



CITY OF  
**PORTLAND, OREGON**

OFFICIAL  
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **28TH DAY OF APRIL, 2010** AT 9:30 A.M.

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

Commissioner Leonard arrived at 9:32 a.m.

At 9:55 a.m. Council recessed.

At 10:03 a.m. Council reconvened.

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

Items No. 566 and 567 were pulled for discussion and on a Y-4 roll call, the balance of the Consent Agenda was adopted.

<b>COMMUNICATIONS</b>	<b>Disposition:</b>
<b>562</b> Request of Burt Ruvensky to address Council regarding the Gladstone Street Traffic Diversion and Bicycle Boulevard Project (Communication)	<b>PLACED ON FILE</b>
<b>563</b> Request of James Lopes to address Council regarding lawlessness in Portland (Communication)	<b>PLACED ON FILE</b>
<b>564</b> Request of Mike O'Callaghan to address Council regarding shelterlessness (Communication)	<b>PLACED ON FILE</b>
<b>TIMES CERTAIN</b>	
<b>565</b> <b>TIME CERTAIN: 10:00 AM</b> – Declare intent to initiate local improvement district formation proceedings to construct street, sidewalk and stormwater improvements from NE Glisan St to 74 feet north of NE Davis St in the NE 97 <sup>th</sup> Avenue Green Street Local Improvement District (Resolution introduced by Mayor Adams; C-10035) 30 minutes requested  <b>Motion to amend to add language to ordinance title:</b> Moved by Mayor Adams and seconded by Commissioner Fritz. (Y-3; Fish absent)  (Y-4)	<b>36783</b> AS AMENDED
<b>CONSENT AGENDA – NO DISCUSSION</b>	

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**Mayor Sam Adams**

**Bureau of Planning & Sustainability**

**\*566** Authorize a contract for \$40,000 with Solar Oregon to deliver solar energy education and community outreach services (Ordinance)

**REFERRED TO  
COMMISSIONER OF  
FINANCE AND  
ADMINISTRATION**

**567** Authorize a three-year Intergovernmental Agreement with Portland State University in the amount of \$127,500 to implement Portland's Public Event Recycling Program (Ordinance)

**PASSED TO  
SECOND READING  
MAY 5, 2010  
AT 9:30 AM**

**568** Authorize an Intergovernmental Agreement in the amount of \$30,000 with the Oregon Department of Transportation for facilitation services on the Central City 2035 NE Quadrant Plan and I-5 Broadway/Weidler Interchange Project (Ordinance)

**PASSED TO  
SECOND READING  
MAY 5, 2010  
AT 9:30 AM**

**Bureau of Transportation**

**\*569** Grant revocable permit to CC Slaughters to close NW Davis St between NW 2nd Ave and NW 3rd Ave from 7:00 a.m. on May 27, 2010 until 6:00 a.m. on May 29, 2010 (Ordinance)  
  
(Y-4)

**183712**

**570** Grant revocable permit to Scandals Lounge & Restaurant to close SW Stark St between SW 11th Ave and SW 12th Ave from 7:00 a.m. on June 19, 2010 until 11:00 p.m. on June 20, 2010 (Ordinance)

**PASSED TO  
SECOND READING  
MAY 5, 2010  
AT 9:30 AM**

**571** Grant revocable permit to DZ Real Estate LLC to close SW Stark St between SW 11th Ave and SW 10th Ave from 6:00 a.m. until 11:00 p.m. on June 20, 2010 (Ordinance)

**PASSED TO  
SECOND READING  
MAY 5, 2010  
AT 9:30 AM**

**572** Grant revocable permit to Pearl District Business Association to close NW 13<sup>th</sup> Ave between NW Lovejoy St and NW Northrup St; and NW Marshall St between NW 12<sup>th</sup> Ave and NW 14<sup>th</sup> Ave from noon until 9:00 p.m. on July 4, 2010 (Ordinance)

**PASSED TO  
SECOND READING  
MAY 5, 2010  
AT 9:30 AM**

**573** Allow an exemption to City Code 5.36.010 regarding the disposition of surplus property for the purpose of selling surplus pay stations (Second Reading Agenda 540)  
  
(Y-4)

**183713**

**Office of City Attorney**

**\*574** Amend Legal Services Agreement with Cascadia Law Group for outside counsel (Ordinance; amend Contract No. 34620)  
  
(Y-4)

**183714**

**Office of Emergency Management**

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<p><b>*575</b> Accept a U.S. Department of Energy grant of \$276,099 to develop a Local Energy Assurance Plan and agree to the terms of the American Recovery and Reinvestment Act for reporting use of funds (Ordinance)  (Y-4)</p>	<p><b>183715</b></p>
<p><b>Office of Management and Finance – Human Resources</b></p>	
<p><b>576</b> Amend contract administered by the Bureau of Human Resources, Benefits and Wellness Office with United Behavioral Health for employee assistance services effective July 1, 2010 through June 30, 2011 (Ordinance; amend Contract No. 52683)</p>	<p><b>PASSED TO SECOND READING MAY 5, 2010 AT 9:30 AM</b></p>
<p><b>577</b> Amend contract with Aliquant Corporation for web-based benefit enrollment and related IT administrative software system services to extend the termination date of the contract from June 30, 2010 to June 30, 2013 (Ordinance; amend Contract No. 35136)</p>	<p><b>PASSED TO SECOND READING MAY 5, 2010 AT 9:30 AM</b></p>
<p><b>Office of Management and Finance – Internal Business Services</b></p>	
<p><b>*578</b> Pay claim of Marsha Anderson (Ordinance)  (Y-4)</p>	<p><b>183716</b></p>
<p><b>Commissioner Nick Fish Position No. 2</b></p>	
<p><b>Portland Housing Bureau</b></p>	
<p><b>*579</b> Authorize Section 108 Guaranteed Loan Pool Funds of \$460,000 from the Department of Housing and Urban Development for the preservation of Upshur House as affordable housing to be financed through the Portland Housing Preservation Fund (Ordinance)  (Y-4)</p>	<p><b>183717</b></p>
<p><b>*580</b> Authorize grant agreement with United Way of the Columbia-Willamette in the amount of \$25,000 to support outreach efforts for the 2010 Census (Ordinance)  (Y-4)</p>	<p><b>183718</b></p>
<p><b>Portland Parks &amp; Recreation</b></p>	
<p><b>581</b> Authorize three-party agreement with Multnomah County Department of County Human Services-School and Community Partnerships and the Centennial School District No. 28J for the SUN Community Schools initiative and SUN Service System (Second Reading Agenda 546)  (Y-4)</p>	<p><b>183719</b></p>
<p><b>582</b> Authorize three-party agreement with Multnomah County Department of County Human Services-School and Community Partnerships and the Reynolds School District No. 7 for the SUN Community Schools initiative and SUN Service System (Second Reading Agenda 547)  (Y-4)</p>	<p><b>183720</b></p>

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<b>Commissioner Dan Saltzman</b> <b>Position No. 3</b>		
<b>Bureau of Environmental Services</b>		
<b>*583</b>	Authorize Joint Funding Agreement between the Bureau of Environmental Services and the U.S. Geological Survey, U.S. Department of the Interior for hydrologic monitoring in the Johnson Creek, Columbia Slough, Fanno Creek and Tryon Creek Watersheds (Ordinance)  (Y-4)	<b>183721</b>
<b>*584</b>	Amend contract with MEI Group, dba Moore Excavation, Inc., to increase compensation for the Annual Pipe Cleaning and Investigative Service (Ordinance; amend Contract No. 41098)  (Y-4)	<b>183722</b>
<b>585</b>	Authorize a contract and provide payment for construction of the SE Tibbetts-Harrison Green Streets Project No. E08663 (Ordinance)	<b>PASSED TO SECOND READING MAY 5, 2010 AT 9:30 AM</b>
<b>586</b>	Authorize a contract and provide for payment for the construction of the Nob Hill Sewer Replacement Project No. E08880 (Ordinance)	<b>PASSED TO SECOND READING MAY 5, 2010 AT 9:30 AM</b>
<b>587</b>	Authorize a contract and provide for payment for the construction of the NW Wilson Sewer Replacement Project No. E08962 (Ordinance)	<b>PASSED TO SECOND READING MAY 5, 2010 AT 9:30 AM</b>
<b>588</b>	Authorize a contract and provide for payment for the construction of the SE Stark St, 72nd Ave, Taylor St and NE Wistaria Dr Sewer Rehabilitation Project No. E08978 (Ordinance)	<b>PASSED TO SECOND READING MAY 5, 2010 AT 9:30 AM</b>
<b>*589</b>	Authorize grant agreement with Tualatin Hills Park and Recreation District related to the Fanno Basin System Improvements projects Community Benefit Opportunity (Ordinance)  (Y-4)	<b>183723</b>
<b>Commissioner Randy Leonard</b> <b>Position No. 4</b>		
<b>Bureau of Water</b>		
<b>590</b>	Amend Staffing Intergovernmental Agreement with the Regional Water Providers Consortium to extend expiration date to June 30, 2015 and address other issues (Ordinance; amend Contract No. 50880)	<b>PASSED TO SECOND READING MAY 5, 2010 AT 9:30 AM</b>

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<p><b>591</b> Execute a Collection Agreement with the U.S. Forest Service, Mt. Hood National Forest to fund Juvenile Fish Monitoring associated with the Bull Run Water Supply Habitat Conservation Plan (Second Reading Agenda 552)  (Y-4)</p>	<p><b>183724</b></p>
<p style="text-align: center;"><b>Commissioner Amanda Fritz Position No. 1</b></p> <p style="text-align: center;"><b>Office of Healthy Working Rivers</b></p> <p><b>592</b> Authorize Intergovernmental Agreement with Oregon Department of Environmental Quality for funding of a Portland Harbor Stormwater Source Control Coordinator (Ordinance)</p>	<p style="text-align: center;"><b>PASSED TO SECOND READING MAY 5, 2010 AT 9:30 AM</b></p>
<p><b>REGULAR AGENDA</b></p> <p><b>Mayor Sam Adams</b></p> <p><b>Office of Management and Finance – Human Resources</b></p>	
<p><b>*593</b> Amend the City of Portland Health Plan to reflect necessary plan administrative and design changes as recommended by the Labor Management Benefits Committee for self-insured plans beginning July 1, 2010 (Ordinance)  (Y-4)</p>	<p><b>183725</b></p>
<p><b>*594</b> Amend contract administered by the Bureau of Human Resources, Benefits and Wellness Office with BenefitHelp Solutions for Flexible Spending Account Administration effective July 1, 2009 through June 30, 2014 (Ordinance; amend Contract No. 30000523)  (Y-4)</p>	<p><b>183726</b></p>
<p style="text-align: center;"><b>Office of Management and Finance – Internal Business Services</b></p> <p><b>595</b> Accept bid of P. &amp; C. Construction Company for \$4,300,500 for construction of the Union Station Facility Improvements Phase II American Recovery and Reinvestment Act Project (Procurement Report Bid No. 111349)  <b>Motion to accept the report:</b> Moved by Commissioner Fish and seconded by Commissioner Fritz.  (Y-4)</p>	<p style="text-align: center;"><b>ACCEPTED PREPARE CONTRACT</b></p>
<p style="text-align: center;"><b>Office of Management and Finance – Revenue</b></p> <p><b>596</b> Amend the Business License Law to eliminate the exemption for residential solid waste, recycling and yard debris haulers and make other housekeeping changes (Second Reading Agenda 557; amend Code Chapter 7.02)  (Y-4)</p>	<p><b>183727</b></p>

At 10:40 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **28TH DAY OF APRIL, 2010** AT 2:00 P.M.

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

Commissioner Saltzman arrived at 2:06 p.m.

At 2:57 p.m. Council recessed.

At 3:19 p.m. Council reconvened.

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

<p><b>597</b> <b>TIME CERTAIN: 2:00 PM</b> – Consider the proposal of Multnomah County, applicant and the recommendation from the Hearings Officer for approval of a Greenway Goal Exception and Comprehensive Map Amendment to allow placement of fill within the Willamette River Greenway setback area located at the Sellwood Bridge and vicinity (Hearing; LU 09-160242 GE CP) 1 ¼ hours requested for items 597 and 598</p> <p><b>Motion to accept the Hearings Officer’s report:</b> Moved by Mayor Adams and seconded by Commissioner Leonard.</p> <p>(Y-5)</p>	<p><b>Disposition</b></p> <p><b>ACCEPT HEARINGS OFFICER’S RECOMMENDATION</b></p>
<p><b>*598</b> Approve a Statewide Planning Goal Exception, Greenway Goal Exception and associated Comprehensive Plan Amendment to authorize the placement of fill within the Willamette Greenway setback area generally at the west end of the Sellwood Bridge (Ordinance; LU 09-160242 GE CP)</p> <p>(Y-5)</p>	<p><b>183728</b></p>
<p><b>599</b> <b>TIME CERTAIN: 3:15 PM</b> – Improve land use regulations and procedures related to schools as part of the Schools and Parks Conditional Use Code Refinement Project (Previous Agenda 560; Ordinance introduced by Mayor Adams; amend Title 33) 1 hour requested for items 599 and 600</p>	<p><b>RESCHEDULED TO JUNE 10, 2010 AT 3:00 PM TIME CERTAIN</b></p> <p><b>SUBSEQUENTLY RESCHEDULED TO FEBRUARY 23, 2011 AT 2:00 PM TIME CERTAIN</b></p>

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<p><b>600</b> Improve land use regulations and procedures related to recreational fields as part of the Schools and Parks Conditional Use Code Refinement Project (Previous Agenda 561; Ordinance introduced by Mayor Adams; amend Title 33 and Title 20)</p> <p><b>Motion to accept staff amendments 1 - 7 of memo dated April 28, 2010:</b> Moved by Commissioner Fish and seconded by Commissioner Leonard. (Y-4; N-1, Fritz)</p> <p><b>Motion to accept amendment to 33.279.040 B(2) Accessory Structures to change set back at least 30 feet from adjacent R zoned Sites and at least 15 feet from all other lot lines:</b> Moved by Commissioner Fritz and seconded by Mayor Adams. (Y-1; N-4, Fish, Saltzman, Leonard and Adams) Motion Failed.</p> <p><b>Motion to accept amendment that New Fields would be subject to a Type 2 Conditional Use and staff work out the language for that:</b> Moved by Commissioner Fritz and seconded by Commissioner Saltzman. (Y-2; N-3, Fish, Leonard and Adams) Motion Failed.</p>	<p><b>PASSED TO SECOND READING AS AMENDED MAY 5, 2010 AT 9:30 AM</b></p>
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At 4:30 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,  
OREGON WAS HELD THIS **29TH DAY OF APRIL, 2010** AT 2:00 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; Jim Van  
Dyke, Chief Deputy City Attorney; and Ron Willis and Pat Kelly, Sergeants at Arms.

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	<b>Disposition</b>
<b>*601 TIME CERTAIN: 2:00 PM</b> – Enact a portion of the Public Sidewalk Management Plan by creating a legal framework to manage usage of the sidewalk based on Americans with Disabilities Act requirements (Ordinance introduced by Mayor Adams; replace Code Section 14A.50.030) 1 ½ hours requested	<b>CONTINUED TO MAY 6, 2010 AT 3:00 TIME CERTAIN</b>

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At 5:24 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.

**April 28, 2010**  
**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.

**APRIL 28, 2010      9:30 AM**

**Adams:** The Portland city council will come to order. Good morning, Karla. How are you?

**Moore-Love:** Good.

**Adams:** What do you think of all of this rain?

**Moore-Love:** Love it.

**Adams:** Glutton for punishment. Please call the roll. [roll call]

**Adams:** Quorum is present. Can you please read the title for item no. 562.

**Item 562.**

**Adams:** Good morning, welcome to city council. We're glad you're here. We need you -- you just need to -- go ahead and have a seat. Just give your first and last name. You'll have three minutes and that clock in front of you will count down your three minutes.

**Burt Ruvensky:** I was wondering if I could wait until the fourth commissioner could show up so I can talk to all four of you?

**Fish:** He's sick and I don't know whether --

**Adams:** This is your opportunity.

**Ruvensky:** Ok. Fine.

**Ruvensky:** My name is burt ruvensky and I live in the kenilworth neighborhood and here to talk about the gladstone bicycle boulevard project. This design that you have in front of you was mailed out earlier this year. I'd like to know the first section that's highlighted says that -- it conducted two meetings last system and an update through the foster-powell neighborhood. The corridor is not located there. It's in the kenilworth neighborhood and this notice was not sent out until after the bureau of transportation had made their final decisions and authorization. Also, at the bottom, where it's highlighted says engineers do not foresee additional traffic on neighboring street but they're processing additional stop signs on uncontrolled intersections. Nobody believes that and we don't believe that the bureau of transportation believes that. And it is going to increase traffic on the other street. I arranged a meeting of neighbors to meet at the crescent kenilworth neighborhood association. With the project manager for this prong and at the meeting, he told everybody it was a done deal and it was going in. Well, that's how much input the city has gotten from the neighborhood about this project before they decided to go ahead with it. The -- a number of neighbors state they never received a design notice. The bureau received residents' requests for stop signs for years, telling them that the -- not enough accidents on the these streets and now they not only deny that traffic will increase on the adjacent streets with the bike boulevard but they're installing the very stop sign they told residents for years wasn't necessary. Traffic has increased since the speed bumps were installed on gladstone, so it's going to increase the traffic on the other streets. The bureau does not know how much traffic is cut through traffic and how much is loam access. There's a school there. There's a lot of north-south bicycle traffic and hardly any east-west and at the bottom of page two is a summary the bike count showing there's hardly any demand at all for a bike boulevard. The bureau will not consider any terms to decrease the speed on gladstone and other streets. So we feel that this project needs to be stopped. And the concerns of the neighbors need to be taken in before they continue with this.

**Adams:** You did a great job of presenting the concerns. I appreciate that. If jenny, you'd raise your hand. If you would look back there. If you would meet with jenny peckinpaugh, my public

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advocate for transportation issues and we'll see what we can do to get more effective conferencing with the neighborhood and the business association.

**Ruvensky:** Ok. Well, the only thing that will satisfy the neighbors now is stop the project and then talk to them. Not just put it in and how do you like it sort of thing.

**Adams:** Well, people are free to choose whatever path they want. I would talk to jenny today for sure and i'll follow up with her. I think conversation is important in order for me to determine the veracity and their side of the story as well. So please talk to jenny today and we'll try and meet your concerns.

**Ruvensky:** All right.

**Adams:** Thanks for your testimony and bringing it to our attention. Please read the title for council communication no. 563.

**Item 563.**

**Adams:** Good morning, mr. Lopes. How are you?

**James Lopes:** Good. It's actually lopes.

**Adams:** Sorry and it's even spelled correctly. Good morning, mr. Lopes.

**Lopes:** Thank you. Thank you for having me, first of all. I have a little sheet i'd like to leave with you with my number. This is a question, rather than a concern. My name is james lopes. I love Portland, Oregon and our great country, home of the free and brave. I've lived here around 15 years after my dad's retirement here and I started a family here and learned how to start a business here. And I sit before you because of hard times and i've had to experience for the last four and a half years or so. At first, I figured they were all separate destructive natural occurrences. A year or more ago, I had an awakening, I can only explain from god. That many or all of these destructive things brought upon my life were connected. You hear on the news about terrorism. We protect ourselves from out of the united states, but I believe there has been a terror, following me on our own soil. Some of the injustices over these years, I just -- I put together, criminal impersonation, stalking and -- impersonations and intimidation, interference, theft, robbery, assault, theft by extortion. In my search for truth because of lack of help from the regular authorities i'm led to believe our very system may be involved. Therefore, easy to trace by my name and social security number which I put on the list here and the only place I have felt safe is in my car. Police helped me acquire the -- please help me acquire the truth of this question. If it's a part of our very system, I need to know what for and how I can find true freedom.

**Adams:** Mr. Lopes, this is inna, right here and if you wouldn't mind, my office is upstairs and she'll introduce you to amy stevens, an advocate if my office and i'd like to see what we can do for you. Thanks for being here.

**Lopes:** Who do I leave this with?

**Adams:** Karla, please.

**Lopes:** Ok.

**Adams:** Karla, please read the title for item no. 564.

**Adams:** Mr. O'callaghan, welcome back.

**Mike O'Callaghan:** Thank you.

**Adams:** O'callaghan, sorry.

**O'Callaghan:** I'd like to reference a letter to mike mills, included in your packet right here. But that's not my issue today. Hello, my name is michael o'callaghan. I'm a criminal. By city law, I can't sleep. I can't camp. I can't do body discharge. Can't drink alcohol. Can't erect a structure. You make me a criminal. I'm 100% vulnerable to police enforcing lawful action. It's unfortunate, you choose to make people criminal because of economic status. All people should have access to being warm, dry, and secure. From my perspective and I haven't addressed the council in probably three months, no one on this council has done anything in the past year to allow those without lawful shelter to have it. Homeless population has gone up 36% in all the major cities that keep

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track. To be warm and dry and secure in that environment means criminal behavior. It is impossible for the homeless to obey the law. And I -- I laugh at your efforts to pass another law it make us criminal. Thank you. The question with no answer is where do you go? The only answer is away. Go away. Go away. That's impossible for this subgroup. Three days without sleep one is certifiably insane and how can those choosing to recover from addictive behavior do so when they have no shelter? So, on the solutions. Zone the camping ordinance. Fenced self-governing community of no more than 50. Create a prototype and then duplicate. Parking garages. O'brien closes at 7:00 p.m. And opens at 6:30:00 p.m. Nice and clean, 6:30 self-governing. Mobile sleeping units -- a vacancy tax. Double the occupancy tax on unoccupied building, proceeds going to housing and shelters and programs.

**Adams:** Thank you, sir, for your testimony. I appreciate it. Karla, we have -- in looking at the consent agenda, we have two items that have been pulled. I understand 566 and 567?

**Moore-Love:** Yes.

**Adams:** Do you know what the purpose of the pull is? I know I have a scrivener's error on one.

**Moore-Love:** The 567 is supposed to be with metro instead of psu.

**Adams:** Who pulled it?

**Moore-Love:** The bureau did. Sustainability.

**Adams:** All right. We'll send 566 back to my office. And before we vote on it, then i'd like to correct the scrivener's error in the boilerplate that references metro when it should say psu, the bottom of the first page of the ordinance.

**Moore-Love:** The iga is also psu on it.

**Adams:** Are we ok to do that?

**Fritz Johnson, Bureau of Planning and Sustainability:** So the motion that would need to occur would be to statute a --

**Adams:** It's just a scrivener's error.

**Johnson:** The scrivener's error.

**Moore-Love:** Substitute all psu to metro.

**Johnson:** It would just be a directive to the auditor's office.

**Moore-Love:** As a scrivener's error?

**Adams:** Would you please make that --

**Moore-Love:** Should I read the title? After the consent.

**Adams:** I was hoping to do it altogether.

**\*\*\*\*\*:** If it's discussed separately from the consent agenda, then it would need to be --

**Adams:** I'll pull 567. Any other items that need our attention? Can you please call the roll on the consent agenda.

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

**Adams:** Aye. [gavel pounded] approved. Can you please read the title for 567?

**Item 567.**

**Adams:** With the scrivener's correction requested and noted for the record, can you please call the vote on 567.

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

**Adams:** Aye. So approved. Can you please read the title for regular agenda item 593.

**Items 593 and 594.**

**Adams:** Can you also read item no. 594.

**Adams:** Good morning, how are you?

**Cathy Bless, Human Resources:** Good morning.

**Adams:** What are we looking at here?

**Bless:** As part of the upcoming annual enrollment process, the ordinance before you establishes the 2010-11 Portland health plan and identifying the city insured self-insured health plan and changes

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recommended by the labor management benefits committee effective for July 1, 2010. The Imbc is a dedicated group of labor leaders and management who meet monthly to discuss costs of healthcare and upcoming trends in a thoughtful and proactive manner. The most substantial changes will be in the improved access to healthcare. Improvements have been made to the free wellness exams, providing all participants an exam annually and instead of when a participant needs to go to the doctor, the plan will charge a \$15 flat co-pay at the time of the service is provided. And nothing more than will need to be paid by the member. And no deductible or further coinsurance will be required by the participant. There's a modest increase to the deductible but it will only come into play for services such as outpatient or inpatient hospital services and some ancillary types of services such as physical therapy. Support for the treatment of obesity has been added to the plan, including a \$15,000 lifetime benefit for treatments related to surgical interventions and 500 for hospital weight loss services and counseling with a BMI of over 26. The committee also recommends adjusting two benefit options, capped through lifetime maximum. Sleep apnea capped at \$5,000. And the current lifetime maximum for hospice care has been adjusted upwards to ensure it meets the need. No additional cost to the plan, increase for July 1, and the changes support the health benchmarks within the newly strategic wellness plan and support family members and current retiree participants and lower risk factors relative to maintaining good health. Lastly, updated and applicable language has been inserted in the plan documents that will allow for plan design and/or eligibility rules as required by the healthcare and affordability act of 2010 as those changes become effective for our groups. Do you have any questions?

**Adams:** Questions or discussion from council? Did you speak to both of those?

**Bless:** I did not. The second amendment is simply a correction of the original contract. We greatly understated the amount of money that employees put in their pretax deductions for Merck and Decap and this is a correction on that.

**Adams:** Unless there's discussion from council, anyone who wishes to testify on 593 or 594?

**Moore-Love:** We have two people who signed up.

**Adams:** Are the Joneses in the room.

**Moore-Love:** Sorry, wrong item. No, nobody signed up.

**Adams:** All right. These are emergency ordinances, so would you please call the vote.

**Moore-Love:** 593?

**Adams:** 593, thanks.

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

**Fritz:** Well, I'm very impressed with the labor management benefit committee and the chairman is here with us today and thank Kathy who has done remarkable work with the whole program and I want to emphasize this is using taxpayers' money wisely to provide benefits for city blows and in their healthcare and encourages them to go to the doctor or licensed practitioner early so they get care and the other part, the increase in the deductible, saves the plan about 2%, which is used to add the additional benefits for weight loss and other wellness benchmarks. And I totally -- it's totally a win-win. Saves money for the taxpayers and encourages employees to go to the doctor. And other licensed medical practitioners. Aye.

**Adams:** Did everybody else vote?

**Moore-Love:** Yes.

**Adams:** Ok, aye. Losing my mind. 594. Please call the vote.

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

**Adams:** Aye.

**Item 567.**

**Moore-Love:** We need to revisit 567. That was the PSU, now Metro account. That's a non-emergency. So we should not have voted on it.

**Adams:** But it was on the consent agenda.

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**Moore-Love:** We pulled it, but it would have passed to a second reading back on the consent next week.

**Adams:** Ok. Ok, so then we take back our vote. And what?

**Moore-Love:** It will be continued to next week on the consent agenda and docketed then as a non-emergency.

**Adams:** Thanks for catching that. Can you please read the item for procurement report number no. 595.

**Moore-Love:** 595?

**Adams:** Good morning, ms. Moody, how are you?

**Christine Moody:** I am Christine moody, procurement services. In front of you is a report recommending a contract to the low bidder for a phase two union station improvement project. This project is being funded by grants provided by the federal american recovery and reinvestment act through an odot odot program and provided by the city's facilities fund and pdc as committed to cover the remaining cost. The city's good faith efforts does not apply to this, as odot requires contractors to require with the federal dba program. The goal was 3%. And none of the bids submitted met the 3% goal. The aspirational targets were not included of the low bid reviewed by odot and found to be responsive. Marina is here and she can answer any technical questions about the project.

**Adams:** Could you summarize, what are we doing to union station with this particular face?

**Marina Cresswell:** Marina cresswell. We're going to be replacing most of the metal roof and also be adding seismic improvements in select areas and repairing windows and doors and exterior surfaces on the majority of the building.

**Adams:** Right. Any discussion from council? Anyone wish to testify on item 595? I'll entertain a motion --

**Fish:** So moved.

**Fritz:** Second.

**Adams:** Moved and seconded. Karla, please call the vote.

**Fish:** Thank you for your good work. Aye.

**Leonard:** Aye.

**Fritz:** Well, thank you for giving more information to my staff about the minority women and small businesses and sounds [inaudible] and thank you for trying. Aye.

**Adams:** This is great, i'm as a little nervous when we embark on peeling back any part of union station because as i've come to learn over the years, we do our best, and send people through every craw space and as an disassemble pieces we fiend it was held up by good will and hope. So -- disassemble pieces, we find it's held up by good will and hope. We keep chipping away for it. Aye.

Please read the title and second reading for item no. 596.

**Item 596**

**Adams:** Please call the vote.

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

**Adams:** We have a fantastic team heading up our bureau of revenue and they've been working extra hard that I will have a number and the council will have a number to update our financial forecast in terms of revenue. So I know you've been working around the clock, terry and team, I appreciate it. Aye. [gavel pounded] all right. We'll take a five-minute break.

At 9:55 a.m. Council recessed.

At 10:03 a.m. Council reconvened.

**Adams:** City council will come back from recess for consideration of the 10:00 time certain. Karla, please read the title for 565.

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**Item 565.**

**Adams:** Wow, we've got a super-star lineup of public servants. Welcome. What are we looking at here?

**Andrew Aebi, Bureau of Transportation:** Good morning, mayor Adams, before we get started -- first of all, joining me on my left, far left is Justin Douglas. On my far left, Justin Douglas of the Portland Development Commission and also Sue Lewis also of the commission. I had submitted a memo to append the name of the lid to the resolution title. Can we move that amendment.

**Adams:** So moved.

**Fritz:** Second.

**Adams:** Moved and seconded. Karla, please call the roll.

**Leonard:** Aye.

**Fritz:** Just to clarify, this is to declare intent to initiate the local improvement district and the amendment appends the name to the title of the resolution? Aye.

**Adams:** Aye. [gavel pounded] so amended.

**Aebi:** Thank you. Karla, if we could flip through the presentation. The first slide shows you the gateway urban renewal area and I'm going to pass out the hard copies if you want to take a look at those while you're looking at this. Portland Development Commission providing a major amount of funding for this project and one of the issues that we have in gateway, the connectivity is poor and a lot of the streets in gateway are substandard or unimproved and this will take care of approving 97th Avenue between Davis and Glisan, east of the I-205 freeway. The next slide gives you a view of the proximity to the freeway and Glisan Street. One of the challenges with this is that there's little property on the west side of the street. That's ODOT right-of-way. And so the funding from PDC and the Bureau of Environmental Services was critical to making up that share of the cost that would otherwise not be assessed to the ODOT right-of-way. We have a smaller number of prompts that benefit and, therefore, share in the cost of the improvement. More importantly, you can see the location is really a prime location. Close to the junction of I-84 and I-205, yet there's little development on the streets and properties are severely underdeveloped and a blighted area and hasn't seen the renaissance we'd like to see for that area. This is a closer up view of the lid map and the properties in green are the properties that petitioned in favor. We have 66.5% petition support for the project and we also have a number of properties that were drawn into the lid but exempted from assessment. We may look at extending the length of the project and then entering into negotiation -- negotiating extra work agreement with the property owners to either extend the prompts on 97th a little bit further to the south and/or provide a new east-west connection connecting 97th and 99th. The dotted line is the approximate location of where a future east-west street connection would go per the gateway master street plan. Here's a picture of the west side of 97th Avenue. There's existing pavement on the street but no stormwater drainage so it runs off the side of the road and pools wherever the low point of elevation is and in this case, the next -- this is in somebody's driveway and the stormwater improvements will deal with that. And we think this area infiltrates well and will be a great place to build green streets. And here's an example of what it's like to park on the street. You've got a muddy mess along the side of the pavement and the streetscape will be more attractive when the project is complete. This is the ODOT bike path immediately adjacent to the street. And this is just something I noticed the last time I was out on the street. There was a car break-in and broken whereas, along the side of the street and we hope this development will spur development activity and have more eyes on the street and make it less of a crime nuisance. And the last plan is the concept for northeast 97th Avenue. The scales -- the possible scale locations and the green street features we'd be incorporating into the project. I want to turn it over to Justin and Sue to add additional remarks and will be happy to answer questions you have. And we have property owners here as well.

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**Justin Douglas, Portland Development Commission:** Justin douglas, pdc. Just wanted to say a few comments before turning it over to sue and folks who came to testify. We've heard loud and clear from the community that the state -- the local infrastructure in gateway is unacceptable so pdc has been spending time and resources and energy to addressing this. On a policy side, as you guys recall, we worked to update the gateway master street plan and appreciate council's support for that amendment in october of last year. This particular project is our first step in implementing some of those street improvements. It will not only improve an existing local street developer who owns property adjacent to 97th avenue will construct our first local new street in gate way and a quick comment f. You're curious why we chose this street, there are obviously many deserving streets in gateway, the stakeholder committee that works with us to adopt or amend the master street plan selected this street for first improvements for a couple of reasons. One, obviously, because it was in great need. But two, because we wanted to make sure that the commitments that we used in city dollars to improving these streets went hand in hand both with local development opportunities and local property owner who is supported this project so we really hope this effort and model is duplicated many times over in the future. With that i'll pass it over to sue.

**Sue Lewis, Portland Development Commission:** Good morning, sue lewis with Portland development commission. We just -- pdc's excited to enter into in this multiagency cooperation and we'll be implementing the gateway green streets master plan adopted in 2008 and we hope that this will improve the pedestrian access and bicycle access to the multiuse paths and make it a more pedestrian-friendly street. Thank you very much.

**Adams:** If I could just, for the record, can you summarize again the total value of the project and then where the money is coming from?

**Aebi:** Yeah, the total cost of the project is \$1,157,000. The property owners' share of the project is \$439,000. The bureau of environmental services grant fund -- close to a three-way split between the property owners, pdc and bds.

**Adams:** Thank you, good work.

**Aebi:** Thank you.

**Adams:** Questions?

**Fritz:** You said there was 67% support.

**Aebi:** 66.5.

**Fritz:** Have there been remonstrances?

**Aebi:** We don't get to that until we get to the hearing four weeks from day. I'm not aware of any opposition. The one property owner who didn't sign the petition indicated a strong support for the project. So again, i'm not aware of any opposition to the project at this time.

**Fritz:** Thank you, and explain to me the environmental services -- sorry, explain to me the environmental services involvement with grants. I wasn't following that piece.

**Douglas:** Several years ago, pdc applied for a 1% for green grant from the bureau of environmental services so this project was awarded \$300,000 and 1% for green grant funds and \$117,000 in watershed investment fund grant dollars.

**Fritz:** And what will that be used for.

**Adams:** The famous green streets.

**Fritz:** So it will be used for the vegetated --

**Douglas:** The bioswales and street construction and street trees. All of the construction activities.

**Fritz:** Thank you.

**Leonard:** A question, andrew. As you know, there's a lot of concern from people who live on streets that aren't paved and/or do not have sidewalks. And what we typically respond to understanding my office when we get an email like that, you have to form an lid and I always refer them to you. So in this project, you have various partners that are helping fund this program. Pdc,

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bds and the neighbors. Can you explain how that's different than the typical street improvement or sidewalk improvement project that would occur outside of a ura? What would the total funding of a project like this, for an example, be from those neighbors who wanted to do the exact same kind of project but didn't have the typical partners we have here -- partnerships we have here?

**Aebi:** Yes, commissioner Leonard, it's an interesting paradox because I'm sure you can appreciate, hundreds if not thousands of calls from all over the city where people want help improving infrastructure. I think we've been relatively helpful where there's interest in the financial ability to improve streets, unfortunately, we're only tackling a small percentage of the problem. I remember when I started getting involved at the citizen level, we had a lot of miles -- we're north of 60 and I hope to push that below 60 pretty soon. One of the -- paradoxes, where we've been able to knock out a lot of improvements in areas like lents where we have an urban renewal area. Done almost two miles of street paving in lents and dropped it further below on the rank the neighborhoods in Portland that have unimproved streets. A lot of lids have been commercial and a smaller number of residential. This tool is an option of using pdc funding would be only available in urban renewal areas and most of the city is outside of an urban renewal. And that's good, as this -- as good as this partnership has been, it's not something we can replicate in most other areas of the city.

**Leonard:** What about the bds money?

**Aebi:** That would be a policy decision for council.

**Leonard:** What I'm trying to do for people observing this process or wondering about their street, but they live in cully. Is it accurate they'd have to fully fund the improvements the street and sidewalk and would not have available the city matching funds through bds and Portland development commission available for this project.

**Aebi:** I start with the assumption that the property owners need to pick up the entire cost of the improvements. When I try to put these projects together is communicate with bds and the other partners about opportunities coming in the door. And if bds has an interest in funding projects in cully or any other neighborhoods, I can certainly apply that funding to the lid but that's a poll for bds and council it make in terms of whether they wish to fund the project. One thing I might note, the southwest texas lid we built several years ago that was a long festering problem and we finally got that project done and in that instance, bds picked up the stormwater costs and I should point out that the street costs were still significant for the property owners. Even forsake of argument, I'm not suggesting this will be the case, but for the sake of argument, bds stepped forward and said we'll pay for the stormwater costs, there's still a challenge to coming up with the street costs. In this project, the critical was the pdc funding because again, so much of the right-of-way along the i-205 freeway that couldn't be assessed and the property owners would have had a big -- if they had to pick up the portion of the assessment. And one other note I might make. Some of the biggest challenges in terms of project funding are not what the scope of the funding or topography of the area. It's what the density of the area is -- I was working on a lid effort in southeast Portland in the markham neighborhood and that's project has been tabled but we have r7 zoning and 10,000 square foot lots and you might have frontage on two streets, that's far and away how expensive the project is, how intensively the area's been developed. That's probably another discussion for another day. But thought I would flag that for you.

**Adams:** If I could -- and this is -- I apologize for those of you watching if it's not -- if it's somewhat confusing why I'm going to pick up a little bit of where commissioner Leonard left off. It's more of a larger issue. If you look in the back of the handout, you'll see that there are -- bds is paying for green street treatments and you'll see at the corners at these green street treatments include curb extension scales. And the earlier discussion and action of the city council to prioritize \$15 million in savings toward green streets is evident and shows up in project separately, a separate pot of money, but \$417,000 to do on this street exactly what they had concerns about doing in other parts of the city. And that discussion was absolutely positive byzantine mangled and much of the

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reporting was incredibly incorrect. I wanted to point out to the public that despite all of that brouhaha, bds invests in these kind of facilities, in this case, green facilities, because it's much cheaper than installing a separate sewer system and it is much more environmentally defensible than using sumps which do not allow the water full of petroleum products and other things to be injected directly into the ground water. It's hard to connect the dots.

**Leonard:** Randy never takes exception.

**Adams:** This is your opportunity.

**Fish:** Mayor, may I note on that point, it came to my attention recently. Commissioner Saltzman and I have been attending community forums over the last couple of months and it's no surprise that this issue occasionally comes up and that was the clearest explanation of what I've heard of what we did and I wonder if you're available tonight at 7:00 and take arrows and shots and give that answer in another forum. Thank you.

**Adams:** This is an example -- The Texas lid was significantly cheaper because we used green street features to deal with the stormwaters and again, the old gray pipe -- he came in a little late. The old gray pipe approach, much, much, much more importance. If we had to gray pipe the stormwater sewer system in Texas lid, we would have significantly more money. If we had to gray pipe the stormwater system here, Matt, it would be significantly more money. So thank you for bringing another green street project forward.

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

**Adams:** We'll go to the testimony. Matt, you missed it. Oh, yeah, yeah. There's \$417,000 that you would want to try to spend in other areas that weren't legal. So who would you like to call first?

**Moore-Love:** We have seven people signed up. The first three please come on up.

**Adams:** And because this is -- I think council is so enthusiastic about this project, it's a -- that old phrase, gift horse, you know? Feel free to be succinct. But take as much time as you want. Sir?

**Gordon Jones:** Thank you. Thank you, Mr. Mayor and commissioners. I'm Gordon Jones, a property owner and been a developer in the gateway area for the last dozen years or so. I'm one of the property owners that's very involved in this lid and it will greatly benefit some of the property I own in gateway in that will improve the area and allowing a development I've been planning for a long time between 99th and 97th. And I wanted to just point out quickly that this is the culmination of a lot of years of effort and a lot of planning documents, including, I just went through my files the other day and pulled out opportunity gateway plan and redevelopment strategy and a lot of planning went on even prior to this. And then another important document that addresses these kind of improvements was the central gateway redevelopment strategy, which July of 2007. And then finally, and I think this will address Commissioner Leonard's questions a little bit more too. This is the gateway green street master plan. These documents tend to end up on shelves and sometimes we don't refer back to them but this clearly lays out a strategy for green streets in gateway, defines the area, discusses the geology, the percolation characteristics of the area and how and why green streets makes sense in gateway. It's very flat but has wonderful soils for infiltrations. So yes, this is a yes document so they've been instrumental in helping us try to figure out how to deal with stormwater issues in gateway. The Portland department of transportation has been very instrumental in trying to help us develop a street plan neither of those agencies are here today, but trust me, PDC has led the way, of course, but BES and PDOT have been instrumental players throughout this process. This project is the first green street that's a model green street in the gateway area. I think that it will provide the example as we go forward now to try to implement this green street master plan on one way to do it, and it may be the best way, and that's through the lid process. There simply isn't money to acquire the rights-of-way and we'll be -- when our project goes forward, we'll be actually contributing the first street right-of-way to the city in the master plan coming in the form of a work, autos and pedestrians combined and a new connection street that will be in an future lid to the south. But the one mechanism always missing in a lot of our minds

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out there as we participated in these transportation planning committees and so on, was how do we get this right-of-way? How to we acquire it? I think the only way do it reasonably and equitable to the people who own house where is the street plans overlays is to do it with lids and the help of bes and pdot and pdc through the tif money. If you read the master plan, they lay out how the lid should work and says it needs to be a partnership went all of these various agencies and no morning 30% or 33% of the cost should go to the landowner. I think it's well design.

**Adams:** It's a fantastic design. But you've been positively relentless, and I mean that in a constructive way to add all of the punning words I can think of, as an advocate for transportation connectivity in the gateway area and I want to thank you. You've taken me on tours and you've been instrumental. And you've made a huge difference working with a lot of people that I want to point out. You personally have made a huge difference for improving the quality of life and safety for Portlanders. Thank you.

**Jones:** Thank you, appreciate that.

**Paul Wilkes:** Mr. Mayor, council members, i'm paul wilkes, the administrator of glisan care center. My concern is for the care and -- that street is a high prostitution, high drug, and high crime.

And in talking with all of the players here, I feel it would greatly enhance, hopefully reduce, but greatly enhance the safety of my staff and residents. I have very mobile residents who actually go out. Some go to the store by themselves. When I first became the administrator there, we had to ask the panhandlers and some of the prostitutes and drug dealers, we had to actually not let -- they were used to coming in the building and taking over and we had to do a lot of the excessive escorting them out. Getting them out of the facility and off the property. And during that time frame, they have threatened that, you know, you need to watch out for your resident that's come out here. Make sure, you know -- you know, we're watching your car for you. And if you don't work with us, we won't protect your cars anymore. And so I think this would -- you know, help the safety and so I appreciate it very much and i'm finished. Thank you.

**Adams:** I agree that the design, including additional lighting and park, safe parking and the ability of people to walk freely will definitely be a key component to addressing the issues of prostitution and drug dealing and others. Thank you.

**Angela Jones:** My name is angela jones, the clinical case manager at glisan care under. I just want to fall in the same lines that paul just mentioned to your council and appreciate the time you've given us today. Over the three years i've -- i've worked for prestige care and in this area, primarily serving seniors and often elderly family members coming to visit their loved ones, so we get a lot of very vulnerable individuals for whatever reason are coming. Whether they're here for a short-term rehab or you longer term stay and this is their home. Permanently, i've been a victim of -- my tires being taken off my car. And we've had many, many increased -- especially over the last year, break-ins and related to the fact that we've taken a firmer stance in not letting somewhat crazed people run through our building and use our bathroom and phones to make their contacts or what have you. We've seen backlash on those kind of incidents. I feel -- I think the main reason that i'm forward to you today, in addition to the fact this would greatly improve as far as the green concepts, improving our area and a continued pride that I think the inherent neighborhood has in the gateway area, as mr. Jones has indicated, I think -- I mean, there's so many more positives than negatives and I really feel if we had a increased police presence and increased lighting, there's something to be proud of on that street, as opposed to looking like a junkyard throw-away area. I think it would solve a lot of problems and provide a sense of safety, not only to employees and you live in the city, things happen to your car, that's one thing, but I almost feel like we're held hostage by an aggressive panhandling ring that's going on in those particular corners by a drug deal you literally see happen in front of you and i'll call if you see something, we'll try to come down. I would probably be calling every day all the time. That's how bad it is in the last year so I implore you to consider this improvement for that reason. I think it would make a lot of vulnerable people in our community

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feel much safer. In addition to beautifying an area that's growing and thriving and thanks to mr. Jones and other community activists, increase the transportation directions we've taken with the max line and it's a win-win. I appreciate your time and consideration today. Thank you very much.

**Adams:** Thank you all very much. Appreciate it.

**Moore-Love:** The next three erica, marsha and jackie. Please come on up.

**Adams:** Good morning, welcome to city council. Glad you're here. You just need to give us your first and last name and you have three minutes. Begin with you.

**Marcia LaMure:** I'm marcia and i'm the regional director of operations for prestige cares and I oversee 11 care centers and glisan is one of them. I'm concerned about the safety of our residents and the safety of the staff and i've heard from staff at glisan care center over the years, about the flop house, the drug house that's on the corner right next to our -- it would be on the northwest corner of the area. And we have done -- we've tried to do things like cut down the shrubs and the trees in between our facility and the house which goes out to the street to try to make things safer, but it's of great concern and on the other side of it, it's affected our business. These are vulnerable elderly looking for a care center and when they come to look at glisan care center versus somewhere else and it's right next to what appears to be a obvious drug house, flop house, whatever, and what they see going on in the streets, why would you want to bring your -- you know, vulnerable person there? And like angela said, the people that come to visit are often the spouses who are elderly and that kind of thing. So i'm here on behalf of our businesses -- our business, as well as the safety of our staff and residents and another point, angela brought up the issue of transportation. Many of the -- we consider line staff who work in the nursing home are minimum wage earners, low-wage earners and they have to use public transportation and we have evening and night shift workers, because we staff around the clock and for them to have a safe place they can come and get to and from the facility and not feel afraid of what's going on and there's many goings-on in the property next door, all of the stories over the years and calls i've gotten and that kind of thing, so I would greatly appreciate being able it move forward with this project. Thank you.

**Adams:** Thank you for putting up with what you have.

**Erica Ries:** My name is erica, a social services director at glisan care center. I think that other people have come up and covered it pretty well but i'm going to share a personal experience i've had. This last summer, in broad daylight in the middle of the afternoon, my personal vehicle was stolen and I was not able to replace it for several month, so began riding my bike to work, which was a positive experience. The one thing I can say about that experience, from the routes I was taking along 205, I actually began to detour and started getting off at the max bus stop and going around and take can the street because of the fact when you reach before our facility, the standard of that bike path deteriorated. Broken glass on the riding area. You can see where the homeless people have knocked down the poles that are separating the parking and sidewalk and it just is in general better for me to ride in traffic than use the bike path that was provided. So that's just can I a little tidbit of why I think it's a wonderful opportunity we have to restore this area and make it user-friendly for the entire community. Whether it's for pedestrians, people parking or using the bike path just to pass through.

**Adams:** And the green street does include a bike facility, right? Yeah. Thank you. Hi.

**Jackie Ellisons:** I'm jackie, I have nothing new to add. Everybody -- pretty much covered it.

**Adams:** Thank you all very much. Appreciate it. Is everybody else -- thank you, you can return to your seats. Anyone else who wishes to testify in favor of the council calendar item?

**Moore-Love:** Two more people who signed up.

**Adams:** Do you want to testify?

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

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**Adams:** If you want to testify.

**Kurt Chiapuzio:** I've owned property on the street for about at least 15 years and been watching it constantly go downhill and I think that the street, along with possibly a zoning out there, I a new zone, instead of just a residential, into a enterprise zone I think will help the area immensely. There's few jobs out there and I think the green street will do a lot for the area and hopefully this will come it pass.

**Adams:** Thank you, sir. Thank you all for your testimony. Really appreciate it. This is a resolution, so unless there's additional council discussion, i'll ask Karla to call the vote.

**Fish:** Andrew, thank you for an excellent presentation. We've come to expect this level of quality every time we get one of these things and he does a great job for the city and those of you who don't know, he's also a big soccer fan. Can you found at u.p. On any friday night in the fall. Thank you for the citizens who took time out of their busy lives to share their perspective and public safety issues you've raised. You've got our attention. Thank you for that. And on the question of this really unique funding mechanism to bring together tif and the bureau of environmental services and the bureau of transportation together to form an lid, this is good news and it's a very promising model. To those who have worked so hard on this, thank you, because I have a hunch we'll be able to replicate this in other urban renewal districts and this is the way we should be using tif -- tax increment dollars. Thank you for your leadership on this, mayor.

aye.

**Leonard:** We did a project on s.e. 92nd between powell and holgate and it was transformational on that street. It's an incredible improvement and I know it's going to have the same effect. I'm happy to support this. Aye.

**Fritz:** I see this as a catalyst for the gateway area and sometimes pdc helps to build buildings, or provide something, but this is a basic service that needed to be provided in the middle of the regional center. I'm appreciative of everybody who came in to support it and the property owners who hopefully will continue to support it. And I would like to thank all the people at the hazelwood neighborhood association and the gateway area business association. This is an area where there are a lot of people very invested and mr. Jones, your comments were well said in terms this will provide the mechanism that you can develop nor more and help this area take off. With so many invested citizens and good work by city staff. And good work, mayor Adams, for leading this.

Aye.

**Adams:** Thank for the kind words. Sue and andrew and all of the citizens, it's really a very -- it's going to be a great project for you and great project for the neighborhood and the city as a whole. You're going to have one the most advanced, greenest, good-looking streets in the city and you deserve it. So happy to vote aye. [gavel pounded] so approved. We are in recess until --

**Leonard:** Do we have 596?

**Adams:** What's that?

**Leonard:** 596?

**Adams:** Did I miss one.

**Leonard:** Maybe I missed it. Did we do that?

**Adams:** Yeah.

**Leonard:** I'm sorry.

**Adams:** We're in recess until 2:00 p.m.

At 10:40 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.

**APRIL 28, 2010      2:00 PM**

**Adams:** It's wednesday, 2:00 p.m. April 28th, 2012. Karla, would you please call the roll.

[ roll call ]

**Adams:** We have a very special agenda item before we get into the other business of the day. And that is to recognize someone who was very special to the city, region, and state. And we also have on our -- among our membership here, someone who served in the state legislature, commissioner randy Leonard, and i'm going to read the proclamation, and then ask the commissioner Leonard also say a few words, and we're very lucky to be joined by ben's family, and we welcome you to the city council, and friends and coworkers. We welcome you here, and we're more than honored to provide this recognition to the great person and the great work ben westlund did for so many people. Whereas ben westlund had a number of private sector businesses, including a mine are venture, marketing program, eastern Oregon cattle ranch, and cattle genetics operations before he entered public service. Whereas, ben westlund served Oregon as a republican, an independent, and a democrat during his legislative career, attesting to his philosophy of putting Oregon's needs above partisan politics and personal interests. Either -- he was the first elected Oregon house of representatives, his first elected in 1996, as a republican from central Oregon, in 2003 he was appointed to the senate and won a full election, full-term election in 2004. And in 2006, he ran for governor as an independent candidate, but ultimately withdrew from the race and subsequently endorsed the current governor. In 2006 he became a democrat, and in 2007, announced his run for state treasurer. He won the race for state treasurer in 2008. Whereas ben westlund cochair of the ways and means committee, responsible for drafting the state budget, during Oregon's 2001-2002 fiscal crisis, his passion for finding a way to help Oregon attain a higher level of financial stability led him to coauthor groundbreaking legislation creating the state's rainy day fund. And whereas ben westlund led efforts to create the Oregon cultural trust, understanding the importance of helping Oregon arts and culture and historical preservation programs and so that they would continue to thrive. He was also the author of legislation that created the Oregon public safety memorial fund, which provides financial assistance to the families of public safety officers who were killed or injured in the line of duty. And whereas ben westlund was the chief legislative advocate for creating the cascade campus of Oregon state university in bend to provide higher education opportunities for central Oregonians. And whereas ben westlund led efforts to protect central Oregon's metolius river, one of Oregon's premier natural resources in order tone sure this special place would be pristine for generations to come. And whereas ben westlund was a believer in equal rights for all, despite strong opposition while a republican, he cosponsored legislation in 2005 that allowed same-sex Oregon couples to form civil union and protect the gay, lesbian, transgenders individuals from discrimination, the language of his measure passed during the 2007 legislative session. And whereas ben westlund was elected state treasurer in 2008 during his short tenure, he received national recognition for his commitment to investment transparency for leading the effort to stabilize the Oregon college savings plan, and ben westlund and the Oregon 529 college savings board filed a lawsuit with the Oregon attorney general's office and recovered \$20 million in legal settlement on behalf of the friends -- on behalf of the families of those who were saving for their children's future. Whereas ben westlund's work on behalf of Oregonians was outmatched by his devotion to his family, his legacy, he's a loving father and he leaves a legacy as a loving father and

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a husband who called home every night at 8:00 p.m. when he was in the state capitol to say good night to his family. Now therefore i, mayor sam Adams, mayor of the city of Portland, Oregon, and the city of roses, hereby proclaim april 28th, 2010, as a day of recognition for ben westlund for his service to the citizens of Portland and Oregon and the integrity in which he lived his life he made a positive difference for countless Oregonians.

**Leonard:** Thank you, mayor Adams. It was really to say that it's a privilege to have served with ben and to have known him is not really accurate. People that knew ben will probably only appreciate what I would say about ben as much because it really took knowing ben to really understand what made him so unique. Ben at one time in Oregon politics would have been a garden variety republican. But ben wasn't a different republican, the republican party changed, and became extremely different kind of organization than ben westlund. Ben westlund, all of us knew in the legislature, was a -- really a historic typical Oregon republican. A very moderate tom mccall-like person who saw problems and looked for solutions. What was striking about ben was not that he fought so much like the traditional Oregon moderate political leaders such as tom mccall and mark hatfield, and others before ben, but it was that he did it in a caucus of republicans that were often times hostile to his beliefs. So here in Portland it's not politically risky to stand up for gay rights, it's not politically risky to advocate for taxations that -- taxation that actually pays for services, such as schools, and I served with ben when he was cochair of ways and means in the 2001 session and the here add 2002 special sessions. What was fascinating about ben was that he believed in all of those things, and I would go off to the democratic caucus where we agreed with ben and he would go off to the republican caucus to god knows what happened in that room to him, for standing up and saying the things he believed. So not courageous for me to believe in gay rights and equal taxation of the rich and the not-so-rich, and to belief corporationing should pay their fair share. That's pretty standard fare for Portland democrat. But for a republican in the 1990s and the first decade of 2000, to believe and stand up for those principles, just says volumes about his character. Leadership is literally being a person that is out in front by yourself. The term is often overused. Ben was a leader. And you can tell a lot by a person by those that -- who their friends. Ben had friends that were republicans, but nobody admired ben more than the gay and lesbian community. Kate brown as the family and friends of brown know, considered ben a hero. Not because he believed in the things that a lot of us believed in, but he did it in an environment that could not have been very helpful for him, and -- so you had that side of ben that was this -- and we all knew it, working with ben, that he was this very unique person. But then you had this other side of ben that only those that knew him better than his public persona, that was his sense of humor. And I have been known to get kind of wired up before I give a speech. I've been known to get pretty focused, and ben was known to make fun of people like me. So when he knew I was gearing up for a speech, he sat in front of me and to the left, he would come back and at my desk do one of two things or both. Take my microphone away and my speech. So when I got called on by the speaker, we used to push a button, and the speaker would call you in order, and I would be focus order what I was going to say, and I would stand up and my microphone had been disconnected and was gone, and always was in the top drawer of ben's desk, and usually my speech as well. So I got to go stand over at somebody else's desk and give a speech from memory. Which -- so ben was very helpful in getting me to learn my speeches from heart. By heart. And he was just -- just one of the most decent, kind people that i've known. But particularly in a legislature that was so polarized between democrats and republicans, it was just a breath of fresh air. He's sorely missed.

**Fish:** I had -- randy speaks for the whole council. I wanted to add two additional parts of his life from the perspective of someone that did not have the honor of serving with him on a regular basis. But knew him in a different setting. And that was through my service on the Oregon cultural trust board. And ben was the liaison from the legislature during part of my service, and i'm glad that the executive director is here, chris, and I think that's when we first met. And I knew he was different

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just because of his sense of humor at our meetings and the way he kept our meetings loose. But he - there would be no Oregon cultural trust without ben westlund. And the amount of money that travels to every county of the state every year to support arts and heritage and culture is a direct legacy of that. And we -- while Portland certainly gives a disproportionate amount of money to the trust, we also get money back to support all kinds of good causes. And there are some people who think the Oregon cultural trust is the most innovative funding mechanism for the arts that any state has developed in the nation. And would it not have happened had ben westlund not helped conceive it, and then make it happen. So I would say on behalf of the cultural trust and all the arts organizations around the state that have benefited, tremendous legacy, and i'm -- I as a board member am extremely grateful I had the chance to serve with him. The mayor and his resolution -- in his resolution mentioned ben's service as treasurer. Thanks to his leadership and the hard work, I was one of the lucky parents who got a check in the mail. To cover the losses that occurred in our college savings account for my daughter. And that was ben working with the attorney general to recover that money. And it made my daughter's account whole. And, you know, we work hard in the public sector, and we -- my wife's a teacher, we appreciate it very much, having that settlement done, and it was -- I think we're one of the first states in the nation that settled on favorable terms. And the final thing I just want to note is that when the memorial service was held in salem, in the chambers, my friend randall edwards called me and said, "do you want to go down?" and I said "sure. I wish hi known him better, but one thing about memorial services, you have a chance to get to know the person." so I drove down with randall edwards and his parents, and I learned along the way that randall's father had been his -- had been his professor at whitman college. This is a small state and a small city. That was over the top. And chris had called ahead and said would you save me a seat. I've never been on the floor of the legislature before. The first time i've ever been allowed on the floor. So i, being the most junior person in my delegation, I was charged with holding down the seats. So I was fending off margaret carter and holding five seats, and somehow I got the seat that the sign said it was -- it had previously been the seat of the speaker of the -- conservative republican from -- minnis, karen minnis. But I sat with randall and his parents, and ted wheeler joined us, and we were all there, and we had the honor for the next two hours or so of hearing the great stories and testimonials. And I -- betsy johnson is a great public speaker, but it was memorable. And dr. Alan bates, who was his closest friend, and his personal stories were very meaningful. So it was an honor to not only know ben westlund, but to be at that public event and to learn the breadth of his service, and it was very inspiring, and I would say for me and for all of us as people trying to make a difference in public life, what a wonderful role model. And so it's an honor for me to be on a council that joins with the mayor in this recognition.

**Fritz:** I believe you can tell a lot about a person in how they behave to others who -- when they don't know that anybody is watching. I met ben at the 2007 afl/cio convention in seaside. I was there as a delegate for the nurses association, and I was also at the time running for city council. All the candidates running, we all got to do a dog and pony show, and I went back to my delegation and most other people disappeared. After the day's events had finished at the convention, we were invited to canvas working america for health care. Who is there ready to knock on doors in seaside, but ben westlund. And not only that, but he said, hi, amanda, how is the campaign going? So he had bothered to take the time. He didn't know I registered nurse had -- and a mom had a chance of getting elected to the Portland city council. For all he probably knew I could have been -- had no hope at all. But he bothered to take the time to recognize me, and knocked on doors in seaside. And there were not that many people home in seaside at 5:30 on a weekday evening. So we were leaving a lot of health care pamphlets on people's doors. It wasn't like he was going to get a lot of recognition for what he did. But he can advanced -- canvassed the whole time. And it just showed his dedication to what he believed in and how he lived his life. I'm really grateful you gave us this opportunity to honor him.

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**Saltzman:** I didn't know ben that well, but I have a very vivid recollection of the first time we met, and had a chance to talk, and that was just about two years ago, almost exactly, on earth day. And ben was at sellwood park, as was i, I was at the time in charge of the office of sustainable development, and was just walking around and really had an interesting time -- it was the first time we formally met. I always remember how enthusiastic he was about the prospects of being treasurer, particularly the thoughts of what the state could be doing to promote sustainability. And he was just brimming with ideas, and enthusiasm for the job. And I really enjoyed that experience, and i'm sad to see that his career was cut way too short, and my sincere condolences to the family that he leaves a good legacy behind.

**Adams:** Thank you for sharing ben with us, and for supporting his service to this city and the region and the state. We're indebted to him and we're indebted to all of you. So thank you. We'll mail you the -- a framed proclamation so you'll have that. And you're welcome to stay and see local democracy work. It's not always pretty. Or you can enjoy what is looking like a pretty decent day out there. We're glad you're here. By Portland standards, yes. We're glad you're here. Warren? All right.

**Item 599.**

**Adams:** So we are -- the 3:15 is going to be -- unless there's objections, the 3:15 is continued to june 10th at 3:00 p.m. This is a place holder date and time. We are working on an evening hearing, but we need to announce something today in order to move it forward. My purpose in the delay is to spend more time on an operational side, reverse engineering from how do we actually in the real world make routes to schools safer as opposed to only a sort of legal process. I'd like to actually get improvements on the ground, it's going to take us time to look at that. So unless there's objections, 599 is continued as I stated. [gavel pounded] that gets us to 2:00 p.m. Time certain, please read item number 597.

**Items 597 and 598.**

**Stacey Castleberry, Bureau of Development Services:** Good afternoon. Excuse me.

**Shane Abma, Sr. Deputy City Attorney:** Before you start. A few words for the -- those in the audience. This is an evidentiary hearing. This means you may submit new evidence to the council in support of your arguments. Testimony concerning the hearing officer's recommendation will be heard as follows. We will begin with a staff report by bds staff for approximately 10 minutes. Following the staff report the city council will hear from interested persons in the following order. The applicant will go first and we'll have 15 minutes to address the council. After the applicant, the council will hear from individuals or organizations who support the applicant's proposal. Each person will have three minutes to speak. Next council will hear from persons or organizations who oppose the applicant's proposal. Again, each person will have three minutes. If there was testimony in opposition to the applicant's proposal, the applicant will have five additional minutes to rebut that testimony, given in opposition to the proposal. The council may then close the hearing and deliberate, the council may vote today on the hearings officer's recommendation. If the vote is a tentative vote, the council will set a future date for the option of finding and a final vote on the hearings officer's recommendation. If the council takes a final vote on the finding and recommendations today, that will conclude the matter before council. I would like to announce several guidelines for those who will be addressing city council today. First, submitting evidence into the record. Any letters or documents you wish to become part of the record should be given to the council clerk after you testify. Similarly, the original or a copy of any slides, photographs, drawings, maps, videos, or other items you show to the council during your testimony including any power point presentations, should be given to the council clerk to make sure they become a part of the official record. Two -- testimony must be directed to the approval criteria. Any testimony, arguments, and evidence you present must be directed toward the applicable approval criteria for this land use review. Or other criteria in the city's comprehensive plan or zoning code that you

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believe applied to the decision. The bds staff will identify the criteria as part of their staff report to council. Three, issues must be raised with specificity. You must raise an issue clearly enough to give the council and the parties an opportunity to respond to that issue. If you do not, you will be precluded from appealing to the land use board of appeals based on that issue. And finally, the applicant must identify constitutional challenges to the conditions of approval. Additionally, if the applicant fails to raise constitutional or other issues relating to proposed conditions of approval with enough specificity to allow the council to respond, the applicant will be precluded from bringing in action for damages in circuit court to challenge the conditions of approval. Mr. Mayor, I believe it's your turn.

**Adams:** Does anyone have any ex parte contacts to report? Does anyone in the council have any reason that they cannot fully participate in an unbiased matter in this hearing?

**Fish:** Is the cogan letter of april 27, 2010. Is that part of the official record?

**Moore-Love:** I just received that.

**Fish:** I just want to make sure it's part of the record.

**Abma:** If it's not, it can be introduced during the -- this is an evidentiary hearing, so there -- new testimony can be admitted.

**Adams:** Before you start, is anyone signed up to testify?

**Moore-Love:** I believe the two who signed up are the applicants.

**Adams:** Ok.

**Abma:** Mr. Mayor, I think you said it in a different way, but just to make sure there's no conflicts of interest --

**Adams:** Any conflicts of interest up here? So just keep in mind that there's no one in the room thus far that's opposing this?

**Castleberry:** I think that's my cue to start.

**Adams:** That's a cue to everybody. Go ahead.

**Castleberry:** Good afternoon. My name is --

**Adams:** I don't know what the council is going to do. There's no one out there --

**Stacey Castleberry, Bureau of Development Services:** I appreciate that. My name is stacy, and I am here with my colleague sylvia kate from the bureau of development services, and we're the two bds staff members who reviewed the proposal for fill in the greenway setback against the zoning code's approval criteria for a greenway goal exception and a comprehensive plan amendment. The sellwood bridge is structurally deficient and functionally obsolete and must be replaced. The existing bridge is about 30 feet wide, the new bridge that's proposed will be approximately 64 feet wide and will include two travel lanes, bike lanes, pedestrian sidewalks, and a streetcar line, and it looks like shifted about 15 feet south of the existing bridge alignment. Other project elements the applicant proposes include an 18-foot-wide multiuse trail from the bridge up to miles place, and also shifting the alignment of the willamette shoreline trolley slightly eastward. To construct a replacement bridge, approximately 4500 cubic yards of fill must be placed within the willamette greenway setback. This is to build the bridge and its approach lanes. The zoning code requires a greenway goal exception for bridge ramps constructed on fill as opposed to pilings or piers when the fill occurs in the greenway setback. The zoning code also requires an amendment to the city's comprehensive plan for statewide planning goal exceptions such as this, and the zoning code also requires city council approval of all statewide planning goal exceptions such as this. There are three sets of approval criteria that apply to greenway goal exceptions. The first is approval criteria from the state code, and that's found in Oregon administrative rule section 660-004-0022, subsection 6. There's also approval criteria from our zoning code, approval criteria for a greenway goal exception are found in Portland zoning code section 33.440.360, and approval criteria for a comprehensive plan amendment are found in our zoning code section 33.810.050. The project area occurs of course near the sellwood bridge, and on the west bank of the willamette river. The project

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area starts about one mile north of the southern Portland city limits line and goes north to southwest miles place. And the project area is roughly between macadam avenue and the river. Some of the familiar landmarks in this area are the riverview cemetery to the west, powers marine park between macadam and the river, the bridge itself, the staff jennings marina north of the bridge and willamette morrison bridge park farther north. -- moorage park. The zoning includes open space, commercial, and residential zones, but the reason we're all sitting here today is because the area is zoned with the city's greenway overlay zone. The land between macadam and the river is all in the willamette greenway overlay zone, as you would expect. Many of the approach ramps will be constructed within the willamette greenway setback. This is the west end of the proposed bridge. On the east side, this will not be the case. And this is not part of the greenway goal exception review. Which brings us to this slide, which is what I consider to be one of the most important slides today. This shows you the focus, the limits of the greenway goal exception review. It's limited to these six polygons of where fill will occur in the greenway setback for the bridge. The rest of the bridge is not part of the greenway goal exception review. I'd like to show you just a few photos of some of the project area starting with this area along macadam, or some -- where some of the fill will occur. Just to characterize the area, you can see the forested hills slopes coming down from the left side or from the west in the area of riverview cemetery, and then cross can macadam avenue continuing down slope to the willamette shoreline trolley tracks, and continuing down, it's a pretty narrow corridor, to the willamette river. The next photos are of powers marine park. This is the formal entrance to powers marine park, very near the bridge itself. If you were to walk south from there along the beaches of the willamette, you'd see some of the remaining riparian forest that goes down to the water's edge. This is one of two proposed mitigation sites where there will be Fish enhancement, mitigation activities, especially for off-channel Fish habitat. Just to give you some perspective, here's a photograph of the project area from the east bank looking west. You can see staff jennings marina to the north, again, powers marine park south of the bridge and again lots of forest in that area going right down to the edge of the water. And a view of the bridge from the west side, where much of the work will occur. This is where the trail goes underneath the bridge into powers marine park. And this last series of photos is of the second mitigation area up at the stevens creek confluence with the willamette river. The culverts in the foreground are proposed to be replaced with Fish friendly culverts. And this is an area where off channel Fish habitat is already being enhanced, the bureau of environmental services undertook a very large project to install some of this large wood along stevens creek already. That leads us to the approval criteria. For the greenway goal exception, there's two sets of approval criteria, the state and the city approval criteria. They can be summarized as the project would have no significant adverse effect on greenway qualities, the proposal would not reduce lands available for river dependent or river-related use. The proposal provides a significant public benefit. The proposal is compatible with natural greenway qualities and adjacent uses. The proposal cannot be accommodated without a goal exception and there are no alternatives with better economic, social, environmental, and energy consequences. With regards to the first criteria, the mitigation plan which includes both these Fish enhancement areas at stevens creek and powers marine park, and also forest enhancement in the form of planting bottom land and purchasing existing forestland for future protection. The mitigation actions went a long way toward the hearings officer finding that the proposal would have no significant adverse effect on green way values. The hearings officer also finds that since the new bridge will be replaced primarily with -- in close proximity, there would be no significant reduction in sites available for river dependent or river-related uses. The hearings officer also found that to the extent that the fill in the greenway setback allowed the greater project, the replacement of the actual bridge to occur, it will certainly contribute to the overall project's significant public benefit. The hearings officer found that since the replacement bridge will be located primarily within existing public right of way, the existing greenway values will be protected to the greatest extent

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possible. And lastly, the hearings officer found that construction of the bridge on pilings or piers would add at least \$2 million to the project, and further, that the applicant's alternatives analysis shows there are no other locations with better economic, social, and -- or environmental consequences. With regards to the comprehensive plan amendment findings, the hearings officer found that review of the goals, policies, and metro titles indicated that the requested fill in the greenway setback is on balance consistent with and supportive of the city's comprehensive plan. The hearings officer found that the proposed fill meets the relevant state and city approval criteria for an exception to statewide land use planning goal 15, and that the requested greenway goal exception is consistent with the city's comprehensive plan. And he recommended approval of the statewide planning goal exception, the city's greenway goal exception, and the city's comprehensive plan amendment. That concludes my presentation.

**Adams:** Discussion with council?

**Saltzman:** Where is the applicant proposing to acquire private forest lands? And secondly, I wasn't clear on what the litigation is on the powers marine park.

**Castleberry:** In both cases, the proposed mitigation is conceptual at this point. And Multnomah county has some draft agreements in the works with our Portland parks and recreation bureau in order to identify which property would be purchased. The county is proposing to fund the purchase of that property, but I don't believe it's been pinned down yet which property will be purchased. And the description of the riparian enhancement projects at powers marine park concern two creeks that are identified, and I don't actually have a specific site plan yet from the applicant. The description of the project as I recall was off channel Fish habitat enhancement, and I don't have much more information than that. That information will be fine tuned when the applicant comes in for development-specific greenway reviews for the actual work.

**Fritz:** The hearings officer's report it says that bds was recommending denial because it wasn't adequate information. Do you think that the -- do you agree with the hearings officer that the additional information that was provided would have resulted in your recommending approval?

**Castleberry:** Absolutely.

**Fritz:** Thank you.

**Adams:** Other council discussion? Thank you very much for your succinct presentation. We'll now hear from the applicant. Welcome to the city council chambers, we're glad you're here. You will have a total of 10 minutes.

**Ian Cannon:** Good afternoon. I am ian cannon, bridge services manager for Multnomah county. Before I move into my remarks, i'd like to read the letter from commissioner kafoury and chair cogan. Dear mayor and commissioners. We appreciate your action today to approve a greenway goal exception and comprehensive map amendment to allow placement of fill within the willamette river greenway setback area located at the sellwood bridge and vicinity. This item was brought forward by Multnomah county as an important step in the sellwood bridge replacement project. City and county staff have worked hard to resolve issues related to this exception and we ask you to adopt this amendment today. The bridge is an important piece of our local and regional transportation network. It carries over 30,000 vehicles per day. However, current wait limitations restrict heavier vehicles including freight, buses and some emergency vehicles, and facilities for cyclist and pedestrians are far below standard. When finished, the new bridge will remedy these short comings, bus less resume crossing the bridge, we will provide draw matically improved facilities for cyclist and pedestrians, and the bridge will accommodate a possible future streetcar line. In addition the project will improve the parks on the west side of the river, including a regional path from the bridge north to miles street. Approval today of a greenway goal exception is important to the sellwood bridge project because it is one of several regulatory actions required before the federal highway administration will issue the record of decision for the project. And is required to ultimately allow the project and mitigations to be constructed as proposed. Your

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leadership to date with unanimous support of the alternative and provision of funding, has moved this project forward. We look forward to working closely together through the planning and building stages of this bridge. First, I'd like to thank Mayor Adams and the city council for your support of the project, including your unanimous support for the preferred alternative. I'd like to recognize staff, the various bureaus, including transportation, parks, development services, and environmental services, who have helped us to understand the city's needs, helped us to develop solutions, and been good partners as the project has moved forward. We're grateful for this assistance. With the deteriorated condition of the old bridge this project is crucial to the transportation system. The new bridge will provide critical connections for pedestrians, cyclists, motor vehicles and transit. Much has happened in the year since I was here to ask for your approval of the preferred alternative. We have refined the alternative to shrink the footprint, reduce the impact to sensitive parklands. Improve the safety of access on to highway 43 and decrease the probability of cut-through traffic in the Sellwood neighborhood. We anticipate the federal highway administration issuing the record of decision for the project late this summer, the record of decision is required before we can move into more detailed design, acquisition of right of way and ultimately construction. This greenway goal exception is required by FHWA before the record of decision can be issued. In order to build the project it will be necessary to place fill in the greenway. This is what triggers the need for the exception to the greenway goal. On the west side of the river the project is on steep terrain. We're trying to squeeze an enhanced interchange, new bridge ramps for vehicles, new ramps for cyclist and pedestrians, a regional bicycle and pedestrian trail, and a double track streetcar line into the space between Riverview Cemetery and the river. While minimizing impacts to Powers Marine Park and Willamette Moorage Park. These new facilities must be built on structure or on fill. If we used structure to avoid fill, it would require at least a third of a mile of elevated structure similar to the top photograph, possibly on multiple levels. This would have a significant visual impact and be visible from many vantage points. Instead we're proposing to construct a bioengineered steep slope. This is a retained fill structure that will have the face vegetated with appropriate species and blend in with the natural appearance of the park. The fill is necessary to support the multiple uses proposed for the area. We will be removing fill in other areas with a net reduction of about 36,000 cubic yards, enough to fill 3600 dump trucks. The project is also proposing other mitigations to include paying for parkland to replace parkland lost to the project, replacing lost forest vegetation, restoring streams south of the bridge in Powers Marine Park, and enhancing fish passage at Stevens Creek north of the bridge, and replacing the rudimentary bicycle pedestrian pads from the bridge north to Miles Street with a full standard facility. Because of all the mitigation and the design elements that we're proposing, the hearings officer found we'll be leaving this area better than we find it now. We need this exception to the greenway goal in order to move this critical project forward. Thank you.

**Mark Greenfield:** My name is Mark Greenfield, I'm going to be addressing the compliance of the legal standards. This greenway goal exception is for a very limited purpose of authorizing the placement of fill within the greenway setback on the west riverbank. Stacy has summarized for you what the applicable criteria are, I'm only going to address some of them. I would ask that you please recognize this project does not site any new uses within the greenway. The Sellwood bridge is an existing use and it predates both the greenway statutes and LDC's greenway goal. Also the Willamette shoreline trolley line and the bicycle pedestrian path are existing uses within the greenway. Under the authorities of the greenway statutes and greenway goal, existing uses for plans within the greenway may continue and that's exactly what this project aims to do. Please note for all of these uses the replacement facilities are predominantly within existing public right of way that is being used for transportation purposes. And this substantially reduces the overall adverse effect of the project. The hearings officer found that the use will not significantly adversely affect greenway values. He said the legal standard is not that there be no adverse effect, but that there be

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no significant adverse effect he conclude there'd will be some adverse effect but with mitigation, there would be no net adverse effect on greenway values and hence no significant adverse effects. He found also that the use will provide a significant public benefit in his words, the project will increase the city's residential quality and revive economic vitality with the resumption after multimodal transportation link across the willamette river that includes transit service and freight movement. This project will allow tri-met to resume bus service over the sellwood bridge, allow freight movement to reoccur over that bridge, and significantly improve bicycle and pedestrian access and mobility, both within and across the greenway. The hearings officer found the project requires fill. He said the fill is needed to raise the bridge approach to the bridge deck span, it's needed for connections to roadways, and to construct the 18-foot-wide multiuse trail and relocate the willamette shoreline trolley. He found that it's not reasonable to construct necessary bridge related improvements on the west side through the use of piers or through pillars, given constraints of available space, topography, and existing uses. And this of course is why we're before you, to get the approval to place the fill in the greenway. Finally, he found there are no better locations anywhere else for this project. He found any bridge crossing type, anywhere along the river would require fill in the greenway, and locating a new bridge anywhere else on land that's already in a predominantly natural state would have significantly greater greenway impacts than replacing it at its current location. Also, it's important to note that reconstructing the bridge out of the current location is already part of your acknowledged transportation system plan, and retro's regional transportation plan. The hearings officer concluded that the proposed location creates the fewest negative impacts. The hearings officer finds compliance with the applicable legal standards and recommends approval. Multnomah county respectfully requests that you adopt his recommendation as your decision. Thank you very much and we would be happy to answer any questions.

**Adams:** Questions? Thank you all. Is there any wishes to oppose --

**Moore-Love:** We have one supporter who has signed up. Emily roth.

**Emily Roth, Portland Parks and Recreation:** I'm going to talk about something other than forest park, so i'm doing ok. Good afternoon, mayor Adams and city commissioners. I'm emily roth, the natural resource planner for parks. I've been representing parks on the sellwood bridge replacement project and working with the county on the enhancements for this project. We've also been working with the counsel to what you'll hear later, which is called 4f enhancements. That they're required to fulfill it in order to move forward in this project. Have you ever wondered what 4f comes from? Technically it's a section number in a federal regulation for impacts and mitigations to parks and other recreation. I like to think of 4f as actions that are flora, fauna, and Fish friendly. And that is what we are trying to make this project. First of all, parks understand that bds is required to review the project within the greenway code, and make their findings accordingly. We look at the project area of the sellwood bridge replacement from a south reach willamette perspective, and the opportunities to improve both Fish and wildlife habitat in this valuable river corridor. Parks owns and manages ross island, sellwood riverfront parks, oaks bottom, powers marine park, willamette moorage, and willamette parks. A very significant riparian corridor and river access in this part of the river. We are looking at this as an opportunity to work with community partners and other agencies to restore streams, remove invasive species, and plant native species along the river. This project will provide necessary funding and the ability to remove fill, placing -- placed in the floodplain at fewers -- powers marine park. The remit -- enlarge the floodplain and provide off channel habitat for Fish and improve the wildlife habitat along the river. The replacement of the culvert at stevens creek will improve habitat and extend the stevens creek enhancement project that bes completed over a year ago. And work -- and we're also going to work the county change design to construct vegetative walls at willamette moorage park instead of concrete walls, making them more wildlife friendly. You've also -- off -- you've heard with this greenway, that they are going to be required to place fill, and the fill is going to be go into our parks. At parks we have a known -- a

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policy of no net loss of parkland. The sellwood bridge project requires over an acre of property from powers marine park. The county has agreed to pay parks for both the land and the administrative costs for replacing the land needed for the bridge. Parks has a person working to purchase land from willing sellers and they'll -- the contribution will be to find land along the river for replacement. The other valuable aspect of this project to parks is recreation. As you know, the bridge will provide a greatly improved bicycle and pedestrian connection from sellwood to the west side of the river. This connection will be used by bicycle commuters to go downtown and to ohsu. Having learned our lessons from the spring water and the willamette, parks wanted to separate commuting, higher speed traffic, from walkers and others enjoying the current greenway trail between the bridge and willamette park. The county has agreed to build an additional mile of regional trail from willamette moorage park to southwest miles place on the south side of willamette park. The regional trail will be adjacent to the railroad tracks, the extension of the trail outside of the project area would require minor amounts of fill in the park. It will provide a greater amount of safety for both bicycle commuters and pedestrians on the greenway trail. So with all these improvement and enhancements, Portland parks is supporting the fill that is required into the greenway. And all of this will once again come forward in front of you as a formal mou between the county and parks for your approval in a couple months. If you have any questions, i'd be happy to answer them.

**Saltzman:** Is the property the parks will purchase within the project impact area?

**Roth:** No, it isn't. We're looking at forested upland areas, that's adjacent to the project, or adjacent to oaks bottom on the other side of the river. But it will be in proximity --

**Saltzman:** So it would be adjacent.

**Roth:** It will be. Yes.

**Adams:** Thank you for your testimony. Thank you for your good work, emily. Any further testimony? Any follow-up you want to have? That moves us to decision making. And I move acceptance of the staff report. I move exception of the hearings officer's recommendation. Moved and seconded. Karla, please call the vote.

**Fish:** Thank you to the bureau of development services for an excellent presentation. Thank you to all the participants and to -- for the testimony and thanks to my parks bureau for being vigilant on the mitigation side and working diligently to get to this point. Aye.

**Saltzman:** Pleased to support this. One small step toward getting the most critical bridge replaced that we need on the willamette river right now. Let's get that new bridge going soon. Aye.

**Leonard:** Aye.

**Fritz:** In addition to the bridge we're also improving the greenway and getting more land adjacent to it. Thank you for the presentation as far as the litigation. I'll look forward to more details on that. Thank you for your diligent work on the project and for staff for their analysis. Aye.

**Adams:** Aye. Thank you. [gavel pounded] can you please call the vote on the next item?

**Fish:** Aye. **Saltzman:** Aye. **Leonard:** Aye. **Fritz:** Aye. **Adams:** Aye. [gavel pounded] so approved. What time is it? We are recessed till -- well, I guess that's not a time certain.

**Fritz:** It suspect, but people might have been expecting the other one --

**Moore-Love:** 600, part of the 3:15 time certain.

**Adams:** We are adjourned -- recessed until 3:15.

At 2:57 p.m., Council recessed.

At 3:19 p.m., Council reconvened.

**Adams:** For continuation of our hearing. Can you please read the title for nonemergency ordinance item number 600.

**Item 600.**

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**Adams:** Deborah?

**Deborah Stein, Bureau of Planning and Sustainability:** Good afternoon, I'm Deborah Stein with the Bureau of Planning and Sustainability. Through the testimony and through your own discussion, there were a number of things you identified that you wanted us to come back with clarifications. So it was hopeful to hear those arise through that discussion. So what I'd like to do is provide you with explanation of a couple things that you asked for clarification about. And then I want to follow that with a new memo that I'll pass out that takes some of the amendments we had put in front of you April 22nd that will be contained in a few different memos. Some of the amendments are a result of the conversations I've had with community members that they were -- people pointed out we needed to quickly fix. So today's memo has not been distributed, everything up through yesterday has been distributed and posted on the website. So let me start with the three items that you asked for clarification about. The first was responding to some testimony that highlighted the concern that our recreational fields -- would also apply to colleges. And what we've come back with is amendment to clarify -- to make it very clear, no, colleges are not affected by the changes. So we've sharpened that distinction in the code with some clarifying language. And we appreciate that's been brought to our attention and it's now very clear that wasn't our intent and we'll show you the language for that. The second item came up regarding grade level changes. And so I want to explain the clarification we're offering but we also understand that's not something you'll be talking about today. The question Kelly mentioned about what happens if a school -- a school leaves a site, and then a new school comes in as a different grade level. How would that be treated. And you were right -- so you don't need me -- .

**Adams:** We're just dealing with 600.

**Stein:** I'll bring that back when we're back to talk about schools.

**Fritz:** That will be posted on the website so people who want to find out can find out what you -- what you're proposing.

**Stein:** Yes. But we'll bring it as part of the larger package. The third question about how we would treat running tracks or skate parks. We had a lot of discussion about that. What we're proposing is that we continue to not subject those to the requirements that we've presented. Because the real issue that we've been trying to address is spectator and what we've found is that those uses generally don't attract spectator in the same way that ball fields do. And because we're -- we've been focusing on how do we regulate the intensity based on spectators that are attracted to the use, we found there haven't been any complaints that we're aware of regarding running fields. They don't attract groups, it's usually because it's a part of a larger field inside of the track. That use may attract spectators. But the running track itself does not. So we're proposing to continue to not address that through the new conditional use review that we're proposing for you. Do you want to add to anything? So those are the things you asked about. I now want to -- we now have a new memo, and I want to run through this. These are the consolidation of all the amendments that you've already seen and a couple of new ones, and I can explain what these are. And again, these address staff proposed amendments. So the first revision that we're proposing is something you've already seen in the April 6th memo. This was just a clarification about when a new field is measured from the effective date of the ordinance, and this was just a simple clarification. It doesn't change any content of the proposals, but this was something I think at the advice of city attorney's office that we clarify that. So that's some language you've already seen in the April 6 memo. And the public has seen this already. The second is something that also came up in the April 6th memo. This was clarifying that a field permitting organization may not be parks and recreation, it might be one of our other school districts. So this was a clarification of that. This is something people have already seen. Third, revision is related, also from the April 6 memo. And responsibility of the field permitting organization may or may not be parks and recreation. It might be one of our other school districts. And they would be responsible for sending the public notice. The fourth, I

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want to call your attention to, this is something where we had made an adjustment in the april 21st memo, but today, this is -- today we're making a further amendment based on some conversations that we've had today. This change clarifies what authority the director of Portland parks and recreation or other field permitting organization has with respect to a good neighbor agreement. The previous language specified that agreements -- i'm sorry, this is still a little new to me. We just did "this is it" morning. Previously we said good neighbor agreement shall adhere to the policy adopted by parks and recreation. And what we didn't take into account is if another school district, david douglas, sen centennial, parkrose, reynolds, were -- we want to specify that they may negotiate, execute, and administer the gna according to their own process. We don't want to have parks and recreation insinuate in addition a process -- be a part to that agreement if the agreement is between the neighbors, the field users, and david douglas, for example. So that's what this clarification now states. The fifth revision is to address recreational fields at colleges. This does not apply to colleges. And there are a couple of amendments that are tied to that clarification. As you can see, there are a number of things all linked to that. The sixth revision is something that we needed to do by separating out schools related amendments from the recreational fields, we needed to do a little bit of clarification here, so we could clearly decouple the two from the code. And not have them be interrelated. So it's a procedural thing to separate out schools and still be able to adopt all the recreational fields, amendments intact. And then the seventh and final revision we're proposing today is just to replace all the directives in the ordinance so that these directives reflect this blue document plus the set of amendments. And that would be what we're proposing that you adopt today. And I appreciate that that may have been a little confusing, so i'm happy to answer any questions you have.

**Fritz:** What discussions have you had with reynolds, david douglas, sen centennial, and parkrose?

**Stein:** We have been in consultation with the school districts through this process. I personally delivered, before we published the march 18th draft, I delivered a copy of the draft to each of the school superintendents. We then got in contact with them by email and by phone call to clarify the field permitting organization language to make sure they understood that they were being included in this. So they've been consulted along the way. Both about the original schools, but also the recreational fields amendments.

**Fritz:** Would a new field in the david douglas school district, for example, would you -- would that require a conditional use review under the current code of the city of Portland?

**Brett Horner, Portland Parks and Recreation:** A new field?

**Fritz:** Yes.

**Douglas Hardy, Bureau of Development Services:** Under the proposed ordinance?

**Fritz:** Under the current code.

**Hardy:** Yes, if you had a new field. And any of the school districts within the city boundaries would trigger a --

**Fritz:** What your proposed amendment says is that a new field under the proposal would not require conditional use at all. If it was near an old field it would go to the good neighbor agreement.

**Stein:** If it met all of the -- it would have to meet the standards to do that.

**Fritz:** The amendment you just gave us says that the field permitting organization may do its own good neighbor agreement process.

**Stein:** They still would comply with our -- the code would apply to all properties within the city of Portland.

**Fritz:** Do they have good neighbor processes in those school districts? The code in title 20 and title -- title 20, right? Is going to require a good neighbor agreement. So do they have good neighbor agreement processes? And if so could we see them?

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**Horner:** This gives them the choice so they could do one on their own. They could adopt one of their own good neighbor agreements. Or they could piggyback on to one we've outlined for Portland parks.

**Stein:** We're proposing the template for the agreement and that would be what we are presenting to all school districts and field permitting organizations that operate in the city. What we're proposing now to take out the role of the director of parks, though, from being a party to that agreement, but they still could use the same template for the agreement, structure of the agreement itself would work for any school district.

**Fritz:** Ok. And then on page 4 your taking out hospitals. What's the relevance of taking out hospitals from --

**Stein:** Do you want to explain that?

**Shawn Wood, Bureau of Planning and Sustainability:** Sorry, it's really just a clarification. Sorry, Shawn Wood with the Bureau of Planning and Sustainability. The medical center use category includes hospitals so it was kind of redundant to have it in there. It doesn't have too much to do with the actual rec fields but it was just a clean up opportunity.

**Fritz:** Well, ok, I'd like to see what the definition of medical center and hospital is to know whether this does make a change. I'm concerned in a number of places throughout this recreational fields, there's been some clean up which may or may not affect the outcomes. So that's good to know that was the intent. Thank you.

**Fish:** So I have a question Brett, have you had a chance to look at revisions 1 through 7?

**Horner:** Just now, I have, yes.

**Fish:** And reviewing this and then reviewing the earlier materials which addressed a number of these, it does not appear these make substantive changes but intended to address issues of our last hearing and provide clarifications.

**Horner:** And clarifications.

**Fish:** Doesn't look like these make a substantive change in what you're process proposing, thank you. Mayor, would it be your preference to seek to move amendments so we have a comprehensive package before we take testimony later.

**Adams:** I think that would be useful if that's okay with our colleagues.

**Fish:** If that's ok. I would move revisions 1-7 so we have them before us.

**Leonard:** Second.

**Adams:** It's moved and seconded that we support revisions 1 through -- one through seven.

**Fritz:** I'm uncomfortable without having time to look at them.

**Adams:** Ok. If there's no other discussion, Karla, please call the vote.

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

**Fritz:** The public hasn't had a chance to look at them either, no.

**Adams:** Aye. [gavel pounded] the amendment is approved and is the basis of our further discussion.

**Fritz:** I have to ask, there's a series of amendments i'd like to move.

**Adams:** Ok.

**Fritz:** And you have a handout. Yes, amendment to 428. Item --

\*\*\*\*\*: Sorry.

**Fritz:** And then I finished these about 1:00 this morning and they were posted on my website so not very much public discussion. I'm concerned about spectator seating knowing that many fields don't provide any yet the proposed trigger is whether bleachers will be added. So I move in addition to the 210 lineal feet, events that have more than 70 spectators.

**Adams:** There's a motion. Is there a second? Can I ask a question before I consider a second?

**Fritz:** You can do what you want.

**Adams:** I wish that were true. Where did 70 come from?

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**Fritz:** Because the staff, 210 lineal feet equated to 70 spectators, each being about three feet wide. If you think of soccer, for example, all soccer games i've been to, the parents have been sitting in deck chairs along the touch line. So you could have a number of people arriving for a game and needing parking and yet under the proposed good neighbor agreement process there would be no requirement for a conditional use review.

**Fish:** If I can ask a clarifying question. My understanding, commissioner Fritz, the unanimous planning commission recommendation before us did not include a recommendation we go to spectator counts.

**Fritz:** That's correct, commissioner Fish and the reason is because we don't count it every game, although many high school games you do sell tickets and, therefore, you count. What happens if you have a standard in the code and your approach as understand it to go to standards, if there's a standard of 70 spectators and you end up with 200, that's clearly that neighbors could say the standards had been exceeded and there could be a complaint in the process.

**Fish:** So I can put a marker down. I've had discussions with commissioner Fritz, as you know, I have high regard in this area and one of things i'm going to propose later is that parks return to council within a year with a comprehensive report of our experience under whatever code changes the council adopts and based on that body of information, the council wants to do further refinements we have empirical basis to do so.

**Adams:** Another one is is this intended to be preventive or are there low calls in the -- locals in the city that there's been problems?

**Fritz:** We're changing from conditional use being required in many situation to requiring them in hardly any. So this is a standard in the code that it's a trigger for when we require it. If we're envisioning there's going to be a lot of spectators, we ought to be a conditional use so we can work out parking noise and other issues.

**Adams:** Do you know if this is a problem somewhere else in the city beside grant?

**Fritz:** We have currently permitted all of our uses under conditional uses so we have figured out where the problems are.

**Adams:** And knowing that's true, is there a issue? Is this addressing a real problem or the possibility of this becoming a problem?

**Fritz:** When you have a new field -- and my next amendment is that all new fields should go through a conditional use. There's -- it's particularly parking and noise that's of concern to the neighbors, and frequency of events. So --

**Adams:** And what about -- again, i'm trying to understand this. Kenton park we have a lovely -- kenton park, we have a lovely music in the parks, it has many --

**Fritz:** It doesn't count. It doesn't count practices, as well as it doesn't count musical events.

**Fish:** If it's a new field in a park that does not have a field or involves permanent seating, this is the grant park experience, lighting and the like, the current proposal before us would require a conditional use.

**Adams:** Ok. So unless I hear a second to the first, we'll move to the second proposed amendment from commissioner Fritz.

**Fritz:** Thank you, mayor. The new recreational fields and not allowing the exception for adding an additional one. If you're adding an additional field, you're hoping to attract more use to that site and, therefore, you should have to look at what the parking are and the impact and how many events are going to be happening on a weekly, monthly, yearly basis so you can imagine the impacts to the neighbors -- so you can manage the impacts to the neighbors.

**Adams:** It's moved. Is there a second?

**Fritz:** Moving on the bleachers, i'm suggesting -- the dugout concessions and restrooms only have to be set back 15 feet, I do not think that 15 feet is enough of a setback for things that are going to

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attract activity like concession stands and restrooms in particular, which maybe noxious. And doesn't limit how many restrooms you could have from a property line. So i'm proposing 30 feet.

**Adams:** For the sake of discussion, i'll second.

**Fritz:** Thank you.

**Adams:** Why does it make sense to allow unlimited bathrooms within 15 feet of a lot line?

**Horner:** Just for clarification purpose, the current code does allow this. We're not loosening the standard in anyway. , in fact, we're tightening it up a little bit by increasing the setback. I believe in douglas,s setback is 10 feet -- or, 15 feet, we're increasing it to 30 feet for bleachers. And to 15 feet for structures. So we see this as sort of a net gain from a neighborhood perspective rather than any kind of a negative.

**Fritz:** Again, this is being -- this is trading standards for a conditional use review, where the discussion is 15 feet too close or could you please move it 30 feet or put it on the other side of the field where there aren't residences so close. Because we're not going to have a conditional use review, I think the standard ought to be more like what I would like next to my home.

**Hardy:** And if I could comment. Douglas hardy with bds. Under today's code as was indicated, four -- for restroom, 15 feet is the minimum setback. We have experienced complaints from neighbors about those particular facilities being too near. So that was one the reason why the 15 feet was kept. In terms of conditional use requirement under today's code for a restroom, only if the building was more than -- the restroom was more than 1500 square feet would it trigger a conditional use. Under today's code, if it was a 700 square foot restroom, you could build it by rights without going lieu a conditional use.

**Fritz:** But the field itself would go through a conditional use?

**Hardy:** If it's used for organized sports yes.

**Saltzman:** How do port-a-potties filth in?

**Hardy:** It would be the same.

**Saltzman:** 1500 square feet?

**Adams:** It's a big port-a-potty.

**Saltzman:** You could string them together.

**Hardy:** Differentiate between something that's temporary and permanent.

**Leonard:** Lose only 32 square feet -- [laughter]

**Adams:** Is there additional council discussion? Could you please call the vote.

**Fish:** No. **Saltzman:** No. **Leonard:** No. **Fritz:** Aye.

**Adams:** I appreciate commissioner Fritz raising this and I understand the issue better and if it becomes an issue, we'll have to deal with it in our review of all of these changes. No.

**Fritz:** I'm going to skip the next one, since I already lost on the 70 spectators. It's -- it changes the potential use and should not be allowed outright. Should go through a conditional use so we discuss the intensity and use of the area through noise, traffic and parking. So i'm proposing to delete --

**Fish:** A clarification, I understand that the proposal before us would allow one new field added to a site where there's an existing field, correct?

**Horner:** It would also require a neighborhood notification for in a kind of proposal. So there is a process where the community can be involved in the decision making.

**Hardy:** If the new field added lighting, a sound system or seating in excess of 210 lineal feet that, would also trigger a [inaudible]

**Adams:** You can double the amount of playing feed without a conditional use permit? Is that right? I want to make sure --

**Horner:** If you've got one existing field.

**Stein:** And it's within a certain distance.

**Adams:** Currently?

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**Adams:** Currently, if you proposed a field anywhere in a park site, you have to go through a conditional use.

**Stein:** Sorry, I misunderstood.

**Adams:** And the reason to eliminate that provision?

**Horner:** It's to strike a better balance in the process that would be required to install a new field. It's a high hurdle do a type three land use.

**Adams:** That's a type three?

**Horner:** Yeah.

**Adams:** Why?

**Horner:** I'm not entirely certain, I believe that probably the code, the way it was written, they didn't want to deal with various levels of improvement. Just said, if do you any kind of field improvement, it's a type three and if it's an -- it's an easier way to write the code.

**Fritz:** These things are very controversial and lots of people care about them and want the noise and parking things figured out. I would be happy with a type two, rather than a type three.

**Fish:** To the point, to the panel, if in proposing a second field, there was a companion proposal to add dedicated parking and other things, that would trigger a conditional use review. We're talking about where there's a existing well-established field and it's the view of the planning commission that that not be subject to the same regulation as substantial improvement to existing fields which are likely to substantially increase use and spectators.

**Fritz:** I think what you've pointed out with a disincentive for new uses to provide adequate parking because that would trigger a conditional use review. So you can add a field -- it would make more sense to add the new field rather than the parking.

**Fish:** On that point and throughout these, I would say, respectfully, because I -- I again, generally defer to you on these issues, is that with the check of a good neighbor agreement with a clear good neighbor agreement and frankly one thing we sometimes overlook, which is the political check. Because a good neighbor agreement, for example, is subject to -- gna is subject to the commissioner in charge and we need, if there's an unforeseen impact, and at least for the purposes of the trial run, i'm comfortable excise exercising that authority and will not hesitate to revisit any agreement if there are unanticipated impacts in a community that need to be reviewed.

**Fritz:** I greatly respect your position as the commissioner in charge with a lot of experience in good neighbor agreements and we've found it frustrating to be able to enforce good neighbor agreements and not found the political influence of a commissioner calling up and saying please do what you're supposed to do is effective. I'm more comfortable with the conditional use process in which neighbors can participate rather than staff.

**Adams:** Just so i'm clear, the problem that the change is solving is what? The proposed change solves what problem? The bureau's proposed change of going from conditional use to good neighbor agreement.

**Fish:** Throughout the process, they've been trying to strike a balance between those areas subject to regulation and conditional use and those which should not. And when they're not conditional use, they're otherwise subject to the good neighbor agreement and other checks and my understanding, from what i've reviewed in the record, is that the planning commission believed there's no impact of adding an additional field and that should not be subject to a conditional use process. Again, I would -- it would be my intention to come back within a year with empirical information how this is played out and if it does trigger problems, we could revisit it. But the goal is to be -- to make some -- get some balance into the system and make some -- you know --

**Stein:** The thinking behind this whole package of amendments, a lot of what we've been trying to do is think about balancing and carefully respecting the issues and concerns and needs of the adjacent and immediate neighbors and looking at the recreational needs of a growing city and trying

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to have a good balance to make sure we accommodate the recreational needs of the full community but also respectful of the immediate neighbors.

**Adams:** Is there a second on this?

**Saltzman:** I would be comfortable if this were a type two review. This amendment. That's accepted as a friendly amendment.

**Fritz:** Absolutely, thank you.

**Adams:** Sorry, I've got a lot of things running through my noggin these days. Remind me the difference as it applies here?

**Stein:** Terms of the time frame and the cost. The review and criteria are the same for both and I could look up the numbers quickly, but it's a substantial time difference and cost difference.

**Saltzman:** The type threes are appealable to council.

**Stein:** Correct.

**Fish:** \$3,500 the type two and --

**Hardy:** \$3,600 for type two and double that for --

**Stein:** And eight weeks versus 15 weeks.

**Fritz:** Thank you for that friendly amendment. I should have clarified. In all of these, I would be very happy with a type two instead of a type three. In your packet, you suggested that the average type two takes 56 days. The proposed good neighbor agreement takes 127 days and then will take time after that.

**Horner:** The good neighbor agreement timeline, when we do our public notice we may immediately start a good neighbor agreement which would cut down the time considerably. I think either way, whether it's a conditional use or good neighbor agreement, you're looking at a considerable investment in time from staff and an effort from the community to get something done.

Where we're at is we feel like the type three has a prohibitive effect on us trying to meet increased sports demand and more fielded that we won't -- a field, and won't pursue a field because we know that type threes are lengthy and expensive and usually a losing appropriation for us. The good neighbor agreement is working directly with the community in trying to resolve --

**Adams:** It's been moved and seconded.

**Abma:** I thought the amendment was let get rid of it completely and then make it a type two, I don't know how you make a type two out of --

**Fritz:** My amendment is to delete the language wherever it occurs that says adding one field is allowed and just to delete that part and because then it continues on to the standards for the new field, which are acceptable. So it could be a separate amendment to say that the process would be a type two.

**Abma:** I think that is cleaner, personally. But Katherine knows more about land use. So --

**Kathryn Beaumont, Sr. Deputy City Attorney:** It's unclear to me is what language you're actually considering based on what we have on your list of amendments. I think if you want the council to vote, we need language that actually implements a type two procedure rather than just voting on a concept at this time at this point.

**Leonard:** A type two, different from deleting the section?

**Beaumont:** That's correct.

**Fritz:** With time, I can come back with an amendment -- I would rather not do it on the fly. I'd be happy to work on it with staff.

**Leonard:** I want to ask a couple of questions about that. I don't think were pursued in distinguishing between a type two and three. Type three is appealable to the hearings officer. And type two to the council. And both to the land use board of appeal, correct? So essentially -- I want to make that clear. Is going from a process where there's some certainty for a recreational field on the condition there be a good neighbor agreement to a process, type two or type three that, could be

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held up for years, via the hearings officer on the council, which can be appealed to the Oregon board of appeals, is that correct? That procedural steps?

**Hardy:** Yes.

**Leonard:** Ok, so it isn't really a -- I don't think it was clear in -- in your answers -- on point to the questions asked, but I need to extrapolate fully, the implication of going it a type two or type three hearing.

**Fritz:** And have there been any appealed that you can remember to luba?

**Hardy:** I don't know of any.

**Hornor:** Without looking, I don't know.

**Adams:** Can we vote, please.

**Fritz:** What are we voting on?

**Adams:** Your amendment which could not be a friendly amendment -- amended --

**Fritz:** Let me withdraw that and try another one.

**Adams:** Ok.

**Fritz:** If that's ok with you.

**Adams:** No, i'm going to wait. Go.

**Fritz:** I move a new field would be subject to a type three -- a type two conditional use. And that staff works out the language for that.

**Adams:** Is that a second.

**Saltzman:** Second.

**Adams:** It's been moved and seconded. Is the same discussion we had before.

**Fritz:** Yes.

**Adams:** Unless there's additional discussion, Karla, please call the roll on this amendment.

**Fish:** Once again, I greatly respect the maker of the motion and have a chance to discussion all of these points. I'm going to oppose it. The title 33 amendments as recommended unanimously by the planning commission strike an propose balance requiring land use review for certain new uses which have substantial impact and providing a different mechanism for others and respectful throughout with the concerns of the surrounding neighborhood. This set of -- this proposal has been discussed for over a year and subject to extensive public process and i'm not comfortable changing the mix of the balance. I think the planning commission came up with a balanced package. And I respectfully think this particular change runs contrary to the well established intent of this council to move aggressively on a agenda to provide our children with better recreational facilities, both existing fields and where possible, companion fields. So I vote no.

**Saltzman:** I appreciate commissioner fish's and the council support for more recreational fields, however, in this case, I do feel a companion field, as commissioner Fritz said earlier, there could be a disincentive to invest in the necessary infrastructure to make that companion field fit in -- I think it should be a type two review. Aye.

**Leonard:** I agree that impacts that have effect on neighborhoods in the city should be subject to a public process. But the recommendation forwarded to us by the planning commission and supported by the staff does that. I think it's important to remember that as Portland becomes increasingly dense, and I have to remind myself of this, Oregon's unique land use system adopted in the 1970s, so that we preserve farmlands and forested land and don't become a california state that has as you drive through down the freeway small pockets of development here and there that end up affecting adversely the entire living environment for the entire state versus Oregon which is careful about how we use our land and there's controversy about skinny houses and i'm familiar with that and controversy about recreational fields and, along with other members of council familiar with that. But having said, we have to be realistic to provide opportunities for families and children to recollect create is some certainty. Development with some certainty, so for that reason and only, I do not support the motion. No.

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**Fritz:** I'm glad to share my -- affirmative of the planning commission recommendation and I hope it carries over to the school discussion in a few weeks. This is about public process --

**Adams:** Touché. [laughter]

**Fish:** Move to strike that comment.

**Fritz:** This is about public process. About predictable public process. This is about staff being paid for their time which they are in a type two but not in a good neighbor agreement. It's about a land use decisions and about discretionary decisions and when you have a new side, there are discretionary decisions about parking and noise and other impacts that probably belong in the zoning code and the land use process. So I urge the mayor, who has a swing vote to vote aye.

**Adams:** To ruminate just a little bit -- I live -- as we were having this discussion -- I live about 50 feet from a baseball -- softball baseball diamond that's used regularly. Kenton park and i'm the last section of houses before it's industrial and then pir. And so this sort of use, there's land use and then there's use of the land. And i'm making the distinction between the two with this vote. I agree that we need to, where sports facilities already exist, and in this case, I know we're not talking parks, I think that the addition or new ones coming in as part of a good neighbor agreement I want to -- i'm willing to try that for a year and see how that goes. Yes, so with that -- so i'm going to vote no. [gavel pounded]

**Fritz:** Moving on -- before I move on my other amendments, I have a couple of questions for staff on parking. This is title 33. On page 31. In making some minor amendments and putting parking in a separate area, you've taken them out as conditional uses in cemeteries and golf courses and i'm wondering if there was any discussion at the planning commission about the implications of that.

**Hardy:** I'm sorry, you're looking where?

**Fritz:** Page 31 of the blue-covered document. In b, which is cemeteries and d -- c, rather, and golf courses.

**Hardy:** Right, so the -- basically it was just to consolidate that in 7e, it does say parking areas.

**Fritz:** Right.

**Hardy:** So parking areas still would be regulated as a conditional use.

**Fritz:** You're comfortable it's clear that parking in cemeteries and golf courses are still regulated?

**Hardy:** Yes because they're all inclusive. If something is on the list, if parking area is identified that, would trigger a conditional use regardless of the use.

**Fritz:** There are differences between the parking regulations as far as how many spaces may be added and taken away. In this process than there were in the recap process, which went into effect on Sunday. Why did you change the parking regulations from what we discussed there and what the differences are?

**Hardy:** And I understood they were the same --

**Stein:** I thought they were the same.

**Abma:** I think they've been made consistent.

**Shawn Wood, Bureau of Planning and Sustainability:** They're intended to be the same as in ricap five.

**Fritz:** You could make a friendly change.

**Wood:** Sean wood, bds, the intent is to make them the same. The rec fields chapter and the schools and schools site and also in 815, the conditional use chapter. We did clarify some of the language because what was under ricap five was confusing but we've made all three of those places parallel.

**Fritz:** Your intent was to make the same adding and taking away the trigger.

**Wood:** Yes.

**Fritz:** Moving to title 20, this is the mechanics of a good neighbor agreement which is going to substitute for the conditional use process. So it's important we get the timelines correct and make sure that the correct people are invited to participate in the good neighbor agreement. So the -- I

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have -- you have before you, the amendments in 2004050c. Underlined. A public meeting can be held, the amendment says it must be held if requested by a neighborhood association and the neighbors adjacent to the site, either 10 homes or 50% of the home, whichever less should have the right to ask for the good neighbor agreement, because with the current conditional use, anyone can participate. You don't have to have the affirmation of the neighbors in order to participate in that discussion. If you want me to make these all the once or --

**Fish:** From what did you draw that standard.

**Fritz:** I pulled it out of thin air because I was trying to pull things together at the last minute. To try to -- what I was trying to do was to establish a certain number of residences, it couldn't be just one resident that could trigger the good neighbor agreement which is overly involved and time consuming. For instance, in the recent park discussion if you've got 10 homeowners who are concerned, or 50%, whichever is less, if you've got a site with only a couple of homes on, if one of those is sufficiently concerned, they should have the right to ask for a good neighbor agreement. Currently, they have a type three, it can be appealed to lura by a single person.

**Fish:** Can I ask staff to just comment on that.

**Hornor:** The reason it reads "can be held" there's a possibility when we do the noticing and respond to neighbors, we made that point just to enter and I start a good neighbor agreement, which would make the meeting unnecessary. I think we can reword it to where it can be required if we haven't made a decision to enter into a good neighbor agreement already. That would help.

**Fritz:** That's fine.

**Hornor:** Regarding the 10 homes and 50% of the homes 50 feet. We did consider this and federal that there could be a considerable number of people within 400 feet of a subject site and we had captured enough people with the notice going out to everybody within 400 feet so didn't feel like we needed to specify a percentage or minimum number of residents.

**Fritz:** What you're doing is pitting individual neighbors against a neighborhood association. What this requires for the neighborhood association to be the gatekeeper. The individual residents adjacent to the park, if the board of the neighborhood doesn't share their opinion, they can't get a good neighbor agreement. Surely that wasn't your intent.

**Hornor:** First of all, there could be several neighborhood associations within a particular site. So it would offer some options -- I mean, there could be mum requests for a good neighbor agreement. And if we felt the demand from the neighbors was considerable, we would just honor that request and enter into a good neighbor agreement. We wouldn't wait for the neighborhood association to issue a letter. We would feel responsive to get back to the neighborhoods that had the concern.

**Fritz:** It feels like you're deciding whether there should even be a process. And that goes from a type three, appealable to the court of appeals, to where the parks can decide if people can even have a good neighbor agreement discussion.

**Hornor:** The way we've worded it, there gets to be dialogue with the community on what's acceptable. We don't go in and build a field. There's a notice and process that starts up when a proposal comes in. So there's some -- we felt like we were putting the neighborhood more on par and giving them a bigger seat at the table than they would get through a conditional use process.

**Adams:** Maybe I -- maybe I have a different sort of balance than -- but I want to ask commissioner Fritz the sense of balance. You know, I live near these other public uses. I moved there knowing I lived -- was going to live by pir and going to live by saturday and sunday softball games. So I knew the uses I was moving next to. I want to be consulted in their operations. But I don't know that I should get a veto. Just because I happen to live near them. So this isn't quite on point, but how are you striking that -- how do you seek to strike the balance?

**Fritz:** The neighbors have no veto at all. What i'm asking they get to participate in the discussion and there's no requirement for them to be in the discussion.

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**Adams:** And if they can't muster support in the neighborhood association, does that -- I mean, reinforcing the neighborhood as the place that everyone goes to present their concerns, and the neighborhood deciding whether or not it's going to rise to the level where it's urgent enough and compelling enough to rise to the level of a neighbor concern, as opposed to simply because you live by one of these public facilities, you know, you get to trigger -- how are you thinking to strike the balance?

**Fritz:** I'm trying to get as close as possible to the current conditional use process which we're doing away with, where one person can take it all the way up to the court of appeals. In this process, there isn't enough standing for the neighbors most impacted. And an greatly appreciate your hope that people go through the neighborhood association. And participate -- and they have different bylaws on who can be on the board. And when -- they can be swayed from people coming to a meeting and never showing up again. I like that neighborhood associations are recognized as an entity that can call for a public hearing. It shouldn't require that the most impacted neighbors have to persuade their neighborhood association who are not democratically appointed.

**Adams:** Commissioner Fritz, would you be open to as you sort of embark on this voyage of continued discovery and innovation, in trying to get more active use -- more land within each of the neighborhoods, I assume that if this passes, that you'll have to set up some -- further administrative sort of protocols of how this would happen for your bureau?

**Fish:** Mayor, in the remaining number of months on this council, I would honor whatever the directive is. I will say that to me, as i've gotten more involved in this, one thing that I am concerned about is I think there's an underlining tone of a lack of trust. That I think is primarily directed frankly to the school district but has ricocheted off and hit my bureau. The reason i'm concerned about that, i'm guilty of many things. I have many shortcomings and I have a wife and two children who remind me of that on a regular basis. But I don't remember a specific example in the last year where we've done something contrary to a significant neighborhood concern. I would cite the example of sunnyside park. It got very contentious and this commissioner went and sat with the community. All of the stakeholders and brokered the meeting and weighed in and personally got engaged in reaching a compromise. I'm reminding on grant park, that after a consensus emerged around a scaled-back hearing, we had a public hearing and I called it so no one could criticize us for not going the extra mile, what I experienced was an overwhelming community sense about replacing a field and one person testifying against it. So it's a question of the balance and I want to make sure we're addressing real problem, not imagined and I also respectfully would like the opportunity as the commissioner in charge to work with my team to make this function and if there's problems, fine-tune it, but I bristle the notion that there's such a breach that we can't be trusted to carry out this proposal that's unanimously recommended by the planning commission. I'll follow whatever directive my colleagues want but I think I have more confidence and I would urge someone to cite an example where we've run roughshod over any neighborhood group during my service.

**Fritz:** That's a good point and given the example with grant park, we might want to change it to the nearby residents and the neighborhood association.

**Adams:** I can only imagine how well you'll take that idea.

**Fish:** I will be guided by the majority will. I'm committed to making this work.

**Adams:** I would like to pick up --

**Fritz:** Finish my -- I want to make clear that I have the utmost confidence in you and your staff, commissioner Fishing, and i'm looking at I established process with land use that's not dependent on the commissioner in charge and I want to make sure that whatever is adopted here is not dependent on the commissioner in charge.

**Adams:** And I would ask the commissioner in charge, who has done a fantastic job of moving these to resolution that have been stuck, that all I ask, and I don't think I need to amend anything, just as a

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matter of legislative dent, is that you come -- intent, that you come up with a uniform approach. The uniform rules of engagement, whether someone surrounding a facility, versus someone else who uses a facility but isn't in the neighborhood, all I ask as you move forward and your bureau come up with a uniform sort of administrative guide to that. I don't think it needs to be enshrined in an amendment.

\*\*\*\*\*: I.

**Fish:** We will commit to that and good one step further and consult with commissioner Fritz as he develop it.

**Fritz:** Thank you.

**Adams:** There was no second for in a.

**Fritz:** I don't have a specific amendment on this, but I would like you to consider as you move forward, commissioner Fish, that there needs to be more enforcement than revoking a field permit, because some of the activities could be unrelated and the planning commission supported it if good neighbor agreement mechanisms are approved and that's the problem in good neighbor agreement in all of the ones i've been involved with, the lack of enforcement.

**Fish:** We will track any complaint we receive that seeks to revoke a field permit for any reason and document and track that so that we have data.

**Fritz:** Yeah, but the problem is when it's not related to a field permit. What else could we do that might be used for enforcement? I want to highlight -- I know we're not adopting the draft policy, you're continuing to work on that, as you do that, I want to put my concerns on the record. It doesn't specify how the neighborhood representatives are selected and there maybe more than 15 that want to participate. I'm questioning why a good neighbor agreement would expire with a sunset date and wondering what the mechanism is for the proposed annual review and I look forward to seeing that in a year. Thank you.

**Adams:** Unless there's additional council discussion with this he is steamed panel of experts -- this esteemed panel of experts, we'll move to testimony.

**Moore-Love:** Five people who signed up for the amendments. First three, please come up.

**Adams:** Good afternoon, welcome back to city council. Glad you're here. Would you like to begin?

**Dave Johnston:** Thank you. Good afternoon, city council and the staff. I wanted to thank the council and all the staff for working with us on our concern about clarifying the code with respect to whether the field rule as proposed should apply to colleges or not and as I look at today's memo from debra stein and item no. 5, looks like they've done a good job of answering our concerns. Hopefully our concerns have been helpful in getting a better city code.

**Fish:** If I can say, sir, since I had the privilege of chairing last week, I think the mayor was ill, I want to thank you, both of you and the others who came and testified on that point, and caused us to go back and look at the language. I think this is the way it's supposed to work and staff came forward and we appreciate your time in bringing this to our attention. Thank you.

**Dixie Johnston:** I'm dixie johnson, co-chair of collins view and I want to reiterate that we appreciate the staff and their hard work. Kudos to them, they were kind after patient to us. And we appreciate their listening to our concerns. They've done a good job. I do want to remind you all again, I did attend all of the planning commission hearings or recorded them so I could watch all of them. Concerning both the schools and the parks issues. One thing that came up over and over again, was that good neighbor agreement are not enforceable and a lot of folks commenting about field use were very concerned about that. Going to citywide land use hearings for a number of years, this was also reiterated. Even though they sound good on paper and everyone smiles and shake hands, sometimes people get lazy or sloppy over a period of time or you get rah-rah soccer team or little league team coming in and don't want to follow the rules because they're so enthusiastic about -- yay: We're here for the kids and sometimes the good neighbor agreements get

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in the way and I hate to see things get into a little bit of anarchy. Commissioner Fish, you did have a good idea revisiting this program. Because I think it would be helpful. I have to confess, I do lean toward commissioner Fritz in the conditional use end of things. Yeah, it's a nuisance, it's heavy cost upfront. How far, when conditional uses are -- have been -- that process is over and done, the hearings officer makes a decision. These are the rules, if someone comes back a year or two later and decides to be lackadaisical, or try to pull something on the neighbors or hurt the athletic teams who are trying to use the field or anything else, somebody can say, wait a minute, here are the rules and usually they'll back up a little bit. They don't change the rules willy-nilly because there's a new director or trustee or whatever is going on. So I think there's more security and stability for the neighborhood. For all the fields with the conditional use. But we could give this a try, but I think it should -- deserves some watching. I'm concerned about infrastructure issues with one new field. What if there's only one dry way going in and out. It may not be enough. Traffic could back up. There's a lot of issues here. I hope the good neighbor agreement would address those. I want to say, I very much appreciate your comments and the spirit in which they're offered. When we do the one-year review, we'd like you there. And I don't intend this to be flip but the greatest obstacle to having an additional field built out is not whatever regulatory system we set up or review system. It's a cost factor and we're -- we are -- we're trying to replace some existing fields for which we don't have the resource and adding an additional field is a luxury and given how constrained we are, it's going to -- I think i'm safe in saying, it will be a rare event but I appreciate your comments.

**Adams:** Can I ask another -- based on that. When the parks website is really improved recently, and there's now a section for each -- anything that vaguely looks like a park or open space, oftentimes, if over the next year, as you do any of these good neighbor agreements, if you post them so everyone know where is they can look at them. Just to the point of -- i'm not as -- I don't not -- I don't have as good of an experience in the follow-through with the conditional use like you all. But the clarity and knowing where to see them, we can address that by posting on -- each park has their own webpage.

**Fish:** We welcome that suggestion and make sure that people understand that through park scan, there's a user friendly mechanism online to make a complaint or report a problem and that gets a pretty quick response. We'll make sure that people are aware of both. Thank you, mayor.

**Paul Cathcart:** Thank you, mayor Adams, commissioners, i'm with Portland public schools and I want to thank you again for your continued deliberation on this issue as well as the schools package when we get to that. I want to thank the staff for being responsive to our questions and including us in the deliberations over the last 18 months. It's been very helpful. I think there was a question earlier today about what good neighbor policy would the school district use and the implementation of the fields permitting organization, and I think from pps perspective, we intend to use as close as we can, the language before you today. We're a part development of that. And we're supportive of the coming back and looking at this a year from now. Just to see how things have gone. And make suggestions that we've had from our experience, so we appreciate that perspective and we agree with you, commissioner Fish, that the opportunity to add new fields is getting to be rare, so hopefully we'll have an experience next year to try this out. So -- basically, support the amendments that have been pass sod far and look forward to this policy.

**Adams:** Thank you all very much for your work on this. Next two. Commissioner, how are you?

**Chris Smith:** Very well. I would like to remind commissioner Fish that we visit the great change policy that the planning commission was unanimous in the need for review and only split on the issue of whether it was type two or three.

**Fish:** Thank you.

**Smith:** The public policy challenge that the planning commission was wrestling with was the one that commissioner Leonard identified. As the city gets denser because of our own goals as well as

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state land use regulation, we're going to need to provide for more intense use of these facilities. We want to make that possible and reasonably achievable within the regulatory structure while, of course, balancing that off against neighborhood liveability. We did embrace the good neighbor agreement approach to that. And I think our philosophy was that we wanted to encourage dialogue.

And the good neighbor agreement creates that opportunity for dialogue. I'd be the first to acknowledge the history of good neighbor agreements is mixed. As my own experience as a neighborhood activist, I have liquor licenses where they aren't worth the paper they're printed on, but then we also have in my neighborhood, the example of pge park. Where we have a good neighbor agreement anchored in city code as these would be and has been a relatively successful tool for managing that facility on the neighborhoods. And I hope we're looking at something that approaching the latter model since this is based in code and has some accountable regulations around them. I would emphasize that the planning commission -- the point the planning commission made in the transmittal letter, this will only work if the organization involved believe there is -- the ultimate back stop of enforce. In the form of revoking use permits and that falls ultimately on the commissioner of the parks to make that call. So i'm trusting commissioner Fish and his predecessors will be the tough cop.

**Fish:** Whenever that might occur, including in the middle of the little league world series. I thank you for that advice and --

**Smith:** I would -- in reference to today's amendments, I appreciate the clarification on the role of other school districts because that's something that happens in the community conversation and making it clear it isn't an attempt on parks to exert control over fields where there are not igas and that i'll wrap up there.

**Mary Ann Schwab:** Mary ann schwab, advocate for kids. I've got a couple of bullet points and a couple of questions for clarification. Number one is the school district as commissioner smith has said, I have a problem with the school districts. Number one, Portland has one of six school districts. Portland public schools is really the front runner here at the gate and everybody falls suit once they set the model. That's giving one school district a lot of power. We have kids coming in with intramural sports. And who is liable for those kids on the playground? The school? Parks? When you have a good neighbor agreement, i'm wondering, parks if you're going to have people fill out -- you're the umbrella, you're over all parks regardless of the user. So that's all outlined and in a schedule so you don't have two teams showing up at the same time. It's tricky. You might want to go over to Portland public schools, that's one thing they do right. One of many. So again, it's liability factor. I don't want that waived. And I also support commissioner Fritz's statement giving the freedom of speech to the individual neighbor. Some of your 500 feet, 50 feet, 400 feet, in inner city neighbors, it could be a warehouse next door. A lot of people don't know what's happening. They don't hear about it. We have very stringent guidelines for public involvement with the sunnyside neighborhood association. Portland public schools is not bound to the same calendar. On april 8th, Portland public schools sent four staff to the sunnyside neighborhood association to discuss the sunnyside playground park. What happened was it was a tokenism. Again, top down. I hope you read the examiner april issue, the comments by tim brooks and others and my response to the letter to the editor. What happens here, when they came, they didn't come with a power point explaining what they're doing. They did not come with a conditional use type two, explaining where the classroom trailer is going. It does apply to you. It's taking place on 2.4-acre park which means we have to find money between Portland public schools and parks to replace the land that the trailer is going to take. We talk about management of school, we've got a whole pattern going on with the reconfiguration and redesign and yet there's no in-house management supervision, the bcs is so busy running in circle as so busy saying it's not my job that the we're losing our parks and when you had your meeting, people walked in and I wasn't there, I wasn't there because I wasn't invited. Somehow my name got dropped off the list. Good neighbor agreement are followed with

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this. Olcc has good neighbor agreements and found them in about 1990, in '99 when commissioner Leonard was a representative. They treat the ors, as long as every neighbor signs the good neighbor agreement, we don't have a right to say no. Olcc automatically gives you those listens. I want to take that good neighbor agreement apart with enforce. We have no enforcement at the state or city level. I appreciate you're listening.

**Adams:** Thank you for your testimony. And also, I think, there's been an issue -- a question about enforcement and such, I mean, good neighbor agreements I was associated with putting together under mayor katz, the pge park good neighbor agreement and the discussions are absolutely key and an think that I agree that's an example of a good neighbor agreement, i've been involved or knowledgeable of good neighbor agreements that have not worked. I do think that good neighbor agreements that include what happens, who gets to ring the bell and what happens when they're not working, you know, I think that's critical in this case and I know my staff has talked to parks about that and they're going to use best practices.

**Schwab:** I'm happy randy Leonard, went to the governor and worked in time, place and manner. That's a g a tool we have. And it's a good tool and the individual has the right to come forward.

**Adams:** Thank you, appreciate it. Is there additional discussion by staff or council that is necessary before we gavel this on to a second reading?

**Fish:** It's -- if it's a friendly amendment, of course, parks reports back to council within one calendar year on our experience on whatever is passed by council next week.

**Adams:** I'm fine with legislative intent. All right. [gavel pounded] moves to a second reading next week. We're recessed to 2:00 p.m. tomorrow when we do sidewalks.

At 4:30 p.m., Council recessed.

**April 29, 2010**  
**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.

**APRIL 29, 2010      2:00 PM**

**Adams:** Karla, how are you today?

**Moore-Love:** I'm good.

**Adams:** Can you please call the roll.

[ roll call ]

**Adams:** Can you please read the title of the emergency ordinance.

**Item 601.**

**Adams:** So I have a background information for the record, and then we'll have a brief presentation from warren jimenez, my deputy chief of staff, and from david worboril and get right into public testimony as quickly as possible. We're really glad you're here today. Over the past year, this city council has been working with folks from every viewpoint involved in the issues of sidewalk management. Folks who work downtown, individual business owners, who rely on the sidewalks for their success, mental health advocates, the police, homeless adults and youth, homeless advocates, tourists, business, neighborhood associations, people who live downtown, people with disabilities. In october of 2009, the city council unanimously approved the sidewalk management plan resolution. This resolution create add comprehensive framework for our continued work to keep downtown accessible and environmentally Viable for all. This resolution included working with commissioner Fish to proceed with the construction and operation of the long-proposed but never funded resource access center to improve, expand, and continue the investment in day space and other basic services for homeless folks. My adopted budget last year included \$1 million for ongoing operations and how much in pdc tif? 28 million?

**Fish:** We dedicated about 80 million.

**Adams:** And then \$80 million for the construction all told for the resource access center.

**Fish:** Sorry sam, there's more than one project. For tif it's 30 million.

**Adams:** 30 million in tif for the resource access. You can see the construction underway near the union station. This project is on track to open in may 2011. The office of the city attorney proposed an integration of all city code that regulates sidewalk uses in one chapter was another element called for of work to be completed in the october 2009 sidewalk management plan resolution. This work is underway, today's ordinance does not move that entirely forward, but moves some of it forward. Also, in the resolution of last october working with commissioner Fish, partnering with various community stakeholders to create a public education and donation program at places throughout downtown, including retail stores, this program will be introduced in the upcoming month. With commissioner Saltzman and the Portland police bureau, they will create and regularly update a work plan for enforcing the laws, prohibiting criminal behavior on sidewalks, including littering, harassment, disorderly conduct, and drug dealing. This work plan is in progress. Commissioner Saltzman and the Portland police bureau are currently reviewing training programs and will propose additional training programs for private security guards under contract with the city or others who have authority to patrol the right of way for private providers. With the Portland business alliance, the Portland development commission and community stakeholders proposed a downtown retail strategy to assist downtown Portland retailers, most on the street, most specifically on the street and those rely on sidewalks for their success, this was completed and adopted by the city council about seven months ago. Commissioner randy Leonard

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has continued to move forward on increasing the number of public toilets and increasing the -- I should say and fast tracking the loo siting process with visible signing, identifying where the loo locations are. There's a loo on fifth and glisan, and two more loos have been approved and will be installed by the end of summer. In the downtown area. I will propose a plan to better manage the concentration and placement of publication, boxes such as newspaper boxes on public sidewalks, and that plan will be out for initial public review at the end of may. Commissioner Fish and the Portland housing bureau, partnering with community providers to ensure continuity and coordination of existing over the counter and internet-based information and referral resources for people experiencing homelessness or needing housing services, information and referral resources include two-one-one, rose city resource guide, housing connections and the community service center at glisan street shelter. Commissioner amanda Fritz is working with my office and others to have as part of that outreach single telephone number to report concerns from anybody regarding sidewalks in the public realm in downtown. City council will propose an ongoing program to monitor and improve the sidewalk management plan with an oversight committee, including representatives of all stakeholders. Commissioner Fritz has formed the sharing public sidewalks advisory committee and has agreed to be the commissioner in charge of that. That separation is important to us so that the same commissioner is not in charge of implementation of these things and her committee under her direction will be separate from other efforts. Finally today's ordinance to propose a new city code to implement the sidewalk access and passage requirements inspired by the federal americans with disabilities disability act. Finding a way forward that balances the need and rights of all sidewalk users is the core purpose of this sidewalk management plan legal framework. The ordinance is just one as you have heard, of important piece of sidewalk managing the sidewalks. Which is designed to manage the total utility of the sidewalk. This ordinance does not criminalize homelessness, nor does it prevent someone from sitting or lying on a public property or in certain areas of the sidewalk. Let me repeat that. For the first time in terms of all the city's efforts to try to strike a balance on all the competing uses for the sidewalk, every front, every sidewalk on every frontage block for the first time there will be a place to sit and lie. This ordinance is intended and does protect free speech. Why is this -- i'll ask you to not talk while others are talking, and we're going to adhere to that rule for the remainder of the hearing while you're talking, ok? Thank you. Why is this ordinance filed as an emergency? We have had over as you hear, we started this process last october, and it was filed as an emergency ordinance because we've also had over two months of public outreach on the ordinance, and we don't want folks to be further confused, since we are in legal limbo, of when the ordinance applies and when it does not. It is not designed to curtail people or groups of people, but rather behavior that interferes with the primary purpose of sidewalks, which is to move people. It does take a holistic approach to regulating sidewalks in order to accommodate a wide variety of needs. Funding. We see this -- there are going to be questions and there should be an advocacy, many of you in this room are great advocates on the issue of homeless services and affordable housing. So I want to speak to that for just a minute. We have a regional housing crisis and the city of Portland and Multnomah county are putting significant money towards solutions that are benefiting the entire region. The fact the city spends more money from its general fund is important, because federal dollars for homelessness services come with a lot of strings attached. Our use of basic resources general fund money means there aren't so many strings attached and allows us to be more flexible than other comparable cities in innovative housing and homeless programs. We have a 10-year plan to end homelessness and we have put the resources towards it and sometimes even when we're cutting like last year we had to cut the citywide budget. This city council increased funding for affordable housing and homelessness almost 40%. We know the need is greater than ever. We're in another round of budget cuts this year and we're working hard to always -- under the leadership of commissioner Fish, always working hard to improve the availability of shelters. Portland spends \$10.6 million of

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its general fund money on homeless service and affordable housing. Seattle, a comparable size city in terms of population, has a levy for over \$40 million directly from the voters, but its general fund is less than \$600,000. In terms of general fund allocations within the region, and this is where I enlist you to continue your advocacy with us, but now turn your advocacy to counties and cities throughout the region, because we need their teamwork and their help to address this issue as well. Again, Portland, 10.6 million dollars, Multnomah county, \$8.9 million, clackamas county, \$2.1 million, Washington county, \$300,000. We can't be the only local government that you advocate to.

Of all the other jurisdictions, we are the ones that commit the most and we know that we are not meeting the demand for these services. We know that each and every day. Over the next five years, the Portland city is already committed within our financial forecast to invest \$324 million for homeless programs and affordable housing. And that compares to \$635 million that we have invested in the last 10 years. Again, we know it's not enough, but more money can be realized with advocacy to other local governments. In terms of enforcement of this, the bureau of -- the bureau of transportation will enforce compliance concerning permitted objects, like a-boards, sidewalk cafes and flower pots. If a permit is violated, or if an item is not permitted, bureau of transportation will issue a warning and oversee compliance, and the phone number will be posted on the actual sidewalks and streets for anyone to call with compliance issues. Police officers will enforce compliance of people, pbob will enforce compliance of objects. Violations of this ordinance are not criminal, and will not become part of a person's permanent record. A written warning will be given on the first violation, the maximum penalty is \$250, or community service. In terms of sidewalk cafes, we have put together over the past year because of the complaints, and I think legitimate complaints about how closely are we enforcing sidewalk cafes and a-board and such versus people, we put together a program advisory committee, and they have made improvements to the programs.

It includes stakeholders from all user groups, and even with permits, sidewalk cafes still have to provide for the clear pedestrian use zones, unless it is specifically -- a specific situation as problem solved by the city's transportation engineer, enforcement authority now is clearly with pbob before many of you complain and rightfully so that enforcement of objects and cafes was unclear, and therefore the city was not enforcing it well. You were right, we made improvements to that. The fine for businesses that violate their permits is \$350. With that I'd like to call up warren jimenez and david worboril to go quickly over some of the details, and then we'll get right to citizen input.

**Warren Jimenez, Mayor Adams' Office:** My name is warren jimenez, deputy chief of staff for mayor sam Adams. With me is david worboril from the city attorney's office. Just to reiterate, this first draft was actually released on march 24th for public discussion, and for public feedback. But really, the october 21st set the guidelines and the framework and what lens we should take in terms of the approach that was passed by city council. That approach was based on the federal standard with the americans with disabilities act, and that was really the direction given by city council. And so as a result of releasing the first draft on march 24th, getting and hearing feedback and engaging multiple stakeholders and groups, and trying to get the word out about this, we did some changes. We also released a final draft on april 16th before we eventually filed it last week. But today the purpose -- for purposes of this presentation, was to get into a little more of the detail about the ordinance. So dave will go into that right now.

**David Woboril, Sr. Deputy City Attorney:** I'll go through the details of this as quickly as I can. It's going to take some time. I think it's valuable to take that time. My goal is to give everybody in the room a common understanding of what this ordinance -- what this code provision would and would not do before you start your discussion this afternoon. I'm going to start, Karla -- thanks. With a bit of a summary, you'll see it on your screens, of the changes from previous council efforts in this area, one of the difficulties we had with previous version was that there was no fixed reference point from which to measure or position what was then called the through pedestrian zone. As you see as I go through the details, the definitions, we're establishing a fixed reference

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point of a frontage line. Which should make enforcement and understanding by citizens much easier.

**Jimenez:** That was actually the direction that we also heard from city council was that we did not want to do a repeat of previous efforts. So that's the reason why for the differences of the approach.

**Woboril:** This proposal changes the focus of -- from previous efforts significantly in that it is tightly focus order managing uses. Rather than obstruction events. And that got us crosswise with the courts this version should avoid that. We've created flexibility for the director of the Portland bureau of transportation to modify the general definition of the pedestrian use zone for specific situations and to mark that and sign it on the sidewalks. Again, so that both citizens and the police are very clear on where the boundaries of these Zones are. And for the first time, there was an effort to look to the needs of sidewalk users with mobility and vision disabilities in crafting these zones, and importantly in positioning them on the sidewalks. So here's the summary of the proposed code. It boils down really just to these few points. There's a couple definitions. Five rules, and then a list of places the law applies, which is simple. Nine exceptions and a precondition. This looks intimidating at first, I think as we go through this it will break down pretty quickly and it's easily understood. I'll go through the definitions of pedestrian frontage line and pedestrian use zone. These definitions are critical to the logical operation of the proposed code. And this is probably the most critical definition of all. Pedestrian is a person who is on foot, or assisted by a mobility device. Recognizing we have different kinds of users, and importantly able to move immediately to accommodate other sidewalk users. This is the core idea in the proposal that there will be an area of the sidewalk in which people are able to very quickly accommodate other traffic on the sidewalk. Frontage line.

**Adams:** If we could go back to that, make sure we get some clarifying question, so this does not seek to in any way address what a person might be doing while they're on foot or walking within the pedestrian zone. They could be as long as it's lawful, including panhandling, that is allowed.

**Woboril:** Absolutely. The very tight focus here is on the person's ability to accommodate others. And that is all. Frontage line. As I said before, sidewalk topography is legally and physically very complex. And we struggle to find a way to have a reference point and decided that the easiest reference point is the edge of the sidewalk away from the curb. Now, that isn't -- that doesn't simplify it to absolute simplicity. You've got some -- you've got various situations to address. Some places you have a sidewalk bounded by a street. And on the opposite side you typically have buildings or private property, sometimes public property. Sometimes you have sidewalks that are not bounded by a street and lie between public and private property. And you've got to decide which side of the sidewalk to measure from. And then finally, you have some sidewalks that aren't bounded by a street and have both public and private property -- have the same kind of property on each side of them. You have to decide which side you're going to measure from. So this long definition just deals with those three possibilities. The first where have you a sidewalk that's bounded by a street, the frontage line is that point at which the area dedicated by the city to sidewalk use, butts up either against private property, which is we see commonly downtown where a building front marks the edge of the sidewalk, or a vacant lot sometimes, or public property, and this happens occasionally that is not dedicated to sidewalk use. For instance, you may have a 15-foot sidewalk along the street, and then a plaza or the entrance to a public building which is paved, but not dedicated to sidewalk use. And if we created a legal line along the edge opposite the curb where the city -- the edge of the land the city dedicates the sidewalk use.

**Adams:** Where it gets -- where we have high pedestrian, we have high pedestrian use, where there is conflicts or uncertainty because of some of these unique features on the sidewalk, we'll be putting grass markers in the actual sidewalk to help people determine the various zones of use.

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**Woboril:** That makes a lot of sense. I hope that's what happens. We were careful in creating the definition, but the definition is awkward to take to the street. It would be so much better if there were clear marks.

**Adams:** This is part of the feedback we got from everybody, was that the vagueness of not only did past iterations apply to the entire sidewalk, but past iterations were vague, and so subject to too much interpretation, and too much uncertainty by law enforcement officials.

**Woboril:** At your request, we built in elements here that allow very clear markings in areas of ambiguity. I don't think anybody is interested in having confusion about where the boundaries are. This version of the code would I think make very clear demarcation. The next two are other situations that are peculiar, where have you sidewalks that are away from streets. We just made rules for which edge of the sidewalk is going to be the point from which you measure. That knocks out most of the definitions. Pedestrian use zone, a new concept in Portland. It is surface of public sidewalk extending from the frontage line. So we've created a reference point and pedestrian use zone then will extend from that reference point and as we go through, here's an example. The blue line at the bottom is the frontage line. In this case along building fronts. And the clear area, the nonhatched area, is a pedestrian use zone extending from there, and from some other objects we'll talk about in a second. Here it is. Any fixture or use authorized or allowed by the city permit or regulation. That's on the building side of the sidewalk. And again, to go back to the diagram, you see the permitted sidewalk cafe in the planter box, the idea is that the frontage zone would extend Curb -- in the curb direction eight feet at least on a 15-foot sidewalk from those permitted objects and uses.

**Leonard:** Anything that happens outside the eight-foot dimensions could include people sitting or laying --

**Woboril:** Yes. We'll get to that.

**Leonard:** -- without raising any issues of conflict with the ordinance?

**Woboril:** Yes. As far as sitting and lying down, that is the case. There's some other parts of the code that regulate behavior, say in the hatched area, but they don't have to do it -- there's a bit of language in here about handling dogs and that sort of thing.

**Leonard:** And the eight feet is for those sidewalks that are more than 10 feet and it's six feet for 10 feet and less.

**Jimenez:** Yes. That's correct.

**Woboril:** On a sidewalk, many of the downtown sidewalks are 15 feet. If the sidewalk is more than 10 feet wide, eight feet of it is dedicated to this pedestrian use zone, and then on a sidewalk 10 feet wide or less, six feet. There will be times where the pedestrian use zone takes up all the sidewalk to the curb. Certainly for the most part there is sidewalk surface that is not pedestrian use zone. And it's street corners, they are -- from the extended frontage lines, street corners are entirely pedestrian use zone due to the high traffic concentration, and conflict of traffic. A lot of people cross paths there.

**Leonard:** Including through the frontage line.

**Woboril:** I wish I had a diagram. Yes, if you just take the frontage line from the building and extend it out to the street in both directions, you end up with a square or a pie shape piece of essentially from the building corner out to the curb cut in a fan shape. There would be pedestrian use zone.

**Jimenez:** Which as we know is a critical access point for those with mobility devices.

**Adams:** We get a lot of complaints about folks that solicit for causes using that pie, quarter pie at the street corners, again, based on court decisions we as long as they are standing and ability to move, this does not -- cannot impact their free speech in any way.

**Woboril:** Correct. People are on their feet in a mobility device, able to accommodate others, no. This law does not affect them.

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**Adams:** We got a lot of people wishing that we could regulate that, and we looked, and we cannot.

**Leonard:** The ability to accommodate others, doesn't necessarily mean they need to accommodate others? If a person is standing there and somebody is approaching, need they step aside, or does the person that's approaching required to walk around them? What's the nuance there?

**Woboril:** It's an interesting question. How far can government go in enforcing politeness? And cultural norms? What we felt was sensible and authorized exercise of government power, at least put people in a position to accommodate others.

**Leonard:** There's no enforcement mechanism on our side with respect to that particular aspect.

**Woboril:** If people in fact do not accommodate others, that may result in certain circumstances, may result in a violation of other laws. For instance, the disorderly conduct law, intentional interference with obstruction of pedestrians.

**Leonard:** Not of this ordinance.

**Woboril:** Not of this one, no. This one doesn't go that far. And some flexibility in here that the director of the bureau of transportation can custom design these zones and mark them. There are peculiar circumstances in situations that you're going to want to customize the solution for, and the director can do that.

**Fritz:** Would they be marked with gray reflecting disks like the sidewalk cafes is that what were thinking how we would mark them?

**Woboril:** I was thinking the little brass monuments that get -- whatever works. I'm sure they will be thinking about how best to communicate.

**Fritz:** We'll let folks know.

**Leonard:** Anything but duct tape.

**\*\*\*\*\*:** No duct tape. [laughter]

**Adams:** Anything -- we also will be posting on pbot on the front page, if there is anything that is permitted different from these standards, they'll be posted on the pbot website so people will know.

**Woboril:** That's the definitions. Once have you those in mind, we can move right to the rules. This first rule, i'll take you again, clause by clause, applies during the day. And it's an overgeneralization, but 7:00 in the morning until 9:00 at night. And it is that only pedestrians which we defined as people on feet or using a mobility device and able to move to accommodate others, can use the pedestrian use zone in the high pedestrian traffic areas described in subsection f. We haven't seen those yet, they are right here. These are high pedestrian traffic areas that council designated some years ago as part of previous sidewalk management plans, and we have two of them currently. These are areas in which from time to time there's a definition in code from time to time, more than half of the sidewalk capacity is used up by pedestrian users. And designated by council there are probably more areas that would qualify, council has designated the downtown and the rose quarter-lloyd area. And there's some exceptions to this rule 1. It doesn't apply to people using a forklift, or a truck to move freight or merchandise, and -- or people going across the sidewalk to entrances in vehicles. Rule two, again, 7:00 a.m. to 9:00 a.m., and again, in the high pedestrian traffic areas, the downtown zone and the rose quarter lloyd district zone. This has to do with leaving things, putting things on the sidewalk. And it prohibits that generally except personal baggage, luggage that people can reach out and pick up. Again, the idea being that they can adjust, they can accommodate other people on the sidewalk. They're in a position to do that, the baggage isn't 15, 20 feet away and they're unable to do it when somebody needs the space. This second exception has been in the code for decades. It's modernized some with some ada guidance by requiring that if merchants have, say, a pallet that's been delivered to the storefront, it's got to present a continuous vertical rise of at least 36 inches. The ada guidance the city gets says it's very important to people who are using canes in particular.

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**Leonard:** A person can be sitting within the area other than the pedestrian zone, so whatever space that is, and they're allowed to have their personal baggage in the pedestrian zone as long as it's within reach of them?

**Woboril:** The idea is that up above in the general rule, that there can't be any baggage on the sidewalk in the pedestrian use zone unless it's within arm's reach of a pedestrian. So if a person is seated outside the pedestrian use zone, that's entirely not addressed. But if their baggage is in the pedestrian use zone, that would be a violation because they in fact are not a pedestrian.

**Leonard:** Thank you for clarifying that. I didn't understand that when I first read it. A person sitting or lying on the sidewalk by definition is not a pedestrian, having baggage in the pedestrian zone would thus be a violation. However, if they were standing in the pedestrian zone, with that same baggage, they would be a pedestrian and allowed to have that.

**Woboril:** You've got it. You'll see the same thinking in the management of dogs. Which we'll get to in a minute.

**Adams:** It's hard for us -- I want to laud Warren and Dave and others and all the citizens on the group. It is hard to legislate common courtesy is common sense, but we really are trying to here.

**Woboril:** And there's an exception in this rule for objects allowed by the director of bureau of transportation. Through this proposed code you'll see that it often gives the city engineers the traffic engineers the ability to make decisions about sidewalk capacity use for the whole community. And decide appropriate uses on behalf of the community. Rules three and four have to do with dogs. And again, 7:00 in the morning, 9:00 at night. This is different than you've seen before, but we were talking earlier about a pedestrian use zone only. This has to do with all parts of sidewalks in the high pedestrian traffic areas, which are the downtown zone, and the Rose Quarter Lloyd Center. So this is different. This is -- we're now talking about the entire sidewalk in those two areas. And the proposed rule that all dogs must be controlled, either in hand or leash, and close to the handler. Dog's neck must be within two feet of the handler. To your point a person lying down or sitting out of the pedestrian use zone can have a dog there as long as the dog is controlled and close.

**Leonard:** The same requirements the pedestrian would have in the pedestrian use zone of a dog.

**Woboril:** In the pedestrian use zone, here's the next one. If the dog is in the pedestrian use zone, it's got to be under the control of a pedestrian. If a dog is going to be in the pedestrian use zone, it's got to be with a pedestrian.

**Leonard:** The control of the pedestrian isn't the same control as you've described in one? Within two feet on a leash, just in control of the pedestrian.

**Woboril:** Number one applies to everywhere on the sidewalk. Wherever you are on the sidewalk, the dog has to be within two feet. So the pedestrian who has a dog in the pedestrian use zone has got to have that dog within two feet.

**Leonard:** Ok.

**Woboril:** The person sitting down with the dog has to have the dog within two feet. But --

**Fritz:** Doesn't the Multnomah county leash law require all dogs to be leashed?

**Woboril:** Yes.

**Fritz:** So we're looking at the length of the leash. You can't have them on an extend-a-leash.

**Woboril:** Exactly. That's something you can talk about, whether two feet is practical.

**Leonard:** Outside of the pedestrian use zone --

**Woboril:** Everywhere on the sidewalk, two feet. If the dog is going to be within the pedestrian use zone, it's got to be accompanied and controlled by a pedestrian. The idea being just like with baggage, if the animal is in the pedestrian use zone you have to have somebody there who is able to move it to accommodate other people. I don't think we need to talk about three. Here's rule number 5. Now importantly, this is citywide. And as I made the distinction before about parts of the -- let me say this. This applies on all sidewalks. And at all times. We're talking about all city

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sidewalks. Under the circumstances that person using a mobility device or relying for guidance on a cane helper or guide animal, makes a reasonable request for -- to use for passage, other users have to yield use of the sidewalk to that person. We've not had this in the code before, and we've not applied this kind of rule outside of the two -- the downtown zoning, rose quarter lloyd center zones.

**Adams:** Can I go back to that? This is intended to deal with when there is either unpermitted work on sidewalks that prevents people of different abilities to use the sidewalk, it does allow for permitted work, and again, permits are -- will be noted, active permits will be noted on the bureau of transportation's website, which we currently do not do now either, but it's intended to deal -- we've had complaints over the years from folks that rely on sidewalks to get to and from but were unable to because of either unpermitted -- mostly unpermitted work on the sidewalk or permitted work that the city didn't do a good job of communicating its presence. So we're trying to improve, that mostly our practices citywide.

**Jimenez:** That's correct. I was going to stress this does come from -- we've been targeting our efforts around the downtown lloyd center area, but we also heard feedback from the other communities about outside of that area as well.

**Woboril:** Number of exceptions. Nine of them. These exceptions council has seen these before. They've been adopted many times previously. I'll go through them pretty quickly. They have to do with fairness, people suffering medical emergencies certainly can't be expected to comply, physical, mental incapacitation, the same. And of course if the director of the bureau of transportation authorizes some use of the sidewalk on behalf of the community, that's an exemption from coverage of the proposed code. Number four has to do with the city's activities, performing public safety maintenance and construction functions. Of course you're going to want those to proceed, if they benefit the community and they're in an approved temporary use by the city. Of course if there's an event using the streets and sidewalks, permits were issued, we would expect people to fully use the sidewalks for those purposes during that temporary event. This is a speech exception that's been in at least the last couple versions, seems to have worked well. Of course if -- the engineers decide a good use of sidewalk capacity is installation of chair bench, certainly one people using that as an exception to coverage of the proposed code. People of course are going to wait in lines for goods and services. They're going to have to -- those will be ad hoc, depending on how many people show up what's going on. It it's raining people are going to create an ad hoc manner lines, that's expected. That works well. The only expectation of the city is that people adjust those lines if a police officer sees the need time improve passage along the sidewalk. There is a street musician partnership agreement that's been in existence I think since 1994. People who are performing while complying with that are exempt.

**Saltzman:** Can you back up to three?

**Woboril:** Sure.

**Saltzman:** I'm sorry, two. Could you explain number two?

**Woboril:** There are going to be people who have medical and mental events that incapacitate them from time to time. It seems unfair and council's recognized this for years, to be enforcing a sidewalk code against being on the sidewalk in a way people can't control. People are going to have intoxication events, you'll have -- we've had seizures downtown, heart attacks, all sorts of things that make people unable to change where they are, to not be in that part of the sidewalk. So it seems to council over the years common sensical I think to not apply the law to them.

**Adams:** So if someone is unconscious for whatever reason, Or not able to respond to requests from other users of the sidewalk that is an explicit exception to enforcement of this rule.

**Woboril:** Yes, absolutely. Precondition. This has been 234 previous conditions of the code. It was very important to council that because of the complexity of previous versions of the sidewalk code and probably this one at -- people be given an opportunity to understand what the code

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requires. And formalize that in a notice of given by peace officers in writing. Importantly, these notices cannot be given out by people who are not peace officers. Of course the various patrols that exist downtown and private citizens can talk to someone who is not complying with the code, and try to persuade them. As far as legal effect, the note is only a peace officer can provide that.

**Fritz:** That means police officers, sheriffs who are -- they're allowed --

**Woboril:** Peace officers, Portland police bureau officers, county sheriffs, certainly, deputy sheriffs. State patrol, if we would ever see one of them on our sidewalks looking to enforce this kind of law.

**Fritz:** Not clean and safe officers and not --

**Woboril:** They are not peace officers, no.

**Fritz:** Thank you.

**Woboril:** I don't it this has changed from prior versions. Some years ago council decided to decriminalize the sidewalk Code. Violations of the sidewalk code. The maximum penalty has been and is proposed to be \$250 fine. And in lieu of that penalty, and this is existed in current versions of the code, a previous version of the code, judges can impossible community service rather than a monetary fine. You've seen it all.

**Fish:** I have a question on that. If a citation is issued, a person doesn't pay the penalty and doesn't show up for a court hearing on that, then what happens?

**Woboril:** Keeps changing, of course, how the system responds to that. I believe that the -- these cases typically go to community court, I think it is. And I believe its current practice to eventually issue a warrant if people fail to show up and take care of their cases. The practical implications i'm not sure. I can find that out. I think eventually the court can take the person into custody that they're forced to appear. Have you seen what there is to see. Any questions? I'm happy to answer any questions.

**Jimenez:** I'd like to go back to the rationale of the eight-foot zone, how we got to eight feet. That is -- that was set by taking a look at the ada guidelines, we know from the frontage zone two feet out, those are visually impaired, really use that space to get around. And then we also know that in order for two wheelchairs to pass by each other --

**Adams:** Because of auditory, being able to hear --

**Jimenez:** That's correct --

**Adams:** Noise off the wall.

**Jimenez:** Correct. And we know for two wheelchairs to go by each other and pass by each other, it takes three feet to accommodate each chair. So that's how we come up with the rationale from the eight feet. You have the two feet along the frontage line and the six feet to allow the two wheelchairs to pass each other.

**Fish:** Is the next step testimony? Can I ask you just some procedural questions? You or commissioner Fritz might know. So how long has the comment period been for people to email or write in with any comments to this proposed ordinance?

**Jimenez:** Well, this was -- the guideline was initially passed with city council on october 21st. And there was a multiple steps of feedback up to that point. But this initial draft was actually released on march 24th, so a little over a month ago.

**Fish:** Do you have is a sense of how many comments you received?

**Jimenez:** We received approximately I believe 200 emails, we received from folks. As well as we've been engaged with other various stakeholder groups, for example, with commissioner fritz's sidewalks committee that was presented on april fifth after the initial comment period closed on april 2nd. So taking all of the feedback After we engaged the sidewalk committee, we actually came up with a final version that was released on april 16th. Again, allowing that feedback, we saw feedback that would help craft this in a common sense way. And then we filed the final version on april 22nd.

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**Fish:** My other question is for commissioner Fritz. Could you remind us the composition of your committee and what action you've taken on this proposed ordinance?

**Fritz:** We generally get about 50 people each first monday, the next meeting actually is next monday at may 3rd from 3:30 to 5:00. It's a committee that doesn't have a formal membership, so anybody is welcome to come and we have a broad range of people, from businesses, business owners, downtown dwellers, either living inside or living outside, social services agencies, a very broad cross-section of people who care about sharing public sidewalks.

**Fish:** Has the committee taken a formal or informal position on this?

**Fritz:** The committee is an advisory committee. So the way it was set up and structured in the way it will continue to function is that anybody is welcome to come and I am there every time, I listen and then whenever I hear any concerns after the discussion, that folks have, I bring them to the relevant commissioner in charge. So we always get an update on housing from Daniele in your office. We always get an update on police issues, there's always an open time for asking questions.

So it's really a discussion forum rather than a committee that would bring a formal recommendation to council on this ordinance.

**Fish:** Thank you.

**Jimenez:** Just to note that key piece, in previous efforts there were an oversight committee and this committee would act in terms of monitoring and -- an implementation of this code.

**Fritz:** We're going to be getting the information about enforcement and discussing that, i've also asked the human rights commission to look at whether they're interested in having that information sent to them. But again what commissioner fish and I worked hard on last summer in terms of sharing public spaces and having some community conversations, that's what I want to get to here. I want us to be talking with each other, listening, and figuring out solutions together which I believe is the approach this ordinance is one piece of. To me this ordinance is like striping, except we're not striping, but it's like the sharing of the street. There's a through lane for cars and other vehicles, there's a parking space, there's a bike lane, there's some places where driver remain at the wheel and you can stay there for a short amount of time. It's similar to that on the sidewalks because we have so many people who want to use our public sidewalks. We've tried letting everybody figure it themselves and that doesn't seem to be working for various segments of folks. So this ordinance is designed to specifically say you're welcome to be here, you're welcome to be here, we're all going to share the sidewalk in this manner. So i'm looking forward to hearing the testimony to hear whether you think we've figured that out correctly or what else we should be doing.

**Adams:** Just to be clear, I'm happy voting on it today, i'm happy carrying it over and voting on it next week and having testimony at both meetings. What we've found in our previous efforts is that not being clear about when it takes effect has created the kind of confusion and potential conflict we want to avoid. So the idea where we've done a lot of public outreach this is part of that. We don't have to vote on it today. We can decide to vote on it next week or the week after. But the idea is we want to be clear about when it takes effect.

**Adams:** Thank you. Let's go to the testimony.

**Moore-Love:** We have about 36 people signed up.

**Adams:** Well do two minutes each unless you've prepared for three, we'll give you three.

**Andrea Meyer:** Mayor adams, commissioners andrea meyer, legislative director for the aclu of Oregon. I do appreciate the desire to make our sidewalks accessible for everyone, and we appreciate many of the choices made. However, at the same time, laws should be written so that the public law enforcement and ultimately the courts understand what can and cannot be done and we have concerns about that. I have concerns regarding the definition. In proper use of a sidewalk in high pedestrian traffic area provides that during set hours, only pedestrians may use the Pedestrian use zone in high pedestrian traffic areas. So what is a pedestrian? As is defined in this code, it's a person who is on foot or assisted by mobility device and able to move immediately to accommodate

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others. As a side note, i'd say immediately move immediately to accommodate others is not defined and that may be a problem. But more importantly, what does on foot mean? There is no dictionary definition because it's two words. It's an expression. That's like -- it doesn't have one meaning. One definition for on foot is by walking or running rather than by riding. It references a means of transportation, as in, I came on foot, rather than automobile or the suspect fled on foot. Another definition references the action on foot is to be in motion. One is moving and traveling as opposed to stopped or standing. If that were the intended definition the rest of the definition and the pedestrian to be able to move immediately to accommodate others is unnecessary. So it ends up making the definition, something like a person who is in motion and able to move immediately to accommodate others. In addition, under that definition it would then be illegal it sounds like for anyone to use the high pedestrian traffic area for anything other than movement. Meaning no stopping or standing, for any reason. To look around, ask directions, visit friends, stand and wait for the tri-met bus, avoid the rain if you wait for tri-met or max or get out of the pedestrian way where people are walking. And this is towards the frontage side of where i'm speaking. I could not locate any definition of on foot to describe someone as standing. So as one assumes to distinguish this activity from someone who is sitting. A regulation is void for vagueness if a reasonable person cannot tell from the terms of the law what is prohibited and what is not permitted. Designation of specific pedestrian use zones, as you know there's much variation blocked to block in the width. Government structures, plants, trees, public art and so on. So the example I want to give is one area that I think is an important question. Pioneer courthouse, not the square, pioneer courthouse between fifth and sixth on Morrison there's a natural pedestrian zone and then there's public art and sculptures and trees which make it really difficult for anyone to walk that area. But we don't know what the measurements are. Is that area where people are sitting and standing, going to be allowed to sit and stand in that area, but if the measurement doesn't allow it, is law enforcement going to look at it and, if the measurement doesn't allow it, it's part of the pedestrian use zone even if it really isn't? And then the same question is, if you look at fifth and sixth on that same block where you've got the federal courthouse and you've got the brick fence, it's -- brick wall people are sitting on, the max trains are barely any benches, or area to cover, and is it going to be enforced if people are waiting for max trains, it's these questions that are up in the air. If I can make a few more points, I don't know if you set it for two.

**Adams:** Three.

**Meyer:** But if I could cover my areas I would appreciate the time. The oversight. I particularly do want to note oversight was added to this ordinance. It wasn't in the original draft. That would give it to these advisory committee that I have been asked to attend these meetings. It is not do I feel within the scope of our work and it's not within ACLU's. We purposely did not sit on the safe oversight group. I was on the safe work group that the mayor put, but I can tell you from having attended those meetings a great deal of frustration. If you -- by those who participated in that. The same with getting data on the drug and prostitution-free zones.

**Adams:** Different mayor.

**Meyer:** Different mayor but if you do not give an oversight entity of any kind that wants to actually be the oversight, the authority to have the data collected and retained in a way that they can look at afterwards, then you don't have meaningful oversight. And this ordinance does not set forth any requirements by the bureau of transportation or the police bureau.

**Fish:** Your written testimony, I can follow all those points in your written testimony. The one area you don't have is a suggestion change is the language piece. Is the definitional piece. You say definition is not clear about on foot. Do you have a suggestion -- suggested change in language which clarifies?

**Meyer:** Oh, commissioner.

**Fish:** Well in the other section you were more prescriptive in terms of what we could do to fix it.

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**Meyer:** I don't know what the intention of that space is. And what is not intended. I'll leave it to the lawyers.

**Adams:** We're happy to take your suggestion. To answer your question about intent is standing or moving.

**Meyer:** I would hope you would write --

**Adams:** Stationery or moving. Whatever the lawyerly language is.

**Meyer:** I'm looking for english so that everyone can understand not the lawyers.

**Adams:** We look forward to getting your english.

**Meyer:** I leave that for your council. Aclu cannot be in a position of redrafting something that ultimately we maybe -- but i'm here to provide you clear --

**Adams:** On the issue of the uniqueness of every block face, many block faces, that's why this is the first time the city is going to mark it. And it's going to be posted online. So that is how we have to deal with the reality. The great thing about this particular issue, and I appreciate your testimony, is that the places of most conflict are incredibly well known. And we pretend every year when this weather gets better that it's a surprise, that along the sidewalk frontages that you mentioned it's a surprise that that's where we have conflict. So we intend to on the ground so everybody knows, sort of have on the ground the rules of engagement and place for people to call if they have questions. Appreciate your testimony. thank you.

**Meyer:** I appreciate that. I looked at the draft of the ordinance and it had given the authority of the bureau of transportation to do, that but it had not said it shall happen. And so I appreciate the intention and I don't know --

**Adams:** The legislative intent i'm happy to clarify the ordinance that it shall happen.

**Meyer:** I do have a free speech issue, and would love to have is a moment to note that.

**Adams:** Sure, go ahead.

**Meyer:** And it's a drafting and I think mr. Worboril rightly talked about section g-5 that talks about the activities of rallies, demonstrations, if they are permitted. Your own city code and rules that you passed on the street and sidewalk permit events, do not require permits for small side walk use, which is less than 200 people, and obey all traffic regulations. You may say subsection 6, which talks about events covers that. I'm looking for a finer written language because it suggests to the reader that small parade and gatherings on the sidewalk must be permitted or that the only kind are permitted and that's not true under the decision. And I use that --

**Adams:** That's a good catch. I need to move you along. Any other points to highlight? We'll make that change as well.

**Meyer:** I hope the statistics kept on your undercover officer missions to expose the littering that's going on in the downtown area. That's something that was included in the ordinances.

**Adams:** I think we're looking for drug dealing more.

**Meyer:** I wish would you have left that part out as a way --

**Adams:** Part of the feedback we got when after the court ruling was that folks want us to not do anything and just enforce the laws on the books. That's why it's included as one of the criminal acts people asked us to enforce.

**Meyer:** I'm thrilled if you go after the cigarette smokers and butts and I hope that is a report the Portland bureau of police shows they are going after those who are littering, particular the cigarette smokers. Because that's rampant on every block.

**Fritz:** To address the oversight issue, I want to answer questions as they come up. The city council is the over sight committee. So we have the power to and we will make sure we get the data from the bureau of police and bureau of transportation, I specifically did not allow the inclusion of the word "oversight" as far as the charge of the sidewalks advisory committee because that's not what it's for. It's for monitoring and advising. The council is responsible for oversight. And we're taking that very seriously.

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**Meyer:** Thank you.

**Adams:** I appreciate your comments. And I see for staff two great changes on the standing issue and shall mark. Where there is anything different from the standard set out in the ordinance. Appreciate the feedback, as always. You've been with this issue a long time. Sir.

**Wade Varner:** Good morning. Wade, i'm a disabled veteran. I'm here on behalf of people, the sit-lie ordinance as i've seen especially as explained to me today, by the city attorney, leaves so many gray areas that how are we going -- how are you going to enforce this against people? You can have police officers that have personal grudges or don't like a specific person. And he keeps doing it. You recriminalize being homeless. By because if they get that ticket, they don't go to the court, they get arrested. So that criminalizes being homeless. And that's something that i've seen this 70 in the last 30 years, going through this. And I have been active on this more than once. I see the problem with this is too many gray areas, not enough -- not enough specific rules on how we're going to enforce it, how the police can enforce and it what kind of rules that the homeless or anybody else that wants to use it. The demonstrate jurors and such as, that we had to get a permit to walk down the sidewalk today. So i'm looking at this and looking at the recriminalization of homelessness in and camping and stuff, the fact they wake people up, and the fact that as we know, the army is using this over in the far east. Sleep deprivation, loud noises, cause them to do insane. So you're -- basically what you're going to do is cause people to go insane. And i've seen it on the streets. I'm there every day, I see this Stuff. And to recriminalize this and to vote for this section without having the black and white that we need to enforce it is insanity on your part because it's going to cost the city so much money. Fees --

**Adams:** What's the black and white miss anything want to make sure I get your point.

**Varner:** The police officer has to do this certain thing, this person is doing it, i've seen a lot of area in here, explained to me by the city attorney. That they have that area and they can hand --

**Adams:** We don't -- I appreciate what you're saying. What we intentionally did not do is this is about what you can do and we're being very concrete in terms of the spacing and everything else, and we'll be clear on the sidewalk, but we intentionally are not trying to regulate activity which are what people are doing, and that's why you can sit on portions of the sidewalk and lay on portions of the sidewalk because that is is a matter of freedom of expression.

**Varner:** Freedom of expression, but if you don't put the black and white rules in you can see the police going, further than they do, or say the contracted people i've seen that have done, i've seen people dealing crack on one end of the block and homeless people on the other end -- cops go after the homeless --

**Adams:** I appreciate that. I just want you to know that we're -- where people will be able to do what they want within the law, in terms of where People can sit and lay versus where people need to stand, or walk, that we're trying to be as clear as possible about that and not get into the issue of what people are saying or what they're doing beyond that.

**Varner:** I understand. My brother owns a restaurant. What i'm saying is, by putting the warrant into it, if you get a ticket and you don't go to court, if you're not capable of doing this, what you're going toned up doing is you're going to be -- you're going tend up in jail, costing the city more and more --

**Adams:** I appreciate you made that point. You made it compellingly. I appreciate your testimony.

**Fish:** We're not here about about camping, I was in court about that, so i'm leading the council discussion, but just to be clear, you said recriminalizing camping, there's no prosecutions of camping. But whether the council takes some a, too modify that is to be determined. That's not the purpose of today's hearing. But I want terror clear, there is no criminalizing of camping because there are no prosecutions going on. And there haven't been for some time. We can agree or disagree and we may agree on some of those points. I just want to be -- let the record to be clear.

**Adams:** I need to move --

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**Varner:** Sleeping on the sidewalks --

**Adams:** I need to move us on.

**Varner:** By the way, you all got the Visual aids. These are programs --

**Adams:** I really have to move. There's 30-some people behind you. Thank you.

**Ward Shortridge:** My name is ward shortridge. I have is a brief note to read. Last year the sit-lie law which made it illegal to sit or lay down on the sidewalk was tossed out of court as unconstitutional. This year under the guise of making the sidewalks usable for the disabled, your office has introduced this new sidewalk meant plan which proposes a, quote, sidewalk usage framework based on the americans with disabilities act. I use a wheelchair every day, almost every day downtown in Portland. Though I have to steer around many obstacles in the coast course of my day, including people at cafe tables, thousands of curb cuts that lack the mandatory -- thousands of curbs that lack mandatory cuts. I'm not troubled by that. I think this initiative is a way to push back the homeless under the guise of concern for wheelchair users and to that I say, no thank you. My path is obstructed far more often by permitted cafe tables which spill out almost to the curb sometimes, and are combined with padlocked bicycles and sandwich board advertisements to make an impassable mess. Then by any homeless people or panhandlers that I encounter. If you give permits to allow cafes to block my path, you should also give miles an hour limit to the homeless to sit in the shade and hold a sign. If it's raining, would you require a homeless permit to huddle against the wall to keep a sleeping bag dry? Would a permit be accessible to a person with that functional and financial capacity? This week our "willamette week" reported the city is decades behind schedule in making the curb cuts to allow wheelchair users access to the sidewalks. And yet they propose to make illegal through a homeless citizen to seek the shelter of an awning when it rains because the city cares about wheelchair users. I do not want the city to be a tourist shopper mono culture, I do not want your behaving in unjust ways in my name. I do not want the government to protect the sensibilities of one class of citizens at the expense of the civil rights of another more vulnerable class. If a homeless man is in my way, I am fine asking him to move. I do not need any new initiatives to push them out of the way for me.

**Adams:** I appreciate your testimony. And reasonable people -- [applause] Hey, hey, hey: [gavel pounded] there will be no clapping. We are going to maintain an even playing field for people to say whatever they want. I appreciate your point of view. I just want to give you a sense of why we look to somewhere for answering the question why two feet, why three feet, why eight feet, why how many feet. And you can disagree, whether it Sounds like it's need at all, fair enough. But I -- we are often asked, why eight feet? Why six feet? As opposed to to being arbitrary, we did look to the federal regulations about passage. We can disagree, but I just want everyone to know that is why we look to the ada, to find out what the federal regulations were in terms of how much passage. People can stand under the awnings, people can panhandle, standing under anything. It's a request of being able to move when asked. So I appreciate your testimony. Thank you. Welcome to city council. Glad you're here. We have one more?

**Justin Karren:** My name is justin. I want to say the ordinance needs no place in Portland because it does not help the problem of getting the homeless off the streets. We need more money for shelters and restrooms for the homeless. If we -- if you want to keep the sidewalks clear downtown, give people a place to go. Don't criminalize homelessness and don't end poverty. Basically what i'm saying is, I feel that a lot of the problems we have, it has to deal with the police trying to make us move out of the way when we don't even have a chance. Yeah, I see a problem when we have people who just don't want to abide by the rules. But when the people who are down and out, trying to get help, It's us that you're giving us a problem. The people who are using drugs who don't care are the people who are left alone. And i've seen it, a lot of my friends have seen it, and we're sick of it. We want better equality, instead of being turned down every time we're trying to do something right. And that's my statement.

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**Adams:** Thank you. I appreciate your testimony.

**Jacob Martinez:** My name is Jacob Martinez, and I'm a member of the National Lawyers Guild, an organization of lawyers, legal workers, jail house lawyers and law students. The national constitution states we work in the service of the people to the end that human rights shall be regarded as more sacred than property interests and it's on this basis that we stand in opposition to the draft sidewalk management plan. We affirm the stated intent to comply with the Americans with Disabilities Act and Rehab Act but the code provision goes beyond that stated intent and is an extreme regulation of daily activity in a public space. This code provision penalizes with the \$250 fine blocking the sidewalk. In the event the ordinance is misapplied, many who will be fined will have few resources to challenge it. We believe the risk of discriminatory enforcement is too high as officers are given considerable amount of discretion for enforcement and believe anyone perceived to be homeless or poor will be unjustly targeted in an already vulnerable population will be marginalized. We remind council of the city attorney's testimony who stated that there are laws on the books, namely the intentional obstruction of pedestrians and disorderly conduct that are and can continue to be enforced. And we urge the council to -- we urge this body to end the further criminalization and marginalization of homelessness and to find more productive avenues for the time and money wasted trying to fix the unconstitutional sit-lie, and suggest that we work together to find solutions for our residents rather than create more difficulties for them.

**Adams:** I appreciate your testimony, and we definitely considered those issues. If we were only to -- your concern is that folks, if the process is not followed for the civil enforcement can turn into something criminal, but if we were to enforce the loitering ordinance, they would immediately be cited with a criminal charge. I just wanted to give a chance to respond to that.

**Martinez:** Right. So I think what we're saying is what's already there is already being enforced and can continue to be enforced. There's no need to create a special city provision that is an end run around sit-lie, the unconstitutional sit-lie under this guise of complying with the Americans with Disabilities Act. I guess it just -- it's already there. We can continue to --

**Adams:** I appreciate what you're saying. My concern is that we would be riding a lot more -- writing a lot more immediate criminal tickets, and I have concerns about that myself. I appreciate your point of view. Welcome to city council.

**Arwen Bird:** Hello. Mayor Adams and councilman members, my name is Arwen, I'm a member of the Human Rights Commission, though I'm not here on behalf of the commission, I would make a request that you delay your vote. I know that you mentioned you were open to that Mayor Adams, to allow time for the Human Rights Commission to discuss this issue and make recommendations. So I'll just make that offer and you can take it into consideration. As a wheelchair user, a disability community member and someone who wants equity and human rights to be the foundation of your policy making, I'm here to simply state that I do not want you to pass this ordinance in my name. Although people with disabilities are invoked quite a bit through the justification for this ordinance, there is little direct benefit for my community in this law. I fear enforcement will focus on criminalizing community members who live outside with little focus on the realities of Anton Vetterlein Portland streets using a wheelchair, cane, service animal or other mobility aid. I've never had a problem navigating around people on city streets. I've had quite a few problems with sandwich boards, chairs, tables, etc. Blocking my path and I know you are aware of that. If your desire is to help people with disabilities be able to get around this city, you can catch up on the need for curb cut repair in the city. You're obviously aware of this problem. I read through the Bureau of Transportation's Asset and -- Asset Management Report, and there's -- it's quite detailed about the way the sidewalks and curb cuts need to be repaired. If you want to do something for people with disabilities, you have that information and you can act on that. This law is -- will do nothing to facilitate my ability to get around this city.

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**Adams:** Just on the issue of curb cuts, you're absolutely right. There is a correction that went in to "willamette week" on the amount, and I think it will be post order our website. We have a half billion dollar maintenance and safety backlog, curb cuts are part of it. When we have had it, this council has had extra money, what we have put it in is life and safety issues. Reducing death and injuries, we have prioritized because we've had little money in transportation. I appreciate your frustration.

**Bird:** Yeah. And I think part of the -- I think I want to chal -- channel that frustration. I think my needs for safety and The needs for all of our safety should outweigh the logistics of sidewalk management. And it seems like this ordinance is trying to create the illusion of safety, but it's more about criminalizing poor people.

**Adams:** It actually is inbound tended to provide common sense management of the various competing uses. And again, reasonable people can disagree, but that's its legislative intent. Appreciate your testimony. Good afternoon. Welcome to city council. Who would like to go first?

**Annette White-Parks:** Good afternoon. Mayor Adams and council members. Commissioners. My name is dr. Parks, i'm a native Oregonian who moved back to Oregon after retiring. From my university position in wisconsin. And one of the reasons I moved here, don't laugh, is because Portland seemed really kind to the homeless, to the unhoused, which was becoming an increasing problem all over the nation. I saw organizations like sisters of the road, and rose haven, and st. Francis, and it seemed like it was a very -- a lot of services -- but in the six years since we've moved here, i've seen that dwindle. I was appalled, we both were, at the safe ordinance coming in. The fact that it was put out by the courts was a very affirmative thing for that to be happening. Town putting in -- I was very interested in seeing it, the details of the new plan you have. But I would think it would be a Nightmare for both people trying to figure out where they can sit, and for the police trying to enforce it. And it just -- it's so full of little things, but I think to be -- to me it seems a red herring anyway, because the bottom line of course is that if people have other places to sleep they would not sleep on the sidewalk. I ran into a woman the other day about my age downtown, who has been on the street -- I asked if she had a safe place to sleep. She asked me for a dollar, I said do you have a safe place to sleep? And she said, I will have soon. How long? Another year -- a year, just a year. My name is on the list. How long has your name been on the list? Three years. For anyone to have to be sleeping on the street in Portland of any age, any age is wrong, but for all people our bones get sore, and hard surfaces are not kind, and we're having to -- I don't think any of us at any age would probably be sleeping on the sidewalk except in emergency. If we had any choices. So I would like -- I read in the tribune, actually --

**Adams:** If I could get to you wrap up?

**White-Parks:** Ok. We have 500 people a week receiving foreclosure notices in Portland. So we have to be thinking about service. We have to be thinking about shelters, we have to be thinking about sleeping places for People, maybe spending our time on that instead of more management for sidewalks.

**Adams:** Rest assured we spend much more time and much more millions more on new shelter as I mention first degree my opening comments than we do on sidewalk management. And that's how it should be. Who would like to go next?

**Matthew Denney:** My name is matthew, and I just wanted to echo the comments of some people that have spoken previously to me from the -- from the disability community. I for one actually find it offensive that certain provisions of this ordinance are being justified in the name of the americans with disabilities act. I think that the portions of the ordinance with criminalized being within eight feet after building or storefront, are actually counterproductive towards sidewalk access. I think that putting people on the curb where it's dangerous for them to be actually blocks the sidewalk more for me. I have cerebral palsy, I have a three-foot-wide area that I take up when

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i'm walking down the sidewalk, and if people are on the curb, there's more likely to be obstacles next to -- near to the building than there is farther away. I can -- i'm more likely to be able to go around them if they're farther out. It's counterproductive in a lot of situations. In addition to the fact it criminalizes homelessness, and does so specifically with the intent of getting homeless People away from buildings. Now, I do like the porptions about sidewalk cafes if those are enforced. I think those do pose a problem. Certainly when I used to live downtown, there would be cafes that would block the entire sidewalk. However, if you're concerned about keeping sidewalk extras for the disabled, i'm concerned about the ban on lines, because nightclub queues downtown, will frequently block the entire sidewalk as well. And those are things that pose much more of an access problem than the homeless. And like other people have said, we need to have more housing, more services to get people off the streets and we don't need to criminalize homelessness in this city.

**Adams:** Thank you for your testimony. I really appreciate it.

**Chaini Geigle-Teller:** I'll try to be two minutes. Good afternoon mayor and commissioners, my name is chani, i'm a community organizer with sisters of the road, speaking in solidarity with people experiencing homelessness and poverty. I'd like to thank you publicly, especially mayor Adams' office and commissioners for ongoing dialogue on this issue and other issues. It's very important to us so thank you. I'll just second that idea to delay this by a week so we can continue to gather more dialogue or just choose to knock it out of the water tonight. For us the question is about resources and values. How many resources, time, energy, money do we have to keep wasting on band-aids? At sisters we've heard concerns about legalities of this ordinance, enough is enough. Secondly I have to call out like others have, that the ada is not really truly in spirit being honored here. According to the vulnerability index, at least 47% of participants experiencing homelessness were found to have a high risk of mortality. The medical conditions we're talking about include hiv aids and cirrhosis and other conditions that leave them extremely vulnerable to their environment, including undiagnosed and untreated mental illness. A representative of disability rights Oregon shared with me people with disabilities could be targeted by this law. They have other concerns that they've been bringing up for years that remain unaddressed. This ordinance is classless and full of inequities. It seems the council was in a hurry to protect the rights of differently abled people walking down the street only until the business has the money to buy their right to get in the way. We're concerned about the enforcement of this ordinance, how are we supposed to understand and abide by this? How do you expect us to be enforced fairly? Additionally, the sting operations by plain clothes officers that took place last summer were a grossly ineffective waste of police time and money executed by a mistrust And fragmented police force. Which leaves to us oversight. This ordinance dictates the sharing public sidewalks advisory committee shall monitor and implementing enforcement of the new sidewalk use of code for council. We cannot trade oversight for advice. Oversight generally comes from an experienced and diverse group of stake holders with a clear structure and some amount of power. There's nothing stopping the pba from using their resources to flood the advisory meetings, dominate the conversation and the outcomes from that group. We cannot trade oversight for advice. We also live in a temperate rain forest. We have two seasons -- the rainy season and the few weeks a year it's dry. We know our basic services are extremely underfunded, taking away a wall that provides security and shelter from someone n closing we must acknowledge that this law is not exclusive to Portland, according to homes not handcuffs a report released in 2009, of 235 cities surveyed, 33% prohibit camping, 47% prohibit loitering and various other laws that we're calling livability crimes. Our american perceptions of safety and livability are being challenged which bring us to I guess so what i'm going to end with is that we were here today to say that the fear and nervousness and desperation that people are feeling is very real, but that political analyzing The crisis will not fix the fundamental problem. We need real solutions and they do exist. Economic human rights

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models that include a decent affordable housing, education, and treatment job with living wage will prove much more effective in the long run. So -- and last but not least, we would just like to look to our neighbors in the north, who are just recently dealing with an issue similar to this, and mayor mike mcbegin stood up and voted with the people, held integrity and human rights before political pressure, business pressure, and ousted their panhandling law and i'll just close with his quote. He said "we share a vision of what our city can be, now is the time to start working together. I do not this believe would achieve these goals nor I do believe it reflects seattle's values." So let's talk about our value and let's live up -- thank you so much.

**Adams:** I let you go over, you had good things to say. If I could, a couple of questions. As you know i'm a big fan of sisters of the road. I contribute money, I volunteer, and friends and reasonable people can disagree. I didn't have to veto a panhandling bill, because we don't have one, we're not proposing one. You said that the -- this -- you're concerned this could be used against the disabled, so I just wanted to give you a chance to say why it could be used against the disabled?

**Geigle-Teller:** In leading up to this we did a lot of outreach to our other communities that support sisters, that we support them. We talked to people in the disability rights communities and said what's going on? Do we support this or do we not? And we shared our perspective that we felt people experiencing homelessness were going to be targeted and the response we heard that we agreed on our communities overlap. People who live with disabilities often times live in poverty. And they often have no where to go.

**Adams:** We agree and that's why we spend 10.6 million dollars in general fund and the next closest is Clackamas county at 2.1. And the next closest after that is 300,000 from Washington county. So we agree. We're spending dollars that we could spend on anything on this issue and others in the region aren't. When was the last time your great organization helped us out and advocated before the Washington county, Clackamas county or any other cities in the region for more funding from them?

**Geigle-Teller:** That's a great question that I don't think is actually a point right now. I think the point is about people's civil liberties and about their dignity but we're talking about --

**Adams:** But you talked about funding, we agree with that, keep advocating to us --

**Geigle-Teller:** And that's what we want to focus on.

**Adams:** I would just make a pitch and my pitch would be keep advocating to us. We appreciate it, it helps to hear this. I'm happy to give you names and addresses and phone numbers to help us in other -- because I think folks all over the region should have access to homeless and affordable housing services. Don't we all agree?

**Geigle-Teller:** We all agree.

**Adams:** Thank you very much. I appreciate it. Could I have david come up. Because some of you might have to leave early. David, come up. I wanted to go over just the notion and again, if it does, I want to be upfront about it, but the notion that a violation will result in jail time. That kind of an issue.

**Woboril:** It's non-criminal in that it cannot support incarceration. Now the court wants to handle failure to appear is up to the court. As I said before, i'm not able to give you with certainty, a picture of what's going on now or what's likely to happen in the near future. I think that the court, if there are failure to appear, will issue a warrant. And that could result in someone being taken into custody, at least. For the court's purpose. Getting them before the court and taking care of the --

**Adams:** Do we know how often that happened?

**Woboril:** I think that we can -- I think we do know that. In -- the oversight group that reviewed previous versions of the code, I think tracked that.

**Adams:** Ok. We'll dig that up.

**Woboril:** I know there were a few people with a large number of citations that didn't appear. So it did in fact happen.

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**Adams:** And the notion that this could be used to -- used for folks that are disabled. Find themselves in the pedestrian use zone, i'd like to you comment on that.

**Woboril:** Yes. Some of the exceptions deal with that and if people are unable to move immediately, if for circumstances beyond their control, whether it's medical, typically medical under these exceptions, the law doesn't apply to them and not required to comply with the law. So physical inability is an exception.

**Fish:** I want to clarify something.

**Woboril:** Sure.

**Fish:** I'm looking at the map, but talking more generally, is it your understanding that on every sidewalk covered by this proposed ordinance, there would be areas set aside for people to sit or lie for any purpose?

**Woboril:** When you apply the definitions, the sidewalks, yes, I think every sidewalk in town -- I think every sidewalk in the zones will have an area to -- to which these restrictions do not apply. Hope i'm making sense here. When you apply the definitions there are zones unregulated on every sidewalk.

**Fish:** Areas outside of the pedestrian use zone?

**Woboril:** Yes.

**Fish:** In which -- as long as someone is engaging in otherwise lawful conduct. You can sit, lie, express yourself any way you want in those areas?

**Woboril:** Yes. In a typical sidewalk downtown, there's seven feet of sidewalk available for those purposes, unregulated.

**Fish:** And to the extent we have benches on the sidewalks and that would be in transit areas, or wherever we place a bench, I just want to go over what you've said, which I believe you told us earlier, nothing in this proposed ordinance would limit people's ability to use those benches or sidewalk furniture for any lawful purpose.

**Woboril:** To the contrary, there's -- the proposed code addresses the use of benches put there by government and it's approved and an exception to these regulations.

**Adams:** But they don't need a bench to sit down.

**Woboril:** Don't need one.

**Fish:** But if there's one there, they can use it for any lawful purpose.

**Woboril:** If the bench is in a pedestrian use zone, it's a bubble of non-regulation, essentially.

**Fish:** I have a feeling this is going to come up quite a bit. With respect to our obligations under the ada. It's brought out we're behind on curb cuts. Fair enough. The city has an obligation to remedy that. As the housing commissioner we have a lot of private landlords apparently unfamiliar with their requirements under the ada. There's a lot of work that needs to be done. But putting that aside for a moment, in terms of our affirmative obligation as a city, the eight-foot zones you're describing theory, do we -- here, do we have an obligation to make sure those are unimpeded for people?

**Woboril:** The ada imposes a requirement that those who manage public facilities, which is the city, as far as sidewalks -- sidewalks, must manage them to meet the goals of the ada. You get federal guidelines that are meant to supplement the ada that talk about certain passage zones on sidewalks and looking at that, we drew these doctor, oh, dimensions having to do with dimensions having to do with wheelchairs passing and through-put. The guidelines would want you to have at least eight feet of through passage zone on typical downtown sidewalks. The question is where to orient that. If you read the other guidelines and they talk about the importance of the area along the building fronts, for people with visual and visually handicaps in particular. So -- handicaps. We had a time to do it in the middle of the sidewalk. Difficult to implement. Given the guidelines preference for the area up against the buildings, it started to make sense. A line we would use as a steady reference point. That's how it happened. It wasn't dick dictated directly by the ada. But their goals.

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**Fish:** What was the thinking of the coverage on the hours?

**Woboril:** That's been in the code for a couple of versions and was a political decision taken by council in years past. That seemed to work. And was adopted here.

**Fish:** Thank you.

**Adams:** Next three. Ms. Strewloft. Would you like to begin?

**Amy Struloeff:** My name is amy, and i'm grateful to be here. I would have to say representing persons with disabilities, I must also -- I was diagnosed with post-traumatic stress disorder and the children of those who are disabled and homeless, as a parent who has been current recently demonized and harshly punished due to the fact that i'm homeless, forgive my difficulty in speaking, i'm not used to speaking in public.

**Adams:** You're doing great.

**Struloeff:** I would like to share a quote by john f. Kennedy in his report, june 11th, 1963. I feel it's relevant. In the moral issue this is. The language that -- cannot define the moral issue that is the source of this. We face a moral crisis as a country and a people. The heart of the question is whether all americans are to be afforded equal rights and equal opportunities. Whether we are going to treat our fellow americans as we want to be treated. Thank you. And I also would like to follow this with a poem by my daughter. The effects of an issue rational ownership of all basic needs creating shelterlessness on our children of this moral battle. The commercials bum bard my mind. The buzzing in my ear never ceases to stop. Be careful. They're going to probe your brain if they get the chance. Hear the phone click. Someone is on the other line. Just bidding time. Plastic head that's bite off too much bread. The fed must be condemned. Bring me a pill, I need to cry, there's too much fighting in my eyes. Can't even see the sky, too many flies eating off anyone who dies. Oh, pretty bird, this is your world, don't let them steal it away. They'll try any time of day, the Fish cry, they know they'll die. Don't be shocked when there comes a knock. It's just a man with a big mac, trying to fight back. Written by my daughter. chase, chase gentle turtle rain walker. Thank you for hearing me.

**Adams:** Your daughter is very talented and thanks for steeling your courage and coming to testify.

**Fritz:** How old is your daughter?

**Struloeff:** 13.

**Fritz:** Will you tell her thanks for sending us a poem?

**Struloeff:** Yes, I will.

**Adams:** Mr. O'callaghan.

**Mike O'Callaghan:** Back again. Ok. The wording I come up is disingenuous. That the smoke screen is the ada. How many other cities have sidewalk ordinances related to ada? Thank you.

**Adams:** I don't know.

**O'Callaghan:** I wouldn't think there are any.

**Adams:** Ok.

**O'Callaghan:** Anyway, the deal, the question is as I said yesterday and everybody back here will confirm, where do you go? Everybody would liking to home. Everybody would like to have a place. Ok? We can get a lot of people off of the sidewalks so there aren't a problem if they have a place to go. And as far as criminalization, I find it quite humorous, the question about felony, misdemeanor and non-crime. Give me a break. Disingenuous -- i'm eight ways illegally in my homelessness. Bodily discharge or erect structures and now you'll make it nine. Wow: And you don't realize the effect that the police have on us. Ok, you're in a car, a house, dressed nice, come out on the street the like I told you before, my first 13 days on the street, I had 18 contacts with officers and all of my activities were legal. Aclu just filed suit against the city of anchorage, alaska, for doing homeless sweeps and there's a state law that tells you what this city must do before it does that. And it doesn't do that. Follow the law, please. Thank you for your time.

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**Adams:** Thanks, mr. O'callaghan, always good to hear from you. Hi.

**Richard Walden:** Good afternoon. Mr. Mayor and commissioners. I'm richard walden, I work at sisters of the road and a board member of the old town chinatown neighborhood association. For the past four years, i've lived, worked, shopped been a civic advocate and socialized in the old town neighborhood and been homeless in Portland. Huddled in doorways, camped illegally in the parks and had nowhere to go but the sidewalks. Because I live, work and shop in the downtown, old town core and because I walk the streets, I want the sidewalks to be safe and passable as much as anyone. But we already have the tools we need to do the job. For the city or the Portland business alliance to state that the tools are not there, is an epic failure of common sense and logic. We have the tools. Because I value human life, I challenge you to consider the dangers are restricting the most vulnerable members of our community to the two feet closest to the street. Last week, a bus in northwest mowed down five pedestrians in a tragic accident. Do you really want to be support responsible for pushing people into the danger zone? Because that's exactly what this ordinance does. Because i'm a taxpayer and don't like to see my tax dollars wasted, I ask you to consider whether you want another year's long ultimately hopeless lawsuit? I don't. I want to see my dollars going to keep libraries open, schools open and paying teachers. The city has spent insane amounts the last few years. And because I used to be homeless here, I absolutely reject any attempt to toss people to the curb. People are not garbage to be thrown to the curb. We will fight you on this. And we will ultimately win again.

**Adams:** Thanks for your testimony.

**Walden:** If I can continue for another 20 seconds. Almost done.

**Adams:** Sure.

**Walden:** Please do the wise thing. Do the entire city a favor, vote down this needless, repetitive and doomed to fail ordinance. Honor the constitution. Do not enact this ordinance, do not put Portland through this again, I beg you.

**Adams:** Appreciate your testimony. Well said. Mr. Lloyd. Welcome to city council. Thanks for your patience. appreciate it.

**Reverend Ken Loyd:** Thank you for letting me speak. I'm reverend lloyd, copastor of home church of Portland. I don't think the ada specifically requires that people not sit in the eight foot zone we talk about. I do want to point out that on most days, in the evening, i'm way too tired to stand up much longer so I hop in my car and drive home, turn on the television set. Pour myself a cool drink and sit on my couch that has a comfortable back that supports me. This law does not apply to me, because I live indoors. But my friends, on the other hand, do not have a safe place to sit on the sidewalks. Rule five says that our own proposed rule number five says this. It says that people need to move when asked to. For the sake of someone with a disability. I can with my wealth, sit in an illegal spot and sip a cup of coffee or have a fine dinner while my friend who's live outside u outdoors will not be able to sit unless they can afford the same convenience. This law makes no sense at all. We already have laws in place. We already -- we already have plenty of laws in place. As a matter of fact, decriminalizing it, the offense, makes it possible -- makes it impossible to have a court-appointed attorney. That makes it even more problematic. Thank you.

**Adams:** It's a matter of fact, a number of you mentioned it. And I wasn't aware of it until I became mayor and had to deal with this issue that it's trespassing to lean up against private property and we don't enforce it unless there's a complaint. Even then, we don't have a lot of resources. But I wanted you to know that's just a fact. I appreciate your testimony, sir. Hi.

**Duke Cardinal:** My name is duke cardinal. Quote from are albert einstein, the definition of insanity is doing the same thing over and over again. And expecting different results. This ordinance and the previous ordinance that tried to address sidewalk issues reminded me of this quote because the city of Portland previous councils have enacted this type of unconstitutional insane ordinance, once during each term for the -- former mayor potter and former mayor katz,

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being the two most recent. The previous Oregon governor's term, some float a sales tax initiative, which is shot down, each and every time by Oregon voters. The city council is now doing the same thing, and expecting different results. The previous ordinances were declared unconstitutional by judges because of it refused to mainly target people experiencing or looked like they are homeless. The court -- the council used the same findings in the same language, with just minor tweaks to the findings and the rationale and the language in the proposed ordinance, this -- some part of this insane ordinance will be declared unconstitutional. This ordinance, I want to be in front of a judge, and a jury of my peers, with due process by a attorney. Not in front of a community court. In closing, do not enact this insane law ordinance, emergency or otherwise. Today or in the future. The sidewalks are from everyone regardless of their current income or housing situation. Stop the insanity and thank you for your time.

**Adams:** I want to be clear, do you really want us to -- to just go directly to criminal -- to only enforce the only option criminal code. Really?

**Cardinal:** The reason I want a judge, so the judge will declare it unconstitutional.

**Adams:** I see, got it.

**Cardinal:** Declare behavior -- not the -- just the behavior, the person experiencing homelessness or on sidewalks sitting down or -- of that nature. That's why I want to be in front of a judge.

**Adams:** I appreciate that. I understand. I misunderstood. Hi, welcome.

**Stoop Nilsson:** My name is sue nelson. Sorry my throat it froggy. I'm in town from san francisco, foggy san francisco. That's where I moved last year.

**Adams:** How's san francisco?

**Nilsson:** Well, I guess it was storming yesterday.

**Adams:** Welcome back.

**Nilsson:** It's a little bit tougher to ride the bike in san francisco, but i'm making it. I've been working along the san francisco coalition on homelessness. And we're fighting the sit-lie adoption citywide adoption there and i've learned well from my time in Portland and i'm honored and saddened to be back here in these chambers again speaking to you guys again, who seem to keep making special new ways to sneak in the same draconian unconstitutional laws. This time, throwing in the red herring of the ada, protecting one group while throwing out of the rights of the other. Safety your priority? I've known people who have been run over by vehicles while sleeping because drivers went out of their ways to tag them. Now we're trying to -- I mean, cut and paste while adding some new language meant to pit one group of our community against the other who both deserve equal rights and protection. Sleeping heads near gutters create a safety concern and makes me think you want people to shall greater targets for greater abuse. Let's not kid ourselves here. Here we are in this so-called democratic process, why do we come to speak to you again when we know you've already made up your minds. I know you said you might put this off until next week, but I feel like it's already been decided. This is an emergency hearing, so you can listen and check the community lobbying box and get into your afternoon meeting with the pda where maybe you exchange greetings and head out to your lives, but it's our community's responsibility to manage our city sidewalks and not sit by as you decide how and when and who can sit and relax on our sidewalks. While making sidewalks unsafe for our friends living outside when there's no safe place to go. We're here to demand you vote against this ordinance and do what is right to protect all person's constitutional and human rights. I thank you for your time. And I also thank you for working for a more affordable housing and I will continue to advocate for such. However, until this housing is available, we must not criminalize existence and manage sidewalk boundaries in ways that continue to target those in our community who are most vulnerable. And also, in relationship to what you guys had talked about, would we rather you give someone a misdemeanor and put before a judge. The reality, with the citation, somebody doesn't have counsel, representation, and I

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believe it's every person's right to have counsel and representation when they're being charged with something.

**Adams:** So you understand, our thinking, and again, I respect your point of view, it's different -- the reason that we've said -- set this up for community court is to understand that that kind of representation isn't necessarily available through this non-criminal track. And an get the follow on and the concern of what, but I just wanted you to know our thinking. Thank you for your testimony.

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

**Adams:** Go ahead and call the next three.

**Fritz:** I wanted to mention that the national lawyers' guild has been helping folks who are testifying before the citizen's review committee and independent review committee, so could we find legal help for folks who are cited. It's a citation, right?

**Adams:** Uh-huh.

**Fritz:** A citation under this regulation. And I wanted to mention a couple of times the Portland business alliance has been mentioned. They're contributing to provide services and they're people with viewpoints and I think human rights also, so I think it would be helpful to focus on the sidewalk ordinance, rather than talking about the motivations of others who are participating in this discussion.

**Adams:** And those who might not have liked hearing that, she says the same kind of thing to the pba too.

**Fritz:** That's true.

**Adams:** Let's see, who was -- lander, mr. Lander, welcome, glad you're here.

**Tom Lander:** My name is tom lander, I moved to Portland, originally 10 years ago, thought it was a beautiful place. Decided to move back in the last few months. Ended up homeless myself. I mean, I had a script wrote but I threw it out the window after hearing people's speeches. I've had different experiences with officer, when it comes to camping to laying on a sidewalk. I've been harassed by police for even using a pay phone. Because of the way I look. I -- homeless do have a dirtier look. A mean, a lot of us do. And i'm just -- i've been through somewhat of the same type of ordinance back in iowa, and it just created so many problems back there. I worked with the ministry back there with a lot of homeless and I just -- I mean, the people that I do surround myself with, I consider family and I don't think they need to be curbed like the rest the garbage and so forth. And generally my speaking, I feel that we're having our civil rights violated.

**Adams:** Really appreciate your testimony. That is not our intent but I respect your point of view. Welcome back.

**Cherie Lambert Holenstein:** Thanks. Cherie lambert, the sit-lie ordinance was unconstitutional and you the city council were advised of that before you voted for its implementation last year. Now we have a new plan, a new revenue myself. The sidewalk plan to manage the homeless. Its purpose being to move people. And it is a disgrace. A young friend of mine has had nine brain tumor operations and walks with an unsteady gait. We walk side by side. When I meet with him in northwest Portland where he lives, we usually walk singly. The tables and chairs and bikes and racks and newsstands and bus stands and dog walkers plants too many obstacles. "willamette week" named Portland department of transportation -- the required sidewalk cutouts mandated by federal law. You're creating new laws, for the homeless and ignore federal law. Commissioner Saltzman, I heard your recent city club debate. Your concern for young run-away girls. Under the control of a pitch, I do believe your concern is genuine. I do. But if this young girl cannot rest next to a building but has to fit next to the curb, doesn't this make her vulnerability more dangerous. When by state law, eleanor roosevelt could not sit in the colored section in alabama, she got up and picked up a chair and planted it in the middle of the aisle. Would you arrest and fine eleanor roosevelt?

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**Adams:** Thanks for your testimony. The purpose of this is to provide a place for everyone on every sidewalk. We can disagree about the details, but as one of the authors of this, I wanted to let you know my purpose.

**Fish:** If I can clarify. Last year, the council, by a 4-1 vote, extended the current law for three months so commissioner Fritz and I could do public outreach.

**Lambert Holenstein:** I was here.

**Fish:** But once the court ruled that police commissioner and the head of the police bureau directed it no longer be enforced. The time to extend it was to do public outreach that the safe oversight commission had made to modify for strengthen the law. That was the extent.

**Lambert Holenstein:** I recall, when it was going to be declared unconstitutional. So thank you.

**Adams:** Welcome back.

**Barry Joe Stull:** Hello. Barry joe stull. I want to inform you that in july of 2009, I applied for housing as a person with a disability with central city concern and placed on a eight-month waiting list. I went in seven and a half months into that and was informed that it will be at least a year. I felt really good about that, because I had eight dollars and spent \$7.50 and that meant I had \$12, of course, and this is absurd and i'm going to honor our children with a song I wrote. ¶ Portland is my city and it has a housing crisis. ¶ folks with disabilities out in rain and snow and iceness. You respond with meanness when you could respond with niceness ¶ ¶ because your scheme to help the rich drives up our housing prices ¶ ¶ Portland is my city and it has a housing crisis ¶ ¶ you respond with meanness when you should respond with niceness ¶ ¶ every day there's more to shoot. That you choose to fund the police is at this problem's root ¶ ¶ we wouldn't sleep on sidewalks if you gave us just one park ¶ ¶ a safe place for us to camp when it gets so wet or dark ¶ ¶ Portland is my city and it has a housing crisis ¶ ¶ you respond with meanness when you could respond with niceness ¶ ¶ we must support the ada or we might face a suit ¶ ¶ while policies that help the rich are at this problem's root ¶

**Adams:** Thank you very much. Nicely delivered.

**Stull:** And if you're looking for the exception. If you're a street performer, these do not apply. Sing that song.

**Adams:** Again, we have how many people signed up?

**Moore-Love:** About 12 more after these three.

**Adams:** Welcome back, mr. Mubarak. It's been a while. Mr. Mubarak, welcome back. Please begin.

**Ibrahim Mubarak:** Wow. I listened to everybody talk about this ordinance and I can piggyback on what they're saying. You're giving us two to three minutes to convince you why this ordinance shouldn't pass. I would like to turn it around and give you two to three minutes to tell me why it should pass.

**Adams:** Mr. Mubarak, we've been working on this issue for over a year. And at this point in the process, and we've had public meetings and open ended public meetings even before we put any pixel to paper and taken issues from all sides of all stakeholders and continue to do that here. Listen very closely. What you have before you, the purpose of which is to have common sense. As I mentioned at the beginning of the meeting, you know, as the only city in the region that's putting significant general fund, I don't expect the smaller cities in the region to put in the kind of money we do, but they're not putting any money in for the most part. If you want to get into the housing funding issue, i'm happy to do that. We've worked hard. Increased the amount of funding for housing, even in this great recession. That's our focus. That's what we spend most of our time and money on. But we've got a whole city to try and balance and manage as well and sidewalks are really hard to -- to balance all the concerns. And we work very hard at trying to get that balance and that's what you have before us is our best thinking and we're here to find out what everyone else thinks.

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**Mubarak:** Ok. And in doing that, when i'm walking the streets, especially during lunchtime and see a group of businessmen standing in front the office doorways and I have to go into the streets to go around them, would this same ordinance affect them?

**Adams:** Absolutely.

**Mubarak:** Would the police come and say we want to give you a citation for blocking the sidewalk?

**Adams:** We have a number of commercial -- we will enforce it and conversely, we're not passing judgment on speech. You can panhandle, stand, you can panhandle, move. Commercial, green peace, for an individual, we're out of that business. This moves us out of that business. I realize there's some that disagree and I respect that. I'm listening, i'm listening.

**Mubarak:** All right. That's all I have.

**Adams:** Thank you. Who would like to go next?

**Jim Dugan:** Sure, good morning, mayor. Members of council. I'm jim dougan.

**Erin Lorenson:** And i'm erin.

**Dugan:** And represent guide dogs for the blind. We're here to congratulate you on your leadership in finding a fair and equitable solution to the sidewalk issues laid out in the sidewalk management plan ordinance. I urge you to adopt it today. At guide dogs for the blind, we train dogs and to navigate the public realm. Guide dogs for the blind is located in downtown Portland and we train in Portland for a reason. We rely on the active and dynamic pedestrian environment that downtown Portland, to prepare our dogs for service in metropolitan areas. As the largest guide dog company in the country, we have training centers in the bay area as well as Portland. And train and have 22 active teams across the country. Many of our graduates are proud to call Portland their home. We are equally proud of our new Portland center at third and yamhill and hope to highlight Portland's role as a nationally recognized home base for this specialized training. Over the past months, the number of negative encounters between our guide dogs and people with aggressive dogs sitting on downtown Portland sidewalks has increased. Our visually impaired clients cannot look ahead or see or anticipate for potentially dangerous encounters. We feel the to walk the streets safely should be the right of all citizens. And unprovoked dog attack can be the end of a dog's career and one of the greatest fears of our clients. The traveler with a guide dog involved in an attack are unimaginable to those of us who do not depend on this relationship to safely navigate in our daily lives. That's why we came today. This ordinance provides clear access for disabled pedestrians to move through downtown without obstacles and interference. Ensuring a clear way through the sidewalks is paramount for those who are visually impaired. Let's make sure our sidewalks are accessible to our citizens and please support the sidewalk management plan ordinance. I invite any questions for erin and I regarding our position.

**Adams:** Thank you for your testimony, really appreciate it and who is the -- who is your friend there.

**Lorenson:** Falita. She's nine.

**Adams:** Hi.

**Halley Weaver:** I'm halley weaver. I work with a homeless shelter, 90% of my income comes as a street performance. In addition to exception of the g9 of the ordinance, which is performing music while complying with partnership agreement. It was put into action in march. 1994, signed by various officials, parks & rec officials and Portland business appliance. Over the last year, i've been working with the parks & rec to find out who was upholding the agreement. In september 2009, when the pda told parks & rec that they have not been and will not issue the permits. The partnership is not in compliance by official and public officers, only musicians and -- as displayed by the april incident with a cellist. I believe we need to revamp the entire -- not only the street musicians but cafés and permits and bike and newspaper bins as well as police officers riding

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bicycles downtown. And with regard to our federal constitution, the right to free speech on public rights-of-way.

**Adams:** It does need to be updated. We had a meeting that included that topic. It's something I'm very supportive of and we need to update and make it clear that the -- how that happens now. And I think there are ways to facilitate it. And in a way like we're trying to do with this ordinance. Exercising common sense.

**Fish:** Mayor, on two points. First, your day job at tpi -- it's going to be the operating of the resource access center.

**Weaver:** The one on Broadway, yeah.

**Fish:** It's our trusted partner. Thank you for your good work. You mentioned in passing, the parks bureau as part of the narrative. Since I'm a relatively new parks commissioner, if there's an issue you have where you don't feel my bureau's response is, would you leave your name at my office and contact information and give my staff person a summary of the issue so I can get back to you.

**Weaver:** Over the last two years, I've been working with Mr. Cokier with your office and I'm sure -

**Fish:** My office -- it's a big city, if you left your name and contact information, we'll get back with you.

**Adams:** Back there is Amy Stevens and confer with her and I appreciate your advocacy on this.

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

**Adams:** Thank you for your testimony.

**Fritz:** Before you start, I wanted to mention one of many things I've learned at the sidewalk advisory committee is that it's legal for police to drive their cycles on the downtown sidewalks, but it's not legal for anyone else or skateboards. Just as an informational piece and I think we can discuss whether we should be -- I'd like to have more information why police officers can drive cycles on downtown sidewalks.

**Adams:** You can go to [mayorsam.com](http://mayorsam.com) and get a map where you can be on sidewalks and where you can't with skateboards and bikes and what have you. Go ahead. Hi, welcome back.

**Steph Routh:** Thank you. I'm going to try and go under two and talk like an auctioneer.

**Adams:** Ok.

**Routh:** My name is Steph. On behalf of the Willamette Pedestrian Coalition, I want to thank members of the city council for your commitment to create a walkable environment for everyone to enjoy. We understand sidewalk management is a challenging issue and many ways multiple demands on our sidewalk is a great problem to have. They connect people to businesses and transit and needed services and there are public spaces that connect all of us with our city. Equitable access and use is delicate and requires deliberation. Preserving the use of sidewalks for its primary function, allowing people to travel to their destinations. There are many outstanding issues I believe would benefit from more time and discussion. To name a few, we need more discussion about -- observation I'm going to talk like -- how to --

**Adams:** I'll let you go the full three minutes. I don't want you to pass out.

**Routh:** Thank you. Address all aspects of sidewalk management such as sidewalk café, a board signs and newspaper boxes in a holistic approach that values people over objects and plan for education and outreach before enforcement happens and how training will relate with other aspects of sidewalk management enforcement and I believe there's multiple jurisdictions at play. And containers in the right-of-way and café sidewalk --

**Adams:** You can go longer, just so you know, your group before you've rightfully advocated for us to improve that area and we're clear who is responsible for what.

**Routh:** It will be great to learn about that. What role the sidewalk management committee convened by the city council can play to improve equitable sidewalk use and ensure enforcement is equitable and people can move freely through areas of high traffic. This is just scratching the

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surface. I urge city council to postpone this vote to discuss aspects of sidewalk management and help us meet the challenges together and on a personal note, i'm really excited about creating Portland as a boxing capital.

**Adams:** If you think queer going to get sued on this aspect, just wait until we come forward with number ordinances. We understand we've -- with newspaper ordinances. It's been 20 years in the making on the newspaper side. We're working on it. Thank you for the testimony. The advocacy of the willamette pedestrian coalition all over the city is so important.

\*\*\*\*\*: I appreciate it.

**Dan Newth:** My name is dan newth. I advocated on issues of homelessness for a while. Participated in the city and county's -- haven't -- 10-year plan to end homelessness and the downtown public safety access committee and homelessness working group. This ordinance has a lot of history. And title 14 started back in the '60s. I think then the Portland chamber of commerce started as a political move to kind of get some ugliness out of the way, you know? There's certain parts of our society who view people who are of a different social economic status as unpleasant to look upon and don't want to see it. They're -- there are people in our community who look at a person who may be homelessness and feel it's impacting their income. How much money they make. They don't want it see how the system and market failures of our economy are having an effect on some people. They're afraid that homeless person seen on the sidewalk is going to be interpreted as a means to not spend money in their stores. We have economic problems and systemic problems and with this sidewalk ordinance, what it does is look at a superficial solution and a way to harass and intimidate people, mentally destabilize people in the hopes they'll go somewhere else. Disappear. Go into the shadows. It's an immoral law. It's not just. The oversight -- the implementation of former sidewalk and ordinance laws is what's been unfair and unjust. They look at commercial aspects as -- as sacred and a street sign or a frame sign has every right to be in -- you know, blocking traffic, but a human being, who is of a lower socioeconomic status and not likely to buy goods from my store, have no rights to be on that sidewalk.

**Adams:** They do now.

**Newth:** That's where the law comes.

**Adams:** I need you to summarize.

**Newth:** Ok. The oversight of this and implementation of this law is what's critical. Evidently, the law won't have any oversight. It will have an advisory committee. And I have tremendous respect for you, commissioner Fritz, but I was -- in listening to you discuss there isn't going to be an oversight, merely an advisory committee, it's disappointing.

**Fritz:** With due respect, that's not what I said. I said the advisory committee will be advising and the council is taking responsibility for oversight.

**Adams:** The we realize the sensitivity and importance of not only trying to get this right on day one, but continuing to try to get it right on the weeks and months to come. I just want to make it really clear to you, that the -- for the first time, we're making it -- and folks can disagree with how, no question about it, but for the first time, we're saying explicitly, that sitting and lying on the portion of every block is now legal. And your testimony is -- you're right, folks, do stereotype. Do bring all kinds of biases to how people look. You're absolutely right and that has led the discussion on previous policies. But I also just want to reassure you that with this new approach, every block face of every sidewalk in the city that there now will be a place and that newspaper boxes and ornamental lights and sidewalk cafés do not have anymore, they have -- they have -- there's a place for everything and everybody. That's our goal. And keep attentive. Keep involved. And help us to try to make it work. I appreciate your testimony very much and your advocacy and work on previous efforts.

**Newth:** Thanks, I didn't mean to be rude or anything.

**Adams:** No, you did great.

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**Patrick Nolen:** Hi, my name is patrick nolan. Represent the soapbox under the bridge. Or one the representatives. First, I want to talk about a couple things that have been said attachment specifically, the question of whether i'd -- taskforce been said today. As a formerly homeless person and long-time person of Portland, I have the right to public representation at that point and don't with a traffic ticket and being that it going to go through the pba court, I want somebody there who will represent me. As far as other cities in the area go, I hear you -- I live in the city of Portland. And from the back of the room, I understand you did not mean this, but from the back of the room, it sounds like go away, kid, and don't bother me. As far as sidewalk cafés go, if this is a law about representing all of our people in the city of Portland, if we're moving homeless to the edge of the sidewalk, we need to move sidewalk cafés to the edge as well. Otherwise, here again, we're talking about the same thing we did two years ago and four years ago. The only thing that I really wanted to mention that nobody else has not mentioned about the law. You've heard a lot of people talk about the law today. Was the assembling with others. I was really shocked when I saw this one, because I thought someone had plagiarized the other one. I'm sure nick Fish can tell us about that, but when dave came to explain that to us when I was on the oversight committee, it's if you're going to have other was you, you have the right to assemble. If you're sitting alone, you don't have, under this law, the right to assemble peacefully. You can ask dave about that, it was two years ago.

**Adams:** Sure.

**Nolen:** As far as the meaningful oversight, I feel it needs to be independent of the city council. There's times in the past and probably nobody is here that long ago --

**Adams:** Oh, I --

**Nolen:** You've been here a long time. There's a lot of times where it would have been better to have independent oversight rather than the city council. Seeing the same thing they're representing and to answer amanda's question about bikes on the sidewalk. I agree totally and there's supposedly a class you can take as a police officer to allow you to ride your bike on the sidewalk. Ppi is allowed as well. And i've wondered -- that's what they tell me.

**Fritz:** We'll look into that.

**Nolen:** And I want to be able to take that class because I want to be able to ride my bike on the sidewalk.

**Adams:** My bringing up the issue of funding is coming from a place of real passion that we share about more resources to this problem. And you might choose not to take up my request or my pitch, fine, but we will not get close to achieving the kind of region that we all want in terms of equity for more people if we don't have more resources on the table. And this is a region. It is a bus ride and a light rail ride to hillsboro and gresham and soon to all other kinds of places. And if the conversation on advocacy for focus and attention and resources is left only to the city of Portland, we won't get there.

**Nolen:** I agree totally.

**Adams:** It is not however -- let me finish. I also said, keep at it with us. Keep focused with us. I encourage you and you have done a fantastic job and I know you will continue to. I said that as well. Clearly, and i'll say it again. But goodness -- for goodness sake, we need your help to advocate for others. Because on the money we have to decide where to spend that they have to decide where to spend, not going to this effort, in some cases.

**Fritz:** But the taxpayers of Portland cannot take care of everyone from clackamas and Washington and clark county.

**Nolen:** I work in the city of Portland, though, and we elect you -- don't hire you, sorry. Elect you to represent us.

**Fritz:** We need your help too.

**Adams:** We need your help too. Thanks. Thank you all.

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**Fritz:** And regarding the oversight. I wanted to continue that conversation. First of all, it's very difficult -- there's a balance between independent and having the authority. The council has the authority to make changes if it turns out there's problems with unequal enforcement. I've asked the equal rights committee -- and they're going to consider it on their agenda next week.

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

**Fritz:** Thank you.

**Moore-Love:** After them, there are six more people.

**Adams:** Hi, welcome to city council. Glad you're here. Would you like to begin?

**Grant Moen:** Sure. Thank you. Good afternoon, Mr. Mayor and commissioners. I'm Grant Moen, I work at the Hilton here downtown and along with my colleague, David, we work out front in the streets every day and we're encountered with the activities and everything that goes on in the streets on a daily basis and with the Hilton being one of the largest, if not the largest hotels in the state, we have a lot of business coming in and out of our doors and that's a lot of foot traffic. With the amount of space that's there on the sidewalks and amount of traffic coming out of the doors, there's often problems with people getting by. My personal experience and some of the other guys who work out front, oftentimes, it's difficult to control the foot traffic with guests coming out of meetings than it is with just people who work downtown. A lot of times, they don't realize they're making it hard for people to pass. They're having conversations or their minds are caught up with what they just got done talking about with the business meetings and what have you. I've had Morph cooperation with people panhandling or homeless and getting them to move along as opposed to those who are there for business. And we're there to take care of our guests in every way possible. But with that said, you know, when you -- when the circumstances come can, when they happen. Say, an officer comes along and encounters sidewalk is full and hard to get past, I hope whether there's warnings or tickets being written that, it's not going to affect business. The outlook of the guests staying at the hotel and how they look at the city. That's kind of my general hope and coming in here, we didn't know what to expect and we were invited or asked by management to talk a bit, so would hope you might have a question specifically that we could answer a little better.

**Adams:** If conventioners refuse to move when asked, they'll get a warning first and if they don't, they'll get ticketed. Does that provide with you a useful tool to move them along?

**Moen:** It does. You know, we had the same problems with car traffic. A lot of times -- we have that one traffic lane of traffic -- travel lane of traffic. Oftentimes, we have to tell guests you can't stop on the road. You might get a ticket from Tri-Met. Not to threaten them, but to let them know this is what can happen. Oftentimes, I'll get, I'll improve along and other times, I'm not moving. I don't know if it will help. A lot of times, we get a dirty look of just telling them the reality of how it is. We can certainly tell them -- and oftentimes our security staff is out there too assisting when necessary.

**Fish:** I've had a conversation with your general manager about this, because I park in that garage and the purpose of these rules is to create a level playing field for everybody. When a bus arrives from the airport and a crew from an airplane gets out and the luggage is in the sidewalk blocking it. It's not allowed. Not currently or under this ordinance. I checked with Sue Kiel the other day, because frequently there are parked cars in front of the building, double parked with flashing lights and sometimes you allow the guests to go into the building and leave their cars. That's a \$300 fine. You're not allowed to double park on a street and when that happens during a rush hour, it creates a safety hazard. These rules are designed to apply to everybody and to the extent that Hilton seems special relief, there may be some dedicated parking in front. Which you believe you already have. There could be other accommodations that are within the discretion of the transportation commissioner, but what cannot continue is using the sidewalks as staging areas for people coming and going, and that's not a question of frankly, accommodating the customers of the Hilton. It's

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respecting the right of the people to have mobility and access on our sidewalks and that's something that has to get worked out and it's not our intent to be anti-business, but to apply the rules equally to all. I encourage you particularly in the double parking, which creates safety hazards and sometimes where you get in the cars and back up to get into the garage, which is illegal. Going against on a one-way street. And stacking things on the sidewalk, which blocks the sidewalk for people who are pedestrians, you know, there has to be some accommodation, very interested in working with you, but that's a public sidewalk. It's not a hilton on-off ramp.

**Moen:** I work at the main tower. I think you might be referring to the executive tower on Taylor. It's a different setup. I wanted to be clear on that.

**Adams:** Did you want to add anything?

**David McCallum:** I'm David. Someone who works in downtown, I spend most of my time down here and I get around by foot and I'm able-bodied and I don't find any real obstructions from Homeless and they're very respectful typically and get out of the way for everybody. I find more congestion from business people and I don't feel it's necessary and up just and I wouldn't have spoken today unless I wasn't asked by my employer to come down and listen to the testimony. It's opened my eyes to see really what I feel is the reasons behind it and while they're admirable on your part and I understand you see it as an issue, I don't see it as a big one. And I think it should be abolished. Shouldn't be passed as an ordinance. That's about it.

**Adams:** Thank you very much for your testimony. Appreciate it. Hi. How are you?

**Judith Aftergut:** Good. I'm Jean.

**Adams:** Thanks for waiting.

**Aftergut:** No problem. It's interesting. I'm going to read an email that I sent and then maybe I'll have a little more to say. It's not long. I'm writing to ask you to reconsider the need for the sidewalk ordinance that's been recently drafted. I have a house in southwest Portland and travel frequently on TriMet through downtown. I've trained myself to interact with people on the street as part of my community and I think maybe that's my -- that's one of my points here is that whatever we design that it fosters the sense of community. I just think that's so important. It's not an issue for me. It's -- it's often a pleasant interaction with people. Homeless or -- asking for money or not. And sometimes it's a joy. I often -- often I offer people street coupons which seems to be a healthy and respectful response and I think at one time, I sent you a note, Commissioner Fritz, and I think it may still be open your website. Not sure. But I think fostering positive ways for people to interact, who normally wouldn't, the meal coupons are one possible way but maybe there are others. So the people when they come through downtown, have a way to interact respectfully. I know we're not talking about panhandling, but they don't feel guilt-tripped or something. That there's something we can do that that's a clear and respectful interchange. I can't imagine what it must be like to live on the streets when I go downtown and use the -- and use the bathroom, I can go to a hotel. Really, I can go -- if I need a place to get out the rain, I can go to a coffee shop or restaurant or hotel lobby. And if I didn't have a home, I'd want to be able to get out of the rain or under an awning or sleep wherever I could safely do that. I know it creates an issue with businesses and yet I'm sure there can be creative solutions and one would be more available housing for people with limited resources. Maybe there could be an education campaign sponsored by a few businesses to help people of all income levels build the capacity to relate to each other and share the space downtown and interact with ways that work for everyone. I appreciate all the city is doing to assist the people on the street with limited resources and I know there's growing numbers without homes in this economy and that the state and city have resource issues in this economy too. I would be willing to pay slightly higher property taxes if it went to support low-income housing and would be happy to provide further thoughts if requested.

**Adams:** We received your email and reviewed it and we'll follow up on your offer to help. Thank you. Thank you all very much. Appreciate your testimony. How many more?

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**Moore-Love:** Six more.

**Adams:** Welcome back. Thanks for waiting. Glad you're here. I bet you prepared for three minutes.

**\*\*\*\*\*:** Good guess, your honor. Thank you very much.

**Adams:** Anybody else?

**Moore-Love:** William Barnes. I think he just left.

**Adams:** I think he went to the restroom, didn't he? Welcome back.

**Dan Handelman:** Do I have three minutes?

**Adams:** Of course.

**Handelman:** I'm Dan Handelman from Portland Cop Watch. Thank you. I'm starting out by saying I think you understand that everybody here today is not against anyone with disabilities. I don't think anyone expressed they don't want them to come down on the sidewalk. That's not the opposition to this ordinance is about. I was keeping a tally and I've got 26 people who've testified either against the ordinance or raising questions and one who testified in favor. About the part of the ordinance that will not necessarily solve the problem. Dogs might attack a guide dog. Other dogs can be on the sidewalk. Where is the outcry for this ordinance? Where are the people who are supporting the work you've done on this, you say, for a year? We know it's the Portland Business Alliance that's pushing for this. And they don't have a representative here today. Regardless --

**Adams:** Actually, they do.

**Handelman:** They're not speaking.

**Adams:** Not yet.

**Handelman:** Just because they give hundreds of thousands of dollars doesn't give them the right to buy off civil rights for people. We've said this in the past. Police have authority in this. There's no place in the ordinance to put down a policy that you have undercover officers downtown looking for people littering. If you want to run that as an experiment, you shouldn't put it into a city ordinance, it's not a good idea. You're sitting on the sidewalk and don't expect the person next to you to be undercover and look for you to slip up. In terms of criminalization, I know we've talk with Commissioner Fish about this a lot. Let's think of the issue of immigration. Where the police had a light bulb over the head at a meeting, that they realized if they've arrested a person who is in the country not documented and even though the Portland police aren't enforcing immigration, an ICE person at the jail might. It's a \$250 fine. If there's a bench warrant out, it ends up criminalizing them anyway.

**Fish:** When you and I had that conversation, you were very candid with me and said that technically it does not criminalize. You thought it targeted and said you're using the word "criminalize" in a general sense, not to mean it actually criminalize and I think we have to be careful how we use language but I appreciated the nuanced way you used it. But clearly on its face, a civil crime is not intended to criminalize any more than a parking ticket. Which presumably don't pay it, could go up to the criminal ladder if you're hauled in court. We don't think people criminalize a parking violation because at some point, if you flaunt the system and a warrant can be issued for your arrest, that was intended. I appreciated that you're using the term "criminalizing" in a broad sense and not the sense that it's actually intended to criminalize.

**Handelman:** What I'm trying to get at, it's the unintended consequence that people can be criminalized if they don't show up or pay the \$250. The last go-around, 85% of the people cited were homeless. I would be amazed if it didn't come out with that same disproportionate enforcement again. The -- I would who will be able to call the phone number. Although homeless people have telephones. It's going to be people who have telephones to call about people who don't have. Police horses, there's nothing that takes up more on a sidewalk than a police horse. My time is up.

**Adams:** You can have more time.

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**Handelman:** Ok. The -- the -- the disorderly -- this goes back to the question of whether you're enforcing laws that exist or not. Somebody said, I think it was mr. Will, that if somebody won't move, they can be cited under disorderly conduct because they refuse to move. Why write this ordinance at all why make a new law that doesn't do anything except make it easy to push homeless people to the curb. In a city where it rains six months out of the year and in danger of falling into traffic and competing with the parking meter machines and boxes for newspapers and all of the other things that are on that side of the sidewalk.

**Adams:** That is -- we have a disagreement over what is compassionate, I believe. And it sounds like -- it's an honest disagreement, but I don't think having the only tool available to the city for enforcement is a criminal violation, I don't think having only that tool in the box for sidewalk management is -- I don't find that fair -- let me finish. So that -- I think that -- we just disagree and that's all right. We -- the -- it might turn into, for lack of action, lack of follow-up, if someone first gets a warning and then is cited, and doesn't follow up with community court, doesn't follow up, then we have heard from david what happens. But there are many steps for someone who is cited to deal with the infraction and the opportunity to do that with much less impact to their life than simply, you know, criminal citation. So I appreciate what you're saying. I -- I think what i'm proposing, what we're proposing is more compassionate. Combined with the fact, combined with the fact that there's a place for everyone on every sidewalk on every block face. Now, we might disagree -- and the reason we actually look to the ada is to figure out where to put the path. And that's how we got to where we are. We can disagree but that's how we got to where we are.

**Handelman:** I want to respond to that. You can make it a city policy to enforce the -- and the ada doesn't address people. It addresses objects on the sidewalk and not people on the sidewalks.

**Adams:** It deals with passage.

**Handelman:** But doesn't say --

**Adams:** We have a team of lawyers that disagree.

**Handelman:** It doesn't say anything about people being the blocking.

**Adams:** Let me finish. I get the last word for today. Until you send me an email. The ada does talk about access. The purpose of the ada is to provide access it a full range of ability. And it takes into account how things are designed in passageways, so we disagree on that interpretation. That's fine. And we wanted to have some standard. Didn't want to be totally subjective. We wanted to know in terms of passage for less than fully-abled people, what should we look at. That's the reason we did that. I do not agree that hammering people with a criminal infraction is more passionate than allowing them non-criminal ways to deal with an infraction. I honestly disagree and I appreciate your testimony. We're going to move on now. I thought it was an good interaction. Sir?

**Leo Rhodes:** Thank you. I'd like it thank you for giving me this opportunity to speak. First of all, I want to talk to you about -- I actually accidentally fell asleep in the park. I think this pertains to the same thing. Fell asleep in the park twice -- three times, actually. I got exclusion tickets for 30 days on two of them and on the third one, I accidentally came back into the park which I was -- asked to go to court on that. Which the outcome became \$150 fine. Ok. Now, we're talking here is kind of the same thing. Some homeless individuals that accidentally, by -- they don't have -- they don't have no placing to, will get themselves in this kind of predicament. You're talking \$250 fine. How can that homeless person utilize that a lot better. You were talking about transportation earlier. They could use that for working. Transportation, eating. Won't have to be sitting around downtown doing that stuff. They could be going to a shelter and or maybe paying for a shelter, a little spot in a shelter. But no, you want them to sit in certain areas at certain times. You said certain areas of people that are handicapped, there's a bunch of people out there that are handicapped that if you do have certain areas for them to go to, it will be utilized just like that. Quick, like that. And what i'm really thinking about, too, is also the other side of this. So I mean, if

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-- if we're blocking -- or homeless people are blocking areas wouldn't families be blocking areas too, if they're talking right in the walkway as you were talking b. Also window shopping would be the same thing. I mean, you have to push those people out and say, you have to be over here, because this is a walkway. This is where the area is not supposed to be utilized.

**Adams:** Just to pick through your concerns. I appreciate the opportunity to reiterate, you'll be able to stand anywhere. Anyone will. Or whatever, if they're disabled, stand in whatever capacity anywhere. It's in the passenger in the pedestrian zone, if you're asked to move, you need to move. So -- there isn't a place -- and folks that are disabled are allowed, obviously, anywhere. That's the law.

**Rhodes:** Yeah, I know, but i'm saying that there's a lot of people out there, that can't, and probably don't even have the documentation, to show that they're -- you know, that the engine injured or something like that. How do you find that out. How do you know that?

**Adams:** That why the exceptions -- time is getting late. The exceptions are clear in terms of people not fully able to move or incapacitated. We have to move on.

**Rhodes:** I have a few more seconds on the clock -- so what I want to say, if you are going to pass this, what I want to suggest, to you mayor, and the commissioners, is that if you're going to do this, maybe you guys should stand out there and direct traffic and make sure everybody is doing the right thing. Show initiative on this. Leadership on this. Just stand right up and --

**Adams:** As a decoy for pedestrians, i've got to move on, i've got to move on.

**Rhodes:** Asking for help in other counties and cities, i'm willing to take that on and try to do that stuff, if you want to.

**Adams:** Thank you.

**Rhodes:** If we have to do this, I am, i'm sick and tired --

**Adams:** I appreciate that.

**Rhodes:** And talking like this. Every time it's the same thing every over and over. Rehashing everything over and over. I'm tired this. If it means I have to do whatever I have to, i'm willing to step on up for that.

**Adams:** I appreciate that, there's a opportunity to get more investments from more local governments and we'll take you up on that. Sir, thanks for waiting.

**Marko Lamson:** I'm mark. I think that last time I was up here, I was talking about jack hollings who got killed and once again, i'd like to talk about crisis solutions and I think taking a year -- let's go to the Portland business alliance first. It's one of the largest lobbying groups and I think that as much as i'd like to talk to you gentlemen today -- excuse me. Commissioner Fritz.

**Adams:** You're in trouble.

**Lamson:** Check my language. I think that what i'm really interested in is looking critically at what's going to happen. We know you're going to vote yes on this. This is something that's going to happen. You wouldn't spend a year working on it and come to this just like the superintendent with -- at benson to talk about the walkout and redesign plan and asking for participation for a month, we know the decision was already made. What i'd like to talk about is that crisis, the fact that instead of addressing the fact that in 1990, there was 10,000 units of affordable housing and now in 2010, we're at 210 units of affordable housing. Instead of addressing that for the last year, and for the last four years, we in turn are addressing a sit-lie ordinance, a crisis solution. So I think for me, it's really, really key to be looking at what's the time spent. What are you putting time and money into? It we pay taxes and put your money out there, why are you looking at criminalization or looking to target real specific communities and manipulate the ada to continue that. And instead of really kind of addressing that crisis. We're in a crisis of housing. That got brought up multiple times tonight.

**Adams:** We're the only jurisdiction in the state that puts aside 30% resources that spends \$10.6 million in general fund. We are the -- we're more than just good words. We public safety real

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dollars behind our strategies. Does that mean we've done -- we've stopped and resting our laurels? We're not.

**Lamson:** Nick Fish, what's the condo on mississippi and skidmore, do you know the name of that condo? That was -- has affordable housing and that has urban renewal money going into it because of affordable housing, as the vouch voucher program for section 8. My question is why did that money go to condos instead of affordable housing. Why did we not fund real section 8. Those condos --

**Fish:** Your figures, \$10,000, \$40,000, I don't know where you got those figures.

**Lamson:** Section 8. I helped write to report.

**Fish:** Your comment about section 8 to fund condos, where you get your information -- i'll get you the real information, it's incorrect. I suspect if -- if -- and let's be honest.

**Lamson:** Sure.

**Fish:** I suspect if we get the second stimulus from Washington that we'd like to see. To build housing to end homelessness within a year. If we did that, I think you'd still be here criticizing this ordinance. Let's be honest about that. If you believe this has constitutional defects, you should be here and advising us. But it's fair to say if we could end this problem which we're all committed to ending, you would still point out the defects with this ordinance. And I respect that. But I think we can separate the issues because you have no quarrel up here with the strategy to end homelessness.

**Lamson:** I have no quarrel to end homelessness?

**Fish:** In terms to end the homelessness.

**Lamson:** The fact that i'd like to see the amount of money it took to went to the budgets directly to make the decisions on the sit-lie, that directly targets homeless populations. I have a quarrel with that.

**Adams:** We're all paid -- most people involved with this --

\*\*\*\*\*: The amount you get. [speaking simultaneously]

**Adams:** You asked a question. Beyond our salaries, compared to \$109 million on homelessness and affordable housing service, I appreciate what you're saying, I really do. And reasonable people can disagree on how we should manage the city sidewalks. You've heard our intentions and we're listening and have since october -- before that, we were listening three months before that how best to respond to the situation. We can disagree. Like commissioner Fish said, we agree on the issue of providing adequate homeless services and affordable housing. It's been very difficult in this awful recession and a lot of people are feeling the pain and even though we were cutting budgets citywide, we increased funding in this area. So we're going to disagree, it sounded like, i'm respectfully on the sidewalk management approach. We don't disagree on affordable housing and homeless programs and if you look at what we've done over the past, each 15 months, we've increased funding. We're the only jurisdiction that has dedicated urban renewal funding for affordable housing and it goes to deeply affordable housing. I'm happy to look at the issue on mississippi and see what decisions were made there and we'll get back with you and post it on the website. Thank you all for your testimony. How are you, bill?

\*\*\*\*\*: It's good to see everyone.

**William Barnes:** I'm bill barnes. It's been entertaining -- an entertaining afternoon. I heard a pretty song, an attorney sit up here and tell me she has a hard time defining what "on foot" means. But it's been an interesting afternoon. As you know, I do a lot of things. In this city I have been homeless since june the first, 2000. Every day, monday through friday, I have breakfast at the blanchet house. Every night at 6:45, I have dinner at the Portland rescue mission. I sit on commissioner Fritz's -- what do you call that, monday afternoon?

**Fritz:** Sharing public sidewalks.

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**Barnes:** Yeah, I sit there. I sit on the board of the downtown neighborhood association. And two months, i'll probably be the president of downtown neighborhood association.

**Adams:** Congratulations.

**Barnes:** I read this draft, probably eight or nine times. The most recent time before the attorney did this afternoon, was this morning. It's eight pages long. I do not disagree with one word written on any page of that document. I think it's a good solid document. There are a lot of people here who are angry for a lot of reasons and I understand that. But the fact of the matter is the bottom line, is that public sidewalks are public. They need to be free and clear for everyone. It's the city's responsibility to make sure that they stay clear for everyone. I think that this document, this proposal, is a very good answer and a very good way to make sure the sidewalks are clear. For everyone. I think you should adopt it and I think you should do it today. Thank you.

**Adams:** Thank you, sir. David, if you'd come back up. To answer questions anyone might have. I have a couple just to -- the notion of a better definition of on foot. Standing. Your thoughts on that.

**Woboril:** You always want the lawyers to draft as simply as possible. I thought on foot would work. If you want to add words you could make very clear that on foot, whether stationary or moving. I think it's probably unnecessary. Yon I don't see the courting about concerned about this problem. If you want it make extra certain it never happen, you could add the words. You have a couple of clauses so probably want to add them to the on foot clause and the assisted mobility device.

**Adams:** And could add it as a legislative intent.

**Woboril:** This conversation might well do it.

**Fritz:** Why did you choose "on foot" rather than "standing"?

**Woboril:** Because we had to deal with people who were stationary and moving.

**Fritz:** Oh, I see.

**Woboril:** Standing wouldn't do it. Moving wouldn't do it. They're both on foot and at least in my mind. People moving, walking on foot and standing on foot are on foot. It seemed inclusive.

**Leonard:** To follow up on free speech. The last ordinance, like this that came by, I voted against specifically for that reason. So I pay particular attention when I when it was pointed out. Is there some way -- and in reviewing what she's written and looking at the ordinance itself, it looks like a semantic issue that can be straightened out fairly simply? Is that true?

**\*\*\*\*\*:** That is --

**Leonard:** She raised the concern about people can congregate for purposes of free speech if it's permitted activity and there's a couple of sections in the ordinance that seemed to conflict. G5 and g6, with each other. And looked to me in reviewing both of those sections we should be able to straighten those out.

**Jimenez:** I would agree, and the intent, here, was not to take away from the protected free speech rights. But to allow that activity actually to happen.

**Leonard:** Are you focused on that david?

**Jimenez:** That would be number 5.

**Leonard:** Actually say two different things. Each section.

**Jimenez:** Five and six.

**Woboril:** They're meant to, directed at different -- legally different events. What andrea pointed out. The exception in five only applies to rallies and demonstrations and meetings that are larger than 200 people because that's all that a permit is required. A 100 person event, a festival on a sidewalk wouldn't require a permit --

**Leonard:** The eight hours --

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**Woboril:** That's different. I can talk about why that is the way it is. But what was talked about is that it's possible to have an event smaller than requires a permit that wouldn't be subject to this exception.

**Leonard:** Right.

**Woboril:** And you might just take up the permit -- the permit language and not care if it's a permitted rally, demonstration or meeting or similar event. If you took it out, there would not be that gap between steer on 200.

**Leonard:** Do you agree it's a potential issue and we can address that after you review this later? That would make me more comfortable.

**Woboril:** Yeah, we didn't really spot that hole. As to six, would you like me to go through the thinking?

**Leonard:** Not necessarily. I just want to make sure we don't create a prohibition that we didn't intend because somebody didn't have a permit. I'm not asking you to explain these sections to me so they're written to my satisfaction. Rather than -- rather, if we have a conflict when what we've written and what we intend to straighten that out and I think andrea pointed out a potential problem.

**Woboril:** If we eliminate the permit clause in five, it wouldn't be in conflict with six. Six is permissive. If it's an expressive event over three people, it's an exception.

**Leonard:** Ok.

**Woboril:** So the hole we have to fill is non-expressive events.

**Leonard:** But don't have a permit.

**Woboril:** Don't have a permit up to 200 people.

**Leonard:** You can figure out how to do that.

**Fritz:** Thank you. That was a helpful line of questions. There was in the previous version, the issue of three people as an assembly but two people or one person. Are we saying that any such assembly can be in the area where sitting and lying are allowed, so we aren't worried about how many are doing the assembling?

**Woboril:** Mr. Nolan worried about whether this affected assembly. It does not. It affects a certain behavior that might occur in an assembly. These prohibitions have not effect on the ability of people to congregate on the sidewalk.

**Adams:** We don't speak to --

**Woboril:** What it would do, up to three people, would have an effect on people's ability to sit in the pedestrian use zone. As part of that assembly. Now, a government can place a reasonable time, place and manner how people conduct their expressive events. The city had to decide at what point it's willing to give up the pedestrian use zone to sitting for an assembly. Do you do that -- is there significant enough community interest at the point that 20 people assemble that you're willing to let them assemble and sit in the pedestrian use zone. We picked three in past years and said once an assembly gets to that size, or below that size, there's plenty of this -- in this proposed code, plenty of room in the non-pedestrian use part important people to sit. I think it's a low threshold, at the point three people have an assembly, we've made an community decision, if this passes, that they can use the pedestrian use zone for sitting also. So it was a question of at which point does the assembly get big enough that the community is willing to give up the pedestrian use zone for sitting and it's pretty close to zero when you look at the range of the assembly sizes we see. Am I making sense here?

**Fritz:** It sounds like if you've got three or more people, they can sit in the use zone.

**Woboril:** That's what we decided. We're giving then the pedestrian use zone. Allowing a block and of the pedestrian use zone.

**Fritz:** I don't understand how that meets the purpose of what we're trying to do.

**Woboril:** Well, we wanted to be very liberal. Council wanted to be very liberal with speech events and freely give up the pedestrian use zone for true expressive events and didn't want to get gained by one or two people who would claim that.

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**Fritz:** So explain how we don't -- we get around the claims. How can we tell it's a free speech assembly? We talked about this in the oversight discussions, the police said they were going to liberally construe that. But the council wanted at least a certain gravity to the group of three people who are going to make the asserted claim. So if you're going to make an exception to sitting in the zone, if you want to do it for one person who claims an expressive event, two, three, four, at which point does the size of the group and the event size cause you to want to give up the pedestrian use zone to sitting. Only for sitting, not assembling.

**Fritz:** Right, but since this came out a month or so ago, i've been watching behaviors downtown and many people do sit in the zone that will be allowed for them to sit in. With the signs, whatever -- just there are some pretty sheltered spaces between the planters and benches where it's pretty safe and comfortable to sit. I'm not sure we need that exception --

**Adams:** That made sense when you're prohibited from sitting or lying on the whole sidewalk.

**Fritz:** But now we have plenty of space, so why not say we want the assembling to be done there?

**Adams:** If you can work on that, that'd be great.

**Leonard:** I think we need to talk about this. That's the -- that's why i've voted against every iteration of this ordinance until possibly now. You've got to be very careful in this state, more than any other state, in terms of our free speech provision in our constitution, and thus, the balance that we try to achieve and fail every time in court up until now. I think we need more conversations with dave about the implications of limiting free speech events as opposed to sitting in line in pedestrian zones because free speech events, as I understand, you're distinguishing from sitting or lying and that there's some characteristics that make a free-speech event, a gathering of people distinct from simply using the pedestrian zone to sitting or lying. And if we confuse the two, we're going to potentially constitutionally get ourselves in trouble.

**Woboril:** It's actually the converse.

**Leonard:** That's usually the case with me. [laughter]

**Woboril:** People engaged in an expressive event end up being allowed to do things that people not engaged in an expressive event -- do things that other people can't do and that's sit in the pedestrian use zone. What you're saying you're going to make an exception for speech activities and once they get above a certain level --

**Adams:** We're able to regulate as you said, time, place and manner, even for expressive speech event.

**Woboril:** You can certainly go well beyond three.

**Leonard:** Here's the part i'm trying to get clear. Are you saying for free speech events we can regulate whether or not they occur in a pedestrian zone?

**Woboril:** Not the assembly.

**Leonard:** That was the point I was making.

**Woboril:** To some extent, you could --

**Leonard:** You can't have it there. You have to be in the other areas where people sit and lie.

**Woboril:** It depends on the circumstances and the city doesn't desire to go there. And this doesn't go anywhere near determines whether the assembly can occur in the pedestrian use zone.

**Leonard:** Let's make sure we're not requiring a permit of people to be in pedestrian zones, so let's make sure we don't do that, and in the follow-up with commissioner Fritz, it sounded like you said we made a decision to allow three or more people to be in the pedestrian zones as long as they're free speech events and not simply sitting or lying, and then what I thought I heard said by someone on the council was, well, we can just eliminate that from the list of options, that has free speech events of three or more, that's when I said, wait a second, if you say to three or more people, you can't have this free speech event, say they're protesting the use of animals at a fast food restaurant and the products and you say, no, you're violating the -- you're violating the ordinance we passed to

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keep the pedestrian area clear, are you saying we could say don't eat the meat in this restaurant, you're violating the ordinance on keeping the pedestrian zones free?

**Woboril:** Not saying that. No. We're piling our negatives and exceptions up.

**Leonard:** You said I had it reversed. The point I was trying to make was if we say we can regulate that, my point was, I think we're going to be in constitutional hot water.

**Woboril:** We don't come anywhere near trying to do that. Maybe we should use examples. If people want to stand outside of mcdonald's saying don't eat meat, this doesn't touch them?

**Leonard:** Then how do we know three people who aren't homeless and aren't congregating for the purpose of expressing their first amendment rights when approached by a police officer, saying you're in a pedestrian right-of-way, wait, I a second, we're mentally communicating with each other and other protest of the meat this restaurant, we just don't use signs. We can convey our thoughts telepathically. And protesting to the universe the use of meat in this particular restaurant. How do we regulate that?

**Woboril:** Don't. You don't. In excess of caution, you decided when you met that -- you would try out the number three and see what happened.

**Leonard:** Ok.

**Woboril:** And it wasn't a practical problem. We haven't seen the scenario you've described. I think at all. And it hasn't been a practical problem.

**Leonard:** Just to be clear, we cannot -- we cannot regulate the -- those that are exercising free speech rights in a pedestrian zone.

**Woboril:** You can manage them and place reasonable time, place and manner restrictions on them. It's unclear how far you can go. But I think it's -- when you're allowing three people to sit, rather than two, I think we're going to have no problem because the imposition on the speech event that the that point is not telling them they can't assemble or speak, but they have to move a few feet away to do it, until they reach the critical mass of three. The imposition is relatively minor.

**Adams:** If it's ok with you commissioner, I would like to you put this out in writing so, it might seem a little more clear. As I said at the beginning of the presentation, this is a very complicated difficult complex issue. Not only with the competing uses, but with the rights and responsibilities and we want to get it right. Commissioner Fish.

**Fish:** I'll be interested in the follow-up discussion. For example, when we use reasonable time, place and manner restrictions on certain kinds of labor demonstrations we encourage our friends that are protesting unfair work practices and have a banner to do so in certain places on the sidewalk --

**Adams:** Not everywhere.

**Fish:** -- they're exercising free speech in front of the building but not necessarily in a place that blocks the pedestrian corridor. I'll be interested in that follow-up from you. But I just have a question that goes back to the judge. I think you and I were in his courtroom when he issued his decision and gave a lengthy explanation of why he felt that the sidewalk obstruction ordinance was unconstitutional and he was very clear in his opinion and in the rather unusual proceeding where he gave some free advice to all the party about his view on this question that he was not ruling on free speech grounds on eighth amendment ground Oregon criminalizing homelessness or equal protection grounds.

**Woboril:** That's right.

**Fish:** He was ruling on the grounds of preemption.

**Woboril:** Yes.

**Fish:** And he felt --

**Adams:** What's that?

**Fish:** He described it as the city's ordinance was too broad and was otherwise preempted, superseded by state law, which was a disorderly conduct law and it's clear he thought one the

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defects if the sidewalk obstruction was it was too broad. It left no place where people could engage in conduct that might be constitutionally permitted. And so i've been struck in the development of this particular proposal that there's been a concerted effort to create safe places where people can sit and lie and exercise and do whatever they want within those areas. But is there -- in creating those zones, is there still a potential preemption problem or do you believe that's been -- that -- is there still a potential problem of preemption or do you believe by creating the zones and using the regulatory framework, that that issue is overcome?

**Woboril:** The judge was concerned about potential vagueness, talked about when we had a colloquy, talked about that and urged the city to do a better job, what he saw as a overbroad problem.

**Fish:** Sidewalk to street was too much.

**Woboril:** Biting off too much.

**Fish:** From building to sidewalk, excuse me.

**Woboril:** We address with this approach, that concern and I think we've been responsive -- he certainly would not characterize, giving us direction, but we get the benefit of his thinking, certainly and this lines up with thinks thinking and to the breadth and concerns about vagueness. The idea of preemption, when the state has a criminal statute that addresses certain behavior and the municipality cannot also criminalize it with a higher penalty or allow lesser proof for it. It's the state's business at this point. And saw enough language in the previous version of the code about obstruction, we characterize it as obstructions, rather than obstructing, but he saw enough in the code about obstruction that he was willing to say it really addressed obstructing, which is what the disorderly conduct --

**Fish:** Rather than competing uses?

**Woboril:** Rather than competing uses. And disorderly conduct deals not with a potential conflict but an actual confrontation between the uses. Very narrow and intense focus in drafting this proposed code is to organize uses.

**Fish:** Uses, ok.

**Woboril:** Before --

**Fish:** And that's important and it's also important we've spent time thinking about the first amendment free speech issues because Oregon's constitution is unique --

**Woboril:** Quite unique, yes.

**Fish:** And we've looked at other potential constitutional issues. I also recall in the conversation with the judge that he acknowledged that the city had the duty to regulate the sidewalks, and the question was using what tool. That's the challenge in getting the right balance.

**Woboril:** We were put back on our heels by the decision but the city felt it has this inherent authority to manage the sidewalks and a responsibility to do that. We got back at it and this is the result.

**Adams:** What i'd like to do is digest the --

**Leonard:** Can I follow up?

**Adams:** Of course.

**Leonard:** The requirements -- were the violations of that criminal sanctions or violations under the law?

**Woboril:** A number of versions ago, it was criminal. I think council two versions ago turned it into a non-criminal sanction.

**Leonard:** And that remains so in this ordinance?

**Woboril:** Yes.

**Leonard:** So it's a violation?

**Woboril:** Yes.

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**Adams:** So people have an opportunity to resolve the infraction in a non-criminal way before it -- worse case scenario, turns criminal?

**Woboril:** Yes.

**Adams:** You had a comment.

**Fritz:** I need to clarify what I said and what my question is because i'd like to hear more -- are we going to continue this until next -- we're going to vote next week. I would like to digest everything i've heard and look into the questions i've heard. I thank everyone for coming and your participation in this process. It's been a good discussion. My concern is not that people living outside will be challenged for sitting in the pedestrian zone and question about whether they have a free speech problem or right, whether they're exercising that right. My concern is why would we allow anybody to sit in the pedestrian zone regardless of house status if the purpose is -- housing status, when there's to be a free passage when we're careful that there's a -- why not say you -- if you can go four feet or six feet over, you can do it there.

**Woboril:** You can exercise your free speech by sitting down.

**Fritz:** Exactly, you stand up or sit down or exercise them on this side. Why can't we do that?

**Woboril:** We believe that's defensible. You take less risk, the less you prohibit.

**Fritz:** Thank you. I'd like to talk to you more about that.

**Adams:** I want to thank everyone who testified. Those who have already left. Very helpful. Appreciate the willingness to engage in conversation. That's really useful for us, that kind of back and forth. Great testimony. I want to thank warren and david for work thus far. This will be continued to next thursday, do we have a time certain?

**Moore-Love:** 3:00.

**Adams:** 3:00 next thursday on the 6th. Thank you very much. We're recessed -- we're adjourned. [gavel pounded]

At 5:24 p.m., Council adjourned.