. [laughter]

Adams: Apologize for being so flip. We've been through this, we were through this 10 years ago, so we're a team that's largely still in place on both the neighborhood side and our side, so I feel confident that we can get there out and happy to, to keep the council updated as part of the regular reports on implementation of our agreement with peregrine. All right. Any other discussion?

Anyone wish to testify on this amendment? Karla, call the vote on the amendment.

Fritz: I'm looking forward to the interpretive dance, aye.

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

Adams: Aye. [gavel pounded]

Adams: Amendment is approved with the counselor, see if this works, with the council's premise I would like to add an emergency clause. I move that we add the emergency clause to 245.

Fish: Seconded.

Adams: Moved and seconded. Any discussion on adding the clause?

Linly Rees, Deputy City Attorney: Just from the city attorney briefly, it would be good for Karla at this time, because we're voting on it, to have actual language of an emergency clause, so it would be helpful. So Karla, we will use the standard clause language, and it is for the reason of --

Adams: Implementing the comprehensive management plan for pge park. All right, we're voting on whether to add the emergency clause, can you please call the vote.

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

Adams: Aye. [gavel pounded] Can you please call the vote on item 245.

Item 245.

Fritz: Excellent work by dave, and the team on that. Thank you very much. And I did note last weekend, and I am sure the mayor isn't taking into issue the parking garage, both downtown and the rose quarter so looking forward to seeing additional work on that but it's a well done management transportation agreement, and I am pleased of the partnership that peregrine is supporting it, aye.

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

Adams: Aye. [gavel pounded] 245 is approved. We have 4/5ths, and do I need a motion to put this on the agenda because people have signed it. Can you please read the title for 245-1.

Item 245-1.

Adams: Welcome back, christine moody, how are you?

Christine Moody, Bureau of Purchases: Very good, mayor.

Adams: What are we looking at here?

Moody: The previous procurement officer recommending a contract award to the low bidder, in the amount of \$662,115, and they will provide funding for the project as part of the american recovery and reinvestment act. The city's good faith effort program doesn't apply to this project as odot requires contractors to comply with the federal db e program, and based on the narrow scope it involves the installation of payment, marking and signage. And brown contracting indicated their intent to perform all the required work. We'll turn this back over to counselor if you have questions about the bidding process.

Adams: Questions of miss moody? Anyone wish to testify on item 245-1. Entertain the motion for the procurement report.

Saltzman: Moved.

Fritz: Seconded.

Adams: Karla, can you please call the vote on 245-1.

Fritz: This is something that we need to do fast again to get the job into the community, so i'm pleased to vote aye.

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

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Adams: Aye. [gavel pounded]

Adams: That gets us to just before our recess. Tonight we have item 246, which is the consideration of the river plan north reach. It's scheduled for three hours. I just want to warn everybody up front that for the record, we do need to, to spend a fair amount of time having staff go through what is in the plan, so there will be a considerable staff presentation, and I ask your patience and forbearance.

Fritz: And attendance.

Leonard: If you are using considerable staff presentation, that's frightening.

Adams: We're talking geologic. Yeah. We are recessed until 6:00 p.m. [gavel pounded]

At 10:22 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.

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Adams: We welcome comments of diversity. On this particular issue I will not have clapping or groaning or hissing or booing or cheering. If you like something you can do this. And if you don't like something, you can sit there quietly. [laughter] this is important on these issues that can be contentious because I want everyone to feel they can, without any sort of group, unintentional group intimidation to say anything and everything they want. I would ask you to respect that. That's definitely in the spirit of Portland decision-making and public input. The other thing is, if you signed up, we have 50 people signed up and we have got to go through some pretty lengthy descriptions, and then we have some invited panels. So up front there's some three panels. You will get a sense of key folks that have been involved this deeply and what they think about this. So we are probably going to cut down testimony to two minutes. And what we find is that what you can say in three minutes, usually can be said better in two minutes. So I wanted to give you time to start, if you have got written testimony, I want to give you time to start editing. We are really glad that you are here. With that, it is thursday, february 18th, 2010. What is it? No, it isn't. It's the 17th. So let me start over. It is wednesday, 17th, 2010. It's 6:00 p.m. And we are in evening session. Good evening, Karla. How are you?

Moore-Love: I am fine.

Adams: Please call the roll. [calling roll] a quorum is present. So we are going to be considering two items together. Can you please read the title for nonemergency. And I want to underscore there will be no, there will be no votes tonight on 246 or 247. We will be voting on 248. Please read the titles for 246 and 248.

Items 246 & 247.

Adams: The way we are going to work it tonight, is susan and Sallie are going to give the deep background. So if you would, come forward. I will talk about the beginning of this project that proceeds my time as commissioner in charge of planning. And I am going to talk a little bit about my work since august. Then we will have an opportunity for anyone else on council that wants to make some upfront comments. I work closely with commissioner Fritz on this. And then we will go to the vitalled panels and then to public testimony in the order that people signed up. Ms. Anderson. Welcome back.

Susan Anderson, Director of Bureau of Planning and Sustainability: Thank you. Good evening. Susan anderson, director of the bureau of planning and sustainability and with me is Sallie edmunds, the project manager for the river plan supervising planner. We are very, very pleased to be here tonight to bring forward the river plan. It's been an expensive process, some might say an exhaustive process and it's been long, long in the making. We appreciate the leadership of the mayor, commissioner Fritz, all of the council who have been involved with this plan. The planning commission, many, many different people, city bureaus who have come together to bring this package to you here tonight. You know about a decade ago, we had something called the river renaissance. And at that time, it called for a kind of a new approach to the river. And it's something I think today we would have called sustainable development. We wanted to bring together the goals of a healthy river, a prosperous economy and a vibrant and community-centered waterfront. What we learned along the way is that sometimes, what is often thought as competing goals, can actually be complementary goals and that they not only can be had side by side but that

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by bringing them together and that by integrating them we can actually get much further. So the result here tonight is not just a river plan that lays out options for sort of a seg gray gated river that has industrial land and open space and community lands and community centered waterfront all separate. What we have done is really looked at opportunities for sort of taking the wisdom of integrating within our industrial sites swales and wetlands and economic roosts and trees and other habitat, and opportunities for people to have access to the river while remaining very true to our goal of an industrial sanctuary. The specific development of the river plan for the north reach began four years ago. There's been hundreds of people involved in the technical and public process, planning commissioner chair don hanson also chaired the north reach advisory committee. He would be here tonight but his son came home safely last night from afghanistan, so I think that is something we should be cheering about. So he's in the here tonight. He is having his own celebration. Anyway, he led a three-year process involving stakeholders with many different perspectives. This was followed by an additional year of creating workable solutions for industry, for the environment, and for our community stakeholders. The plan that you have before you tonight represents the best ideas of all the participants. I think that you will find it has many, many benefits. It benefits the environment, by enhancing vegetation and requiring mitigation of natural resource impact. It will benefit industry by prioritizing investments and clarifying regulations. It will benefit individuals and neighborhoods by recommending specific actions to improve the livability of the st. John's and linnton neighborhoods. And the public will benefit overall by getting more access to the river, state and federal agencies will also benefit by formalizing how we will better coordinate and finally the city will benefit by having a plan that's transparent and that lays out a clear vision and a work plan for us for the future. So it's now my pleasure to hand this over to Sallie who will walk through the key points of the plan.

Sallie Edmunds, Bureau of Planning and Sustainability: Thank you very much, susan. Thank you, commissioners. So what is the river plan? It's a comprehensive, multiobjective plan that will update and replace the 1987 willamette greenway plan code. And as you know, lots has changed since 1987. The Portland harbor was added to the list of superfund sites. Salmon and steelhead were placed on the threatened species list. Other state and regional natural resource regulations have been adopted. The landmark supreme court case dolan v. The city of tigarad has changed how we analyze these actions required when development occurs. There's new state, regional industrial requirements that have been adopted that need to get integrated into our planning. And but, of course, we also need to have clearer regulations. So what is actually in the river plan? Well, a key building block of the entire plan is the recommendation that the river renaissance vision that was alluded to be integrated into the comprehensive plan. And that states that we need a clean and healthy river, a prosperous working harbor, vibrant neighborhoods, we need Portland's front yard for recreation and we need to promote partnership, leadership and education. The river concept also outlines specific guidance for different parts of the river. And calls the north reach Portland's working waterfront. So that's sort of the groundwork for the rest of the plan. There are five sections in the plan, five focus areas that I will walk through, I will walk through some of the key recommendations briefly. Fit of all economic prosperity. The, one recommendation is to strengthen protection of industrial sanctuaries. This was a recommendation that emerged from interviews that the city, pdc and the port conducted with over 50 harbor businesses. One business manager who I recall said they have 20 factories around the country, and that Portland has a real competitive advantage because it has the industrial sanctuary, which holds industrial land, supports industrial development. However, there is a constant market pressure to rezone industrial property for higher value uses and, in fact, many cities rezone properties as their answer to cleaning up brown fields. So the city is committed to its industrial business district and the river plan is not recommended rezoning of industrial land for other uses other than the hard to access mark kohr mcbaxter property and so case by case rezoning from industrial to other uses can take place.

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Another recommendation is to continue to reserve the riverfront for uses that the river depend on or river related. Most of the river plan is in a multimodal district. The businesses need access to the river to railroads and to truck routes. A recent study for the west hayden island project still addressed projects continued growth in the marine cargo sector. The overlay zoning proposed in the river plan reserves the riverfront for river dependent uses and reins for this unique competent advantage. The river plan also refines the definition for river-related uses to allow more flexibility for industries that switch between primary reliance on river access and rail infrastructure. Another recommendation increases the regular what tore certainty and flexibility for industry. The river plan removes the existing vague outdated greenway regulations and replaces them with new, clearer regulations. For significant number of industrial properties along large sections of the river, especially those with existing docks and nonvegetative river banks permitting will be much more certain and flexible. Currently all development along the river has to go through a review process. But with the new river plan, many fewer businesses will have to go through a river review process. The river plan does eliminate the greenway setback that currently exists and applies to all of industrial businesses. But the new river plan does put in place some standards that a business can use if they want to put in a rail spur or a conveyor, for example. Finally, there's a recommendation to invest or advocate for public infrastructure improvements. During the harbor interviews we asked business owners what they thought the public spending priorities should be to support harbor businesses. And those business owners recommended that the city continue to invest in multimodal infrastructure to support and accommodate industrial growth. And so many of the investments listed in the river plan do point to those public infrastructure investments but their presence in the plan does not mean they will be funded. So this is a map of the proposed overlay zoning in the plan. And as you can see the purple area is the area that is reserved for require dependent and industrial development. Watershed health is the next key area. The first recommendation is to adopt an updated natural resource inventory for the north reach. The current inventory is over 20 years old, and was conducted at a time when the city did not have the level of information that the city has to work with today. So the proposed natural resource inventory is much more so fist indicated -- sophisticated than what we have today. However, it's not perfect. And because of that, there are a number of opportunities to ground through the maps before and after adoption of the river plan. Another recommendation is to adopt a new river environmental overlay zone along the river to strategically protect and conserve natural resources. Development in these areas would have to mitigate for unavoidable impact to natural resources and the city does not currently require mitigation on the willamette river. But we do in all other parts of the city. If the resources can't be replaced on site the applicant can mitigate offsite or pay a fee in lieu and the city will use the money to restore habitat elsewhere in the north reach. The recommendation is to update the environmental conservation overlay zones. This is more of a refinement of the existing environmental overlay zones that are currently in the north reach. Finally, we recommend the city develop a refer restoration program that includes acquiring and restoring habitat in restoration or mitigation sites also known as pearl sites. And the investment in these areas will concentrate habitat and make a big difference towards habitat restoration. So this map just shows you the yellow areas are proposed river environmental zones. The green areas are existing and proposed conservation and protection zones. And the numbers are the proposed pearl sites, restoration sites. Key recommendation in the access category is to update the willamette greenway trail alignment. Both short term and long term. So this new alignment will be along both sides of the willamette river, and will either be an offstreet path or an, a path on existing street or along a railway. This is the proposed greenway trail alignment. You see there's, there are two categories of trails on this map. There's a near term trail shown in red and a long-term trail shown in purple. A long-term trail is the one that will require more feasibility work prior to implementation. Next the category of riverfront communities. We have worked with residents from st. John's and linnton to develop recommendations to improve

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liveability in these communities and with the university of Portland to rezone the mccormick baxter property for university uses. In st. John's, the city council adopted a land use plan for st. John's sometime ago and the plan has been successful but did not adequately address noise issues that affect people living directly adjacent to harbor industrial facilities and railroad tracks so the river plan responds to this by among other things requiring all new and substantially rebuilt residential structures built within 500 feet of an industrial zone, employment zone of a railroad tracks meet a stronger noise insulation standard. We also recommend continuing working with the port of Portland to establish a whistle free zone in the cathedral park neighborhood. Linnton, we are also making some specific recommendations related to lynn tan. As you note linnton community has been the focus ever several planning efforts in recent years. However, the plan has not resulted in lasting actions. After discussion with the neighborhood leaders we are proposing to implement some of the actions outlined in some of their past planning work such as to rezone some properties on st. Helens road to store front commercial to achieve oh more vie plant main street and die day lighting stream and continuing the trail to the river. University of Portland we are propoepping to rezone the mccormick baxter site to be allowed for university uses. The university of Portland recently purchased the adjacent triangle park site and plans to build their require campus down by the river. The last category of recommendations working with our partners, we are proposing measures to improve coordination among city, state, and federal agencies for projects below the ordinary high water mark. And we are also providing clear guidance for contaminated site cleanup when agencies need to comply with the substance of the plan but not the process. We will get into that a little bit more later. So the planning commission forwarded the river plan to city council last summer. But asked us to continue to work on a number of issues. So mayor Adams convened a series ever stakeholder meetings and those meetings resulted in a number of proposed amendments. There are a few other amendments included in the mayor's proposal amendment package that were the result of other work with stakeholders and the city attorney's office. These amendments that are in the mayor's proposed amendments include revised vegetation standards that requires an applicant to spend 1% of project value on vegetation. More documentation to support the city's continued review below ordinary high water. Clarification of when on site or offsite mitigation is preferred and this includes consideration of long term success of the location where the mitigation would occur. It allows the use of a fee in lieu of mitigation temporarily until mitigation bank is in place. It clarifies the city's role in mitigation banking, which is that we plan to certify mitigation banks. And potentially start one ourselves. It outlines a revised trail alignment on northwest front avenue in linnton. Provides recommends some revised environmental zoning near the university of Portland to facilitate access between their upper and emerging lower campus. Clarifies contamination related code to improve legal clarity and consistency with other sections of the Portland city code, state, and federal law. And we will hear a little more about that in a minute. Provides some new development standards for city parks, including allowing some disturbance thresholds within and landward of a 50-foot set back. And this includes development such as park benches, picnic tables and drinking fountains. And it finally establishes a north reach advisory committee, monitor implementation of the plan. So there are a number of steps that are --

Leonard: Can I interrupt for just one second? Where did I find those amendments?

Edmunds: I have copies here if you don't already have it.

Adams: Does -- we will get more copies. Here they are. Do we have more than that? Looks like we need more. We get a couple more? Thank you. Thank you.

Edmunds: So there are ath of things, number of follow-up steps that immediate to occur prior to implementation so we are proposing that the river plan be implemented on january 1st, 2011 and prior to that date, we are planning to hold an independent science panel to review the work we are currently doing to develop the fee in lieu. We will be holding stakeholder meetings to talk more about that mitigation calculation method, and then we come back to city council for a hearing on

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that. We also have neighbor of administrative rules that need to be developed. And then the office of healthy working rivers is going to be coordinating the city state, federal review process. They will be doing some work to prepare for that. And then they will be convening the north reach advisory committee and that group would be convened prior to implementation. So just want to thank you for all who contributed to this. We do have a little bit more information from eric engstrom.

Adams: Ok. And then I wanted to hear from Kathryn on the city attorney most recent suggested changes since my meeting stopped and then we will hear from erin flynn on economic development.

Eric Engstrom: And that's's topic I wanted to introduce to give you an overview. I'm eric engstrom with the bureau of planning and sustainability. One element Sallie mentioned is to clarify how regulations deal with contaminated sites. Under current state law which will continue the state basically says that the city's regulations apply to cleanup but only the substantive regulation, not the process oriented regulations. And the difficulty we have had under the current greenway plan is that it's very process negotiated heavy. So you don't know the content of the substance of what we are going to require without the process. We have tried to remedy that with this plan by having a very clear set of standards that say, what right substantive issues that the city is looking for when sites are cleaned up on brown fields sites? We have had that proposal as part of the river plan more recently, the planning commission's recommended draft went through another round of review through the city attorney where they recommended some additional language changes in that section, which came to this document relatively late in the process. Because of that we want to acknowledge that section in particular and call it to people's attention. It's in the amendments packet on page 78. And there's both commentary and code language there and so because that came late we are anticipating additional discussion on that element.

Adams: That is 78-79?

Engstrom: Starts on 78 and it goes through several more pages. And the gray areas represent the changes since planning commission. The purpose of this section again is to spell out in as clear a way as possible what the city's interests are when brownfields sites are being cleaned up.

Adams: So commissioner Fritz, I don't know about commissioner Fritz. I haven't had a chance to review these. We will be taking testimony on it tonight. I am not proposing it yet. Since we are not voting tonight we have time for more due diligence. Is your introduction done?

Engstrom: Yes.

Adams: Ok. Kathryn? Do you want to explain a little bit about the city attorney's recommendations?

Kathryn Beaumont, Sr. Deputy City Attorney: Thank you, mayor. Thank you, mayor Adams. The proposed amendments to section 33.470 were authored by nancy, one of my colleagues who has been working focusing most of her work on the Portland harbor super fund. These amendments are really, in our view, editorial and technical revisions. They were designed to improve the legal clarity of this section and to ensure that it's consistent with other sections of the city code, state law, and federal law. And were not in our view significant or substantive changes to the regulations and were not intended as such.

Adams: Ok. I have learned, though, in this particular topic one person's technical change is another person's end of the world change. So we will take comments on everything tonight. Both -- kie hear from erin flynn? There you are. So it's important to me, although the council is very aware because they are involved in helping to implement the economic development strategy of the city, that it plays a pivotal role in the discussion of this policy, that this policy contains economic development expectations for the working part of the working and healthy river. But we also have a whole another effort that relate to seeking ever more success for this part of our industrial sanctuaries as well. Erin flynn.

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Erin Flynn, Portland Development Commission: Thank you, mayor Adams. Good evening. Commissioner. I'm Erin Flynn, urban development director at the Portland development commission. And I am here to pledge support for the river plan. But to support the river plan in a way that also really honors the very rich tradition of manufacturing firms located in the north reach and to really recognize and emphasize how critical the manufacturing sector is to the Portland economy. Manufacturing is our single largest cluster in the city of Portland, with 22,000 jobs and 700 firms. The distinguishing characteristic of our manufacturing sector in Portland is that it is predominantly a metal working sector, a second they produce components and parts, transportation equipment, et cetera. And I think Portland is really distinguished from many other cities in the country because we still make things here. Things that we trade around the world and bring income into our region as a result. Many of the firms in this very important cluster in the city of Portland are located in north reach, and, in fact, 38,000 jobs are located in the north reach providing badly needed family-wage jobs. So it's really critical that the way we implement the river plan continues to honor the industrial sanctuary and the firms that exist there today. In terms of how PDC is working with these firms, we have, of course, been leading the harbor ready initiative, which is an effort to clean up contaminated brownfield sites in order to site more manufacturing firms in the industrial sanctuary, thereby promoting dense forms of development which we all hold dear. We also provide financial and technical assistance to firms in north reach, primarily through our e-zone which is a property tax abatement program. I would also like to note that in our work with manufacturers, a good deal of the work we are doing with these firms is lean manufacturing, promoting lean manufacturing through the elimination of scrap and waste. And in that regard, our metal working firms and many of our manufacturing firms are, in fact, the most sustainable firms that we have in our regional economy. And so I think it's important to recognize that. At any rate that's just a brief summary of our work with manufacturers, very critical part of our economy, and I am happy to take any questions you might have.

Adams: Commissioner Saltzman?

Saltzman: I appreciated your remarks so I guess I want to clarify. In your opinion, this draft of the river plan does honor the rich tradition of industrial manufacturing and 38,000 high-paying jobs we have in the north reach?

Flynn: I think this version, I think we need to strike a balance. I think we need to strike a balance between industry and environmental needs. And I know that's the goal of the mayor's proposed amendment here.

Saltzman: So with the mayor's proposed amendments, does it strike the balance?

Flynn: We are getting close to striking the balance.

Adams: Want her to sign something? [laughter]

Saltzman: I am sure we are going to hear some more testimony on this matter tonight. I just wanted to ask that question.

Adams: I think it's a good question. I want to put out there a factoid on -- and I want to put it out there not because we can declare economic victory and seek anything other than a good balance between the environment and our economy, but it's to put it out there because when we asked for the information I think I was surprised at the response. When we looked at a portion of net income and that is for business activities, and, no, this is not a perfect measure. There is not a perfect measure out there. But just by way of information from the bureau of revenue. When you look at the percentage of total net income from Portland business activities for the purposes of calculating the business tax, it is not a true measure of gross revenues or net income generated by business provisions in the north reach include. This might include if a company has operations in the north reach and somewhere else in Portland, but it is businesses that have most of their work in the north reach, and the your 2000 the net income of the north reach was \$54.5 million. In 2008 it was \$162.6 million. Net apportion \$income for comparing the same businesses in the north reach. That

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speaks to the opportunity we have to do even more to both increase the number ever family-wage jobs by providing certainty and flexibility in the appropriate places, and when you look at what has been the environmental performance in the north reach, since the establishment of the e-zones, it is not had the kind of success, talking to folks that were around making public policy back in the day, is has not had the kind of environmental success that people had hoped for with the very big exception of the port of Portland efforts. That is not to say businesses haven't made important investments in the environment and have not become more sustainable or are sustainable businesses but it just speaks to the fact that there has been significant economic success in this part of town that if we do this right, moving forward, we can have even more along with the kind of environmental improvements we all seek at the same time. Any other questions for erin?

Leonard: I want to follow up if I could. Erin, you said that the proposed amendments by the mayor are getting close torte balance needed in keeping 38,000 jobs and the environment. Can you point us to specific sections that you think need more work to achieve the balance?

Flynn: I can't at this time. I haven't read the amendment closely.

Leonard: Is pdc going to examine the amendments ?

Flynn: Yes, we are. We have staff who are working very closely on this, bruce allen, and paul simon. Bruce, are you here? Why don't you come up.

Bruce Allen, Portland Development Commission: Thank you, mayor, members of the council, bruce allen, Portland development commission. Paul simon and myself, I think you have met paul on a number of occasion, have been following just about all of the meetings. And the amendments that the mayor has proposed again I think what erin said they come a along way to getting there. I think the mayor has done a good job of proposing alternatives to the vegetation requirement, that allows options for the property owners to either vegetate or even do echo reserves, for example, I think the mayor has led the way for giving credit for work has already been done so if a good company has already vegetated like the port they get credit for that so they doesn't have to get penalized by meeting the same requirement again. Those are two example that is come to mind.

Leonard: That's actually not the question I asked.

Allen: I'm sorry.

Leonard: You said what were, that you thought were good examples of the balance achieved. And maybe I misunderstood erin but I thought I interpreted her remarks as saying we weren't quite there yet and I want just asking for some guidance as to specifically where, and we will make up our own judgments whether we agree with you or not but if you have some observations about where we can get better balance we would like 2 hear that. If you don't, that's fine as well.

Allen: I think one of the areas that has been difficult is the city's desired regulation below the other high water. There's been a lot of debate pro and con. We have heard both sides but that's a tough issue. And I think it needs a little bit more mork.

Leonard: So specific, can you give me specifics on that? Where we're, where we are coming in and you think a better balance might be?

*******:** I don't have a solution for it but I know that the city's desire -- very complicated. The city's desire to also regulation below ordinarily high water is alongside the state and the federal jurisdictions, too. And so the concern is that there is extra time, extra money and effort, extra effort the mayor's proposed some solutions to mitigate that, but I think that's still an issue that needs more work.

Leonard: So the issue there then from your point of view there's duplicative efforts in terms of regulating a piece of the river that is currently managed by federal and state entities in the city's proposing to duplicate those efforts for add new regulations that are distinct and apart from any federal or state regulations?

Allen: I think the concern is that the city's jurisdiction would duplicate those efforts and again that's the concern.

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Leonard: Can you give me just one example of what that might -- or if you can't give it today, before we vote?

Adams: I would also call up the policy folks on the planning side. You are asking economic development folks to get into pretty complicated. Sallie, could you please come up?

Leonard: Whoa, whoa, whoa. I'm asking the question. I get to ask my question and then get them answered.

Adams: And I get to ask mine.

Leonard: You do that but we do that in turns. This is my turn and I want, just because I am asking the question doesn't betray a position and just because you give a question doesn't mean I am going -- this is a complicated area and I wanted to understand both sides and I have been listening to both sides for months. So I just, I am just asking if you are not prepared today that's fine. But at some point I would like just one example of a duplicative effort that you think is an example of something that maybe we need to work more on from an economic development point of view, from a policy point of view, that's a different perspective and I -- that's my job as well is to figure that out. But I want to understand from our economic development entities a proposal that we might be making, you might think not be helping us get to a cleaner river but, in fact, may be creating more wasteful duplicative efforts on the part of those that are providing the jobs we are talking about. I just want to get my arms around one example.

Allen: So the concerns that we have heard from both sides is that there is duplication and we have heard from other sides there's ways to deal with that. I don't know what the answer is. But we know it's still an issue that still needs resolution in our opinion. So I don't have an solution. We are not experts in that field. But it's one area that we think still is, still has some loose ends to tie up.

Leonard: Any other areas besides the although ordinary high water mark issue?

Allen: I think there's been, just my opinion, I think there's been resolution on some of the in lieu fees, particularly the restoration fees but how you calculate mitigation fees is a very complicated issue. They proposed using a standard that's called HEP/HEA, another scientific formula that I don't understand fully. But in our opinion there's still not consensus that's the right way to go and I don't have a better solution for that.

Leonard: Anything else?

Allen: No. That's it.

Leonard: Thank you.

Adams: Sallie, talk a little bit about ordinary high water. We will hear testimony about that. We spent a lot of time looking at that since august. Why don't you talk through and give your perspective on commissioner Leonard's question.

Edmunds: We have heard and have discussed this for quite some time. State and federal agencies tend to focus more closely on biological systems and particularly listed species and specific jurisdictional habitat such as wetlands. The city, however, tends to look at things from more of an ecological point of view. So --

Leonard: What's the distinction between regulating for biological and species and ecological points of views ? What would be, how would that be different?

Edmunds: The federal agencies might focus just on the effects on salmon versus the city would look at effects on the ecological system, not just salmon. And also look the city city's focus is on development, as well, the city has a desire to have economic development along the river. So that is something else that city would look at in a review of a doc, for example.

Leonard: So I am not a biologist, I am certainly not a Fish biologist but I was in the legislature on a committee for 10 years that worked on salmon restoration issues around Oregon. And I have to tell you I don't understand the distinction between healthy ecosystems and good salmon habitat. They would be considered to be -- you could not have an unhealthy ecosystem that would sustain salmonids, habitat and you couldn't vice versa have a healthy Fish restoration strategy that didn't

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happen in a healthy ecosystem. So I am trying to understand if people are telling us that we have duplicative efforts, what's our response to that?

Edmunds: Mayor, I was hoping to invite someone from bes to join me down here.

Adams: Sure.

Edmunds: Is kaitlin here?

*******:** She's upstairs.

Edmunds: Kaitlin lovell?

Adams: She's making her way down. Don't jump.

Leonard: Can you speak to the notification fees that bruce mentioned as well? The HEP/HEA?

Edmunds: The mitigation fees. That's one of the things I referenced in my presentation, that that is still a work in progress. And we are going to be bringing the proposal to a scientific review panel for review and caitlin can also speak to this. And once we do that, we will hold a stakeholder meeting and let people know where we are in that process. We will come back to city council next fall for a hearing on the in lieu fees and the mitigation calculation method, which is HEP/HEA that bruce mentioned.

Leonard: That's not going to be part of what we vote on next week?

Adams: No. That comes back to council by the end of the year.

Leonard: Ok.

*******:** Yeah.

Adams: Come on up.

Kaitlin Lovell, Bureau of Environmental Services: Good evening, mayor Adams. I am the manager of the Fish and wildlife program for the bureau of environmental services. To partly address commissioner Leonard's question, the federal agencies will look at specifically the species that are within their jurisdiction and the limited knowledge that they have about those species. But there are others that we know are currently on decline that have other habitat needs. For example, sturgeon, lamprey, species that are being proposed for listing that we can get out ahead of to prevent them from getting on the endangered species list. So to the extent we know about their particular habitat needs, for example, sturgeon utilize a lot more deep water habitat than salmon do. So we can evaluate a proposal and its potential impact to the extent we have the knowledge and the scientific information on those species where the federal agencies are much more boxed in to their particular legal requirements.

Leonard: So we have state regulations, federal regulations and they are very specific and I have dealt with a number of those folks. This is the first time I have heard they have had limited knowledge about Fish species. And we the city have a better access to Fish science than the partners that we deal with at the state and federal level?

Lovell: It's not more access. It's the same information. It's just that we have the authority to respond to that information where they don't. So, for example, the federal agencies can only respond to species that are listed under the federal process throughout endangered species act list. Or they can only respond to wet lands that are you were the clean water act considered jurisdictional wet lands. The city actually has the ability to go beyond that. So the way that I would characterize it is that when things get really bad, that's when the feds and the state step in and that's not a position that we want to be in responding to. To the extent we can as a city we would like to get out ahead of that so we don't find ourselves responding, instead four salmon species on an endangered species act list, 20 species or -- increasing approximately one species a year on the esa.

Adams: We have the opportunity to be preventative and we have the ability to look at all the regulatory requirements together. And we even have the opportunity and people who think differently about this but we have the opportunity and we have made the commitment in this plan to not duplicate efforts so everything from the same form being used for trying to the all the agencies

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to use the same form, to try to streamline regulations, you will see in the flowchart of work, which is somewhere, that we have put the city's role in at a way that we do not intend to add any more time, significantly, beyond what is required for the federal or state. And the other part, as you look at this compare to do old greenway regulations that are passed 17 years ago -- is that right? Something like that?

Edmunds: 23.

Adams: 23 years ago. And then the city and the city kind of walked away and the businesses and folks advocating for the environment were then left kind of sort of dealing with it. This actually has an oversight committee that will help implement some of the pieces that we don't have enough information on to implement today. We will continue to evaluate and report back and refine and improve. And the other piece that I want to underscore if there's abuse, for example, if somebody comes in and starts filing frivolous lura appeals, I will be the first to remove the city from the process of regulation. So there cannot be frivolous appeals. We need this to work for both the environment and the economy.

Leonard: I'm curious, though, on the issue of, and I appreciate you drawing the distinction between the federal agencies being concerned about listed species, and those that aren't listed. Can you give me an example of any of the nonlisted species that habitat, that are native to the willamette, that currently have spawning grounds that may be deficient due to a lack of federal or state oversight that we might be concerned about currently? Whatever that species might be?

Lovell: Sure. Lamprey are a key example. They are not list. There is currently an effort to try to protect their habitat. To prevent them from getting listed at all levels but it's only the city that has the ability to actually go in and using their regulatory process protect the habitat that we know.

Leonard: I guess i'm asking to understand what that means, practically. If I were coming in to get a permitted, what would the regulation be that I would be looking at that would be new at the city level that didn't exist before to protect that particular habitat that might affect my ability to develop.

Lovell: It would be a case-specific basis and I wouldn't say it would be new. It would be just more information we would be able to bring to the table. For example, lamprey, juvenile lamprey might have a certain depth requirement of said meant in shallow water that salmon don't have. So that's something that we would be able to bring to the table so somebody is proposing to do work in shallow water habitat, salmon we generally use a book end of zero to 20 feet in depth as a defining characteristic of shallow water habitat. We haven't looked at the depth of the sediments before. And so lamprey understanding that they need 12 to 18 inches of good, sandy sediment to burrow in, we can add that in as part of the review process. It's part of our knowledge base of we have the ability that the federal agencies just do not have the regulatory authority to impart on the review.

Leonard: I appreciate that answer. Thank you.

Adams: Lamprey is a good example because lamprey is used a a sacred -- is it a Fish?

Lovell: It is a Fish.

Adams: Lamprey is used as a sacred Fish for a number of tribes that have statutory claims on this part and are actively pursuing if they don't have improvement to list this particular Fish.

Saltzman: When you talk about the authority of city has are you talking about the authority we would be granting the city under these proposed ordinances or authority we currently have?

Lovell: Commissioner Saltzman, it's an authorities that we currently have that we have exercised with limits. And we are proposing to clarify the exercise of that authority. So it's not a new authority. It's an existing authority and we are just better describing how we are going to exercise it.

Adams: In the process try give more certainty to people who are contemplating improvements to the economic value of their property harborside.

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

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Adams: Other questions for this group?

Fish: I want to say as a 99 scientist that was probably the most concise, thoughtful and useful explanation to a question I did not understand when it was first proposed. You set bar very high so I appreciate it.

Lovell: Thank you, commissioner Fish.

Fish: I suggest commissioner Saltzman give you a raise.

Lovell: Thank you. [laughter]

Adams: All right. So we have some panels. The first one will be the neighborhood panel. Barbara Quinn from cathedral park and Ed Jones from Linnton. Welcome back. Glad you're here. You will have two minutes.

Ed Jones: I am Ed Jones. I am the land use chair for the Linnton neighborhood association. I have got a petition here that we are going to give you that has 138 signatures on it from people in the Linnton neighborhood. We brought those signatures down here because we want you to understand that Linnton is paying attention to the North Reach plan. We are very concerned about how it works out. We have had a long and largely disappointing experience with the planning process over the last few decades but we are committed to engagement with the city and the other stakeholders to try and make all this work. In general terms, our concern about the plan as it is is that it sets goals too low and asks too little of the North Reach businesses whose years of effort have created the superfund site that we all have to live with. And the context of the risks already faced by those businesses, superfund liabilities, fluid international business climate, the idea that the city's efforts at regulation and mitigation are going to have any significant impact on those business decisions, investment and employment by throws businesses is ludicrous. They have much bigger fish to fry. Over the next 20 years, the biggest source of jobs on the waterfront is going to be superfund activities. That's where the employment opportunities are going to be. And unlike the present it isn't just going to be bureaucrats and scientists and lawyers that are employed as the work actually gets started. The superfund is an opportunity for the city to exploit the efforts and budgets of others to achieve our goals for the rehabilitation of the river. We need to work with that. The mayor raised this question in his questions about why should we get involved in things that the feds are already doing? And that's just what you were talking about a second ago. The answer is, we live here. You live here. These bureaucrats, federal level, they get lost in a thicket of regulations. They need our help to know what's best for Portland.

Adams: Thank you, Mr. Jones. Ms. Quinn.

*******:** No clapping. Wave your hands if you are arrived late you can practice your jazz hands. [laughter] we are going to get a variety of views tonight so we need to keep it to just jazz hands.

Barbara Quinn: Thank you, mayor and commissioners. I appreciate this chance to give you some feedback. I would like to reiterate that the friends of cathedral park neighborhood association supports the North Reach plan with the caveat. We urge you to pass it. We agree with the zoning overlay changes that will support preservation of our remnant natural areas and connectivity such as Baltimore Woods and St. John's. We also support the proposed alignment of the east side of the Willamette Greenway trail. I would also like to say a few words about the balance or back of it that has led us to this current environmental crisis on the Willamette River. The Oregon Aquatic Habitat Guide lists restoration goals as "change the trend of aquatic habitat function from one of diminishing ability to support salmon, steelhead and other organisms to one that supports a complex system." We could not lower our standards to less than this. I think the forward thinking people of Portland deserve better. The people of Portland understand the river as community property. It's a wider community value to have a restored, healthy river that supports life. But in order to protect it, we also have to protect the river banks. If we truly were to seek balance as our industrial partners like to say, we would follow the advice of biologists and make all land within 200 feet of the edge, river bank edge on either side a riparian set back. In other words, community-owned property. Then we

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could do the needed restoration work. Other cities in the u.s. Are doing this. For instance, baltimore county, maryland, minimum setbacks of 25 to 100 feet on either side of water courses adopted. Township, pennsylvania, riparian set backs of 75 feet either side of water courses adopted. Loudon county, virginia.

Adams: Those aren't industrial zones, are they?

Quinn: I don't know. 100 to 250 feet on other sides of water courses. Newcastle, delaware, overlay zoning strict draft, 25 to 100 feet.

Adams: I need to you wrap up, please.

Quinn: If we were to adopt such an ordinance industries could then negotiated their use of the riparian industries. If the proposed use related in negative impacts, such as an outfall, chemical contamination, set rae, our city representatives, you, could simply deny the proposal until it was to standard. That would be the beginning of balance. As one of many Portlanders who want a restored, healthy willamette river I urge you not to give us a second or third or worse best. Thank you very much.

Adams: Thank you, ms. Quinn.

Fritz: I have a question or comment for ed. Thank you for sending in comments on the amendments earlier and two. One was for the mayor connected with transportation planning and I am sure he will get to that. The other one spoke to public engagement in the north reach plan and implementation and you make a very good point we shouldn't wait two years and we are not going to wait two years.

Jones: Glad to hear that.

Fritz: I am in charge of both neighborhood involvement, human relations, which has immigrant and refugee program and also the office of healthy working rivers so we will be engaging in this very fast and indeed invite you to be part of that.

Jones: You wanted to ask me about the other one?

Adams: Sure.

*******:** The other issue --

Adams: In 10 seconds or less.

Jones: 10 seconds or less. All right. Oops. I have used them. [laughter] the other issue had to do with the linnton study a-19, and accelerating that to take advantage of the current negotiations going on between b36789 and the epa and the mill owners. There's a chance right now to make a difference and achieve some goals. Two years from now that chance will be long gone so we need to bump that one up and get it done now while there's a chance.

Adams: And with this, moving forward, at some point soon we will have the resources and time to work on that issue. Thank you, mr. Jones.

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

Adams: Let's hear from the industry panel. Bill wyatt, port of Portland, don hamaker, president of schnitzer steel metal recycling business and jeff smith from the longshore persons union. [laughter] mr. wyatt, welcome back.

Bill Wyatt, Executive Director, Port of Portland: Great to see you awill bill wyatt, executive director of port of Portland, 121 n.w. Everett here in Portland. So first, just migrations. I know this is taken a long time. And you are not complete yet but we are getting there. I would say. And I think I want to really talk about two things. You have referenced the value of this area to the region's economy. Last year, Portland exported about 14.5 billion dollars of net exports. It obviously is an enormously important factor in our success here in this region. And this area disproportionately affects the vampire and the ability of those exports to seek foreign markets which is particularly important. It's important in 68% residents who do not have a college or advanced degree. These jobs are disproportionately again relatively high wage blue collar jobs and there are not many other opportunities in our community to create these hind of high value, high

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wage jobs. So the economic side of this is particularly important. I think what is particularly intriguing about this effort is to finance environmental improvement on the back of investment. And to me, that really is the key. And the work that needs to be done is to determine where that balance is. Is there a point at which those investments won't be done? And I think that the research that he referenced, mayor, is interesting but doing a wallop biopsy on the businesses in the lower reach is not the same thing as determining whether or not they are actually going to make the investments, given either the uncertainty or the financial cost of those investments. That is vitally important. Because these businesses are not making political decisions. They are just making business decisions. Many of them are in global enterprises. They have to compete internally for capital. That's how it is at the port. My internal department v. To compete for capital on the basis of the quality and the value of the business decision ahead of us. And that is work that needs to be done because, if not, we could end up adopting an ordinance where no resource was, or very little resource was produced, and as a result the improvements that we hope to see won't materialize.

Adams: I think that's a really important point. But I think is just a factual point is that the environmental improvements we seek in this area have to come hand in hand with continued and increased economic success of this district as well.

Wyatt: Hand in hand, yeah.

Adams: I do want to underscore that the port has, for a variety of reasons but the port has been absolutely investing in both environmental, improving the environmental health of the properties that you are responsible for and also their economic health as well. Thank you.

Wyatt: I think, mayor, as we said to you the other day we are very committed to evaluating the prospects for developing mitigation opportunities in the area of the lower reach. At the early stages of it but certainly shows some promise.

Adams: And that's a very, important opportunity for businesses to do the mitigation offsite is key so that's great. Thank you.

Leonard: Could I ask bill a question? Have you had a chance to look at the amendments that we are talking about?

Wyatt: You in the royal sense, yes. So behind me are a lot of you's, people who have looked extensively at this. The most recent set of amendments that were being referenced here, I think we have had like a day. And I think there is some deep concern about the amendments as it relates to the e.p.a. And the superfund. But we have had very limited opportunity to review those. And so you will get more feedback about that.

Leonard: Ok. Tonight or follow-up after tonight?

Wyatt: Yes.

Leonard: Ok. Great.

Adams: Mr. Hamaker.

Don Hamaker: Thank you, mayor, and thank you commissioners for this opportunity. My name is don hamaker, president of schnitzer's metal recycling business. As you probably know schnitzer has been here for over 100 years. I manage or o-are responsible for operation of 42 different locations rannel the united states. Schnitzer in all of its locations has a long history of being a good corporate citizen and the communities we work in and we have a very demonstrated commitment to the environment. Tonight I would like, though, to ask for a little more time. Time to work over some of the important details of river plan and the new river review process so that we can get this right from the start. You know, I appreciated the fact that people have been dedicated and have worked on this for over 10 years and I am sure there's a degree of impatience. But from our perspective the details still aren't fixed and it creates problems. Schnitzer as you probably know has participated in this process for all of those 10 years.

Adams: 10 years? Really?

Hamaker: Ann gardner.

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Adams: Ann has been at it 10 years?

Hamaker: Yes. She and we have hired outside consultants and we have been very involved. And as a result of that involvement, I mean, it has been a business because we have learned about the other stakeholders' interests and I think, you know, people have done a good job of working together. But in our minds this is not there. And close enough is not good enough. We could get the details done and agreed to and adopt them. Important processes such as establishing an accurate inventory of natural resources or establishing methods for mitigation, costs are just not finished yet. And while the complicated, they are vital because they determine how long it will take and how much it will cost us and other businesses to improve our operations and invest in our infrastructure. Uncertainty as you all know is crippling to business. And we feel that there is uncertainty here.

Adams: Just to be clear because your time is up and I want to you be able to finish, this plan is not finished until those details are finished. And they will come back between now and the end of the calendar year.

Hamaker: Ok.

Saltzman: Is that a statement or a question?

Adams: That's a statement. I want to make sure that you know that your representatives have mentioned that a number of times and I agree with them and that's why the plan moves forward but obviously, and those details come back to the city council. So if it's technical now, wait until HEP/HEA comes back to the council very view with the science panel so we agree those need to come back.

Hamaker: You understand we deploy capital and we have limited capital.

Adams: We do understand.

Hamaker: And time is everything to us.

Adams: Yes.

Hamaker: So I just will close then. The employment base in the harbor in Portland is pretty much unique. I have been to ports all over the world. And it's an irreplaceable economic resource and i, we are hoping that we can get this right.

Adams: Thank you, sir, very much.

Leonard: Mayor, just to follow up on you said so next wee what we are voting on contains some language that allows for continuation of a process that will conclude later this year with some of these other concerns being addressed later? That we won't vote on next week?

Adams: No. The purpose is to -- this is very much a policy that we are considering here. The regulations, which are -- the core of the regulations, which is the natural environmental, the natural environment inventory and also the calculation, various calculations which are complex, those are going to be further fleshed out through the oversight committee and also we have got a lot of science, scientist advisers and everyone science advisers to sorts. Figure out, that comes back from the end of the calendar year. This sets out the policy plan. But as we move through the other elements, there is also the opportunity for iterative changes to the plan as well.

Fish: Could I ask for a question. We have a lot of testimony coming and a lot of follow-up my understanding is this will not come back us to for another four or five weeks. Commissioner Leonard referred to next week.

Leonard: It's not next week?

Adams: The scope, the geographic scope of what we are dealing with here, the fact we are dealing with economic issues and environmental issues, we, and because we wanted the regulations and we wanted the policies to do the hard work marking it easier for business and making easier to improve the environment at the same time, no, we will take our time to, there are a lot of pieces to this. We will take our time and the time we need.

Leonard: That helps. Thank you.

Adams: Commissioner smith, welcome back.

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Jeff Smith: Good evening, mayor. My name is Jeff Smith. I'm the president of the international longshore warehouse union local 8 here in Portland, Oregon. I represent more than 500 men and women, some of whom are here tonight who make their living in the working harbor of the Willamette and Columbia rivers. My members are the people who load and unload ships in our harbor, operating massive cranes and move the containers that carry so much of global trade. We drive the trucks, top loaders, and for lifteds that move containers around benefit ought docks but that's not all. We also load, unload autos at terminal 4 and 6, wheat at three different grain elevators, steam at terminal 6, lumber and steel at terminal 22. Whatever comes to the public marine terminals and to many of the private docks in the Portland area. Tonight I am asking you to do one thing. That's support the working harbor by taking the time to get the river plan right. Here's some numbers you might hear a couple of times this evening. 50 industrial marine businesses in Portland support approximately 20,000 local jobs, bringing almost \$1 billion in personal income to the region many economy. The average income is \$45,000. Higher than Portland's average household income of \$41,000. One off the every nine jobs in the Portland area is located in or supported by the work done in the Portland harbor industrial district. So please don't add unnecessary complexity and time to the process of maintaining and improving the infrastructure that makes these jobs possible. I know you have been working on this plan for a long time. But it doesn't make a lot of sense to me to adopt the plan when so many of the vital details are unresolved. I am happy to be on this panel tonight with two of our important partners, Schnitzer Steel's Don Hamaker and Don Byland. You are look at Portland's true accumulative -- creative class. [laughter] with a straight face. Don't shoot the messenger:

Fish: Who wrote that? Who wrote that?

Adams: If you are so creative you have an ugly tie.

Smith: What we create you are successful businesses which in turn create jobs and wealth the wealth needed to invest in environmental projects we would all like to see on the Willamette. We have bound together here so please take the time to get this plan right from the start, take the time to iron out the details, keep working on those of us who work on the river every day. Thank you.

Adams: Thank you, Mr. Smith. And we will. Thank you all for your testimony. Next we will hear from the panel environmental advocates. Travis Williams from Willamette River Keeper and Mike Houck from Urban Green Spaces. It's funny. He couldn't keep a straight face. Gentlemen, welcome back. I have Mr. Houck first. By age or beauty?

*******:** Age.

Adams: Age. Ok.

Mike Houck: Actually in a moment I will make that point. Mayor Adams, commissioners, my name is name is Mike Houck. I am here tonight representing the Urban Green Spaces Institute. And I actually started out, my written testimony, to say I was pleased that we had already resolved an issue you discussed earlier. I don't have time to go into it. I am sure Bob will but all I will say is that Caitlin did a fabulous job of demonstrating why you do not want to abdicate your responsibility, the city's responsibility for dealing with the river below ordinary high water. It is not duplicative. The city staff and I have been at this for 30 years. I actually was asked to do the goal 15 inventory in 1984, more than a quarter century ago. You were 21 years old at the time, I believe. And here we are tonight still debating whether we want to take more time. And I will tell you the reason I was asked to help the city do the inventory pro bono, I will add, in 1984, was city did not have staff at that time with natural resource expertise. I am exceedingly pleased to be able to sit here tonight and tell you that you have fabulous staff that have far more capacity than state and federal agencies.

Caitlin is an example as there are others in the room tonight. Fortunately within Portland parks, bureau of environmental services, and planning and sustainability. And I just want to make the point that based on my 30 years' experience the city of Portland will not improve environmental conditions on the Willamette river if we leave it to the feds and the state. And that is not denigrating

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their abilities by any means. They have a very narrow focus. The city has a much broader focus and you have already heard if citizens tonight saying they do not want city council to give up the city's responsibility for dealing with the willamette river. And so I will simply say it's time to get on with it. It's been 26 years since I was out there walking with city staff. We walked every inch of the willamette river greenway. I took overlapping photos, the planning bureau has photos going back to '84 and I can guarantee you that there's been degree gray education of habitat and it's not just about Fish, commissioner Leonard. We are talking about upland species as well. So I am fed up with waiting around for 26 years. You are going to hear from other citizens who are fed up with the fact we still don't have a greenway through the city of Portland. The greenway is a myth at this point and we need to move on and implement this now. Thank you.

Adams: Thank you, mr. Houck. Mr. Sallinger?

Bob Sallinger: My name is bob sallinger, conservation director for the audubon society of Portland. I have here to testify on behalf of audubon's 11,000 members in strong support of the river plan. The river is a product of an extended process dating back to 21 about the city first adopted the goal of river renaissance. Over last eight years there has been over a dozen committees and thousands of hours of citizen input incorporated. The plan spent nearly six months under review before the planning commission. It replace as code that's more than 25 years out of date and hasn't been adequate to protect our river or serve our other objectives. It's time to mover forward. We have discussed this thing to death. It's time to make a decision. The willamette drains 11,500 square miles and all the work that's being done upstream is june mined because of the degraded condition of the last 11 miles. The city's come up with a plan that does balance the economic, social, and environmental goals that it sets out. It's a product of extensive compromise and we would really urge to you respect all the work that's gone into that compromising over the last better part of a decade. And we have truly compromised. We disagree with several elements of this plan, several elements that the plans commission changed but we still support it because we want to keep the integrity of the plan overall and we compromised has to be part of this and we believe it is time to move forward. But we compromised as far as we can. If we compromise any further this doesn't become an improvement plan. This become as degree great ways plan. We are discerned about a couple of change that is have been made at the last minute. Some of the amendments. I go through those in detail in my comments. I am not going to go through them now because I do want to focus on two issues that seem to still be in contention that are big are than those. The first is regulatory authority behind ordinarily high water. To give up the state authority of below ordinarily high water would render the city plan meaningless. It would render its funding mechanisms irrelevant. Most importantly it would deny the citizens of Portland a voice over what happens in our river. The suggestion that we simply leave our river to the judgment of the state and federal agencies makes no sense. If state and federal regulatory authority was deficient we need to ask ourselves why is our river so degraded today? We urge you to remain steadfast in retaining the city's regulatory authority over ordinarily high water. Would it truly be an ironic outcome of this process if after years of thinking about our river the decision was to give up that authority. And I would refer you to letter from noaa Fisheries dated april 1st, 2009, in which they stated further the city's jurisdiction will ordinarily high water protects Fish and wildlife resources not protected through other federal state programs. This may prevent new species from being added to the endangered species list. They understand there's been discussion regarding city the city should remain because they already regulate activity there. They encourage the city to retain jurisdiction for multiple reasons. The city has a larger role in protecting ecosystems for all native species. That's from the regulatory authorities. The second issue is financing. Heard from industry already we are putting restoring the river on the backs of industry. That's simply not the case. River plan establishes a new mechanism that would require industry to mitigate for the impacts they have. And it would also require them to add a little more restoration.

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Adams: I need you to wrap up.

Sallinger: Sure. The alternative is that we don't ask them to do that. The river continues to degrade or we put those costs on the backs of taxpayers. So we believe it is time for them to step up and do their part. We are not asking them to do more than their part. We believe the city is proposed a reasonable path forward. We have discussed this for a long time. We would urge you to move this process forward, adopt the river plan, and restore our river. Thank you.

Adams: Thank you. Mr. Williams.

Travis Williams: Mayor Adams and commissioners, my name is Travis Williams. I am executive director of River Keepers for Willamette River Keeper. We are an organization that works to protect and restore clean water and habitat throughout the Willamette basin. And I think it's important to underscore one thing that Bob brought up and that is the fact that we have tens of millions of dollars that have been and will be invested in the upper part of this basin to restore habitat for a range of species but principally winter steelhead, spring chinook, and all of those fish that were taking the time to study and improve habitat for and improve fish passage at the Corps of Engineers' dams. Ultimately the goal is to get them down through the city of Portland and out to the Pacific ocean. And having nodes of habitat as prescribed in this plan based on the fee that is part of every project in my view is not a heck of a lot to ask. And, you know, one thing that's struck me tonight. I have a horrible tendency to make comments and then deviate from them because I hear other people speak and you know you get a note here and a note there. But you would think with these massive projects that are proposed on various properties it's almost unbelievable that a relatively small percentage to give back to this river is almost unthinkable in the city of Portland, certainly from the business community at this time. At least that's what they say. And what else are we to do but believe them? Well, I think that in some ways we have to look past that and say, you know, most of these companies have benefited greatly from the Willamette for decades and decades and decades. And here we are asking to give a little bit back. And I think back to the arguments that were made by those who oppose Tom McCall in the late '60s, early '70s, it's the same stuff. And it's recycled over and over and over. And here I can put my kayak in at Cathedral Park, and work my way down river on the right side, and lo and behold I get to a facility that's owned by at least in part by foreign corporation, Toyota, and, wow, look at their river bank? Now, who knows? Maybe brakes or accelerator issues will cause them problems, but it's certainly hasn't been beyond their ability to restore that bank and make it look good, and that's a shining example in Portland harbor of a public-private enterprise that has utilized this bank and created healthy habitat.

Adams: I need you to wrap up.

Williams: Ok. I think we need to think about that. I think we need to think about where we are as a city, where our ethics are, where we feel we have to give back, instead of constantly listening to people who have one expressed interest when they are hired to defeat a plan and to poke as many holes in it as possible. What is the intent here?

Adams: Thank you. Commissioner Fish?

Fish: Thank you. Bob in your testimony, you expressed some heart burn over the amendment at page 212 which would change from a p zone to a c zone part of the bluff at the University of Portland. And you seem to argue in the alternative that the end that if it is allowed to develop the bluff, the city should "retain review authority via a c zone to ensure environmental impacts are minimized." could you elaborate on that.

Sallinger: Sure. The original recommendation which is also supported by the planning commission and they talk about this extensively before the planning commission was to put a p zone on the bluff because it's a very steep slope. It's a critical wildlife corridor and has real value. University of Portland did make their case before the planning commission and the planning commission didn't accept it. We understand it is being changed to a c zone. We still support of p zone.

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Fish: There's an amendment to that effect.

Sallinger: Right. We think it makes sense to keep the p zone on there because of the analysis talked about and the planning commission affirmed. At bare minimum we think a c zone should be on there because at least a c zone conservation zone would ensure that there would be review and project that is done would be impacts the environment would be minimized and mitigated. We don't think that's ideal but if they are going to build on the bluff at least minimum nation and mitigation and ensuring it's done in the most environmentally sensitive way possible is critical. We would hate to see the zoning lifted from that altogether.

Fish: You want the floor at a minimum to be a c zone?

Sallinger: We would.

Houck: I would concur with that. The whole function of the c zone is to ensure that as development is proposed, that there are discussions about the environmental impacts. Removing the zoning all together, there are no environmental concerns.

Fish: Thank you. Thanks to all three of you for your work on the no wake zone at ross island zone.

Houck: We are still at it.

Fish: Thanks for your advocacy.

Williams: Mayor, one thing I did forget to say and that is I would like to invite you all to go down in Portland harbor with us at the river level and paddle from cathedral park down to kelly point, for example. I think that would be a healthy exercise.

Adams: Thank you.

Houck: I have a boat. I'm happy to take you on it.

Adams: Thank you very much. [laughter] Karla, how many people have signed up now?

Moore-Love: We have about 50 still.

Adams: Ok. And what time is it?

Moore-Love: 7:30.

Adams: Ok. So let's stay with two minutes. If it gets really late we will go down to one. Can you call the first three that are coming to the table and the three after that.

Moore-Love: A person here who is a child, want to take those people first.

Adams: Do we have anyone besides bob salinger with children here? There you are. Come on up. One of our community meetings I asked if anyone had children and half the room raised their hand. But we mean if you have children here we provide you courtesy. [laughter] like you. And welcome. Glad you are here. All you have to do is just give us your first and last name and that clock in front of you will count down the two minutes.

Molly Jansky: Ok. My name is molly janski and I go to robert gray middle school and I am 11. I spend a lot of time on the river Fishing, canoeing, sailing, boating. And inner tubing and hanging out on the beach with my friends. I even swim in the river. The river really means a lot to me. I think that it is really important to keep the river healthy. At outdoor school we learned that it's really important to conserve our rivers because without healthy rivers the homeospace assist will lock out. We learned in order to promote a healthy river we need to protect the habitat and its wildlife. Another example is the stream project in the third grade. We tested the water quality from fanno creek. We measured temperature, turbidity and ph, all things important to living things including impeachment we had to work together in teams, not everyone agreed on how to do it right. I learned that everyone will not always get their own way and we must all compromise.

Adams: Maybe you should repeat that part again. [laughter] I learned evening will not get their own way and we must all compromise?

Leonard: There you go.

Adams: You are doing a great job. Keep going.

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Jansky: It's time for a reverse more than a century of damage to the river. Everyone should pay their fair share and make up for the impacts they have done to the river. Everyone should help pay to restore the river. It will take everyone many cooperation and working together. Please make our river healthy for my generation.

Adams: You deserve a round ever applause just for doing a great job. [applause]

Fritz: I just have to ask all of us older folks, how many of you learned about turbidity in third grade? Portland public schools rock. Thank you very much.

Adams: You are the only one who gets claps tonight because you did such a good job testifying.

Leonard: And you did it in under two minutes.

Molly: Thank you.

Fish: I will be translating some of your testimony for some of my colleagues who are less sophisticated in science matters and you will make sure commissioner Leonard makes sure you understand what you said later.

Andrew Jansky: Thank you, mayor, commissioner. My name is a andrew jansky, I am a marine dock engineer. Molly has passion for the river and feels strongly we need to protect it and enjoys a river that was clean are than when I was her age. My guy friends tell mere they predicting record Fish runs this year I have provided a handout to you that shows some specific examples of what the prescriptive code is going to do. The first example is what I call the floating soil. Code requires 30 to 40% compost in the material you put on the bank. Bes designs the water pollution bank and they had high water and it all floated away. That is a very detail the example of what the code will do. The second example is what some people call bioengineering. Ism glad travis pointed it out. It is a picture of the toyota river bank that was this wonderful river bank. Code talks about bioengineering using geotext kale wrap soil. You can see is the water eroded away the soil that was in the fabric and now you see this plastic sitting there in space that can trap Fish and hurt Fish. Code section says no modifications are basically are prohibitedded. So it makes people like my job really difficult when details are so prescriptive. So if we adopted that way obviously it could be a big failure repeated all up and down the river. So there's a lot of little things like that examples that I have gone through the code and found problems. It's just very, very detailed and it limits creativity for people like me to do the right thing. Anyway, getting back to molly, she has a passion for the river and its health and my job. And everyone in this room has a passion for a job that's connected to the river. She read the audubon's plea for testimony to come and talk today. Does she understand how complex it is? No. Does she know how to fix it? No. She is looking to us adults as experts. You are going to hear from a lot of molly's later in the evening who have been asked to deliver the same message to you. This is first time I have ever said it but we need to take more time to get it right for molly's generation. We all can learn from her and we need to work together and cooperate again. We need to pay our fair share, not just industry.

Adams: Did you submit specific comments to the parts of the plan that you have found to be of concern to you?

Jansky: Yeah. I provided that same set of comments to you or through your office.

Adams: Just this one sheet?

Jansky: Essentially without the pictures and some other information. But there's a lot more to it than, those right easy cherry picking once I was able to find.

Adams: I guess --

Leonard: Your comments are directed.

Saltzman: Towards the proposed code?

Jansky: It's the same thing. Basically, there was not a lot of changes from the original version to the proposed version. Not in the details. And overall.

Adams: It would be helpful if you could maybe talk if you don't want to write stuff up with staff.

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Jansky: Yeah, I can. It's definitely duplicative process. That's what I do is permit and design and build stuff. And there's going to be a lot of overlap and --

Adams: What part is duplicative?

Jansky: I have to do a whole set of drawings for the corps and a permit for the corps and I am going to have to do before the plan was changed I was going to have to do a whole set for planning's review with separate narratives.

Adams: We changed that.

Jansky: You changed that so that will help immensely because we had to coordinate two sets of drawings and -- single application will be a huge.

Adams: If you wouldn't mind taking another look at it and giving us more comments because I do recall your comments and that we worked hard to try to be responsive. So take another look. All right. The next three.

*******:** Clerk: The next three, please come on up. Are alan sprout, ann gardner, and pamelaa aqui. They will be followed by kent stood baker, jamie wilson and jeff swanson.

Adams: Good evening. Welcome back. Glad you're here.

Ann Gardner: Thank you, mayor, members of the commission. I am the executive director of the working water front coalition and we are providing you a packet of profiles of our members and some of the environmental accomplishments that our businesses have achieved over the past decades and a copy of our letter to council. As you know the coalition is supportive of the river plan goals to include, improve the environmental conditions in and near the river and at same time support the continued viability of the working harbor. And under your leadership, mayor, I think we are making some head way. We do, however, as you have heard earlier this evening remain concerned about the details, most specifically those within the proposed zoning code. And we are uncomfortable that the elements of code will not help us achieve the balance that the plan calls for. And I realize I am going to get into way too much detail here really for a council conversation but it is all about the details. In our letter to council, item number seven, we asked that the HEP/HEA evaluation not be the exclusive combined credit system for the mitigation bank. And in the response to us, the narrative, the city says the city will not require any particular model be used by a mitigation bank. Yet, as we were reviewing the package that came us to last week, and the replacement page 195, the language reads, "impact evaluation must include hep." mayor, we are confused and not sure what to make of this inconsistency. So obviously more specifics and information would be helpful to us. Similarly we have some issues with chapter 33.475, new language that was proposed and we just did discuss that tonight. Businesses want to help the environment. We are willing to give more. The debate is over how we get there and while we are helping the city retain jobs and grow. So we think we can achieve both the economic and environmental goals but we do need the balance. We made some suggestions in our proposal to you and we would hope that they would be taken seriously, considered moving forward. Thank you. Did.

Leonard: Mayor, is there some process by which some of these issues or misunderstandings can be addressed between now and whenever that point is that we are going to vote on this?

Adams: Absolutely. We in our work session that commissioner Fritz and I had on december 16th generated I think you have in your packed 31 issues or questions. And we had, we got out answers to every single one ever those and/or described how the responses are made. We will continue to do that 23 that's helpful.

Leonard: Ok. To close that gap between the response that she got on that issue and apparently what the current plan says. How are we going --

Adams: Here's an example. I don't know if you saw it. We take copious notes at each of these hearings and get back to everyone. I don't know. Is that a typo or what is that? The sheet ann is

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referring to we get you in a second. Is it a typo? That's why we have these hearings. Why we appreciate you being at the table. And pointing out these things. Sir.

Alan Sprott: Good evening, mayor and commissioners. My name is Alan Sprott, vice president with industrial, we own a shipyard on Swan Island. I am been recently appointed chair of the working waterfront coalition. I will bypass my statements on the importance to the economy of businesses in the north reach. I think that was covered off pretty well. Other than to reiterate that clusters represent by the manufacturers and the north reach are valuable economic resource to not only Portland but to the state of Oregon. Having said that we do recognize that the over century and a half of development in the north reach has taken its toll on habitat and the overall environmental quality of the north reach. While there have been improvements over the years in the environmental quality of the north reach, the Willamette, we fully support enhancing the north reach because we duval the principles of conservation and sustainability. And because we realize that environmental protection is an important, in a real part of business. For us it really a matters of how we get there. I have worked in the environmental field for nearly 25 years and based on my experiences, I believe that a command and control regulatory system can be effective at curing certain environmental problems. The clean water act, for example, has made significant improvements to water quality, degraded by industrial discharges. The hazardous waste regulations cradle to grave have also been a command and control success. I think there are also failures in command and control regulation. The superfund cleanup is one example of those and I think that the greenway code is another example of a command and control failure. Fixing the current and emerging environmental problems in the north reach is going to require some creative thinking and collaboration, not command and control with more regulatory process without results. Creating the office of healthy working rivers, for example, is a positive step toward collaborative problem solving. We remain very concerned that the river view component of the plan will be a command and control failure and imposing rigorous and duplicative review to development projects without the intended results. We urge to you get this plan right. Thank you.

Adams: What about this plan do you -- do you have details? Because obviously as people have described accurately details are important. Do you have details that cause you to be concerned that this is a command and control process?

Sprott: Well, I think the issue of the regulation below ordinarily high water is certainly one we have concern with. The overall river review process on site that's have been industrially developed for in some cases nearly a century where there is limited habitat value that currently exist, very limited if any opportunities to do mitigation on those sites --

Adams: And that's why we offered the offsite mitigation.

Sprott: We industrial to do the river review process in many of these case unless there's an exception already in the code but for most of these larger development site where's you need to move aggressively and quickly you will have the river review process and at the end of that process you will still be left with doing the offsite mitigation. We would rather just put the money into the river and do the offsite mitigation rather than put the money into studies.

Adams: The fact we have exempted properties from this process, we were not exempt under the previous process the fact that offsite mitigation is allowed, those are all new components to provide businesses the ability to make meaningful environmental reviews and I want to make sure I understand why you don't think that, it's --

Sprott: I think those do hit the mark but I think it needs to be expanded and I will still think we have the river review process when those exemptions do not apply. And it's in those particular cases that we would be spending money on the studies rather than spending money on the river. In the end, after we go through the study we will still be in a situation where we will be doing offsite mitigation anyway so why not go there in the first place?

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Adams: I think staff will describe that there's some nuances there that I think you will be happy with.

Leonard: Ann do you have some specific responses to the mayor's questions?

Gardner: Well, in the case studies that we did, mayor, and they are cited in our letter that the process probably would have cost the applicants \$50,000 to go throughout river review when the net environmental investment from the city's process would be marginal. If we had paid a fee in lieu instead of going through the process, the net environmental benefit to, for the environment would have been in the neighborhood of \$one25,000 and the fee in lieu which is our proposal which we think is a better proposal than going through river review on the projects that allen is talking about, we are talking about getting results on the ground and investing in the environment, not investing in a process. And you heard tonight that the process, on one hand we hear that the process isn't duplicative, it isn't going to be more process but on the other hand we are told that we are going to need to provide a lot of information about lamprey and sturgeon. That is all new information. That is a new level of detail that we haven't provided before. And our consultants are telling us this is going to be a very expensive process. But if it's a project --

Adams: We need, can't be a filibuster. I want you to get a chance to answer the question. So wrap it up.

Gardner: Another point, commissioner, is that the way the code is written, if there is mitigation that's required, on page 201 of the replacement section, you are relieved of your on site obligations only if there are some environmental 6s and mitigation isn't really helpful there or it's not, there's contamination on the site. There isn't one criteria in there that says anything about impact on the economics of the site. The business operation. That's an overcited. We have asked for that amendment. And we really believe that, when mitigation is required there should be a consideration for the economic conditions of the site, not just the environmental.

Adams: So went don't agree with everything you said but I will have staff have an opportunity at the end. Hi.

Pamela Ake: Hi. My name is pamela and I am president of the northwest industrial neighborhood association. The organization is sanctioned by the city and we element over 500 businesses and as erin flynn said, thousands of family-wage jobs. And because many of our businesses are located in close proximity to the willamette river, we have been monitoring the development of river plan since 2000. We have at each previous opportunity to comment, we have expressed support for a balanced program that addresses both the economic and environmental interests. And I am here today to reaffirm that support and committed. But to ask you to really consider the seven specific recommendations from, to improve the river plan that comes from the working water front coalition. The members are very concerned while most of our businesses are located away from the river, there's lots of, and won't be directly impacted -- there's lots of businesses that are -- that depend upon those 50 businesses along the river. There are bread and butter. They are the economic engine of the giles lake industrial sanctuary. I run an employment agency and I can tell you the last couple of years have been very tough. Our business has probably dropped 70%. And I have had to lay off people in my office that I have never had to do before. So the best way for you to help us is here in Portland is just streamline the permit process so we can expand and grow. The river review increases the time the causes uncertainty in investing in Portland's working water front. There are seven recommendations. And in closing I ask to you send a message to all businesses in Portland. We want your investment. We need your jobs. The river plan is important and we will take the time necessary to get it right.

Adams: And we will. Thank you all very much. Karla, the next three.

*******:** Clerk: Kent studebaker, jamie wilson and jeff swanson. Gordon huntsman and ron gogurt.

Adams: Welcome back. Glad you are here.

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Kent Studebaker: Mayor Adams, thank you very much. My name is kent studebaker. I won't a warehouse on st. Helens road. We have two rental sites in the warehouse. It's very important to us what happens here because the impact of the river plan is a direct impact on the viability of businesses in Portland. And at least the business that's in one ever our warehouse has sites now directly sells either to businesses on the river to their customers direct liesl to them. So it has a big impact. I was going to ask you not to adopt anything at this meeting but I -- I find that's not necessary to make that request and I am delighted.

Adams: It was never a plan to adopt anything.

Studebaker: Ok. Well, then, I am glad. The one thing, the other thing I was going to do is, we have as pamela said on, I am on the nina board and he rerued the recommendations from the working water front location. And I would ask that as pamela has suggested that you take those very seriously. We reviewed them. We agree with them. And it's important that the business view that represented by those recommendations be given the weight we think it deserves. Thank you.

Adams: We do and we will. Hi.

Jamie Wilson: Hi. Good evening, mayor Adams, commissioner. I am jamie wilson, regional director for the metals recycling. Earlier you heard from other division president and I wanted to provide some more details on our division and about our operations locate on the willamette river. Each year, we process and recycle almost 4.5 million tons, 800,000 to 1 million tons of that in the Oregon region alone. The process scrap is either sent to our steel mill? Mcminnville or sent to the east. About 75% of our scrap is exported overseas and we loaded 18 vessels at our site last year and we will load another 18 this year. Each ship has 30,000 metric tons going out. Additionally we transfer via the column gentleman with willamette rivers each year. Schnitzer did not own our river gate site until the 1970s. The fact the city once owned a good part of our property. Site has been used for a variety of industrial purposes for decades. As you know it was a kaiser shipyard that produced the liberty ships to help with the wartime effort. Schnitzer has plans for our site. Two years awe go installed a megasledder as part of a strategy. We also completed face one our storm water system that reduced our outfalls to the river from 22 to nine and our future multimillion dollar investments over the next two years were reduce that further to just two. Nobody told us to do this project. We are investing because we care about the environment and it's responsibility action to take for business. As a company we have spent over \$20 million in the last four years, \$8 million in Portland alone on the environment so perhaps we can get added to that list with the port of Portland. Since the informal workshop with the mayor I have become personally engaged but still have many questions about what the process will cost and what obstacles need to be overcomfort I won't be able to get approve for these until I have confidence and I can deliver on time and on budget. I cannot, will not present the project in Portland to don and the financial team until I have answered. I am competing with tacoma, oakland, sacramento, and the 42 other schnitzer locations for capital expansion dollars. Capital plans may get diverted if I can have five more seconds. Let me hasten to add we spores the plans to enhance the environment. We will continue to work with you to improve the draft zoning code so that our business and other river dependent businesses like ours can expand, create new industrial jobs and ensure a harbor for generations to come. However, our company and all those that are part of the working waterfront coalition need the details before policy is adopted, investment is chilled and the intent of the river improvement and habitat restoration goals are not met. Thank you.

Adams: Thank you. Sir?

Jeff Swanson: Mayor Adams, mechanics of the council, my name is jeff swanson. I am the logistic manager for schnitzer steel in Portland and vice chair of the Portland freight committee. Industrial and freight mobility interests support the goals of the river plan, a healthy river system for all stakeholders. The practical mechanism for balanced attainment of those goals is clearly at issue and so it is wise to take more time as you have determined to examine policy impacts ecological

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and economic. Portland is a dynamic, complex and vital multimodal highway, rail, and marine transportation hub. Many of the connection points between modes that make this hub function occur on industrial lands in the north reach. It is critical that these businesses continue to be able to invest in the infrastructure that allows for selection and use of the most cost effective and sustainable modes of transportation available. One. Most effective methods to reduce carbon footprint is to ship modes of transportation. This frequently requires capital investment. Jail me wilson my boss just mentioned the difficulty involved in securing capital for major construction and expansion projects. These projects are extremely sensitive to permitting time length and cost as to whether or not funding can be obtained. Issues which are likely to be exacerbated in the public process as described in rivery view in its present form. In a broader sense then the river plan could have some unintended effects such as causing increased systemic reliance on truck transportation to move goods that could otherwise move by different modes such as marine. This could directly conflict with other important policy pursuits like the city's carbon action plan goals and objectives. The Portland freight committee recommends that council and staff continue to resolve outstanding conflicts with the working water front coalition prior to adoption of the river plan. I appreciate your time, leadership, and thoughtful attention to this important discussion. Thank you.

Adams: Thank you, all, for your testimony. Karla.

*****: Clerk: Jennifer, gordon huntman and ron gogurt. Followed by john, marla hanson and bruce hoyt.

Adams: Good evening. Welcome to city council. Glad you are here.

*****: Thank you.

*****: Thank you.

Adams: Why don't you begin, ma'am.

Jennifer Weahunt: I am -- thank you your time. My name jennifer. I am the safety and environmental manager for the jr simplot company river gate terminal. Simplot is one. North america's largest privately held food and agra business in north america. We employ approximately 10,000 people worldwide. At our 24/7 operation along the willamette we import and distribute fertilizer components, essential to farming operations in the northwest. These products arrive via ship and leave our facility by truck and rail. Simplot is a member of the working waterfront coalition and we have been monitoring the development of the river plan. I have testified at previous public hearings on this topic. Regarding the proposed 15% lands keep building project I appreciate this portion has been set-aside. The decision was important to us and it helps smooth the way for an expansion project we have planned. However, I remain concerned many details of the river plan have yet to be worked out. For example, I think too many expansion projects will be subjected to do proposed river review. And that will have unnecessary processing time and cost. We would much rather invest our money in funding habitat projects than pay consultants to process redundant permits. Here is an example of a project we would like to pursue but may be curtailed due our concerns about being subjected to river review in order to accommodate larger vessels we need to install an additional pylon at our dock. The code as draft the is not clear whether this would be considered a replacement or an accessory structure and hence it is unclear to us whether we will be subjected to river review. This is an example of language within the proposed plan that we feel should be clarified prior to adoption. Regard also of our particular case the future of working harbor depends on your decision. Thank you for your careful attention to this matter.

Adams: Do you know if the example you just mentioned, would that be subject to federal and state review?

Weahunt: We are unsure at this point. We know at this point it's going to be about \$100,000 project. It's not large for our facility. But some of the descriptions within the code, whether or not it's 24 feet from the previous resting dolphin, whether or not there's going ton or two or a set of four is not clear us to in the current code.

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Adams: Let's see if staff can give you some clarity when they get up here.

Weahunt: That would be great.

Ron Gougurt: Hi. My name is ron. Thank you for having me here tonight. I have been working as a consultant now for two years. Prior to that I was 26 years with natural resource trustee agencies and had a lot of opportunity to work with models of that sort. That's what I am going to primarily focus on.

Adams: Do you have a client now?

Gougurt: Diane clinton. I am working for gunderson directly. In a nut shell, the council, the city wants to combine a couple of different models, hsi, habitat suitable in a modeling framework, it's going to be a very difficult process. It's not been done before. I have dawn near of them around the country and I have not seen hep used as the front end to determine the deck of loss of function. That's new idea. It's going to be a lot of work involved in developing that as it's good to know there will be a continuing effort in that regard. Other methods for assign building habitat values are available and one in particular is the willamette partnership's effort. Their salmon habitat value calculator which is more of a state of the art model as opposed to the tools that are being proposed here that have been around since the '70s. As ratliff of this uncertainty we are not going to know what the model outputs are going to look like until those modelers actually developed. And it's this time it's going to be very difficult to understand the impacts on the regulated community, even the benefits here until those things are worked out. And I would like to at least say that that does need to be done to the extent that I could be involved and would be helpful, I would be willing to do that. And I just think that when you do that it's best to have representatives at both the regulated community and the public participating in that work group. That's the best way to get it to get by and get acceptance at end of the game.

Adams: You will.

Gougurt: And after that, you can tell what the value added from that process is as well as what the impacts will be.

Adams: Parts of the reason that this gets very technical but just for the council's consideration, part of the reason to use hep is again to try to simplify the process and provide not multiple requirements for consultant see work but to get value added out of what is going to be required of in many cases by the federal and state level. So thank you for your testimony. Sir.

Gordon Huntsman: My name is gordon huntsman. I am the vice chair of the linnton neighborhood association. And first of all I thank you for the opportunity to speak. And begin by saying the linnton neighborhood association and the neighborhood generally supports the north reach plan. But we ask two things. The first is that an amendment be added to the plan that establishes a long-term commitment to the current exclusion of the linnton water front from prime industrial land or, and/or the regional significant industrial area designations. The second thing that we ask is that you support the current efforts of organizations like ep -- bp, noaa, the audubon society and others to create an environmental sanctuary on the linnton water front. The linnton community is eager to work with like minded organizations to create an environmental sanctuary on the linnton waterfront to help the process of healing the river. By supporting our petition and our position, you have the opportunity to do a good thing for the linnton neighborhood, for the willamette river, and for the city of Portland. Thank you.

Adams: Thank you all very much for your testimony. I really appreciated it. Karla, the next three.

*******:** Clerk: John, marla harrison, and bruce hoyt. They will be followed by jim mckenna, joe and david harvey.

Adams: Commissioner, welcome back. Glad you are here. Why don't you begin with you.

John Mohlis: Ok. Good evening, mayor Adams, commissioners. Thank you for the opportunity to be here tonight. My name is john mohlis executive secretary-treasurer for the columbia building

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trades organization for about 20,000 union construction workers in northwest Oregon and southwest Washington. Tonight our council wishes to go on record in support of the working waterfront coalition and the businesses in the north harbor and their efforts to find a balanced plan. We believe their recommendations represent an even handed approach and will hopefully result in opportunities for economic development, and still provide a appropriated environmental protections. Currently our building trades members are 35% unemployed. And I am not so naive to think that whenever you do pass this plan in the next month or two that a week after that, that will put our members back to work. But I do believe that passing a good balanced plan will send a positive signal that Portland is serious about economic development, and putting people back to work. I also believe that the only, there is only one way off the economic mess that our city and state and nation are in. And that's putting people back to work who in turn will pay taxes. Stimulus dollars have put some of our members back to work and that's greatly appreciated. But at the end of the day, the only true recovery will come from private sector job creation. Oops. I lost my place. Any time an existing business in the north harbor chooses to expand or a new business chooses to locate there, that will put trades members to work and it will also provide employment for the in-house people that they, those business will hire. So I want to thank mayor Adams, commissioner Fritz, and all of you for all the hard work that you have put in to this process and I know it's been a very lengthy one. I appreciated that you are going to continue working on this and trust that you will bring back a balanced plan that will provide for economic development and provide for proper environmental protections. Thank you very much.

Adams: Thank you, commissioner. Hi.

Bruce Holte: How are you? Mayor, commissioners, my name is bruce, I am the secretary treasurer of the international longshore warehouseman union local 8 and a port of Portland commissioner. Don't endanger, don't endanger the working harbor. Portland's working harbor is an industrial sanctuary that creates superintendent of the best jobs in the region. The 50 industrial marine businesses in Portland supports approximately 20,000 local jobs bringing almost \$1 billion in personal income to the region's economy. The average income of these jobs is \$45,000 or a base income in Portland is \$frown,000. One out of every nine jobs in Portland area is locate order supported by the work done in the Portland harbor industrial district. These businesses and the jobs they create are in the very competitive global economy. They are very sensitive to increased costs which you have heard here tonight from other people, other members. Don't add extra time and cost to permitting. Businesses in the working harbor already have to meet stringent rules when developing in a willamette don't add more process and uncertainties. Businesses have already offered to pay a fee instead of going through unnecessary process. That would be better for job growth and would ultimately mean more money for environmental restoration. Make the plan balance. The plan is supposed to create a path for both environmental and economic investments. The way it is now it will discourage investments by creating unnecessary and complexities. That means no jobs and month money for environmental investments. The plan doesn't, the plan doesn't -- proposal excuse me, I have a cold. Plan doesn't proposal any economical development strategy. Itist simply lists the assistance program already available. It would be better if the plan committed to do city increased investment in the working harbor especially on freight mobility. Keep working with us. We appreciate all the work the city has put into this plan. We think it can be made better. Tonight we ask you to keep working on the important details and bring back the plan that is complete. Thank you.

Adams: Thank you very much. Hi. Welcome.

Marla Harrison: Hi. Good evening. City council members and mayor Adams, thank you for providing me the opportunity to submit comments on the city's plan and we appreciate the work that's been done on the plan to this point. My name is marla harrison and I am the environmental manager for the port of Portland 7 marine and industrial development division. Their two points I

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would like to make tonight. First, the port does a lot to improve the quality of the willamette river. Some are driven by compliance and some are voluntary efforts. The port does a lot of in-water permitting so that we can pull fill our public mission. We are concerned that the new city river review process will make our job more complex, costly, and time consuming without a commensurate environmental gain. We see greater efficiency and greater environmental improvement by paying a straight percentage fee in areas of developed terminals as outline by the working water front letter to the mayor. Within the city of Portland, port facilities are some of the most sustainable and environmentally harmonious on the river. Let's use terminal 5 as an example.

Terminal 5 is home to Portland bulk terminals which ships millions of tons of potash from canada to grow food to feed the world. At the other end of the terminal sits columbia grain who ships more wheat than any other exporter, thereby providing an export outlet to the region and again food to others. All this is done by the most carbon efficient modes available, water, and rail. Terminal 5 even uses a tracteddion slug engine which moves rail cars with electricity, in the fuel. Permitting is a necessary part of doing business on the river. And this is below ordinarily high water. It's an intense and complex process. We have nine agencies that we deal with when we permit. These agencies are complying with at least 10 different laws. It takes us anywhere from 60 days to over two years to get permits. And returning to t-5 we are in the process of obtaining a berth deepening permit to take advantage of the newly deepened columbia river federal navigation channel. Deeper draft vessels carry more cargo and less air quality impacts. The river plan would duplicate, complicate and add requirements to this permitting process. Having worked with permitting for many years, I hope the river plan will not make an already challenging process more difficult and less protective of the environment.

Adams: Wrap up, please.

Harrison: We hope the city chooses to focus on results, not more process.

Adams: Do you say you work for the port?

Harrison: I do.

Adams: Thank you very much. Before the next panel comes up because I would like staff to come up because we are going to start losing people and staff is actually, thank you. Appreciate it. We have actually -- come on up. Whoever else needs to come up. If in the handout that ann gardner passed out, you will find a table with their concerns. And this is the concerns of the working water front coalition and I want to do this now because we start losing people. For something we have reviewed as we have all input. And at the back of your document that says february 12th, 2010, you will see on a page that says response to do working water front coalition's table one, I think they have modified their table a little bit but I wanted to just, as we will take more testimony, but I just want council to be ruminating on some of the proposed responses from staff and the problem solving that we have sought to under take. Sallie, if you could walk us through that page.

Edmunds: Sure. Thank you.

Leonard: What page are you on?

Adams: This page that starts with --

Leonard: Is there a number on it?

Adams: We can't afford numbers but it says --

Emunds: Sorry.

Adams: You got it. I think you had it right there.

Leonard: Got it.

Adams: Again, these are, I just want to make sure that council has a chance while folks are still in the room to hear what staff is proposing by way of addressing some of the concerns.

Emunds: Thank you, mayor. Yes, we received a letter from the working water front coalition or you did, on dated february 5th. And attached to that letter was a table listing seven concerns. The first concern is that there's inaccurate mapping and unnecessary process for simple redevelopment

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projects. And so the city response to that is that it is and will continue to be the city's responsibility to correct zoning map errors at the request of the property owner. This work can be done either before the river plan is adopted or after. So there are -- after the zoning map, after the river plan is adopted, there are zoning map corrections that can take place. Property owners can request site visits at this city council hearing, and then we will go out to their properties just as we have done in the past and make sure that the natural resource inventory is appropriately mapped. We are willing to conduct site visits until september 30th and if a revision is warranted we will bring zoning maps back for an additional council hearing in october.

Adams: That's at our cost?

Emunds: Uh-huh. After the --

Adams: Was that a yes?

Emunds: Yes, that's correct. And that's also at the same answer to all of these others, too. There is a process to correct the zoning map after adoption through an existing zoning code correction process. It's a type two review process initiated and paid for by the bureau of development services.

And through the process an error can be corrected when a map line was intended to follow a feature and doesn't do that. We are also proposing a new service that five years after the date of implementation of the river plan, a property owner can also request just an nr, natural resource inventory accuracy check. And that would be conducted by the bureau of planning and sustainability. So in additions to that there is ground proving of the natural resource inventory that can take place during a river revows review. An applicant can submit site specific environmental assessment information prepared by a qualified consultant to more precisely determine the location, type, extents and quality of natural resources on the scene. So, nen what, the rest of this answer just describes the natural resource inventory process that we used. Mindy brooks who did a lot of the site visit the is here today. There are a number of property owners who requested site visits and staff went out and made changes as they saw appropriated.

Adams: In response to do concern we heard about having to pay a lot of consultancy fees to update the natural resource inventory, we are offering to do that at our cost, not only at the outset of this policy but as stipulated here in an ongoing basis moving forward.

Emunds: That's right. We want that natural resource inventory to be correct, as correct as it can be.

Adams: And that responsibility is ours.

Emunds: Yes. The second question relates to or issue relates to complex and costly applications. This is something you heard a lot of testimony about here. This evening. So the city is going to pursue a combined application form for projects that require approval from the city, state, and federal government. The city doesn't generally require more information than the state and federal agencies require. However, the city does require a written narrative describing how an application meets the approval criteria. So the information is usually there within the materials that are provided to the state and federal agencies they just need to write a written narrative. And the narrative is the applicant's opportunity to present their case as to why they feel their application meets the approval criteria. All --

Saltzman: State and federal regulatory agencies signed off on a single application?

Emunds: That's, this is something that we have said that we are going to pursue. The city bureau of development services doesn't see any problem achieving that. There are similar city, state, federal application processes in the country, I believe there's one in Washington state.

Adams: In order for this, for us to move forward with this plan, we have to achieve that.

Emunds: But what we have done, and the office of healthy working rivers is going to coordinate a city, state, federal review process and ann beyer is here this evening and she is still here, perhaps she would want to come and talk a little bit about that process. There is a flow chart in your amendment package. And I am so sorry these don't have numbers on them. There's a flow chart

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that we developed, and then it looks like this. I think yours is colored. It shows the city, state, and federal review time lines.

Adams: A few pages from the very, very back.

Emunds: No. It's just follows --

Adams: It's a few pages from the very, very back. On the black and white version.

Leonard: Numbered pages?

Emunds: It's in there twice. Ok.

Adams: The third piece of paper from the very back.

Emunds: Thank you. So -- this shows the city, state, and federal time lines. And if you are looking at a version that is in color, you will see that there are gray boxes. There's a gray box at the beginning called the willamette river he remember project review. And then there are two other gray bars in the process that show this coordinated agency review. And here's ann beierer.

Adams: If we could while we are waiting for ann, this is not our efforts at -- the city council might remember the river trust, the Portland river trust that was created around the time of the river renaissance plan. The river trust has helped the city to not just speak to the need to be active in coordinating the federal, state, and other processes but river trust has actually helped us perfect that process. It has been limited only to public applications. Public, city, government projects. It is now going to be opened up to all projects. Ann.

Ann Beier, Bureau of Environmental Services: All right. Thank you. The streamlined process is based on the process our own city projects have used. We have had great cooperation from our federal and state partners. It will be open to private seconder applicants who are going through a permitting process although ordinary high water. The goal is to get everybody's input up front so there are no surprises. If you look at the process diagram, the city process is probably the most flexible out of all the time lines. We can start the city process at many different times, unlike some of the longer state and federal processes. The goal is really to offer the opportunity. It will be a voluntary process that applicants can choose to take advantage of. We will do it as a pilot so that we can adjust as necessary if people don't find it helpful, we won't do it. We know for our own city projects, it's been very helpful in reducing the time it takes to get projects delivered in a very timely manner.

Adams: Thank you.

Emunds: So the next topic is uncertain and potentially high city mitigation costs. And this is something I refer to in my opening remarks, and the mayor also alluded to it that we proposal that the city council hold a hearing prior to the implementation date of the code to receive comments on mitigation fee in lieu and the HEP/HEA model that we are proposing to use to calculate the mitigation fee. In addition to that hearing we will, I also mentioned that the bureau of environmental services is working to convene a science review panel to review the science behind the HEP/HEA model that you also heard a little bit about. And we are also committed to holding regular stakeholder meetings to keep people up to speed on where we are in the progress we have made and to get input into the processes as we move forward.

Adams: Go ahead.

Saltzman: The gentleman from gunderson testified that he's never seen, the HEP and HEA model successfully applied together and he mentioned something about the willamette partnership model?

Emunds: Portions of the willamette partnership model we found could work in the lower willamette, but most of the model seems to be mortar getted to smaller streams. And.

*****: And prairie.

*****: And prairielands.

Saltzman: Is it true in your opinion the hepa and hea models have never been successfully applied together on a major --

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Edmunds: What I -- if I could call for another person to come down. Caitlin, are you still here?

Saltzman: There she is.

Kaitlin Lovell: Good evening again. The hep, habitat equivalency, I am forgetting the acronym now, assessment in the habitat, anyway, the hep and hea model has been independently used, one by the u.s. And Fish and wildlife service and the other by noaa Fisheries. They have been utilized together or had an opportunity to be utilized together so there's not an example that's successful or unsuccessful. But these independently these models are very well tested. They are quite rigorous. They have been brought into -- brought into by state, local, and federal agencies throughout the nation. They have been tested by the court. So we have a lot of confidence in these models. We have also looked at other types of models and banking systems and these don't have quite the legs yet but we are going to utilize pieces of those where they are applicable and then as this evolves certainly keep our minds open for those other models. That is one of the reasons we are calling the science team together to make sure that we are doing this in the accordance with the best available science and also provide that -- it's not a level of certainty but a level of comfort to the applicants that they are going to be able to use the process that would apply at the federal, state, and local levels whereas now there is no continuum between these three levels of government and so they negotiate mitigation with one with the federal entity and then negotiated it with the state and then come back to the city and then it changes and they have to go back. And so this will hopefully really streamline the process.

Leonard: How do we from the city point of view force the feds and the states to do a streamlined process at our request?

Lovell: We do not everyone that we have working with around the table sees the advantages of this so we have verbal commitments from them to work do it. That's as much as we can hope for at this point. And.

Adams: If I could, commissioner, there's actually with the river trust, we have actually done it.

*******:** We have.

Adams: On government projects. So they have, we have had the opportunity to show ourselves how to take full advantage of that. And they have seen the benefit. This particular is actually, though, push, it to the next level. And it's in direct interest of not asking applicants to go as you describe to go through multiple hoops for different layers of regulation or different governmental regular lays. So we are trying to be, trying to provide the applicant the one-stop application, the one-stop process and in this case, the science to back up their application, we are trying 2 to allow them to maximum value for the work that they are going to have to do and in many cases on the state and federal level anyway.

Leonard: That can begin understanding and isolating what the issues are that he need to focus on, as we discussed the model, it is, only used to determine what the mitigation needs to be for a particular project. Not whether or not a project happens in the permitting process?

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

Leonard: So that's a part and distinct from whether or not we adopt a type two river review process. Correct? And so that's helpful for me because I can set that aside and so if we wanted, we can adopt in model to help us from the point that this ordinance becomes effective forward, determine what the mitigation needs to be because of a particular proposed project. However, on the permitting process, the type two river review permitting process, as I am looking at the flowchart, and it helps me refresh my memory when I see here the participants are on the top in terms of the state and federal regular later so on the federal side, and I know this because we are beginning at the fire bureau to work on a waterfront project hearing about the various layers of regulations apart from whatever the city might do or any river-related project on the federal level, we got the u.s. Army corps of engineers, u.s. Fish and wildlife and marine service. On the state we have Oregon department of state lands, Oregon department of Fish and wildlife and the Oregon

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department of environmental quality. So we are proposing a new process to augment whatever it is they regulate, at our level. I guess the question that is beginning to form in my mind as we are having this discussion, I have heard some of the industry folks say just on this particular piece on the process piece of applying for a permit they would rather in lieu of doing this process, pay a new development fee as I am assuming they are suggesting over and above whatever that model determines the development should be but in lieu of doing a permitted process, pay that in lieu of going through another process so the question I start, I am starting to develop is, what is the incremental value we get for habitat with the new process versus the amount of money they are willing to pay over and above what the hep ia mitigation model might determine they should pay for mitigation projects on the liver?

Adams: That kind of gets into number five. You are absolutely right. There is a window that, where paying a fee is better for the environment and better for certainty of attracting business investment and reinvestment. There is a threshold where in lieu of fee, makes more sense to me. And so if you want to talk a little bit about how we are going to try to figure out what that in lieu of window is.

Leonard: I guess I am not asking for particular answer, I was just more verbalizing where I am at listening to the testimony and reading what I have so far and maybe even signaling what I am looking for to help me get to whenever people want me to get.

Adams: Part of what we did was, attacks wanted to know, ok, we have perfected this process to a certain point so we went back to old permits, old indications and ran them through people, working waterfront coalition is concerned the number that spit out, was to be spit out for mitigation would be much higher than would be overly burdensome so we took some old permits, put them through the proposed process, and what came out was, in some cases, you know, a couple thousand dollars that they would have to pay. So that then brought us to kind of your thinking that there is a threshold where an in lieu of fee makes more sense than making them spend money on consultants.

Leonard: I guess my question is, it a threshold or is it something that we want to adopt for any river-related development? Again, on the, what I am looking for is anybody who wants to show me that the incremental improvement that we will have in river quality and the various species of Fish habitat improves over what those six or seven federal and state regulatory agencies provide currently. Is there that much of a gap that we need to step in and develop a new process? Or should all development pay some fee in addition to the HEP/HEA mitigation fee that would substantially contribute more to habitat restoration than this brand-new process?

Emunds: First of all, I wanted to clarify that the city currently regulates the below ordinary high water. These are refined regulations in this area.

Leonard: Give me an example, for instance, currently where the city --

Adams: Expand. It's an expansion of the city's purview under ordinary high water.

Emunds: We do currently review below ordinary high water.

Leonard: Is it cinge to land use review and subject to appeal to luba currently?

Emunds: I believe so.

*******:** Greenway by review today for construction in the river. Ordinarily high water.

Leonard: I want to you listen very carefully to my question. What I am asking you is, is the currently permitted and is it currently considered to be a land use decision that is appealable to luba?

Emunds: One of your staff is here. Kim talent who is the supervisor of the group who reviews these.

Kim Tallant: Gentlemen, it is currently reviewed through a mutual reveilleux and those are appealable currently repealable to the hearings officer.

Leonard: The hearings officer.

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Tallant: Yes. And their decision is appealable to luba.

Leonard: So is anything that we are doing in the regulatory aspect of these various regulations we are considering creating new appeals to luba that wouldn't have existed prior to the adoption?

Tallant: We don't think so. And, in fact, we think because of the new exceptions that have been added as well as the new set of development standards there are, we will perhaps have fewer land use reviews for work along the willamette river.

Leonard: That's a great answer. [laughter]

Adams: I think the working water front coalition would argue that the scope of what the city can look at expands. There have been some other changes you described overall, you can say through the whole system might be narrowed but the working water front coalition is concerned that the different kinds of things that this proposed change allows for means different kinds of an expanded list of things could be appealable.

Tallant: That is true. Yes. The criteria will be different.

Leonard: So this chart, do you have this flowchart?

Tallant: I have seen it.

Leonard: Somebody has it up there. Can maybe anybody, any one of you up there, just so I can focus maybe better than just what the answer was. What about that flow chart is different than what we do now? On just the city of Portland side, the type two review. It's proposing, the proposal is to be a hype two x review.

Leonard: So what does x mean?

Tallant: It adds an additional week upfront so when application comes in instead of having two weeks for the planner to review the application for completeness we would have three. And the reason why that was proposed instead of keeping the process that we currently do is because we heard feedback from the industries that they would like check-in points earlier and frequently, more frequently with other service bureaus that have feedback on mitigation that make come up as a result of the review. And that three-week period would allow us to send out what we call a request for completeness or basically an early request for comments to bureau of environmental services and any other bureaus that we think would need to have input earlier on in the process.

Leonard: I see. So the criteria you were discussing just before I pointed you to the flowchart, what is the change in criteria?

Tallant: My understanding is that we have added or we are more specific in relating to the inventoried resources and functional values that we would be looking at. And weighing alternatives to location and design and construction methods. So what it does is it's changing the greenway review to mimic more closely how we review applications in environmental zones.

Leonard: I see.

Adams: If I could, commissioner, your, just to make note for staff to think about or react to, your notion is not the threshold for fee in lieu of. Your notion was, is there a threshold in which they don't go through this process.

Leonard: I guess the question i'm beginning to have is, if we currently have a permitting process, why is the working waterfront coalition proposing to pay a fee in lieu of a process that already exists? I mean, I guess my implication I am thinking they are thinking there's something new that they are having to do if we pass this that they didn't have to do before or they wouldn't be offering to pay \$125,000. I'm just trying to figure out what that is.

Tallant: I don't necessarily want to comment for them but my understanding from their comments is that they believe that by eliminating a city review it would shorten their overall time frame because they would prefer to pay instead of going through that process.

Leonard: But you are saying they go through the review currently?

Tallant: Uh-huh.

Leonard: Ok. Thanks.

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Edmunds: And this flowchart shows that the city process is actually much shorter than the state and federal review time lines. What we have plugged I believe here is the coordination process which would allow the city, state, and federal processes to proceed all at once and so in order to do that, an applicant would have to request that their application be extended.

Tallant: They would grant an extension to the city to basically put the case on hold and allow them to work through the state and federal permitting processes to get more feedback from them to make sure that when the city issues the decision, it's not in conflict with what state and federal agencies would require. So this extends the process but, in general, for example, in 2009, our green river reviews took anywhere between 35 and 100 days. So there's a broad range on how long it takes to process an application. And part of that is whether the applicant chooses to place things on hold to work on it.

Adams: And you continue to go through the concerns and our proposal to address them? 8.

Edmunds: Thank you.

Leonard: Thank you, Kim.

Edmunds: Where were we? Expensive, number four, expensive process with little or no environmental gain. Need flexibility to encourage business to redevelop. So this is, mayor, this is what you were referencing. The city proposals to explore thresholds under which an applicant could mitigate offsite without following the HEP/HEA model. And we have not had the time to enter into those discussions about what that threshold should be. But as the mayor was referring to, there may be situations and it may be a number of square feet or activity that's it's possible an applicant would be able to mitigate offsite without using HEP/HEA. We would have to determine what calculation process that they would have to use. So how would we determine the mitigation? If we don't use HEP/HEA? We could try to figure that out.

Adams: Some. Test runs that we did, the good news was that the end product, the fees that they had to pay were not high but the consultant, potential consultant fee as you heard from Ann, the potential consultant work might be more than the fees they might have to pay us and that's kind of a waste of everyone's time and money.

Edmunds: Well, I followed up on that. I asked the city's consultant who is helping us develop this model, Tetra Tech, a local company. They send us an estimate of what they believe it would take a consultant to run HEP/HEA on a consultant who is generally knowledgeable about these sorts of things but was not familiar with the city's proposed HEP/HEA process. They calculated it would take about a day for a consultant to get up to speed on what the city's process was. There's been a day in the field and anyway, I don't have it in front of me but they, the final number was somewhere between five and \$6,000 to actually run the entire HEP/HEA process and provide a client with a product.

Adams: So you can see from the scrunchy faces throughout they have a different view of things and that's why we will take the time to figure out what the threshold is.

Edmunds: But this is what our consultant told us. The next item predictable for business to encourage redevelopment. I believe that we did recommend an amendment that would allow applicants to pay a fee in lieu of meeting the standard. So at this point there are some standards in the river are river plan code and if someone wants to use the standards they have to mitigate on site. And one of the things that business asked for is the opportunity to be able to use that standards process but still be able to mitigate offsite. And so we did, the mayor did propose an amendment in response to that. We also understand that the port and perhaps the working water front coalition have been working on some recommended standards for activities that are common place for business. And we haven't seen those yet. But if they provide them we would be happy to review them. Number six, uncertainty process and potential delay. This -- and I may need Kim Tallant's help again on this. One of the concerns was that there should be a time limit on city review. So state law and city zoning code limit the time within which a city needs to make a decision on a land

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use case. In the type two x process which we are proposing here, the city must make a final decision within 42 days of the day the application is deemed complete. And the city cannot make final decision until at least 30 days after the application is complete. So it's between 30 and 42 days. If an applicant chooses to participate in the this early review process they put the process on hold in order to follow this process. The early review process. One of the other, one the other things that the working water front coalition was wondering is how long after the biological opinion is issued could the city take action.

Diane Hale, Bureau of Planning and Sustainability: So according to the type two process, two x process if the project was put on hold on day one after the application was deemed complete, once the biological opinion comes in and the application is taken off hold, the maximum amount of time the city could take to make a final decision is 42 days. If the city has spent some of those 42 days procedure to it being put on hold that would then shorten that time line. So there's a time limit on how long it would take after biological opinion is rendered by noaa.

Edmunds: The second thing the working water front coalition asked for was us to require applicants go through this enhanced permit review process. And our responsibility to that is that we are not sure all applicants would necessarily benefit. And so we would refer to leave the process voluntary at this point especially until we get cim track record there. The next concern was that they wanted us to provide an option for a type three appeal. And we don't feel it's appropriate for river review cases to be decided by city council. Type three cases are those that require substantial amount of discretion, have a high impact on the overall city, such as a zone change or a land division that will affect a lot of people. And so while a river review understandably is significant there are particular property owner the impacts to the broader community aren't as significant. So the mayor's proposed amendment is that we follow the 2x process that you just heard from kim talent. And then the other piece here that's important to know is that if an applicant feels like they are being asked for too much information, or that staff is not responding in a timely way, they can demand that the city issue a decision. And if the city denies the application due to lack of information, the applicant can appeal that to a hearings officer. And that hearings officer could find that the city doesn't have a good reason to ask for the information and they could reverse the staff's decision.

Adams: That is an innovation that is pretty unique.

Saltzman: Your proposed amendments?

Leonard: I would think the outcome of asking, demanding that the city issue a decision be like demanding a judge issue a decision. I don't know I would want to.

*******:** The 2x --

Fritz: Expedited review? Many of us in the -- my old cohorts in the neighborhood community didn't like that it was easier for the applicants to get their permit quicker without what we felt was the right level of scrutiny. So this is actually a bonus, in addition to the three weeks before, for the planner to review it, it gets you through the process faster.

Adams: And this is responsive to a lot of fear that they will just folks will just get stuck. Go ahead. Let's finish this up.

Emunds: So number seven, the concern is that the code places limits on mitigation bank opportunities. Demands use of the HEP/HEA combo. So the city is not proposing to require that any particular model be used by a mitigation bank. However, the city wants to be sure that whatever model is used is scientifically based and accounts for loss of resources over time. In addition the city wants a model that the state and federal agencies can agree to collectively use so that we can have at one-stop shopping mitigation that's agreed to by all the state and federal agencies as wells a the city.

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Leonard: So according to the testimony there's a disconnect between what some folks think is happening and what this says. Is that language that is in the city response contained within the amendments?

Hale: No. Ann pointed out a place where I neglected to make a language clarification or language change and that's my fault and I will correct it.

Leonard: Thank you. That's a great answer, too.

Hale: Thank you.

Edmunds: Ok. And the final item here is accountability. The question was where would the in lieu fee money go. And we and I don't know if anybody else from here who wants to speak to this. But my understanding is that there will be a subaccount in a bes account where the in lieu fee money would be deposited and the city would restrict the use of those funds to activities directly associated with restoration and that would include land acquisition, design, construction, long term maintenance. So we are absolutely committed to accountability with that money. We want that money to be spent on restoration.

Leonard: This has helped me a lot.

Adams: We will go back to testimony. And wish at the magic mark where we get down to one minute each.

*****: Clerk: The next three are Joe Esmond, David Harvey, and Dan Rolf. They will be followed by Glen Gordon, Art Wagner and Sue Marshall.

Adams: Sue Marshall, are you here? Come on up. We have an empty chair, I think. Are you coming in? Oh.

*****: I can.

*****: Clerk: Joe Esmond.

Adams: She's faster than you are. Come on up, Sue.

Joe Esmond: I'm Joe Esmond, Portland, Oregon. I am a business rep for the IBEW local 48 representing roughly 3,000 members around here. I am representing endangered species also. It's called the working man, the working woman. Working families. I apologize up front because I have been doing this for about three months now and other avenues trying to get people to work, trying to send signals out to the businesses, business community around the world to bring your businesses here. I have offer might services to the city, offer might services to the state to go help attract businesses to put people to work who pay taxes in Portland. Thank you.

Adams: Thank you, Joe. We share the passion. Hi.

Sue Marshall: Hi. Mayor Adams, members of the council, my name is Sue Marshall. I am here tonight representing the Tualatin River Keepers in north of the North Reach River Plan 6789. I want to thank everyone whose hard work went into bringing this forward. We are a part of the Willamette basin. We feel that our 40-year investment in restoring the Tualatin basin is dependent on safe passage for salmonids through the city of Portland and the Willamette River. It's daunting, undoubtedly, to look at the century of impact. I think the Tualatin River is an example of a river that 40 years ago you wouldn't have held out very high hopes for its improvement. But the citizens in the Tualatin basin are reaping the benefits. A couple of specifics related to the North Reach River Plan. We are supportive of the riparian habitat being restored. It's continues to be in decline. These pearls of restoration are important refuge for migrating salmonids. We also are supportive of local regulation and oversight enforcement to assure that the plan is implemented and protected. We are aware of the great investment that the city of Portland has made in storm water treatment and gray to green. We appreciate that. We feel like we are in this together with you. We are counting on you and likewise you can count on us to do our utmost to protect and restore the spawning and rearing habitat in the upper reaches.

Adams: Thank you. I will let you go over.

*****: Thanks.

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Adams: I will let you go over now.

David Harvey: Yo: Dave harvey. Bev 1,000 living wage jobs. Some of people from gunderson are here, some of the living wage job folks. Some of the folks who start work before we get up have already left. Four things are wrong. One, the application, two, the process, three the supporting data and four how it's going to affect projects. One, the application process. It's complicated, costly and uncertain. If you are going to do one thing gets rid of the habitat evaluation procedure. Costly doesn't add any value. Two, process. Can add value. Is duplicative especially below ordinary high water. What good for salmon is good for the habitat. Fee in lieu of instead. Spend money on the river. Not on paperwork. Spend money on the river not on paperwork. Three, the nra for us the 1987 inventory was more accurate than the supposed updated one. 1987 has it as the lowest possible rank on the river. We haven't degraded it since we have been there but it was low. It is low. And the nr I is wrong. Projects we have an example project in our handledout. The rs is \$185,000 6% of project doss and one final thing the legal issues, the added legal items. Our lawyer, our outside counsel tells me there are issues with that. I don't know the details.

Adams: I think we have addressed most of those issues in our most recent response and we would welcome your comments on the most recent legal issues raised by the city attorney 6789 thank you for your testimony.

Harvey: We will. I don't necessarily agree with the fact they have been addressed.

Adams: I know. Who are the next three?

Clerk: David harvey or dan rolf? I think that was you. Sorry. Glen gordon. Art wagner. Maura grove. Steven hatfield.

Adams: Go ahead, art.

*******:** Clerk: Kim.

Adams: She will keep yelling.

Art Wagner: I'm art wagner a. Longshoreman retired. I start working on the Portland waterfront for the Portland commission of public docks. Loading green hides filled with maggots and blood and salt in 1960. I retired in august of last year. Six weeks short of 49 years. I supervised by being the foreman on almost every kind of a job on the Portland water front, I have driven all the cranes at the port of Portland, driven all the cranes for schnitzer's, supervised all their jobs. I have very familiar with the willamette river. Especially what's known as the, this particular reach we are talking about which is pretty silly because the river is a river. It's part of a system and treat it as chopping it up is just chopping it up and will continue to damage it. Let me – waterfront work has changed. Commissioner Fish at a meeting asked how many of you live in Portland and 2 people raised their hands. We had about 300 of our 500 members. Thank you very much.

Mara Gross: I'm mara gross, policy director for coalition for a livable future. CLF represents more than 90 community groups including Portland Audubon, and Urban Greenspaces institute, whose work has been instrumental to the work that is proposed before you. the river plan supports improvements to do most degraded stretch to the entire willamette. It serves a part of the river for the communities of historically had minimal access. When they get that access they ought to see a community asset. Right now they see a river that's trashed. You have before you a balanced plan and, in fact, community groups have made significant concessions to achieve this balance. This plan is a good example of addressing the true cost of development rather than externalizing them. It's important to the state maintain its regulatory authority because much more than state and federal agencies, you speak for us. You speak for the community. Please don't give away that voice. Kudos to the city for the hard work creating this plan. You have worked in good faith creating plan that shouldn't be undermined at the 11th hour. In sum I believe no further changes need to be made. Please adopt the plan. Thank you.

Adams: Thank you. Sir.

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Glen Gordon: Yes. My name is glen gordon. Good evening, mayor and the commissioners. I am here as an individual, as a resident of the linnton community. I am here to discuss with you the efforts that have been put forth to create a constant road block that prohibits our effort to have one of the stipulations of the north reach river plan study removed. Condition we identify includes the establishment of a 30-year moratorium land use designation for a 37-acre parcel located in the heart of linnton. Members of the community have shown up and testified before every appropriated body and allowed public testimony or input to express our concern. Our message is consistent about a request to get 30-year moratorium condition removed from the plan. No one hears us. No one answers us. 2340 one gives us so much as a simple answer why we are crazy. Ism not here as a member of the working water front coalition. But I believe that we have the right to have the support of that coalition. I'll tell you why. We believe the linnton community has earned the right to be designated as a good neighbor with our industrial neighbors and I believe we have the right to ask their support. I say this with the knowledge we have become used to the idea of getting our drums blasted with the sounds of thousands of tons of scrap metal sliding down chutes at all hours of the day and night. We don't complain about the massive, about this situation and we don't complain about explosion that shake our foundations and rattle our windows when unexpected explosions occur with when undiscovered tanks explode. We are here to ask for is don't lock this 37-acre parcel up and throw away the key. We don't know the future of that land, the landowners don't know it. Planners don't know it. Community doesn't know it. 30 years is a long time to throw something away when we don't know the future. Please don't let that get locked up. It doesn't benefit anybody. The land is inappropriately zoned. But it doesn't do any good to lock it up and throw it in that hopper. Please exclude it.

Adams: I appreciated it. Thank you. Thank you for your testimony. Next three.

*******:** Clerk: Dan rolf, steven hatfield or jim here? Thank you. Let's go with alan horton, curt snyder, bernie bottomley. And then if her here eric, corky collier and aryan that longnecker. Mary vogel? I thought you left. I got an email. I thought you had left. It's call you next.

Bernie Bottomly: Bernie bottomly, mr. Mayor and members of council with the Portland business alliance. It's a late hour so I will be brief. I want to compliment the mayor and commissioner Fritz for your work on meeting with the business community and working through a number of issues between the draft and these amendments. We appreciate that effort. And I hope the council also appreciates that the business community has moved on this issue as well. We have come forward with neighbor of proposals. Not the least of which is offering it a 2.5% fee on development in lieu of some of the regulatory issues that are being proposed. I would like to answer commissioner Leonard's question earlier about why would the business community be willing to offer a 1.5% fee in lieu of a river view and the reason is that the experts who do permitting for projects as a profession on a day in and day out basis that work for the harbor businesses have looked at this proposal. They have determined that the cost in going through a river review will be more than 1.5% of the project cost. Until that issue is resolved, we would ask you not to move forward on this plan. The issues are obviously very complex, there's obviously misunderstanding and disagreement in the details. Moving forward at this point would be like agreeing to a 30-year mortgage without having the interest rate filled in. We'd like to have the opportunity to continue to work in a productive way that we have in the last couple of weeks to work out the issues.

Leonard: On this topic, I don't know if I'm confused or what, but on the mitigation—

Bottomly: I'm talking about the river review process.

Leonard: So are you asking that a current process that exists should no longer exist. Or are you describing a new layer to the process?

Bottomly: The in river review, below high water review there are issues that the city can review in those permit applications. Can and does. They are very limited. Experts analysis is that there is significant added criteria and requirements that will be placed on the businesses as a result of the

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revised in water review. It will be such a scope to cost more than 1.5% of the project costs. That's why they are offering to pay a fee in lieu of that process.

Leonard: So what I need is a very specific communication from you guys to state what it is that is added so that staff and the mayor can look at it and respond.

Bottomly: We'll provide that.

Adams: Part of it was we have a lot of consultants saying different things.

Leonard: I'm not looking for that. What I will read is here's what you're adopting that's new that is not currently in code that requires this extra process. You are not asking what is in the current review, you're issue is with the new language.

Bottomly: Exactly.

Fritz: I would be interested in your analysis and how you determined that 1.5% is fair. Is that on a \$100,000 project that would be \$1,500? \$15,000?

Bottomly: \$15,000. A significant increase.

Leonard: 1.5% would be \$1,500. I went to Grant High School.

Fritz: Regardless, I would like to know how you reached that figure and how it would play out. Permit fees for environmental review on a single family house or similar.

Adams: So I would just say the reason that the consultants depending on who their clients are, offer wildly varied estimates. And so that's why where we have not had time to do our own independent work and listen to all the consultants and all the practitioners out there. That's why some of these elements are not decided in establishing this plan. This plan calls for a work plan to have the kind of public input, and put the oversight committee in place. I'd still like to see your answers.

Bottomly: We will provide that. We would just like to see the process work its way through before the plan is adopted.

Leonard: So both of those questions are to be answered.

Adams: And just to be really clear I'm interested in getting the plan passed with the to-do items because this plan has stretched on for years. It is not to say the plan cannot continue to perfect it, we will need to continue to perfect it. But part of the certainty we want to get to is to begin to make some decisions, even if they are provisional, not finalized according to the calendar year. That's where I'm at.

Alan Horton: On behalf of the board of directors of the freshwater trust, thank you for the opportunity to comment on the plan. my name is alan Horton, executive director of the freshwater trust in Portland Oregon, representing about 2500 members in the city and about 4,000 members state-wide. Freshwater trust is a 27 year old conservation organization that implements river and stream restoration projects all around the state of Oregon. The plan, what we recognize in the plan is what it recognizes that the river is both an economic and ecological resource. And a healthy working water riverfront is essential for not just aquatic and other species but also for the long term livability and viability of our city. Conservation groups, industry and agencies all support that basic position. There is in fact in our view enormous overlap in the objectives of industry, conservation and the city. That said, the river plan, especially with the mayor's proposed amendments allows us time to figure out many of the details at the heart of remaining industry/conservation disagreements. The successful modeling and implementation of the north reach mitigation bank, for example, offers the potential to streamline many aspects of review while providing the certainty around inputs and outcomes desirable by industry and conservation. In conclusion freshwater trust recommends the river plan including the mayor's proposed amendments which allow for the time and process to resolve key details on mitigation banking and other plan elements. In the past some of the historic defaults not allow them to all work against progress on this plan, the devil will certainly be in the details here for recognition of our trust going a long way. We have an

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opportunity to blaze a better path forward in ecological balance for the river. If I could have 15 more seconds I want --

Adams: Would you like to say in 15 seconds?

Alan Horton: On the environment piece which commissioner Saltzman mentioned earlier, only because we had a hand in writing them. The staff is quite right those were developed, we are fans of them. We've applied them ourselves upstream in the willamette. Applied this last fall in the tualatin but they are limited to fairly narrow streams. There's some potential for them we think on larger streams and even in main stem of the willamette river, and there's some benefits to them from a scientific perspective because they use some of the most recent around allowing impacts and transaction costs for potentially be much smaller but we also recognize the city is open to that. At least that's our understanding from staff is they are open to look at that as an alternative hepi or working in cooperation which we are totally supportive of.

Adams: We are trying to sort of get out of is this catch-22 where industry says we are asking for a lot of additional work so we figure out a way to get maximum value for the kinds of evaluated work they are likely to have to do 98 and then we get criticized for the proposal that it's never been used before. Even though the very essence of our effort is to maximize value. But you are absolutely right. HEP/HEA, we are open to other approaches as well and your approach has worked amazing me well in other areas and we feel there's promise to expand it to this setting. Sir.

Curt Schneider: Thank you. I'm curt schneider, secretary for mp greenway. And thank you for this opportunity and thank you for the support of the trail that you have given and the adoption and the bicycle master plan. Quickly, last time I was here I mentioned the concern of the trail in a mitigation area. I want to thank you very mitchell for the language that you have included on pages 32 and 33. Just have one caveat on that and that is that's in the plan. I have not seen any corresponding language that might be in the code. I think maybe a direction where we can get some feeling on that is in your certification process. And then secondarily, on your, as it's called nora, we would love to be a participant in that should you find it suitable to be on that. Thank you very much and I support the plan so we can get the trail suggested.

Adams: Thank you very much. How many more people do we have?

*****: Clerk: About 25 if they are still here.

Adams: How many people have had -- are speaking for an organization or firm that has already had a representative speak? Ok. Mary, you have sign upped so why don't you come up.

*****: Clerk: Eric, corky collier.

Adams: You are required by city code to identify yourself if you are a lobbyist or a representative of another entity. Mary, we will begin with you.

Mary Vogel: Ok. I am mary vogel from plan green, a woman business enterprise consulting firm based in downtown Portland that helps sustainability leaders in business and government put ecosystem services into their land development plans in order to achieve prosperity. I will skip over the fact we were rated tenth by forbes magazine in as tenth most toxic city and how that's not good for business either. To remind businesses here tonight that economic efficiency is also big and that Portland has design and construction cost savings of 20 to 63% in the design of its green streets over the conventional way of doing storm sewers. And that toyota plant found that a very unintended consequence to its restoration in that it helped the retain employees and increase worker productivity because the mother mallard who adopt the their landscape in front of the factory became the mascot for the employees and they loved to watch her bring her young ducklings up the river bank every day. So this really helped with worker productivity which is one of the most important parts of or the biggest expenses in industry is retaining employees. So I just wanted to say that the working harbor businesses that they should see the river plan as part of their path towards driving the more new resource efficient economy. Thank you.

Adams: Sir?

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Erik Stromquist: Thank you very much. I am not lobbyist. I could be. Mayor, commissioners, thank you for the opportunity to speak today. My name is Eric Stromquist and I am vice president of CTO. We are a 20-year-old computer electronics firm located in the industrial northwest Portland. CTO employs approximately 40 people and contributes \$30 million in revenue to our \$6 billion of the electronics industry here in Portland. We support the working waterfront coalition. We are not on the waterfront so you can see we are not directly impacted by the river plan. However, we imported over 100 containers of electronics last year throughout port of Portland. If the port of Portland is concerned the language shoremen are concerned then we are as well. I am also concerned for our industrial neighbors like Gunderson and Schnitzer Steel. I am afraid if the permitted process required for waterfront based companies to invest, expand and create new jobs would be more complex, moves less particularly during this economic downturn, more process is not helpful. Mayor, commissioners, the United States needs to return to the country that makes things again. Our neighbors in northwest Portland have a long history of doing just that. I don't want to see this jeopardized. The manufacturing process we create wealth. This wealth returns to the community in the form of better schools, well funded governments and jobs for our citizens. Please give careful consideration to the river plan so that objectives for environmental improvements and job growth can be created on our waterfront. Thank you very much.

Adams: We are. Corky.

Corky Collier: Corky Collier. You have heard a chorus of we can do this but we are not quite there yet. I ask to you focus on economic development. A good example is Heart Borrow Ready project which I think most of you are familiar with. It's an attempt to put jobs back on cleaned up brown fields. Two basic goals. One is to increase taxes, city tax revenue. The other is to get those brown fields cleaned up. Over a year ago Congressman Blumenauer spoke of his city's appointment that none of those, none of those harbor brown fields had been cleaned up since he sat in those chairs. His message was sometimes we have to compromise our highest environmental goals in order to achieve the most environmental success. So it's really I are are simple as we move forward, the more you increase economic development, the more you are going to get environmental improvements through the river plan. So I ask you to reflect this, adjust over time to achieve it. Thank you.

Adams: Thank you very much. Are there folks of the 20-some folks that are yet to testify, is there an argument we haven't heard yet? Ok. Why don't you come forward. Two of you over there. [inaudible]

Adams: You can't do that. I wish. Otherwise I would have 10 people sign up and give 10 minutes to one person. So you have to come up, Jan. Or Christy will come up. Go ahead, sir.

George Webb: My name is George Webb and I am president of Harbor Steel Products in Linnton. We are a railroad supplier that's been in Linnton since the 1940s. We are growing and we are concerned about the trail designations in Linnton. Our current amended plan removes the front avenue branch but leaves the most problematic branches of the trail. Northwest 107th street of the trail cuts across private property we use as a storage yards and rail cutting area. Such a trail would limit and make it impossible to expand southward. Top branch of the trail would be completely on our property. This presents significant liability and safety concerns for us. Even without a trail we have had already had trespassers building illegal fires and dangerous, illegal dangerous fires on the beach which threaten the trees and shrubs growing on the river bank. This area has been identified as a potential restoration site by the city and the natural resource trustees and the presence of a trail thin area would be in conflict with this use. Our property is one of the few in the Portland harbor with a beach and could be very important as a restoration site. This would be enough to eliminate the top of the bank trail. I hope you will consider the plan to address these. Our first choice would be to leave the trail completely up on St. Helens road and eliminate all three trail branches surrounding our property. If that's not possible we could live with the front avenue loop

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but proposal the top of bank branch and the priority property extension of the 107th front trail branch be eliminated. We believe it's particularly important it not go towards the river. Perhaps sometimes in the future there will be an opportunity for the community to get a trail with access to the river on linnton plywood site but until in property is sold and specific users identified, it is premature and unfair to designate specific trail locations. Thank you.

Adams: So with did make some of the changes you asked for.

*******:** Yes. But you left the one --

Adams: End of your testimony. I wanted you to acknowledge we made some of the changes you asked for. Hi.

Darise Weller: Hi. My name is darise weller. I was going to talk about emergency preparedness that has a place on the northridge plan but it's not included at all but I am after listening to the commentary I want going to change that so but I have distributed my comments on the paper. I am concerned many of the labor and industry advocates are so tunnel visioned they can't see they are having a healthy river and healthy carlisle mat will attract businesses to a clean green city that will be a benefit rather than a detriment to creating jobs. The willamette being the second most contaminated river in the united states obviously something needs to change because of business as usual has not work sewed far. So I applaud the city's attempt to set up some kind of system to monitor the continuing go pollution. The current businesses have contributed or created and profited from the river's degrad education and we need to step up to improve it. One of my other concerns is any mitigation that should take place on the willamette river and in the north reach and not some other place in the city.

Adams: Thank you very much. Ms. White.

Christe White: Hi. I am christe white representing the university of Portland. I will try keep it toment but that will be hard. I will here to request an amendment to a small section of the environment overlay zone that was imposed on the university campus through the river plan. This particular section of the bluff is located more than 800 feet from the river. And is not some of the river environmental river zone imposed on the river which we don't object t you have a memo there with just draw particular attention to exhibits 1 and 2. Exhibit 1 shows the zoning on the campus pre-river plan. Exhibit 2 shows post-river plan. You will see there's a new corridor of zoning running through the campus. Along the bluff dividing the bluff, the bluff campus from the river campus. I want to be clear that the university does not object to the imposition of environmental zoning on property and doesn't object to the river environmental zone that was placed along the greenway. What we do instead object to is a small section of the zoning which you heard discussed here before with questions from commissioner Fish to bob salinger regard, the small section of ec zoning where there was an ep zone. We very much appreciated the work of staff and the mayor to alter that to an ec zone but would like the city to can he removing that at all together. One is exhibit three shows you the conceptual master plan for the university of Portland. That formed the basis of both the epa remediation efforts going on for the river campus form the basis for a rezoning of the property in 2008 which the city approved.

Fish: Could you tell us the three reasons why you think it's an important?

White: I can tell you the three reasons that support my position. I really appreciate that. The three reasons that support our position are that you will see exhibit three, the conceptual master plan and that master plan shows you a building and that building is at the intersection of portsmouth and mccosh. That building is the gateway building that was part of the conceptual master plan in forming the basis not only for the acquisition of the site but also for the e.p.a. Remediation effort and the rezoning of this property in 2008. The property on the river. To allow the university as a permitted use. It is a critical building operationally visually and functionally to connect upper campus with the lower campus and with a fundamental premise in proceeding with the acquisition and the remediation. Under the river plan this is now covered with an ec zone if we follow the

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mayor's amendment. And what we are asking to you consider is removing even the ec zone. For a second reason, and that is I have shown you a picture of that property. That property is not rich with resource. As indicated by the picture. It is supposed to be supportive of an oak woodland. It's also environmental values have everything to do with preserving a wildlife corridor and for slope stability. The university of Portland is interested in preserving all of those values. What we would like to be able to do is preserve those values through the rationale in our third reason, which is we are not asking you to be exempt from review. If we remove the ec zone from this property, then, we will be left unlike many users along the river, with a type three conditional use requirement. We are not permitted as a university to proceed with redevelopment of the river campus until we go through a type three conditional use review. That is a very rigorous review and the university of Portland is on the record for being willing to entertain mitigation proposals and proposed mitigation for a building footprint in that location. So it is not correct to say that we would like to avoid mitigation, or avoid a discussion of environmental impacts. We are very open to that. We think there's a couple of tools available in the zoning code to do that. One of the tools that's particular to us because we are a conditional use master plan institution in this zone is a conditional use master plan and we would be happy to entertain that discussion during those conditional use master plan proceedings.

Leonard: Can I cut to the chase here?

*******:** Please.

Leonard: What about the ez zoning causes you to think you can't construct a building?

White: Thanks for that question. Under the ez zoning, you are required to do an alternatives analysis and required to de99 straight there's no other practical alternative for the foot print. Because we are such a large campus it will be difficult for us to demonstrate there's nowhere else to build this building. Under the river plan the difficulty for us the purpose of this building is a gateway building connecting to the two campuses but now we have a 200 to 300-foot-wide core core that cuts through the swire gateway. And we need to build within that gateway and we need certainty --

Leonard: Why doesn't that answer the question as to whether or not there's another place to put the building? If that's what you are characterizing?

White: It doesn't give the amount of certainty. We will be going through a type three process. There will be appellants to the process. There will be hearings officers.

Leonard: You are proposing a type three.

White: Yes. We will be going through a type three conditional use. Where alternative site locationers not required to be demonstrated. Although what we are saying is we are trying to be candid and up front telling the city we have long held this is where a building needs to be located. We want to locate it there. We don't want to have to go through influence an alternative analysis.

Leonard: Are there other alternatives besides the alternative location of the building that you are concerned about?

White: No.

Leonard: Are there other conditions of the ec zoning that would apply to this site that a type three review would not require?

White: Will well, there are different reviews and there are different standards.

Leonard: If we had a proposal of discussion amongst ourselves that gave the university some assurance in a ec zoning that you could build a building but you comply with all the other standards required in an ec zoning you would be ok with that.

White: Yes.

Fritz: I would be interested to know what you are think the conditional use criteria would apply to that. Because I disagree we have a characterization of what an ec zone does rather than having to

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avoid. What you would have to demonstrate is the proposed building's footprint and location minimized and mitigated rather than completely avoided impacts.

White: I would agree with that. Except for I think as a premise and any ec application I have ever processed through the city of Portland, I am required to show you alternative footprints that either avoid or minimize the environmental impact. And what I am suggesting is, we have a whole corridor here and we can't, we can't avoid the ec or ep zone in a gateway location.

Fritz: The whole campus, too. I think.

White: That's the problem.

Fritz: There would be some value in continuing to do that and the mayor has made the amendments to take it from ep before to minimize --

White: That's right. And we very much appreciate that movement.

Adams: Another item to follow up on. Thank you very all very much for your testimony.

Anybody else who v. Something to say that we have not heard? Come on up. Pat, come on up. There are two pats. Pat wagner, come on up. I appreciate you all waiting as it gets really late, though, we are trying to find a way to winnow things out a little bit. Go ahead, sir.

Mike Neale: Ok. Good evening, mayor Adams and commissioners. My name is mike neill. I am the legislative representative for the brotherhood of low motive engineers and trainman division 416. I represent over 90 engineers and conductors working on the Portland western railroad. The astoria district of our railroad runs through the linnton community. Certainly local industries and providing a connection south through the willamette valley. Because of time constraints I will limit my comments to the trail. In regards to the greenway trail, where the proposed additional crossings of the railroad grade and proposed proximity to the railroad and our freight customers this would bring a lot of people in interface with the trail. Many of them will be using ipods or other musical device. They will be focused on exercise and entertainment, not on the strain coming down the tracks. I have witnessed far too many cases of people wearing head phones walking right out in front of my train even though I am blowing the whistle and ringing the bell. Others try to hurry and beat the train and trip and fall right in front of the train. Please remember that trains don't have a steering wheel so the engineer can't swerve to avoid somebody. The linnton area contains heavy industry and many of our customers ship hazardous materials. If our engineers are foosed to put their train into a emergency braking to try and avoid hitting somebody at a trail crossing, increases the likelihood of causing a derailment which in turn greatly increases the risk of hazardous spills.

Adams: I need you to wrap up, sir.

Neale: Ok. One other item I would like to point out in addition to having a trail run through the backyards of businesses and security concerns, exposing both industry and the railroad to vandalism while also providing another access point for terrorists. We are under the jurisdiction of the transportation security administration and our workers must have identification to work in such close proximity to port facilities.

Adams: I need you to wrap up, sir.

*******:** Ok.

Fritz: You can give us your testimony. We will read it.

Neale: Ok. Thank you very much. I encourage you to continue working with the Portland western railroad to solve concerns about safety and security on the frail.

Adams: Thank you very much. Ms. Wagner.

*******:** I defer to him for just a second.

Rob Mathers: Him is rob mathers from energy partners. Thank you for your time and efforts in all of this. We own two petroleum terminals in the north reach and two pipelines in the Portland and northwest Oregon area. Also bulk facilities, et cetera. We converted our pipeline from Portland to eugene to a b2 biodiesel. That's the only biodiesel product we handle as of last october and invested about \$30 million in improvements and fuel handling and assets integrity in these

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facilities in the last several years. Just want to let you know that the cost complexity, and conflict that we still see we are concerned it would lead to disinvestment in the harbor and there by not achieve that environmental uplift that we all are trying to support. Specifically, we have one area of concern right near the tanker basin in the old bridge where there's a restoration site. That could impact our operations down the line. So just wanted to put that in front of you.

Adams: We did remove the trail you asked for.

Mather: Indeed. Thank you very much. If I could put the testimony -- the Saltzman trail. You snooze you lose. Ms. Wagner.

Pat Wagner: Ok. Remember river renaissance. I remember how exciting it was. I remember how beautiful it was. I remember -- you asked a question. You said, why in 20 years has nothing ever worked? I got it figured out. Because there's a conflicts of interest in the bureau of planning. In order for people to keep their jobs, they have to have work. In order to do work, plan, there has to be plans. Plans have to fail. And that's what's happening. And the other thing is, as far as the working waterfront coalition and all of these people, they are like amounts. They are going to keep coming and coming and coming and you will have to listen until eternity has gone. Mike houck, bob salinger all of they will will be gone. I will be gone and they will still be coming. I believe part, there are exaggerations, misstatements. And I don't even want to go there. But you know, I have just about had it. Thank you.

Adams: Thank you, pat. Appreciate it. Anyone else? Anyone else who wants to say something that hasn't been said thus far? Hi.

Pam Arden: I'm pam arden. Impart of the 40-mile loop land trust on the north Portland greenway group and I wanted to thank for putting the trail in and seconding what curt shader said earlier about the concerns we have with the mitigation stuff. And I just wanted to say that the explanation that I heard from city planner that answered all of the questions that you were put to you sound very reasonable to me and I would like to just say please get on it with it. We have gone through this for a long sometime. We could tweak this forever. Please get through it and thanks for the staff for doing all that work on answering all those questions. Thank you.

*****: Hi.

Krista Koehl: Good evening. Krista koehl with the port of Portland. It be really brief because I know we have went here a long time. I just want to make a quick comment about the cleanup changes that were made on friday and I very much appreciate the opportunity to talk about this. And I also very much appreciate mayor Adams addressing it on at the beginning of the session. We do see a significant substantive difference in determines terms of what was in the code before. In fact, it relates to a point we had conversations about in our last year and the year before so we would just like an opportunity to work with the city attorney on that. In a big difference is now it applies to federal cleanups and that is a huge significant substantive difference. Thank you.

Adams: Thanks for pointing that out. I have more work to do there. Hello, sir.

Phil Grillo: Thank you, mr. Mayor and members of the council. I am phil grillo, a member of the working waterfront coalition. I am not here on behalf of any clients. I don't represent the wwc. At the december 16th forum I submit adler explaining why I believe that the success of this plan is really dependent on the success of working water front. I urged you in that letter to listen to the discussions. Since that time several other things have occurred. First the wwc focused its concerns about eight major issues. We have seen some responses to that. I frankly have not had a chance to review them in depth. We have talked about them some today. And we don't believe that for the most part those really respond directly to most of our concerns. Now, I know that's not what you want to hear. And I can only tell you that I have had roughly about two hours to look at that. The reason for that is because I have some surgery over the weekend and so I didn't spend normally as I would my weekend reading things. I was recuperating. Be that as it may we also submitted very specific proposed amendeds to the code and we haven't received responses on those specific code

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amendment, the most recent package we have done. It to leave you with really a thought and maybe this is another way to reframe what you have already heard here today. And that is to I think it's very important to go going forward --

Adams: Wrap up, phil.

Grillo: I will. Is that to look at this in terms of economic momentum. If the code amendments that you are proposing to adopt really create economic momentum, then that's a good thing but we believe what's going to happen is if you adopt the code amendments before they are finished, you are going to create negative economic momentum moving forward.

Adams: We have heard that concern before, phil. We are at time of the evening where it's new thoughts. So anybody else, thank you. New thoughts, new concerns. New ideas.

*******:** I will end on a happy note.

Fritz: That's nice.

Greg Tyson: Thank. My name is greg tyson with the port of Portland. I have been working on the river plan with Sallie and company for at least five years. Sam, you mentioned earlier some of the efforts on the water front. I know the willamette greenway plan so I would like to suggest that the willamette greenway plan has been successful for the port of Portland at least and for the city of Portland in terms of over three miles of banks we have planted and over 40 acre was veg station that has been added to do north reach. Additionally we have built the willamette greenway trail on our property under the Broadway bridge, and and also taken steps to control, manage, and prevent storm water runoff from our facilities in the north reach. The port's contribution towards improving water quality and habitat have hopefully resulted cord, to do bureau of environmental service water quality in the north reach that has trended upward over the last 12 years. That's something we could all be proud of and that's coming out of some of your bureaus. Also the city's Portland plan back ground states water quality in the willamette river has improved considerably since citizens successesfully lobbied for water quality regulations in the 1930s.

Adams: I need to you wrap up.

Tyson: And we have seen significant improvement in the columbia slough and the willamette river.

Adams: Greg, when you provided this information in our earlier meetings you and I both know that folks on the environmental side claimed all over you for pointing out where you were legally required to do a whole bunch of stuff. Some of the results are lost. So the port has been a good player. There's no question about it. Others would argue about whether it's because of the greenway trail. And water quality improvements among other things in all fairness to the facts, \$1.3 billion are being spent by city ratepayers to help clean that up.

Tyson: Absolutely. I don't disagree.

Adams: Thank you for your testimony. All right. We are at the conclusion of public testimony. And I will take the pulse of council. If as we have done in the past we would get out a draft set of questions and issues to follow up on to council and then have you edit them. But if people have stuff they just want to offer tonight, staff is ready to take note. You want to start, commissioner Leonard?

Leonard: I would just on the issue of. Up. I would be very interested in us pursuing an amended to the ec zone that was proposed that it didn't sound like there was any disagreement on that the university be given assurance that it can have the site that is identified for whatever that building is but that they comply with all other criteria in ec seen.

Adams: Ok. This isn't the council's only opportunity to ask for follow-up.

Leonard: But also I think what would be most helpful for me is try to get closure on some of these points where it can only be a lack of communication between our staff and superintendent of these folks out here. Maybe these folks out here haven't been given the information in a timely fashion but seems like we are hearing a lot of testimony tonight that had already been addressed or resolved

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or somehow had been answered and I don't know what that is. But it would be helpful for me to get a summation of points of disagreements.

Fritz: I am not as interested in looking at a variance of some kind from the environmental conservation zone on the university of Portland property. I think that the ec zone is quite permissive and does give us the best development in sensitive areas. So I would be interested in look at what commissioner Leonard but I am not as interested in pursuing it myself. I want to first take the time to thank everybody for being here and thank you for staying so late. It shows that you care about our river, that you care about jobs and you care about the environment. And it doesn't have to be either jobs or environment. In fact, it cannot be either jobs or environment. We do better in Portland. And I think the point was well made that a healthy river is good for industry as well as good for the environment and good for citizens. So this plan is going to do that. And I am comfortable with the direction that the mayor has taken, and by the way, mayor, totally appreciative of your involvement personally many, many meetings, total awe of your grasp of the details down to what page it is and what particular amendment people are talking about. That's extremely impressive. [laughter]

Adams: Commissioner Fish?

Fritz: I am ignoring commission Fish.

Fish: I said I am -- --

Fritz: You will have your turn. The details do matter and to me what's happening in this plan we should adopt this plan because a lot of issues that have been brought up are the ones staff has already identified with you but we need more work on and that's why we are not going to implement the plan until the first of january 2011. We need to take 90% off the table and say that most of it we do agree on and that's what I heard tonight. Mousse of it we do agree on. A few key points where we don't, almost all of those are places where staff has said, bps is going to work on it, public services. There's a whole team of people who understand these are very complex so I want to go back to what molly janski said at beginning that this plan is not perfect and everybody needs to compromise. And to me some of the compromise that many of the compromises have already been made. The 2x process, it's a prime example that frankly we are doing that but yet it's a compromise. It's a plan that piece was put into make it work better for businesses. So I wanted to recognize that both sides, all sides, not just two sides here, have worked very hard to get to where we are right now. I think it's -- it's a good start and we could adopt something and then move forward into the implementation phase and that the refinement phase. So in addition to thanking mayor Adams I want to thank all of the staff, all the bureaus have worked extremely hard on this and also the director of healthy rivers and people in my office, it has been a joint effort. I have been honored to help get to this point and I am anxious to move on and do even better.

Saltzman: Well, is just want to thank everybody for being here tonight. I shows how much people do care with our city and our river. And I think it's important that we do find the right balance between creating and retaining jobs and also protecting our environment for our children. Like molly janski and I believe they can both be done here in Portland. I guess some of the concerns I just want to outline that I have and need more information on, is first of all how does the implementation of this plan zinc up with the Portland harbor super fund program? We are holding off on a new regulatory regime or should we be holding off on the new regulatory regime until the e.p.a. Has provided us with comments and guidance on the feasibility study of the harbor cleanup? Ski that as an honest question. I would like some answers or thoughts on that. Secondarily, an important overarching objective of the plan is to fuel private investments through public investments in harbor infrastructure. And land development. And I would like to understand better where the resources for this infrastructure development will come from because this is certainly going to be a key I think in retaining good, high paying manufacturing jobs. So I want to know more about that. And then final leave a strong popp of the north Portland greenway trail I will be

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listening how these important transportation facilitiesing, and I am equally concerned about their intersection with if there are going to be intersections with grade closing for railroads that would concern me greatly. I want to know about that. Overall this has been a great hearing.

Adams: Commissioner Fish.

Fish: It's been a fascinating hearing and very informative. And my only regret it's going to come to a closure. But I want to say that what I have heard from everybody tonight is that regardless of where they fall in this debate everyone who has come forward has said some variation on, we support the goals but there are some aspects of the details we have concerns about. It is my rough guess that about half of those disagreements still are out there have to do with the timing of the amies and a chance to understand theming and through them. And I think there are some, they do appear to be some misunderstanding that can be resolved and perhaps the other half may end up just being honest disagreements that we maybe will never resolve but we can at least quantify. So for me, in terms of the comments that were made tonight where people expressed hard burn about some aspect which in turn caused someone on industry to say this could prevent us from making investment or hurt jobs or whatever, I would like to at least have staff help me understand better the various claims that were race are raised boo uncertainty and duplication. Uncertainty to me has to do both with the sort of quantifiable stuff that the measurements that we are putting in as well as the time line issues and the time line issues that, one part of the time line issue that I still don't have a handle on is those aspects of the time line that are outside of what you have to do within the clock and what people have to do with appellant rights which could or -- which may have an impact. Having gone through a process in the river district where people use luba to get endless delays and recent history, I am just interested knowing to what extent either a direct participant or third party can use any of the appellant rights that are set forth in this plan to effectively undermine the stated goal of you folks that this does bring some certainty to the process. I would like to know that better because I don't think I have a enough of an understanding. And the question duplication, the mayor has patiently gone through some of those claims and pointed us to parts of the amendments that address it. I am still interested in knowing what is a remaining and good faith argument about duplication and is there a way we can streamline this to avoid that? This is very complicated. But what I am hardened by every time we have taken this up we make some progress and at least the issues in dispute are narrowed and again, the strongest critics in this room have said they support the goals and have concerns about the details. My understanding the mayor has set a four o-five-week period to get answers to questions and a chance to have 4-1-1ing dialogue with both sides which I think is important. I, too, appreciate that time and care people have taken tonight to bring their thoughts and their concerns on both sides and I think it's given me some great confidence that when we do get to the point of making a judgment whether you agree or disagree on any part of this it will be a relatively informed judgments so I appreciate all the testimony. Thank you, mayor.

Adams: You bet you. I want to thank staff for their continuing efforts, continuing work, amy in my office, the team led by susan and Sallie and the whole group of folks continue to, we will continue to work on it. So we move, close the hearing on 246 and 247. And we will reschedule after we work with our colleagues on council to identify the issues and further research required. And we now --

Kathryn Beaumont: Mayor Adams, in order to avoid having to send out new written notice you need to continue it to a date and time.

Adams: What's four weeks out? Five weeks out?

*******:** Clerk: I would say the 24th of march at 2:00.

Adams: Sounds good.

*******:** Clerk: That's five weeks.

Adams: Great. Continued to 24th of march at 2:00 p.m. All right. Can you please read the title for resolution item number 248. Siltronic.

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Item 248.

Adams: This particular issue is important an issue that will, we can't wait for the river plan, north reach river plan to be completed, I believe, to move on. This is a memorandum of understanding between the city of Portland and siltronic. And is a memorandum of understanding that provides for environmental protection and certainty that allows for the city and siltronic to market some land. And did you already read the title? I'm tired. Who would like to come forward from the city staff? Sallie? I will tell council that I have personally been out on the site a number of times. And -- another cry for help. I care too much.

*****: I move to close the hearing. [laughter]

*****: Shall we proceed?

Edmunds: Ok. Good evening again. I present you with a little bit of background on this resolution. As you know the city has gop the the natural resource inventory for the north reach, and submitted that to the planning commission. The, and you have that as well. The natural resource inventory includes special habitat areas which are unique habitats in the city that the other models that are used to develop the natural resource inventory do not adequately assess. So the draft inventory reflected the determination that this special habitat area on the undeveloped part of the siltronic site and that result the in the application of an environmental and conservation overlay zone on that property. So as you can see on the map, there in the center of the square, there is a purple area and there is some yellow cross hatch which is the river environmental and some dark and light green which is the environmental conservation zone. So the siltronic company is one of the harbor ready site that is you heard pdc talk about earlier this evening. The long term goal of harbor ready sites is to facilitate cleanup of contaminated sites and in the working harbor. While ensuring that parties responsible for contamination remain responsible. Harbor ready is in the process of developing processes and tools to restore several sites along the willamette. In the siltronic's testimony to planning commission, they challenge the science behind the determination of the natural resource inventory and said it went against their perception of the agreement that the city entered into with siltronic back in the '70s. They also said that they needed to have a development ready site to be able to respond to redevelopment opportunities quickly and asked the planning commission to remove the new overlay zoning. The planning commission did not do that but asked city staff to work to address conflicts between environmental and development issues on this harbor ready sites. Siltronic's parent company in germany had been looking for opportunities to expand in Portland when the market is right. And wanted a site with development certainty to take advantage of this or other redevelopment opportunities. So after the hearing, city staff, bureau of planning and sustainability and the mayor's office, pdc and others got together and decided to explore a process where the siltronic company where we entered into a work review process and and we also tested the hep/hea model you have been hearing about and to see how that would work. And we method for a considerable amount of time, again the mayor's office, commissioner Fritz's office, pdc, bps and the city attorney of office and several bureaus served as advisors including bes, pdot and the bureau of development services. So the result of that is a draft memorandum of understanding between the city, pdc, and siltronic. And essentially is results in a tradeoff if siltronic donates a conservation easement to the city in perpetuity, and that is a conservation easement that includes the dome creek corridor,. Willamette river frontage and a creek outfall, then the city council would not apply conservation and river environmental overlay zones to the siltronic property. And this image on the screen and in your packed shows a proposed conservation easement area and a proposed development area. The purple is the development area. So Portlanders could benefit from this because the city would have control of a key restoration site in perpetuity. The easement will protect in perpetuity, one of the few remaining habitat corridors between forest park and the willamette river. Dome creek would be daylighted as a first step towards salmon access to forest park. There are only a few streams that flow out of forest park

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that have enough flow to provide for salmon habitat. And the riverfront could be restored to provide additional habitats. A large industrial development, a large industrial site adjacent to the one of Portland's key industries would have a higher level of development certainty. So this is the first of many steps that the city could take in this direction. If the city council approves the memorandum of understanding, the city would enter into negotiations with siltronic to develop the development agreement consistent with the memorandum of understanding. And if a development agreement could be reached, then, city council would hold a hearing to consider that development agreement. And if city council approves a development agreement the city and siltronic would sign the agreement and this would not apply an environmental overlay zone to that property. We have established a deadline of July 1st for all of this to occur.

Saltzman: Question?

Adams: Yes, sir.

Saltzman: I appreciated bringing this mou to us to consider with siltronic but is this mou, and the subsequent development agreement that would result from that contingent on the river plan being in place? Or a river plan ordinance being in place?

Edmunds: It doesn't, no, it doesn't. Not before -- this could move forward prior to implementation of the river plan. Right-of-way the reason for that --

Saltzman: Implementation manage adoption? We are headed on a four to five-week --

Adams: Let me try to answer. The development agreement can be considered by the city council and approved or rejected prior to the implementation and completion of the river plan. This is separate. The discussions on this have been predate arguably predate and where you decide the start of the river plan is predate the work on the river plan.

Saltzman: This is a stand-alone item?

Adams: Correct.

Saltzman: With respect to the river plan?

Adams: Correct. Yes. I think we were working on this when I first and vera rae was first sworn in. It's an issue that we have sought resolution to for some time.

Fritz: When was this version of the mou finalized and what has been the public process to review it?

Edmunds: It was finalized a week or so ago and, filed with the council clerk. So there has not been public review of the mou to date. That public review is beginning at this point in time.

Fritz: So I am very uncomfortable at this late hour given that a lot of folks had to leave before they could testify on this moving forward with this today. Because I don't have, although my staff was sitting in on many of the meetings, I don't know that I have all the final version. I am not sure for instance how wide is the conservation easement at its narrowest point? What is the recommendation from natural resources folks about how wide it needs to be to be ecologically functional?

Adams: So other, I appreciated that. I would like to see people that want to testify including representatives of the company and I think bob wants to testify if we could take that testimony and then decide whether to not do anything tonight or to do something tonight?

Fritz: Ok. Thank you.

Fish: Is there a particular reason why you want something tonight? There is a timing issue here?

Adams: I would like to -- they were -- they are aired out sort of because they are obviously related. I am open to council's direction in terms of decision-making. But if we could, because folks have waited, some folks have wait the just get the testimony done we could decide whether to make decisions later.

Fish: All right.

Adams: Could we have representatives of the company come forward? Welcome back to the city council.

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Tim Ramis: Thank you. Members of the council, come mayor, tim ramis on behalf the siltronic corporation. With me today is the president of siltronic corporation, neil nelson. We are here to endorse the resolution and the principles in the mou that's attached to it and also we wish to thank the staff for the incredible number of hours that they have put in working on this project with us. Because Oregon's land use planning goals require balance, that ultimately faults to you to strike the right balance between potentially conflicting interests. In the case of this siltronic property, we have been working with technical staff of the city to try to come up with a recommendation that does strike that balance. As you heard this has been an ongoing conversation for a very long time. We viewed that process as a joint enterprise with the goal of finding a way to make environmental protection and economic development be complementary and mutually supported objectives. That's been the goal throughout. The mou reflects the work that we have done to achieve those purposes. And while the has substantial limitations on development of the site for the company, we understand because of the need to balance these interests, it's a good solution and we recommend it. One important feature of the development agreement approach that I will mention is that this approach provides a level of certainty for the public and for the company that's not otherwise provided. The specifically, once we execute the development agreement, the city will become the owner of a property interest in a very substantial and very valuable piece of land. At that point, at your direction and your timing, you can undertake the restoration of it. Without the development agreement that's left to the vicissitudes of the development process and those complications. So with the certainty provided we think it's a benefit both to the public and for the company. Thank you.

Adams: Anything you would like to add?

Neil Nelson: Sure. I'm neill nelson, president and c.e.o. Of siltronic. We have been a solid corporate citizen for about, since 1978. And we are the largest high-tech employer in the city, and we have been a steward, a successful steward of that land. We bought that land from the city of Portland in 1978 with all of its troubles that came with it. But we have worked on that as we have gone along. We have been recognized by you, the city, your bureaus, the state, the governor, and the federal e.p.a. For our environmental stewardship. So our silicon manufacturing facility is in the willamette industrial urban renewal area. Our parent company bought this approximately 88 acres back in 1978, as undeveloped. Since that time, we have invested about \$600 million in plant and equipment and improvements. We have bought about 1100 stable, high-wage jobs to this city and we pay a significant income and property taxes every year. Siltronic is committed to this city. Our 85-acre site has approximately 42 acres that remain undeveloped at this time. As you no doubt know with the growth of our country of green economy Oregon's energy and incentive structure and Portland's desire to be at epicenter of that green economy, our site is in the, on the international radar screen for the silicon waiver industry. Demand for silicon wavers is growing as we speak, siltronic is pursuing international business opportunities and the silicon waiver industry and our Portland site is one of the many possible sites. As these opportunities arise the availability of undeveloped land at our Portland location play as significant role in attracting investment in jobs to Portland. One hurdle we unfortunately must overcome is Portland's perceived reputation for taking too long to get a project from the corporate planning phase to one on the ground construction phase. The environmental overlays proposed for a significant portion of our site through the proposed land makes that hurdle not only high but, in my view, renders it insurmountable for any business opportunity with a short time piece. Interested in the property certainty is crucial in today's fast moving economy. Absent certainty, other competing sites in other competing cities where the regulatory environment is designed to rapidly accommodate development opportunities will outcompete Portland every time. An effort to keep our Portland site competitive, we need regulatory certainty that the new river plan does not provide. To that end my staff has worked with the city bureau staff for more than a year and in an attempt to reach a consensus on how the city's

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environmental and economic goals can be balanced with siltronic's business objectives. I must interject here that your staff are tremendous negotiators. I feel like they have got everything out of me they can get. We have to give them a round of applause. Those discussions have resulted in a proposal before you that provides the city with conservation easement with a significant portion of sill chronic land and provides sill chronic with regulatory certainty regarding the development of the remainder of that land. This certainty will allow siltronic Portland to favorably compete for opportunities we expect will be available. While several details remain to be worked out through the development agreement, we are satisfied that the fundamental structure of a workable plan has been reached, a fundamental obstacle, a location and the size of the easement itself has been agreed upon, we now need the council's support before we proposal, proceeds with the framework and the development agreement.

Adams: I need to you wrap up.

Nelson: Ok. I'll just say thank you very much.

Adams: Thank you very much. Others that would, oh, you have a question?

Saltzman: A quick question. Haven't running everything out of you yet. When you and I met with tim a while back, I can't remember, but we discussed the concept of your willingness to consider putting in green roofs in the property that we are about to remove the overlays.

Nelson: Yes. That's included.

Saltzman: That's agreed in the development agreement.

Nelson: Yeah. And we met with the mayor. And he had four things that, that was one of them and we have given on all of them.

Saltzman: Ok.

Fish: Let's schedule a meeting with me if we could.

Leonard: I would like to have a shot at you. [laughter]

Fish: When i'm finished --

Adams: Let's see who wants -- how many people want to testify? Come forward? Come on, bob. The send meant, we won't be voting this tonight but you have all waited so we will hear from you.

Jan Secunda: Mayor and city council members, jan, I didn't come down here to testify in regards to siltronic. I didn't know this was going on. Which is very odd because I am the environmental representative for the community advisory group in Portland harbor. And I want to tell you something. We give you a heads up right here. The piece of land that these, that siltronic wants to trade off to you is one of the worst contaminated sites along the river. Do you know that that's where agent orange was built? Was made right there? That's what the creek is. I urge you to not, to hold off until you educated yourselves as to what is going on with the e.p.a. Superfund process because this is one of the hottest spots for contamination on the river. If we, if we get this dumped in our laps it is going to really hurt the city. And it's, this is not the process that e.p.a. Has mapped out for us. This will just now coming up to working on to addressing these kinds of problems. So it's premature for them to come here and tell you this and I am sorry the staff did not see fit to work more closely with just the public face of Portland because if you did then you would have been informed of the true condition of this site. Please do not make an agreement with these people. Because if you do we will regret it. And so you don't have to believe me. But just put that off until you have educated yourselves completely on how toxic this place it. It's right next to the most toxic area of the river.

Adams: We hear you.

Secunda: Any questions? Because I didn't come here to do this. I can tell you how bad, or take you on a tour and show you.

Adams: It's late. I wanted to make sure we took testimony. Believe me we are going to protect the interests of the city.

Secunda: I hope so.

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Bob Sallinger: My cough medicine has worn off. Bob sallinger. I think the mayor spoke openly earlier to the fact that in fact our regulations haven't stopped industry from growing on the revenue. The revenues tripled over the last decade. People are coming here and developing and if anything the river plan is going to make it easier because some of the things we discussed tonight and I won't go back through those but the streamlining will make it easy to redevelop. So we haven't had much chance to look at this agreement. We just saw it for the first time on thursday so we are still in the process of evaluating it. We have some preliminary concerns that we want to understand it better. There's certainly some notable things in it like the set back, the corridors are incredibly important. This is an important site. It's one of the few sites we could connect to a large back to forest park and highway 30 but really are important connections so it's very exciting to get a permanent easement. The eco roof we are going to be doing a biodiversity ecoroof and bringing in an expert from europe how you put has been to do on the rooftop and we would love to work with cintron nick, looking for a north reach property owner to work with you.

Adams: They would love you: They would love to. That's right. It's going to have a deer climb. You watch. This willing the --

Sallinger: The first deer ecoroof.

Adams: You people that are from cities. I swear. Deer go everywhere.

Fritz: Oh:

Sallinger: We can put mountain goats on it. Our concerns I will finish up, you are two concerns are this. One, we hope for a wider corridor. A lot of the data and there's data that shows 300 foot corridor is essential for larger wildlife to really use it. And so it's narrow as 70 feet in some places so we were hoping the city would get more in terms of width. So we encourage to you keep pursuing that. The other thing on the set back on the river, we would like to see some sort of agreement that will be vegetated, there will be trees and shrubs planted on that so it reaches its full ecological potential. We will evaluate it. We are not entire shree sure the city is really getting as much as it should in return for lifting e-zones. I won't take that any further but we will encourage to you look at those things. Width and vegetation on the set back.

Adams: Thank you.

Fish: I know we are not going to take a vote. The only question if I could just between now and when you take it up again, the public benefit that's been presented to us is clear. I get that. But that question that I don't understand is probably because of the hour. Is are we setting a precedent in allowing a single site a negotiation to proceed like this where someone gets excepted from a set of rules we are developing? That complicates any part of what we are going to be doing down the road? It may be a dumb question but I would like to know.

Adams: That was not directed to you. Thank you for your testimony. We will get back to you with the city attorney's take on that. So all right. This is continued for -- this is continued -- yes. Commissioner Fritz.

Fritz: Thank you so much, mayor. I want to get out what my concerns are. Thank you for working so hard on this. This is one that I as I say -- I am concerned about the ecoroof, who pays for it. The development agreement seems to say that the city might pay for it. Which I am wondering about. There's also a pdc funding from the area. So I am interested in that and since this isn't a river dependent use I am interested in what bob salinger said in terms of really veg take thing the river since in most of the north reach plan we need to allow the industrial uses and the, to get barges and other things rights to the sea wall, to the dock. This is a site where we would be doing exemplary vegetation and although I am interested in the deer roof concept, I think that currently, the deer use the site to get to the river and so I would want to make sure the corridor is wide enough for that to be able to do that.

Adams: We have a deer expert, don't we, paul? We have a deer expert on contract yet? Ok. We are going to get a deer expert on contract. This is continued for two weeks, Karla. What date?

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Moore-Love: Do you want to give it a time certain?

Adams: Yes.

Moore-Love: Yes? Morning of wednesday, the 3rd would be 10:45.

Adams: 10:45, wednesday, the 3rd. We re recessed until tomorrow at 2:00 p.m.

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

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

FEBRUARY 18, 2010 2:00 PM

Adams: We're pleased to have been joined by his royal highness commissioner Leonard.

Fish: We appreciate randy spending time with us. We know since he's preparing for an important event, this probably looks like a second-tier assignment. But we're grateful you could fit us into your schedule.

Adams: That is the Portland schools foundation roast. Dangerously commissioner Leonard has the the microphone for a while. Portland city council will come to order. Today is thursday, february 18th, 2010. Karla, please call the roll.

[roll call]

Adams: Could you please read the title for 2:00 time certain, item number 249.

Item 249.

Adams: Members of the city council and viewers and those in the room, I want to present to you for your consideration an important component of the buildout of the region's high-capacity transit system, the the Portland-milwaukie light rail line. A central tenant of the city of Portland's luis and transportation policies. To help fund the the Portland-milwaukie light rail project the the city of Portland has agreed to provide \$30 million contribution to the the \$1.417 billion project. That's b. Billion. On june 17th, 2009, the city council accepted by resolution the recommended conceptual funding plan for the \$30 million city of Portland contribution, and directed the bureau of transportation to work with the office of management and finance, tri-met, and pdc to pursue the development of a final funding plan. The team is prepared the final funding plan and before council stood a nonemergency ordinance to authorize an intergovernmental agreement between the city of Portland and tri-met to formulize our contribution to the the project. We have before us f. I'll let you guess who is who, sue keel, art pierce, fred hansen, and neil mcfarland. One thing I wanted to up front provide, we might get some concerns raised about it, it's definitely a policy call, is the relative contribution of urban renewal funds to the proposed Portland-milwaukie line in comparison to urban renewal funds for the the interstate line and the Portland mall -- the green line. You'll see that tiff contributions to the green line was about 3.5%, for the interstate line, it was 8.6%, and under this proposal, south park blocks, north macadam, central eastside actually gets off pretty easy by comparison with .70 of 1% of contributions. I'm also pleased to report that thanks to our collective efforts to pursue funding wherever we can try to find it, that the the south waterfront north macadam area successfully received a \$23.2 million tiger grant, which is a transportation -- federal transportation grant that will allow for moody street -- moody avenue street and streetcar reconstruction as called for in the plan, that in turn sets up for the expansion of ohsu and a whole host of other private investments. We have a central city grant connector grant application for \$25 million to close that final little gap in the streetcar and we move -- are moving forward on the Portland-to-lake oswego streetcar expansion, and also for metro we've asked for \$300,000 for construction excise grant to work on the south portal design. That's just a little update. I do start with you?

Sue Keil, Bureau of Transportation: A couple of comments before we hand off to fred. We've been working as a partner on the light rail project design, and community involvement efforts since we last came and talked with you, and that's been I think about a year that we've been going through

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this effort. And we have been working on the preliminary engineering through that process too. As a final step of the preliminary engineering, we are collaborating on a conceptual design report, and that's going to come back to an april. It's going to be out for public comment, and the results of that comment will come to you in april as well. I think maybe we'll move right to fred and have his comments and then we'll come back and talk a little more about some of the finer tuned aspects of it as well as the specifics of the funding plan.

Fred Hansen, Tri-Met: Thank you. Mr. Mayor and city council members, for the record i'm fred hansen, general manager of tri-met. With me is neil mcfarland, our executive director in charge of capital projects and has been doing the direct work on this along with a lot of our people, other people in the audience. First let me start by thanking the the city of Portland for being such a great partner. This is a building a transit together, this is our fifth partnership that's produced five different light rail lines. And we're looking forward to future partnerships as well. The strong psp will be the key to continuing our expansion of alternative travel options for people. The tiger grant you mentioned just a few moments ago is a good example of this. It was a joint effort with a lot of people, but certainly you and us a key in that. Similarly on this project, the Portland-to-milwaukie light rail, really demonstrates the collaboration as well. We have financial contributions, not only from the state of Oregon, the 2007, \$250 million lottery backed bond that we're authorized, then cochair ways and means, senate cochair kurt schrader now congressman was key in that, though certainly a lot of others. But beyond the state of Oregon, metro has contributed obviously we have, tri-met, clackamas county, city of milwaukie, and of course you by this action today. Portland's \$30 million investment will really have a tremendous benefit for the region. If you think about it, I think commissioner Saltzman had raised this before, if you think about the project itself, every \$1 of match from the the city of Portland produces \$47 in either other local government state government, or principally the federal government investment. So it's quite attractive federal match, not only does it help our economy, but it builds permanent infrastructure for our region. The project itself will extend obviously from Portland state university in the south, over into the south waterfront, across a dedicated bridge, and i'll come back to that with a few more comments in a moment omsi, southeast Portland, milwaukie, and ultimately into north clackamas county. The project is necessary to support the region's anticipated \$1 -- 1 million more people we expect to have over the next 25 years as anticipated in the 2040 plan. The project will also be one of our highest ridership, the federal government estimates out 20 years, and we are expecting that we will have in that 2030 period 27,000 daily trips on this line. Which is more than any of our others in terms of the projections at the time they were made, although we have exceeded those in other places. It's also important that this creates a lot of economic stimulus. 12,300 jobs are estimated, \$490 million in personal earnings. So it's obviously very important economic event as well, though certainly we wish it could start today because of the need for those jobs, it does require more planning. It is representing also the first new bridge over the the willamette river in 35 years, and a bridge we say for the 21st century. That is, it will carry light rail, it will carry streetcar eventually, it will carry buses, it will carry pedestrians and it will carry bicycles, but that's all. It is really an alternative mode bridge. And we think as a result, the only one in the united states that is a major bridge that dedicated in that fashion. The project also supports the region's land use goals. Not only because of a number of connecting of neighborhoods, but also some of the improvements, specifically in the area of pedestrian bike network. The transit bridge will have 14-foot-wide pathways on each side of the bridge, that's -- you think about hawthorne, which often times is seen as the largest pathways for our -- in our city at the moment, those are 10-foot pathways. So getting that extra two feet and in fact that was one of the things our advisory committee that former mayor vera katz chaired, was to be able to really focus on, could we in fact squeeze out additional footage for that width. And through some collaborative work, we were able to at the a relatively low price. The line will also provide the backbone for the the travel through the innovation quadrant, connecting Portland state

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university the, Oregon health science university, ous, because they're intending to build a new building next to our platform in that area, and then of course on the east side omsi and pcc. So it's real lay chance to be able to connect that and the small businesses and other businesses that will be there. Finally it's a second line to growing clackamas county and very much a key part of it, part of the reason why the the terminology is -- phase two of the the south corridor project. The first one being the current green line. Looking ahead, the the -- we're just nearing the end of preliminary engineering right now. That takes the project to 30% design. We hope to begin final design this fall, which takes it from the 30% to the 100% design level. It really has a project that has been very strongly supported by the federal transit administration and the obama administration in general. It is in our most recent conversations had with our partners, this -- in about the middle of january. We gain optimism that they will approve funding at 60% from the federal government. This is something that the previous administration had said that for any projects such as this that they would provide no more than 50%, that obviously would strain all of us financially and maybe make the pilot project impossible. But i'm encouraged by what we've heard and certainly the commitment that peter rogof, the head of the sta, as well as others have committed. First sign of construction will be in early 20 leave with the staging of the bridge, for the bridge. We have to be in what's referred to as the Fish window in july of that year. The bridge itself is the critical path to complete this project on time. Utility relocation -- .

Saltzman: Fish window?

Hansen: Double-pane --

Adams: I didn't intend --

Leonard: I thought the Fish window was behind your desk.

Adams: Did I not mean to obstruct.

*******:** Obviously key for us to be in the river in that beginning of that july of 2011, the-to-keep the project on budget. It's interesting to note that a cost of a year --

Fish: I can't resist.

Adams: He's determined to get through -- since randy is speaking at a roast, I wanted to share a line.

Fish: Randy, you do great work. Folks, we have hundreds of people like randy Leonard -- I blew the line. I'll come back to it.

Leonard: He was there last year, and that's why they invited me this year.

Fish: You did a -- do a great job. We need 100 people like randy Leonard in government. Unfortunately there are thousands.

Leonard: If you have to tell it twice it doesn't work. I'm glad you're not on my team this year.

Adams: Please continue, mr. Hanson.

Hansen: It's critical for us to be able to be in the river in the summer of 2011. Each year it would get pushed off as probably worth at least an additional 60 or more million dollars. In interests of cost, because of the increasing inflation and borrowing costs. Utility relocation will be in the summer of that same year, spring-summer of 2011. And we expect the line to open in 2015. We usually have those scheduled for the first or second week of september of those years. With that we appreciate your support. I would be happy to answer any questions as we move this project forward.

Fish: Do we have someone from pdc here today?

Adams: We do.

Fish: Is that another panel?

Adams: Available to answer questions.

Keil: Maybe we can roll through the rest of the presentation. Sam mentioned that we had agreed to provide 30 million to the -- of the 1.4 billion light rail project. For past two years we've had an interagency team with representatives of omf, pdc, and the office of government relations working

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to evaluate possible funding sources to meet that funding need. The team prepared a conceptual funding plan that you accepted when you adopted the resolution in June of this year. And -- June of 2009. And we now prepared a final funding plan based on the the direction that you gave us. Before council today is an ordinance that authorizes the IGA between the city of Portland and Tri-Met and formalizes our contribution to the project. Art is going to talk about the the specifics that we've come to, and then any of us will be happy to answer questions.

Art Pearce, Bureau of Transportation: In the packet before you there's an exhibit a behind the ordinance, if not I have additional copies that shows the elements of the funding plan. It's made up of five elements. Do you have those for reference? The plan is made up of five elements. Coming from really two major sources. One being from the city of Portland and the Portland Bureau of Transportation, in the total amount of \$20 million, and \$10 million coming from the Portland Development Commission. Both of those contributions from the Portland Development Commission and the city of Portland are being embodied in one IGA and there will be a second agreement between P-BOUGHT and -- P-BOT and P-DC to formalize their contribution of \$10 million. The first item is the contribution from the Portland Development Commission coming from the North Macadam Urban Renewal Area in the amount of \$10 million. Next item is \$3.22 million in future parking revenues, there's the middle item, \$5 million from a new yet-to-be formed TSDC overlay, so that's one where we have an RFP ready to issue once council confirms this is the approach to prepare a consultant team to do the public process to formalize this overlay, very similar to what we formed for the North Macadam District. We do have some citywide SDC funds as well, so 1.78 in SDC funds. And then \$10 million from the North Macadam overlay, which council adopted last April. So it's a variety of mechanisms are being pushed together to make this total package totalling \$30 million.

Saltzman: Could you explain the citywide --

Pearce: SDC? The citywide TSDC is our transportation system development charges that are contributed from throughout the city geography. So I you're just using a certain amount of what's already in place.

Saltzman: Yes.

Pearce: The other overlays are in addition to a contribution to the citywide SDC and additional contribution from those geographies to contribute to particular projects, including the light rail.

Saltzman: The question I'm duty bound to ask, as the commissioner in charge of environmental services, we don't seem very happy with sort of the utility reimbursement approach. And -- .

Neil McFarlane, Tri-Met: This is Neil McFarland for Tri-Met. I think we're coming down to very short list of, if you will, remaining discussion topics for lack of a better word, with BES. I think we've gotten full agreement on, if you will, probably 80% of the possible relocations. We're down to what -- we're between the Bureau Director and ourselves, we've sort of called the big hairy pipes, the very deep large brick sewers and the question is what do you do about them, they're 30 feet down and very old, and they go under existing railroad tracks and existing buildings, and so we have some approaches, but I think we're very close to settlement on that. And we're continuing talk, and we're in an excellent working relationship with BES staff, would I say.

Saltzman: The other question was, I was meeting with P-DC staff, and I haven't seen the papers today, was there some big federal grant we've obtained now for the sewage?

Pearce: We applied for Tiger, which is transportation investments generating economic recovery, and we're successful yesterday in getting 23.2 million dollars of the directed specifically Moody Avenue reconstruction. That's great news.

Adams: And I threatened to keep going back to the lighthouse unless they gave it to us.

Keil: So they came right across.

Adams: Can you just remind us again, it was in your comments, the number of jobs that this project will create?

Hansen: 12,300 jobs, 490 million in personal earnings.

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Adams: Payroll s. That fair to say payroll? And then you break ground on, you said the prebridge work, and what --

Hansen: '11.

Adams: Things really get going -- do they get going in 2011?

Hansen: Some of the early work we will will begin, the the bridge work will begin in the summer of 2011. The utility relocation just before that. And some of the other prep work. We will proceed with that under what's called an lonp, letter of no prejudice, because it is before they would sign the full funding grant agreement. That will come in '12. What it does is it allows us to be able to make those expenditures and once we actually receive a full funding grant agreement, assuming we do, then they are just a part of the regular project cost, matched by the federal government and so on. But it is something that until that full funding grant agreement has been given, we do not have the federal dollars to match it.

Adams: That's somewhat unique to transportation, but not unique within transit and transportation.

Hansen: It is very typical. It's one of the things we wish we would have for most other federal programs because they kind of figure out what the total cost is, sign up for it, agree to a funding plan for it, and it's not the camel's nose under the the canvas, under the b-52 bottomer that you never get to the end and you see the cost escalation.

Fish: The mayor and I were at an event today where you're honoring loaves and Fishes for their 40th anniversary, and the executive director hobbled up to the stage and said that she injured herself --

Keil: On mlk.

Fish: Racing to get to her car to feeds the meter because she was so afraid of getting a ticket. And she twisted her ankle on the way.

Saltzman: We're going to forward you her claim.

Fish: I won't say sam threw to you the wolves, but it is not pretty.

Hansen: She should have been on transit.

*******:** There we go. And you know, they're not supposed to feed meters.

Leonard: She was on my team.

Adams: Thank you all very much.

Pearce: I've been part of the preparatory conversations coming to this council session, you'll national night out note within the funding package that 20 of the total \$30 million of local match contribution is coming from the geography of the north macadam urban renewal area. And that's the area that south waterfront is in. This council has been around for a while and recalls there's been a message to the south waterfront area in the north macadam area that we need to develop mechanisms for it to carry its own weight to produce the infrastructure that's needed down in south waterfront. So the north macadam tsd overlay was a response to that directive. The action we're doing today is the north macadam ura stepping up to cover some of the region's cost for producing a new regional improvement. So I think some of the concerns we'll hear today are coming to this -- from this geography feeling like they're being asked to carry a heavy load, and over time there's going to be a continued need to support this district as it continues to develop.

Adams: If I could speak to that, from a policy point of view, and why i'm proposing this particular, and I went to talk to the north macadam ura folks, this district needs moving forward for its success, needs a number of additional investments. But if we don't do late first and now, then we don't get to unlock the other funding opportunities for the other pieces needed, other infrastructure investments needed. This district has to have a mode split of almost 50%, noncar trips. And so that's why streetcar, the 23 million dollars -- reasonable people can disagree, but that's the reason.

Pearce: Any specific questions for lisa?

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Fish: If I could. This will be painless, but I want to put on the record my understanding of the answers to a couple questions that we posed. That has to do with how this 10 million impacts other budgeted priorities within the district that the council has also said are high priorities for moving forward. And the first question had to do with how this would impact the funding for block 49, which is the veterans housing. Since the last -- the council got last presentation on that piece, director van fleet has been working to come up with a new financing model. We think we may be able to come up with one. But it requires that we front load some money. So my understanding is that the 10 million we're talking about here would not prevent pdc from front loading the money that's in the budget to cover the block 49 expenses which is 20 million for the next fiscal year and 3 million in 12-13.

*****: My understanding is we're working on a north mac budget that would front load the housing, it likely would require conversations with omf and those are ongoing, with light rail money to follow. They would be sequenced so what we're looking for is the funds for the housing in the next two to three fiscal years and the light rail is not anticipated until three years out.

Fish: And i'm generally familiar with the omf conversation. And the second piece has to do with the greenway. And just so people are clear, this -- my understanding is it does not impact the budgeted amount of 4 million for the green way, but it does potentially given cash flow and other things delay when that money might be available.

*****: The way we have it modeled, we have a \$4 million obligation as part of the central district agreement. And that -- we continue to carry that in the near term years. So we're continuing to carry that. I think what -- if it impacted anything, it's looking at the timing of the dollars, potentially, and the timing of the project, and/or future phases, I would say, of greenway elsewhere in the district.

Fish: Thank you for the clearances. Ache let's go to the sign-up sheet please.

Moore-Love: Two people signed up.

Adams: Welcome to city council. Glad you're here. Give us your first and last name.

Steve Gray: I'm the chair of the north macadam urban renewal advisory committee. I've been involved in this since the beginning of when the district was formed as far as the boundaries. The the light rail, we realize is a very integral part of developing the area, but we feel that the 10 million that we originally agreed to with the transportation overlay should be our contribution and not 10 million from tiff. You said that south park blocks, and central east side and as we got off easy compared to other light rails, but all the contribution is coming from one district only, and that's north macadam, and from south waterfront or south park blocks -- coming from central east side. The second part is that we did have a conversation with the mayor elect at that time, and we had 10 million, and that was going to be our contribution.

Adams: That's not true. There are people in the room, my staff was in the room, and they've told you and i'm sorry to embarrass you like this, but I can't let that go. We said that we absolutely would be pursuing an overlay on an sdc. And the tech and the urban renewal contribution I would not be pursuing an lid.

Gray: Well, there's that. And -- but with taking this other money, we will be delaying other projects in the future, we have one of the largest things is the south portal, which is already failing and we still are studying how to be able to get cars in and out of there. Pdot, they've already -- the the intersection does fail at this moment at rush hour.

Adams: The district will fail if we don't have light rail. You won't just have one portal fail, the entire district will fail from a transportation point of view.

Gray: Right. Well, at the moment it's already failing. Our other is that we're paying three times the cost per lineal foot as the other lines paid. The next is that we really have one station in south waterfront, and the proposed design as it is right now. One is at Portland state, which is clear at the north end of the district. And there is only one station where most all of the other lines have

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multiple stops. We have one stop. So for two-thirds of the contribution that the city is asking of their contribution is coming from our area, and we basically have one stop in south waterfront. That's it. We gist didn't feel that we should bear the burden of two-thirds of it, there should be some other ways to finance the other 10 million. We don't mind giving up a portion of the 10 million, but the full 10 million we thought was too much.

Adams: Sir, I don't know if you saw just to share with you a little bit of context, it's important that you understand -- at least understand my point of view. Did you notice the front page newspaper story where I was raked over the coals for just applying for that tiger grant for your district of 23.2 million dollars?

Gray: No, I haven't had a chance.

Adams: Well, I encourage you to look at that. A lot of the city believes that you're getting undue investment in your neighborhood at the expense of other parts of town. And we get regularly criticized -- I get regularly criticized for trying to complete the vision of your neighborhood, including applying for federal grants. You just need to know that.

Gray: Once the -- that district is all developed, we feel that you will be bringing in quite a bit of tax dollars. At this point larry right here, I think what he'll say, his folks, if he continues to add fees and other things that they won't be able to develop their property. That's the concern we've got from the property, a lot of the property owners.

Adams: And the -- I share that concern. And that's why I committed not to do an lid and only an sdc overlay. It's why we asked for \$23 million from the federal government to help move your district forward, which you have received. It's why urban renewal does not add fees to your district, it does take from the overall fund.

Gray: We just feel there's going to be a lot of things that that will going to be put off for 10 or 20 years in development down there.

Adams: Our estimate isn't that gruesome, but, yes, some things will be put off. Sir.

Larry Richards: Yes. My name is larry richards. I have been on the urban renewal advisory committee for north macadam only since august of last year. So my tenure there is short. But for the past nearly 30 years, i've been working for the seidel companies, from the office on southwest moody avenue. So i've got a pretty good perspective in terms of what that neighborhood has been. I think that we all can agree the south waterfront has very significant development potential for both the city and the region. We also, as we have been talking about, recognize that south waterfront has some really significant infrastructure needs to be able to realize that potential. My colleagues at seidel have been working for many years with our neighbors, with the city, and with other interested parties to move development forward in our area. And we're really quite pleased to see the the changes that have been brought about by the development that's occurred in the central district. We recognize that this ordinance asks us as property owners in the district to bear what we believe is a disproportionate share of the local match for the the light rail project. And our expectation is that the city will lend its assistance into the district, into the future as we address the needing that the district has to meet in the future. Those needs include not only streets, but the continued expansion of the streetcar, the pedestrian bridge from lair hill to south waterfront, the extension of the greenway from riverplace down to john's landing, affordable housing needs, as well as the creation of district open space in the neighborhood. These are going to require not only sophisticated financing strategies, such as this light rail project that you're looking at, but also smart stu inman city council leadership to keep the district from being overburdened with fees that would make development uncompetitive and therefore unrealized when the the economy recovers. In addition, we need your leadership across city bureaus to avoid conflicting bureau actions that would make it impossible for us to generate the tax increment financing on which we're all depending to pay for many of these improvements. In the final analysis, if development is to move forward, it will have to make economic sense. There will have to be sufficient economic returns to

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attract required investment, all of us in the city benefit from the various neighborhoods in the city because they provide us with places to live, to work, and to recreate. It's going to take the combined efforts of private and public investment to realize the potential of south waterfront, and the completion of this light rail project is one of the key factors in that process. Maintaining a sustainable balance over the long run between the the contributions of private and public investment is really the only way of realizing the potential in south waterfront. And those of us at seidel will continue to be a willing partner with the city in this ongoing development, and what we ask from you in return is a strategic coordinated, and consistent leadership from the the city council so that the public and private investments can be fully realized for the potential of this district.

Adams: What do you think about our leadership on the the 23.2 million -- .

Richards: I think it's great.

Adams: Thank you both very much. Anyone else wish to testify on this matter? All right. This moves to a second reading next week. Unless there's additional council discussion. [gavel pounded] and we are recessed until 3:30, where we have a time certain. [recess]

At 2:45 p.m., Council recessed.

At 3:32 p.m., Council reconvened.

Adams: It's 3:30 p.m. City council will come back from recess. Karla, please call the roll. [roll call]

Adams: Quorum is present. We have a time certain, which is a land use hearing. Please read the title for item 250.

Item 250.

Adams: Thank you, Karla. City attorney?

Kathryn Beaumont, Sr. Deputy City Attorney: Thank you. Before we begin the hearing today I have several announcements I need to make. These announcements are required by state law and concern the kind of hearing we're having today. The order of testimony, and the scope of testimony. First, as to the kind of hearing. This is an on-the-record hearing. This means you must limit your testimony to material and issues in the record. You can't bring up anything new. This hear is to decide only the if the hearings officer made the correct decision based on the evidence that was presented to you. If you start to talk about new issues or try to present new evidence today, you may be interrupted and reminded you must limit your testimony to the record. Second, in terms of order of testimony, the hearing begins with a staff report by the bureau of development services for approximately 10 minutes. Following the staff report, the city council will hear from interested persons. The appellant will go first and have 10 minutes. Following the appellant. Each will have three minutes to speak to the council. The applicant will have 15 minutes to address the council and rebut the appellant's presentation. And then after the applicant, the council will hear from persons who oppose the appeal. Again, each person will have three minutes. Finally, the appellant will have five minutes to rebut the presentation of opponents of the appeal. The council may close the hearing, deliberate and take a vote. If the vote is a tentative vote, the council will set a future date and a final vote. If the council takes a final vote, that will conclude the matter before the council. And finally, as to the scope of testimony, again, a reminder, this is an evidentiary hearing or, on the record hearing and you must limit your remarks and refer to evidence that was previously heard but may not offer new evidence. The council will not consider it and it will be rejected in the city council's final decision. If you believe a person who addressed city council today improperly presented new evidence or presented a legal argument that relies on evidences that not in the record, you may object to that argument. And under state law, only issues raised before the hearings officer may be raised in this appeal to the city council. If you believe another

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person has raised issues that were not raised before the hearings officer, you may object to the council's consideration of that issue. And that concludes the opening announcements.

Adams: Great. Does any member of the council wish to disclose any ex parte contacts regarding the matter before us? Any member of council wish for declare any conflicts of any nature that would prevent them from hearing this matter in a fair and impartial way? Then we shall begin. Staff will have 10 minutes. Please come forward.

Shawn Burgett, Bureau of Development Services: Good afternoon. This is the staff presentation to city council regarding 09-134484 lds en ad. The applicant's proposal was -- excuse me, the purpose of this hearing is the appeal of the hearings officer decision to approve a type 3 land division with concurrent environment review. The applicant is mimi doukas, representing property owners howard brandwein and jeri geblin. The appellant is mary kincaid on behalf of the east columbia neighborhood association. The proposal is for 49 lots, three public streets, one stormwater outfall and a recreation tract and wetlands preservation tract. Along with two adjustments. The first adjustment was to reduce the size of the required recreation area from 10% of the total site area, 10% of the developable area. The second adjustment was to weigh the track -- waive the tract requirements identified for fill under the department of state lands permit. The site is located on the west side of northeast 1st avenue. The base -- single dwelling residential, there's a environmental conservation zone that runs on the southern property line. It's within the east columbia management plan but does not contain approval criteria for the purpose of this land use review. This is a 2007 aerial photo. Immediately north and south of the brandwein property is developments. And the area west of northeast sixth avenue drive is predominantly industrial development. This slide shows the applicant's preliminary land division plan. The 49 lots, public streets and recreation tracts are on the east side of the site. Including the Multnomah county drainage that runs along the property line. This is freedom innocently a open pasture enhanced with wetlands through this proposal and there's a view of the site facing east. All existing development is proposed to be demolished under this proposal. The hearings officer approved a environmental review and adjustment it reduce the size of the recreation area and adjustment to waive the tract requirements for the wetland and approved the 49 lot division. My colleague, representative will address those points now.

Rachel Whiteside, Bureau of Development Services: The appellant first expressed concerns over a procedural error related to the mailed notice of hearing. This requirement was met by holding a hearing on november 30th, 2009. The hearings officer chose to hold the hearing on november 23rd, 2009 because this was too late to mail notice of reschedule. The hearings officer at the request of the bds and the neighborhood association continued the hearing from november 23rd to the 30th, the hearings officer determined that an additional week would provide sufficient opportunity for concerned persons to participate in the hearings process. Lastly, the hearings officer does not have the authority to extend the 120 day review period and must work within state mandated timelines. Criteria -- the appellant cited sections of the building code that are applied at the time that a building or site development permit is requested. The zoning code, only the code sections listed in title 33 related to flood hazards are addressed through this land use decision. The hearings officer found that the applicable criteria in pcc33.630 would be met with conditions of approval. The hearings officer included conditions of approval requiring a site inspection and map revision from the federal emergency management agency prior to final improvement. These conditions ensure that they will be addressed before development commences. The appellant's third point is the erosion control code. These regulations are applied at the time a building or site development permit is requested. The zoning does not require a application to address this as part of the land use process. The hearings officer found that the applicable criteria for clearing and grading could be met with conditions of approval. Pcc10.30.030 would be implemented at the time of the inspection that was required by said down conditions of approval. If council has questions to this, we have site

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development staff in the audience today. The appellant's fourth argument, the impacts of construction traffic were not considered by the hearings officer. The hearings officer found that the applicable criteria in pcc33.641, traffic impact could be met with conditions of approval. Construction traffic is not included as an evaluation factor in 33.641. It's considered a temporary impact not related to street capacity or intersection loads. At the time a permit is requested, the engineer will review the traffic flow plan and we have pdot staff here if you have questions related to this appeal point. In the fifth appeal point, the appellant argues that the stormwater management criteria do not address the loss of tree canopy. And stormwater criteria could be met with conditions of approval. The tree preservation options in 33.630 were specifically developed to reduce erosion and flooding and filter stormwater and reduce run-off. The applicant -- evaluating the amount of impervious surface identified on the site plan. This report was reviewed by engineers in the bureau of development services and environmental services, the Multnomah county drainage strict and accepted by the hearings officer. And the sixth appeal point, the appellant disagrees with the city's application of the environmental zones. Applying to areas mapped on the official maps which we've highlighted in green. Stormwater outfall and the remainder of proposed development and wetland irrigation is all outside of the mapped environmental zones. The hearings officer only has the authority to apply the criteria within the mapped environmental zones. Based on the currently adopted resource inventory, the hearings officer found these criteria to be met. The additional inventories referenced by the appellant have not been adopted by city council. Therefore, despite the more complete assessment of the area, they may not be considered. In the seventh appeal point, the appellant requested the hearings officer apply Portland code which requires a special evaluation by a professional to the entire site. This is found within 33.430, which again is only applicable to the mapped environmental zones. The applicant did provide license reports reviewed by engineers from bds, bes and generally the city staff acts as I third party review and only requests additional evaluation question the circumstances are beyond the level of city-employed professionals. That was not the case for this site. Lastly, the appellant submitted written testimony on february 15th and cited issues with state-required permits and compliance with regional requirements, specifically metro title xiii and I wanted to call out the only way in which locals play a role is through a land use compatibility statement certifying it's in compliance. They do not have authority to determine if the request to the state is valid. The appellant also cited non-compliance with metro title xiii. While it's true that metro map habitat area, that the city does not -- this does not make title xiii relevant to this proposal. It's only applied in specific review situations. The requested land division, environmental review and adjustments are outside of the scope of the title xiii.

Burgett: In closing, the council has the following options. Deny the appeal. Uphold the decision of the hearings officer for approval. Two, overturn the hearings officer and uphold the appeal. This requires the adoption of revised findings and in addition to the appeal points you may hear testimony from the neighborhood association, they're seeking to preserve this site as open space. We feel those negotiations should not necessitate a delay on this case today. Before any development can move forward and my last point is staff would like to remind council because the applicant did not waive the 120-day time limit. The appeal is on the record. March 5th, 2010. A decision must be issued by the council before that date unless the applicant grants an extension, and there's city -- and there's city staff here to answer questions.

Adams: Thank you very much. We'll hear from the appellant. For 10 minutes. Welcome.

Maryhelen Kincaid: Hi. Thank you for coming in on a wonderful day. I was -- it was hard walking inside this building. I'm mary helen kincaid. This testimony is on behalf of the east columbia neighborhood association. We submitted very detailed testimony and documents previously and so i'm going to hit those highlights. She has some slides for me that i'll get to in a minute. The staff touched on a number of our areas we want to focus on in our testimony. One of

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them is the procedural errors. The notification of the land use hearing was mailed on november 6 for a november 23rd hearing and did not allow a 20-day notice. The neighborhood contacted staff and told them of the error and bds and the hearings officer decided on the date of november 30th which fell on the monday after thanksgiving. So it allowed three days because the city was not open on thursday or friday so we didn't have access to information and there were staff reports completed on november 20th and we wouldn't have access to those until november 23rd, which was the day of the hearing and that was a site development response on the site which had several comments in regard to stormwater reserves. So that kind of handicapped us. And made our -- this is very complicated case and made our case even more difficult. On the issue of the dsl permit, i'm going to have to defer to legal experts on this one, because what i've been informed by the state dsl, that the evaluation on the site, mike mccabe, was that the city reviews the application for purpose of need and the purpose of need stated in the dsl permit was there was a shortage of buildable sites and this application was filed in 2007. And that there was a shortage of buildable sites and a need for residential housing in the city of Portland and that was the need to fill the wetlands d use that -- the wetlands and use that area for the 49 lots. It was his interpretation because the permit has not been filed and finalized or paid for. At the time, the city can evaluate the condition of the land and is it more important to build houses or is -- can the houses be built around the wetlands. Is there another alternative analysis and the state has conditions for alternative analyses and building sites. The permit has been extended three times and according to emails in the file, it's extended to july 2010. Based on emails back and forth between the landowner's consultant and the state. As of december 8th, I haven't checked, the deq 401c permit, which is needed for the stormwater outfall that was in a status of denied for non-payment of the application. And I don't know if that has been brought up to date. I would suspect that that would be the responsibility of the city to make sure that happened. And the corps of engineers will not issue their work permit without the deq 401c3 permit and the letter of -- from the corps of engineers cannot be issued without both and it's been an educational process how these permits stack up but that's how i've been told they are. One of the issues we brought up was the loss of tree canopies. 70% of the trees on that property, in that area, are going to be bulldozed. 85% of that open land is going to be paved with impervious surface and while we know national staff rely on code and measures and what I learned to be diameter height. Putting in two 3-inch trees doesn't have the same impact and the neighborhood wanted to make sure there were ample studies done on what would happen with the loss of that massive amount of tree canopy on flooding on the neighboring properties. And it seemed counter product to remove the trees when the city has initiatives right now to protect and enhance urban forest and tree canopy and then approve something that's going to cut down 70% of the trees on the property. We believe the calculations for the amount of tree canopy removal and creating 85% impervious surfaces was not done. There's no statistics of what happens when you cut down all of these trees, where is the water going to go? You'll see in a little bit that there's some sizable ponds on the property and we would like to request that that be studied and reported. A geotechnical report for soil saturation and stability was done in june, ed to 7. A -- june 2007 and that's a dry month. And that's a important thing, I thought their map would have it, but it has predominantly flood zone and that's why all the permits with fema are in place. We would appreciate if you could require that a test be done for soil saturation during a wet month. Neighbors submitted a number of letters about flooding and it was minimalized in the hearings officer report as anecdotal. They're the people that live there. The city staff aren't there, the people to do a report aren't there. But they have experience with flooding on the neighboring properties in meadow drive. One of the letters was from allen orr, a previous police commander in north precinct and he was responsible for closing marine drive during the flooding and he witnessed it first hand and his concern is also for stormwater and flooding. That's part of the record. His letter. And it is true we requested a special evaluation by a professional because there's so many technical reports. The neighborhood association doesn't have the money it takes to require

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that. And while we rely on city staff for those, I think there's some very technical issues that need to be evaluated and we would like to see that in that particular code be enacted. A little history here. The city didn't protect this property in the 1980 with environmental overlays. It didn't look the way it does now. It's more valuable now. They mentioned the natural resources inventory. Raises a significant high value. Metro title xiii recognizes it as and has marked it as significantly high value habitat, or medium to high habitat and in need of being protected and while I know that you heard that those are not legal binding, they can be used to evaluate a decision and -- inform a decision and evaluate a property. So we can make a decision is this the best way to utilize this property. It should have been considered in evaluation of the property by staff. And I want to -- I don't know how to work this. This button? Huh?

*****: [inaudible]

Kincaid: Ok. Up? Are you seeing pictures? Ok. This is the meadow property. You'll see in the map at the end, i'm not a power point wizard. This is where approximately six houses will be. This is looking west, standing on 13th, looking into the property. This whole area welcome houses. This is the -- one of the wetlands that will be filled in, probably about six to seven feet deep. Filled with fill and houses built on top of this. This is looking to the left of that same pond. To get a size, I couldn't get it all in one frame. Again, further in deep, I don't know if you can see the pond, but it's pretty sizeable there. Usually geese on there, but it was a rainy day so they weren't out that day. This is my poor attempt. But this is the same drawing you saw presented earlier. The first area is where that large pond is, and then the other is where the deer and the meadow and the wetlands area is. It gives you a idea of what's being displaced. The amount of trees and etc. Ok. What we would like the city to do is reject the hearings officer decision and recognize that the procedural errors occurred which could have affected the outcome of the hearing. And require a geotechnical report during a wet month. And require a measurement done by bds of soil saturation levels protect -- projecting the proposed tree removal and 85% increase impervious surfaces so that neighboring properties aren't impacted by increased stormwater run-off. Request an updated transportation analysis that addresses the traffic on the one road that runs north and south in our neighborhood. And the regional transportation analysis was done in 2007 and did not include construction traffic. We'd like to have the city clarify because it seems to be confusing and the dsl permit and the purpose and need that -- can I --

Adams: You're out of time.

Kincaid: Can I have one minute.

Adams: I'm not allowed to, am i? It's 10 minutes each.

*****: [inaudible] can make up time.

Adams: One minute.

Kincaid: I want to get through this because I have a good point at the end. And I also want to evaluate the impacts of the new fema enforcement of rules now studying limited impervious surface in other developments in floodplains and there's self states that have cases pending about building in flood plains and the most important thing I want to suggest is to be able to do the right thing by this property and I don't think there's a person who would disagree. We should make this a nature preserve, do something unique here. We should build a nature preserve with a sustainable street of dreams homes. These homes could be built around the wetlands, there's all sorts of alternative analysis things that could be done and the educational opportunities for this are great. Alternative building would preserve the natural habitat and there's opportunities for psu to do environmental education for sustainable building and environmental studies and wetlands studies and there's been my preliminary conversations with the number of stakeholders has been great support and think that would be a great use of the land. The landowner would get his revenue off his investment and the city would get an inner city urban preserve that's unmatched in the united states. I would like to see the city take a lead role in proposing this. To make the architecture mitt the land and not the land fit

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the architecture. Instead of carving out a big hole, and put cement on top. There's the agriculture this troutdale, sailor's pond. We would like to see a commitment from the city to preserve a significant natural habitat and do something innovative and unique that would benefit a number of people. Thank you.

Adams: Thank you very much. All right. We have supporters of the applicant. Appellants, sorry. Supporters of the appellant. How many people do we have signed up?

Moore-Love: We have four signed up.

Adams: Ok. Hi, welcome to the city council. Glad you're here. You just need to give us your first and last name. And that clock in front of you in the big hunk of wood will help you count three minutes and you need to disclose if you're a lobbyist for anybody. , or if you're speaking for yourself. So why don't we begin with you.

Cathy Humble: My name is kathy humble. One of the neighborhood residents who is anecdotal. I've live there had for 31 years, speaking for myself. I'd like to make three points. The hearings officer findings, one, did not consider short term impact or ground cover lost during the process of shaping the land for development. Short term of 8,000 trips during development process. Long term impact of removing 70% of the tree canopy. All -- 70% of the tree canopy. All of this puts at risk a delicate environment. Point two, in reaching these findings, the hearings officer relied on inappropriate data, such as a 20 year old natural resources plan and geotechnical studies conducted during a dry month of a wetland. Three, today there's a repetitive shift of responsibility and timing from the council level decision to the permit level. This technicality flies in the face of the reality of the brandwein property. Like being a little bit pregnant. The neighborhood deserves better. More thorough consideration. Thank you.

Adams: Thank you very much.

Gary Clifford: Hi, good afternoon. My name is gary clifford. I'm a retired senior land use planner and represented Multnomah county on -- I live in the neighborhood and I represented Multnomah county on the technical advisory committee which developed title xiii and they -- the nature in neighborhoods. I'd like to point out that the reason, the only reason why nature in neighborhoods approval criteria are not being applied to this property is that the city asked for a delay of the implementation. Metro's original deadline was 2009. There's now a two-year delay. During this delay, in adoption of the code and the maps as required by metro's title xiii, the only reason why the mapped high habitat conservation area and moderate habitat conservation area which covers more than half the property is not being addressed. There are no city environmental zones on that part of the property. It's completely being missed. What i'm asking is at least that the condition -- maybe a condition of approval that would address how that inventoried resource that's being ignored. Is -- that's -- I could go on in terms of the timing and the particular -- this particular application fits -- slipped right in between certain implementation requirements and, in fact, under this agreement with metro, if this had been a planned development or conditional use, title xiii would have had to have been addressed. There's only subdivisions which are not being addressed and an submit a 49-lot subdivision has more impact than a conditional use or planned development and that's not being addressed in this application. I know it's not legally addressed, but i'm saying that the city's enforcement and participation in nature in neighborhoods is not -- is lost and this is one of the prime pieces of property that's being lost in that regard. Thank you.

Adams: Thank you very much. Hi, welcome back.

Simone Goldfeder: Hi, good afternoon. My name is simone and live in the southwest. And i'm here today in support of this in terms of -- in support of the neighborhood because partly a lot of the issue, the environmental issues are similar to some of the issues we address as well even though we don't necessarily have as much wetlands, we have sleep slope, trees, a lot of parallel issues. But i'm here to read the testimony of one bonnie mcknight who wasn't able to be here today. She asked I read this for you. I wish to support the appeal by the east columbia neighborhood association, I

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agree with the issues already explained by the east columbia neighborhood association. But do want to note some further concern was the goal 5 and metro title xiii requirements for areas such as the one considered for development. As noted in october 2008 article about questions raised in the puget sound area of Washington, fema and the federal government are pressed to look at whether current construction allowed in floodplain jeopardized habitat. The article states at the heart of the issue is the national food prevention program which for 40 years has regulated river corridor development but paid scant attention to endangered species that. Could change. The opinion from the national marine Fisheries in seattle, coupled with a injunction blocking development in florida, might force major changes in the federal insurance program. The Fisheries service suggested a temporary moratorium surrounding puget plain and allow the fema to sort out with state and local jurisdictions, what if any new building --

Beaumont: Excuse me. Mayor Adams, i'm informed by staff, there's no testimony in the record before the hearings officer on the fema issues that are being discussed now. At least at this level of detail. Not this particular issue. So --

Goldfeder: Ok. I'll end then.

Adams: Thank you all for your testimony. Karla?

Moore-Love: That's all who signed up in support of the appeal.

Adams: So we're now at the principle opponent. We'll have 15 minutes. Good afternoon. Welcome to the city council.

Mimi Doukas: Thank you. Good afternoon, mine name is mimi doukas. With cardno wrg. Primarily, I have to start by saying we concur with staff in response of the appeal items brought up by the neighborhood association. So I will beg your patience in doing a bit of repetition from what staff went through. I want to make sure we're on the record and in our rebuttal point the and i've provided a letter which summarizes these rebuttal points as well. First of all, the procedural Issues, there was a procedural error, that really was addressed through the provision of a second hearing. The same amount of time, in fact, they received additional time for public testimony and review of the public recorded through that second hearing. Beyond that, the hearings officer provided a nine-day written rebuttal period which gave an additional two days of response testimony. So they've had adequate opportunity to respond to the application itself. There's been a bit of testimony about the flood hazard area and the applicability of title xxiv. This is really a building code issue. In regard to the concerns about the flood hazard area in general, regardless of the code citation of 24, there are code sections in 33 that apply. The flood plane was reviewed by fema through the floodplain alteration request and through the letter of map revision application that's been reviewed by fema. The floodplain is established by feel a. They govern it and it's not based on our geotechnical report. The point about it being prepared in summer months is not germane to the flood hazard area. There are questions about the construction considerations that were recommended in the geotechnical report. Theres a series of recommendations. The appeal stated their concern those would not be followed and they were not talked about in the hearings officer decision. Those are still binding for our civil engineer or equivalent civil engineer will be submitting construction documents. Once it reaches that point, the civil engineer would have their license at risk if they ignored the geotechnical recommendations. So those recommendations will still be binding on the construction plans. Their concern about the construction traffic. Staff is correct. This is not a applicable approval criteria but we address that in our hearings officer presentation in the fact we estimate based on the earth work activity that needs to occur, about 20 trips per hour during the construction period. This is less than the 49 p.m. Volumes estimated in the traffic study. Stormwater concerns were raised in regard to the amount of tree removal involved. The tree removal doesn't entirely affect the stormwater analysis, the stormwater analysis assumed that there would be no infiltration whatsoever, that the groundwater table is high enough that there's no infiltration. So trees absorbing water is not really a stormwater flood event factor.

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That is a slow absorption of water when you're dealing with a flood event, that's a short term event and the soil saturation is where you have the chance for the land to percolate into the soil. As I said, the stormwater analysis assumed no infiltration due to the high groundwater table. The concerns about the geotechnical report being prepared in the summer months, that report, whether it's done in summer or winter, looks at the soil profile and how water will interact with the soil profile and analyze it according to that. It doesn't matter if it's completed during wet or dry months. That's the expertise of the geotechnical engineer. And staff pointed out, the assumption that the site will be 85% impervious is incorrect. Over the site is being preserved as a wetland tract. So that's fairly obvious. There were questions about environmental review and the appropriateness of that. Staff is correct, again, this is really regulated by the overlay zones of the c and p zones. We have addressed that, that's why we had to do an environmental review application to accommodate our stormwater outfall. This issue in the appeal was muddled a bit with some of the other mapping that exists out there. And whether or not the east columbia natural resource management plan is the correct guiding document in terms of habitat. We did, in fact, provide findings in regard to the -- in regards to the east columbia natural resources management plan which is the adopted document. The appellants have questioned whether title xiii is applicable because that's better mapping of regardless of your opinion of the quality of the mapping, your adopted document in place and the guiding rules that go with that are still -- go back to your mapped c and p zones, and to your adopted east columbia natural resource management plan. The appellants have requested a special evaluation by a professional. This is not --

Fish: Can I follow up on that for a second?

Doukas: Yes.

Fish: I guess I still don't understand the point that's being raised in your rebuttal. If metro title xiii had not been delayed and if it were applicable to this site, would there be a -- an additional legal basis for us to challenge the application?

Doukas: I don't know. I have not looked at the actual mapping of title xiii because it wasn't applicable. So I don't know exactly what that mapping is. I don't know how the rules work for it. It -- it's not -- it wasn't something I was required to look at. So I don't know.

Fish: Ok.

Doukas: Special evaluation by a professional. This is not a criteria that says it's a hard application, we need to get an outside person to review it. You have very, very qualified city staff that help provide that third party independent review of the technical documents that we submit. We submit high-quality documents, registered, certified professionals and engineers, geotechnical engineers, traffic engineers, geologists, landscape architect as all certified, licensed professionals and you also have staff that's licensed and certified that provide a third-party review and in many cases, we received a stat review on top. There's no technical expertise that's not contained within city hall that's applicable to this application. In the testimony we heard this afternoon, it was also brought up that it's believed that the habitat today that's out there today is better than it was 20 years ago and that's pulling it back into the title xiii question. That's a good segue into the

Bigger picture of what this application is and why it's before you today. Dr. Brandwein is not a typical developer. This was his home for many years before he moved to southern california for a warmer climate in his retirement years. While he lived in this home, he actually did the environmental improvements and enhancements to the area because he believed it was the right thing to do, it was his home and land and something he believed in. That would be the area contained within the wetland preservation tract. He's not out to rape and pillage and get every penny out of this property. He did it with sincerity in his heart. I know that doesn't factor into the criteria but I want you to understand what's before you today. There's the idea of the ability of preserving this site into a nature preserve beyond what's proposed today. Dr. Brandwein is open to that. That's a separate conversation. It does match his heart but we need to set that aside from what

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is before you today. But this is a very heart felt application. It meets the criteria. It's been a very long process. There's been a lot of execute any. Every step of the way from the zone change before my firm -- before my firm was involved. Through the subdivision and the neighborhood outreach we've done. There's a lot of analysis that's gone into this. I understand the frustration in the neighborhood association. It's a lot to absorb. But the amount of review is substantial. You've seen it in the documentation and the statewide review. This is a tested application, it meets the criteria and it will be a good development some day if this is actually what moves forward. So aside from that, I'm happy to answer any questions you have and that concludes my presentation.

Adams: Any discussion from council? Thank you very much.

*****: Thank you.

Adams: All right. We'll now hear from other opponents.

Moore-Love: We have two people signed up.

*****: Good afternoon, gentlemen.

Adams: Hi, welcome. How are you?

Theanne Kopald: My name is deann, I'm a cousin of dr. Howard brandwein. He wasn't able to be here so on his behalf, I'm reading this letter. It's been my intention to leave this property better I found it. Without any mitt credit, in 1997 and developed five acres of wetlands and continue to maintain them. My plan is that the developer establishes a homeowners' association that will keep the wetlands in perpetuity. I complied with every requirement required by city of Portland. I believe my concept is environmentally sound and that it will enhance the neighborhood. Respectfully, howard brandwein.

Adams: Thank you very much.

Chet Antonsen: Hi. Chet, bend, Oregon. I'm the president of pacific westward homes and developed blue heron homes east of 13th avenue. It had a lot of similarities. About a 30-32-acre piece and we created and enhanced many wetlands and built 104 homes. I believe what howard and his consultants have laid out is an extremely sound method of developing this property. He would love to sell it to someone who could keep it in a wetland conservancy or such. However, that's not on the table today. We dealt with the same things. We weren't appealed to city council but went through the same things with the neighborhood. The concerns of traffic on the roadway. We had to photograph all the roads because we hauled in 60,000-yards of fill. We didn't damage a single road in the process. I befriended many of the neighbors that had live there had and some, during the vanport incident. They told me that after we developed, the flooding diminished in their basements because when you -- large french drains, in essence. So I think those -- I think that the neighborhood association means well, but I think a lot of these issues will not come to pass. That they have with it. I think also, I heard the 85% impervious surface, I don't think there would be 85% of the piece developed. Only 10 acres of I believe 30. I believe it's probably 10% impervious surface when you consider the entire project. Relative to wildlife habitat, I think again, in keep being 20 acres in wetland or 18 acres in wetlands and open space, I think you're creating -- or maintaining a large wetland -- I mean, a large wildlife habitat. This only a few hundred feet from children's arboretum which is another open space park. I think it -- if they could come together with howard brandwein and buy it, is great. But to set it aside is not realistic. 49 lots is a low impact on an area like this.

Adams: Thank you both very much. All right. We now have the appellant rebuttal. For five minutes.

Kincaid: Can I get that picture back up again? I'm going to speak first to the 85%. The yellow area is open space grass and trees and so that's what would be paved over. I think it's not 10%. I think it's closer to the 85% and I can't -- 85%. I think I got that picture out of a document that was submitted: So that's where the 85% came from. The green space in there is one acre and that's a recreation tract required because the -- all the previous applications for this property were planned

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developments but when the title xiii issue came to fruition, this became a subdivision because it would not be covered by the title 13. And to my best knowledge, to answer your title xiii question, the city could use environmental zoning -- would adopt title xiii and then this property would have been protected because the radius would put it in line with environmental protection zones. I have a map and I don't know -- it's in a whole bunch of previous testimony of the area. So this whole blue area would be protected. A couple of rebuttal things. The amount of review is substantial. The amount of reports are substantial. They were all submitted by the landowner. None of them were independent reviews. Were reviewed by city, but none were independent reports so all of statistics were based on landowners' consultants -- consultants of the effect of tree canopy and cutting down 300 trees, most are poplar and some cottonwood and known to absorb water and to say that wouldn't have any effect on water absorption is contrary to what's in the Portland plan and the natural resources information, the elimination of trees. I think I submitted in prior testimony, urban forest gave me, said a 30-inch diameter insidious tree absorbs 3,000-gallons -- about 3,000-gallons of water a year. Multiple that by 300 and that's how many gallons of water wouldn't be absorbed. I'm not a scientist, but I don't know the soil saturation is the same in a dry month than a wet month. My common sense tells me there's a lot more groundwater. I lived in blue heron meadow. Our backyards were historically puddled during this time of year, and not during the summer. The children's arboretum is not connected to this property and could not be because bds said they don't want the wetland tract that you see -- sorry, that was my little quote thing. The wetland tract to the left of this. Bds has requested that it only be a viewing station and no connect itself and no human activity in that area and the children's arboretum is further to the west and there's no way to get there. There would have to be a bridge over the Multnomah county drainage district and that option is not available and would not be a public area. I'd like the city to clarify the relationship between the state and city on the dsl permit. I've gotten contrary information and -- from the state according to the city. The natural resources inventory in metro xiii, we've gone round and round on it. The city has the information. In the fall of 2009, the natural resources inventory was adopted. And that went to 13th. Which this property is directly west of. And so this property was not included. I'll admit was not included in the natural resources inventory but if you look at the overall nature and habitat, it's all pretty much the same and as the city improves forward with the wetland inventory and continued natural resources for the south shore plan, this area would be in there. So I think I answered all of the questions. Are there if I questions?

Fish: I have one question. You alleged a procedural violation. Have you been prevented from putting any additional arguments forward that you would have been able to advance if you had had an extra day or week notice? In other words, is there any issue that's not before us that you've raised that would have been raised if -- you argue, would have been raised or could have been raised if you had more time?

Kincaid: I would have done more research on the permit issue and especially fema and building in a floodplain, but that's so complicated and took so long, that we had to pick and choose our battles. There's a whole federal insurance firm -- I forget what it stands for, and there's a whole bunch of stuff out there and it's beyond me and there's testimony, bonnie mcknight has been following that because of the issue with columbia south shore. That's why that was brought up, but --

Fish: Putting aside that, the arguments you've advanced, do you believe those are your seven best arguments?

Kincaid: The best we could do, yeah, without paying expert consultants.

Fish: Thank you very much.

Adams: Thank you very much. All right, now we're at council deliberations. Any questions for staff?

Fish: I have one question for staff. Would you please come forward. Could you address the concern raised about the tree canopy and 70% of the trees that would be removed for the

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subdivision and for my benefit give me the context for understanding how that issue falls within the approval criteria and if there is an issue that we need to grapple with here.

Whiteside: Chapter 33.630 is the tree preservation chapter. In this case, a subdivision, there are five tree preservation options available to the applicant. Through preservation by canopy count or dbh. Diameter at breast height. The proposal meets two of the options out of the five. Which they range from preserving 35% of the total dbh on-site to less than that, but including more significant trees and there's a list in the code of what are considered significant trees. The applicant is required to provide a report by a certified arborist as part of their application. That was included as a hearings officer exhibit.

Saltzman: Does the applicant have to be qualified?

Whiteside: No, they get to choose which of the five they want to meet. Those five options were written as part of the zoning code to specifically address erosion, filtration, infiltration of stormwater, so it's a 30% or 35% is deemed adequate under the zoning code.

Fish: And because this is a public hearing and someone may be watching, would you please state for the record what the standard of review is? What we need to apply here.

Whiteside: The standard is 33.630, tree preservation.

Fish: I'm sorry, for this hearing. The council review, what is the question before us?

Whiteside: The question before you is either uphold the hearings officer's decision and to deny the appeal or to uphold the appeal, thereby overturning the hearings officer's decision. And you could adopt revised findings as part of that.

Fish: The burden of proof is on whom?

Whiteside: At this point, it's on the appellant. The applicant has already proven to the hearings officer that the approval criteria has been met and the hearings officer determined that the appropriate approval criteria have been met.

Fish: Thank you.

Adams: We'll entertain motions.

Beaumont: I wanted to clarify if the council is inclined to uphold the hearings officer's decision, we would recommend you make a tentative decision today because we'll need to modify the findings slightly to respond to some of the arguments raised on appeal.

Adams: Ok.

Leonard: Mayor Adams.

Adams: Commissioner Leonard.

Leonard: I'd move to deny the appeal and uphold the hearings officer decision.

Fish: I'm going to second that and have a brief council discussion.

Adams: Moved and seconded. Let's have a discussion.

Fish: Mayor, I want to acknowledge the opponents who have appeared today have in good faith presented some arguments and issues for our consideration and I think they have thoughtfully presented a number of concerns. The question before us, know, is whether -- though, is whether the burden of proof was met below by the applicant and whether the burden of proof on appeal is met by the opponent. The concern I have is that there are two categories of concerns that have been raised which I don't think we can consider on an appeal like this. One, are those issues that don't get triggered until later in the process and I don't think at this stage we can anticipate problems with other permits that may be required to be obtained in connection with the construction. And the second has to do with whether we have the proper criteria to begin with for evaluating and that I think is -- I -- I appreciate the fact that the neighborhood leaders have come in and effectively argued we might want to use a different formula for reviewing this. But I don't believe sitting here on a time 3 decision we have that authority to essentially change the ground rules at this point. And I think some of the issues that have been raised may cause us in the future to look at these issues but

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I think we're bound by the approval criteria and the narrow question is whether a burden of proof has been met. I don't believe we have the authority to go outside this framework.

Adams: Any other council discussion? Thank you for your testimony. Karla, please call the vote on the motion.

Fish: Again, I want to thank ms. Kincaid and the individuals who've appeared here on behalf of the opponents -- the appellants. This has been a thoughtful discussion and we appreciate greatly the time and energy you put into your arguments and as you noticed, you don't have the same benefit of access to outside professionals and others to guide you in this, but I found a lot of what you had to say interesting, well argued. I just believe based on the instructions we've been given by council and the rules that have been set up, a number of those points, we can't actually take up at this point.

But we appreciate again, the time and energy you've placed and the presentation you've made and based on the -- my determination that the burden of proof on the opponents side has not been met and the approval criteria was correctly decided by the hearings officer, I feel constrained to vote aye.

Saltzman: Well, I too, appreciate the appellant's arguments. But I do feel that the applicant has met the relevant standards in this situation and, therefore, I vote aye.

Leonard: Aye.

Adams: I really appreciate very reasoned and cogent and passionate -- and cogent arguments made by the appellant, but it does not rise, given everything that commissioner Fish summarized. It doesn't rise to the legal requirements. And so I vote aye. [gavel pounded] we are adjourned.

Moore-Love: No, we need to set -- continue this, bring it back for findings.

Adams: We're not adjourned. How long do you need?

Beaumont: Well, you have two weeks. Next week or the following week.

Fish: Unless we get an agreement to extend the clock.

Beaumont: Correct.

Fish: Did does the mayor have the authority to do that?

Beaumont: He has the authority to ask the applicant if they would extend the clock by another two weeks.

Fish: Knowing that our staff is burdened with many things. Who would that be presented for approval?

Beaumont: I think whoever is representing the applicant, which would be the consultant who made the presentation.

Doukas: We have granted two extensions already. It's a little hard to swallow another one. Do you really need another one?

Leonard: We can reconsider our vote and do that. Do what you'd like.

Doukas: I'm trying to tread gently.

Fish: There's an express about not snatching defeat from the jaws of victory.

Adams: Are you willing to grant us a two-week extension?

Beaumont: I'm informed by staff that they can bring this back on march 3rd if we have the council members present and that would be within the march 5th deadline.

Moore-Love: I show everybody present.

Leonard: When will the date be?

*****: March 3rd.

Adams: Hear it again on march 3rd.

Moore-Love: Do you need a time certain?

*****: Or the time.

Moore-Love: Probably the regular agenda in the morning. We have a 2:00.

Adams: March 3rd, 9:30. Thank you. We're adjourned.

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At 4:36 p.m., Council adjourned.