



CITY OF  
**PORTLAND, OREGON**

OFFICIAL  
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **16TH DAY OF FEBRUARY, 2011** AT 9:30 A.M.

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

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

Item Nos. 156 and 158 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>
<p><b>146</b> Request of Richard Ellmyer to address Council regarding raising property taxes (Communication)</p>	<b>PLACED ON FILE</b>
<p><b>147</b> Request of Barry Joe Stull to address Council regarding Free Camp David W. Crowther (Communication)</p>	<b>PLACED ON FILE</b>
<p><b>148</b> Request of David Yandell to address Council regarding drug dealing on 6th Ave (Communication)</p>	<b>PLACED ON FILE</b>
<b>TIMES CERTAIN</b>	
<p><b>*149 TIME CERTAIN: 9:30 AM</b> – Adopt budget adjustment recommendations and the Supplemental Budget for the FY 2010-11 Winter Supplemental Budget process and make budget adjustments in various funds (Ordinance introduced by Mayor Adams) 15 minutes requested</p> <p><b>Motion to amend to appropriate \$45,000 for the Office of Cable Communications and Franchise Management to carry out a Broadband Strategic Plan. This appropriation is funded out from General Fund Contingency:</b> Moved by Commissioner Fritz and seconded by Commissioner Fish. (Y-3; N-1, Leonard)</p> <p>(Y-4)</p>	<p><b>184418</b> AS AMENDED</p>

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<p><b>150</b>    <b>TIME CERTAIN: 9:45 AM</b> – Tentatively deny appeal of East Portland Neighborhood Organization Land Use and Transportation Committee and modify Hearings Officer’s decision to approve with conditions the application of the Portland Water Bureau for amendments to the 2003 Powell Butte Conditional Use Master Plan, environmental review and adjustments for construction of water system, park facility and trail improvements at 15800 SE Powell Blvd (Findings; Previous Agenda 132; LU 10-169463 CU MS EN AD) 5 minutes requested</p> <p><b>Motion to accept addendum to Findings and Conclusions, IV Decisions (G) to specify Hazard Notification Area:</b> Moved by Commissioner Leonard and seconded by Mayor Adams. (Y-3; Fish absent)</p> <p><b>Motion to deny the appeal and uphold the Hearings Officer’s decision as modified; adopt findings as revised:</b> Moved by Commissioner Leonard and seconded by Commissioner Fish. (Y-4)</p>	<p align="center"><b>FINDINGS ADOPTED</b></p>	
<p align="center"><b>CONSENT AGENDA – NO DISCUSSION</b></p> <p align="center"><b>Mayor Sam Adams</b></p> <p><b>151</b>    Appoint Laura Young to the Port of Portland Citizen Noise Advisory Committee for a 3-year term to expire November 30, 2013 (Report) (Y-4)</p>		<p align="center"><b>CONFIRMED</b></p>
<p><b>*152</b>    Authorize an Intergovernmental Agreement with Portland State University for \$12,000 for the support of the First Stop Portland program for logistic and planning services for visiting delegations (Previous Agenda 135) (Y-4)</p>	<p align="center"><b>184408</b></p>	
<p align="center"><b>Bureau of Planning &amp; Sustainability</b></p> <p><b>*153</b>    Authorize a Grant Intergovernmental Agreement to accept \$700,000 from the Metro Regional Government for City staff to create a concept plan for the Barbur corridor as part of the Construction Excise Tax Planning Grant Program (Ordinance) (Y-4)</p>		<p align="center"><b>184409</b></p>
<p align="center"><b>Bureau of Transportation</b></p> <p><b>*154</b>    Authorize a contract with the lowest responsible bidder for the NE Sandy Blvd; 47th to 82nd Road Rehabilitation project (Ordinance) (Y-4)</p>		<p align="center"><b>184410</b></p>
<p><b>*155</b>    Amend Intergovernmental Agreement with Oregon Department of Transportation to increase the dollar amount and include an addendum to the Statement of Work for the Transportation Growth Management grant for the Outer Powell Boulevard Conceptual Design Plan (Ordinance; amend Contract No. 30001334) (Y-4)</p>	<p align="center"><b>184411</b></p>	
<p><b>*156</b>    Authorize agreement with Peregrine Sports, LLC for usage of parking spaces in a surface lot (Ordinance) (Y-4)</p>	<p align="center"><b>184421</b></p>	

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<p><b>*157</b> Authorize a contract with the lowest responsible bidder for the SW Harbor Dr/SW River Pkwy Improvements Project (Previous Agenda 136) (Y-4)</p>	<p align="center"><b>184412</b></p>
<p><b>*158</b> Authorize the Bureau of Transportation to execute a Temporary Construction Easement with Multnomah County, a political subdivision of the State of Oregon, as part of the St. Johns Pedestrian/Freight Project (Previous Agenda 137)  <b>Motion to amend to substitute the exhibits:</b> Moved by Mayor Adams and seconded by Commissioner Fish. (Y-4) (Y-4)</p>	<p align="center"><b>184422</b> AS AMENDED</p>
<p><b>*159</b> Authorize the Bureau of Transportation to execute Temporary Construction Easements with both GHS, LLC and Oregon Health and Science University, as part of the SW Moody Ave Improvements: SW River Pkwy to SW Gibbs St Project (Previous Agenda 138) (Y-4)</p>	<p align="center"><b>184413</b></p>
<p align="center"><b>Office of Management and Finance</b></p>	
<p><b>160</b> Authorize a contract with Landmark Ford to furnish police sedans for Fleet Services in the contractual amount of \$1,187,576 (Report) (Y-4)</p>	<p align="center"><b>ACCEPTED</b></p>
<p><b>*161</b> Authorize agreements with Lloyd B.I.D., Inc. for program management and collection services in the Lloyd Business Improvement District (Ordinance) (Y-4)</p>	<p align="center"><b>184414</b></p>
<p><b>*162</b> Amend contract with Comcast Illinois/Ohio/Oregon, LLC and Comcast of Oregon II, Inc. to add \$500,000 for regional broadband services to local governments, schools and public agencies throughout Multnomah County (Previous Agenda 139; amend Contract No. 30000346) (Y-4)</p>	<p align="center"><b>184415</b></p>
<p align="center"><b>Commissioner Nick Fish</b> <b>Position No. 2</b></p>	
<p align="center"><b>Portland Housing Bureau</b></p>	
<p><b>*163</b> Authorize application to the U.S. Department of Housing and Urban Development for an Economic Development Initiative Grant of \$370,500 for the development of Block 49 in the North Macadam Urban Renewal Area (Ordinance) (Y-4)</p>	<p align="center"><b>184416</b></p>
<p><b>*164</b> Authorize Intergovernmental Agreement with Portland Housing Bureau and Multnomah County, Health Department, Environmental Health Services Department to provide match for the Multnomah County HUD Healthy Homes Grant (Ordinance) (Y-4)</p>	<p align="center"><b>184417</b></p>

<p style="text-align: center;"><b>Commissioner Dan Saltzman</b> <b>Position No. 3</b></p> <p style="text-align: center;"><b>Bureau of Environmental Services</b></p> <p><b>165</b> Amend contract with Skylab Architecture LLC for additional work and compensation for the Columbia Boulevard Wastewater Treatment Plant Support Facility Project No. E09023 (Ordinance; amend Contract No. 30001585)</p>	<p style="text-align: center;"><b>PASSED TO SECOND READING FEBRUARY 23, 2011 AT 9:30 AM</b></p>
<p style="text-align: center;"><b>Commissioner Randy Leonard</b> <b>Position No. 4</b></p> <p style="text-align: center;"><b>Bureau of Water</b></p> <p><b>166</b> Amend contract with Black &amp; Veatch Corporation to increase compensation and scope of work for Bull Run Dam No. 2 Tower Improvements (Ordinance; amend Contract No. 37587)</p>	<p style="text-align: center;"><b>PASSED TO SECOND READING FEBRUARY 23, 2011 AT 9:30 AM</b></p>
<p><b>REGULAR AGENDA</b></p> <p><b>Mayor Sam Adams</b></p> <p style="text-align: center;"><b>Bureau of Transportation</b></p> <p><b>167</b> Vacate a portion of SE Bush St and a portion of SE 100th Ave subject to certain conditions and reservations and designate a portion of Portland Parks &amp; Recreation property for Water Facility Purposes and assign it to the Portland Water Bureau (Second Reading Agenda 142; VAC-10073) (Y-4)</p>	
<p style="text-align: center;"><b>Office of Management and Finance</b></p> <p><b>168</b> Establish a City policy discouraging employee use of personal scented products in the workplace (Ordinance) 10 minutes requested</p>	<p style="text-align: center;"><b>PASSED TO SECOND READING FEBRUARY 23, 2011 AT 9:30 AM</b></p>
<p><b>169</b> Accept bid of Stellar J Corporation for the Columbia Blvd Wastewater Treatment Plant Chemically Enhanced Primary Treatment for \$2,450,358 (Procurement Report – Bid No. 112419) <b>Motion to accept the Report:</b> Moved by Commissioner Fish and seconded by Commissioner Fritz. (Y-4) (Y-4)</p>	<p style="text-align: center;"><b>ACCEPTED PREPARE CONTRACT</b></p>

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<p style="text-align: center;"><b>Commissioner Dan Saltzman</b> <b>Position No. 3</b></p> <p style="text-align: center;"><b>Bureau of Environmental Services</b></p> <p><b>170</b> Authorize a contract and provide payment for construction of the Stark Inflow Controls Project No. E10003 (Second Reading Agenda 140) (Y-4)</p>	<p style="text-align: center;"><b>184420</b></p>
<p style="text-align: center;"><b>Commissioner Randy Leonard</b> <b>Position No. 4</b></p> <p style="text-align: center;"><b>Bureau of Development Services</b></p> <p><b>171</b> Authorize a temporary operating loan from the Bancroft Bond Interest and Sinking Fund to the Development Services Operating Fund to provide interim funding (Resolution) 15 minutes requested (Y-4)</p>	<p style="text-align: center;"><b>36846</b></p>

At 11:31 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **16TH DAY OF FEBRUARY, 2011** 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; Kathryn Beaumont, Chief Deputy City Attorney; and Pat Kelley, Sergeant at Arms.

<p><b>172 TIME CERTAIN: 2:00 PM</b> – Appeal of South Portland Neighborhood Association against Design Commission’s decision to approve a building addition at 4310 SW Macadam Ave (Hearing; Previous Agenda 81; LU 10-145100 DZM) 1 hour requested</p> <p><b>Motion to tentatively grant the appeal in part, deny the appeal in part, and uphold the Design Commission's decision with modifications, specifically: (1) Council determined the holding cells, processing area, and associated offices is a detention facility that requires conditional use review; (2) the Council agreed to include BDS staff's revised conditions B and C, as well as a new condition requiring conditional use review of the holding cells, processing area, and associated offices as a detention facility (second condition on page 2 of BDS staff 2/10/2011 memo):</b> Moved by Commissioner Leonard and seconded by Mayor Adams. (Y-4)</p>	<p><b>Disposition:</b></p> <p>TENTATIVELY GRANT THE APPEAL IN PART, DENY THE APPEAL IN PART AND UPHOLD THE DESIGN COMMISSION’S DECISION WITH MODIFICATIONS; PREPARE FINDINGS FOR FEBRUARY 23, 2011 AT 10:30 AM TIME CERTAIN</p>
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At 2:30 p.m., Council adjourned.

**LAVONNE GRIFFIN-VALADE**  
Auditor of the City of Portland

By Karla Moore-Love  
Clerk of the Council

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

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**Closed Caption File of Portland City Council Meeting**

This file was produced through the closed captioning process for the televised City Council broadcast and should not be considered a verbatim transcript.

Key: \*\*\*\*\* means unidentified speaker.

**FEBRUARY 16, 2011            9:30 AM**

**Adams:** A few announcements. If you -- there's no clapping in the chamber. We try to keep the chamber as welcoming to alternative points of view as possible. But if you do have a physical or emotional need to express yourself, then you can do -- what's it called? Jazz hands -- five fingers. Five fingers jazz hand. And if you don't like something, you're free to do this. No signs are allowed in the city council chambers that rise above your chin and under local law if you're a lobbyist and defined as if you speak for or authorized to speak for a business or organization, then you need to note that as part of introducing yourself. Your self-introduction is only your name. That possible declaration. We don't want your address. We don't want your phone number. The clock in front of you counts down from three and we're really glad that you're here. If I could have Andy and Tammy and Amy and we'll start with those three. I'm really pleased today to recognize the -- I'm really glad to recognize you. And I do this as I walk. The small business advisory council was a creation a number of years ago, a joint effort between the office of mayor, Vera Katz and the office of city commissioner Jim Francesconi. It was something that I provided staff support on and felt strongly about given such a high percentage of our economy rests on the shoulders of not just medium sized businesses or small businesses but more than a lot are local area small businesses and that's great because I think small businesses are the engine of innovation and they can be family friendly. When not working at them. You might have a few minutes were your family or open a business that actually serves family, as Tony does and I'm glad you're here and I'm pleased to read this fancy proclamation for entrepreneur week. The net new jobs created throughout the united states in the past decade have come from the creative efforts of entrepreneurs and small businesses and whereas, entrepreneurship is vital to Portland's growth and prosperity and the partnership for 21st century skills identified entrepreneurial literacy skills as one of the 21st century content areas critical to the success in communities and workplaces and more than 70% of young Americans envision starting a business or doing something entrepreneurial as adults and a broad coalition in Oregon and throughout the united states are actively engaging in enhancing entrepreneurial opportunities with the national consortium of entrepreneurship, education, and whereas, encouraging youth to be excited about entrepreneurship and working to expand the knowledge, skills and attitudes of Portland youth and adults to be successful entrepreneurs which is crucial to our long-term growth as a city and state and nation and the research completed by William Wallsted of the University of Nebraska, that 81% of business owners, 88% think it's important to teach students about and the house of representatives resolved to recognize the first annual national entrepreneurial week on February 24th, 2007 and whereas national entrepreneur work focuses on ways in which entrepreneurial education can bring together the technical and problem solving skills essential for successful workers in future workplaces and I, mayor Sam Adams, do hereby proclaim the week of February 20th to be entrepreneurship week.

Congratulations. [applause] I need some oxygen. [laughter] It's pretty early, but thank you. Please, we have before us Andy, who is chair of the small business advisory council, Tammy, who is the director of the small business development center, and Amy, who is a client of the small business development center to tell us a little bit more about the local perspective.

**Andy Frazier:** Benjamin Franklin said without continual growth and progress, such words and achievement and success have no meaning. The business ecosystem can not survive without them.

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The vast majority of jobs and innovation comes from entrepreneurs and small business. Over the last year, the small business advisory council has worked to solidify membership and relations in our partnerships. The partnerships between the SBDC, Mercy Corps and others has never been stronger, reaching thousands of small businesses with the touch of a button. We came together to encourage you to vote for additional funding that would directly benefit small business and build a strong foundation to our economy. Our organization and the thousands of small businesses in our city recognize for us to have a healthy community we need a healthy economy. I'll end with a quote from one of America's successful entrepreneurs, Henry Ford. Keeping together is progress and working together is success. This summarizes the objective for the leadership of SBAC and the other organizations representing small businesses in Portland. So tell us more, I want to introduce Tammy, the director of the small business development center.

**Tammy Marquez-Oldham:** Thank you very much. Good morning and thank you for making time for this very important testimony. As director of the small business development center at Portland Community College, I'm pleased to report to you all that small businesses are creating jobs. We have the benefit of seeing that every day in the work we do. I think that what is important, the jobs are created by small business. But I think of equally important is how that's being done. What I've learned over the last five years in my capacity as a small business development center, it's truly an investment made on the part of the small business development practitioners, combined with the commitment of the small business owner toward their own growth and development. I have yet to meet a small business that operates without a person. And, therefore, our center of focus is heavily on entrepreneur development. We begin this and we help to foster of development of the person who is then able to grow their business and create jobs. In 2010, the small business development center entrepreneurs created and retained 440 jobs and the year before that, 229, and when I reported that then, I was proud of that number. 130 of the small business owners increased their sales by \$7.9 million.

**Adams:** Over what period?

**Marquez-Oldham:** 2010.

**Adams:** Wow: In this recession, that's amazing.

**Marquez-Oldham:** Amazing and also access capital in the amount of \$2.4 million. We're very focused on the economic impact and focused on how that occurs. It's the combination of small business education with ongoing active committed small business advising that makes these results possible. I think it's one thing to hear the story from me as the director of the center, but I think more importantly, to hear it from the entrepreneur who is impacted by the work at the SBDC.

**Amy Boggs:** My name Amy Boggs. We do residential cleaning in the Portland area, and my story, I've been running this business for eight years.

**Adams:** What's the name of your business?

**Boggs:** Sparkling palaces.

**Adams:** And does it have a website?

**Boggs:** Sparklingpalaces.com.

**Adams:** Any sales going on this week? [laughter] Think about it.

**Boggs:** We just passed valentines so we were doing it. We're gearing up for spring cleaning right now. But I started when I was 20 so had the business for eight years, I dropped out of college and couldn't do higher education, I couldn't cut it and looking back, I'm not convinced -- I have a high school diploma -- was cleaning houses was an option for me at 20 years old and I had a crazy passion. I love to clean. So I was cleaning houses and somebody said, Amy, you should make a business of this. I tried. For the first years, I was not only doing the technical work but trying to run the business and bringing in partners to help me clean and it was like, my brother, it was a disaster. So -- [laughter] when I walked into the doors the SBDC, I didn't have anything for attracting clients or being able to schedule. I was scared of the taxes and there was all of this stuff I



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didn't know. Having not gone to college and for the past two years, they immediately put me into the small business management class and I got immediate advising because I needed lots of help. The advisories saw something in my -- the advisors saw something in me and saw a passion and gave me the right tools and resources and then I could immediately start to apply to my business. We have an incredible system that tracks our clients and does scheduling and payroll and in quick books and we pay taxes -- [laughter] It's amazing and I never thought we would be able to even understand what that is. I've learned about our business entity and the hurdle, how on earth am I going to hire employees? I'm the technical percentage. People want Amy to clean their house. How can I get employees to do my job out there. Now we have a robust hiring system and a training program that gives folks the tools they need to be successful in the business and the greatest compliment I get now, my employees, my sparklers are better cleaners than I am. We have people saying I like Kristin better. [laughter] That's the success of working with the small business and I lean on them a lot and get a lot of advising from them, it's so hard being an entrepreneur and going through everything we go through. So much of my personal is intrinsic to my business. It has to succeed for me and I lean on them a lot because I know they believe in me. And one thing that Tammy said that was so useful and I heard this at the very beginning was I was so wrapped up in what is my business going to do? How are we going to be successful? And she said Amy, your business is just a vehicle to get you where you want to go in life. So today, we're building a business that could be franchised or sold, and I can take a vacation at some point. Not now, in the near future. [laughter] And I wouldn't have had any of those tools or resources without SBDC and I'm here sitting here feeling incredibly grateful.

**Fish:** I think this deserves a round of applause. [applause]

**Adams:** Yay. How much is a house that's approximately -- [laughter] -- 948 square feet?

**Fish:** I think the city attorney is beginning to perspire.

**Adams:** Congratulations, it's a very inspiring story and keep at it. Thank you all.

**Boggs:** Thank you very much.

**Adams:** We'll now hear from two other invited panelists. If they would please come forward. We have two more. John and -- I have too many papers, I apologize. John --

\*\*\*\*\*: Joanna.

**Adams:** And Joanna. Welcome.

**Fritz:** The block of wood moves so you can move it forward a little bit.

**John Hanes:** I'm John, executive director of Mercy Corps. I'll be brief. I was predisposed not to come and speak but I put on a tie -- I think we need broader and more substantial -- Joanna is a great -- Joanna is a great example. And building a microenterprise that started from scratch and it's in a traded sector. Employing people in Portland and I'll defer my time to her and also just applaud the partners that have pulled us in. We're not driving this partnership, but are pleased to be involved with this group.

**Adams:** Before we hear from Joanna, Mercy Corps Northwest for the work you do on a microenterprise basis and the whole host of other ways. Your international work sort of eclipses the work you do in your own backyard. So thank you.

**Hanes:** Thank you.

**Adams:** Joanna.

**Joanna Guzzetta:** I'm honored that John invited me to come and last time I was here I was project manager for PDOT and inspired to start my own business back in 2006 and it really, really tugged at me, one night I developed a business plan and a contain garden and we design and sell container garden in Portland, and businesses and residential properties and I love it. I fell into a big problem. The weight issue on rooftops and decks for these containers where they get so heavy because you're putting so much soil in there and the weight of them, it was really creating a big problem. When I didn't find anything out there that I liked, I invented a product called packing pearls and it's

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a light weight filler for pots and it's recyclable and reusable and can last for years and can be used over and over again. As I invented that and thought, I need cash for the raw materials and everything. I have been going through a project at SBDC and they helped me to develop a business plan and took me over to Mercy Corps Northwest and this was in a time -- none of the banks were giving out loans. This was December of '08 and I presented my business plan to them and they believed in my product and liked what they saw and gave me a business loan to buy all the raw materials and example I needed to pursue this and I have a patent pending on it right now. I'm proud of it. So basically what happened is incredible. We were featured in "Better Homes and Gardens" and awarded an award at sustainability at an important show for independent garden centers and published in a garden book. Not only our designs but also for the packing pearls. We have -- I've excused distribution in Canada and have sales to Australia and requests from Great Britain for this product. Solving a product for my client and didn't realize how important this problem was worldwide and I also have vendor contracts, we've been on the vendor list for construction projects in New York and the Midwest. And locally, which is what I'm really most proud about, I purchased 90% of my materials from the Portland local businesses. And I employ seven people right now for assembly, along with the developmentally disabled, disadvantaged clients, they help to put the kits together. A wonderful relationship I have with them. And 2010, alone, my sales increased by 300 percent. So I'm thankful to Mercy Corps and I came for a loan but the -- they gave me so much more. They gave me their vote of confidence which meant the world to me and I come to them and they have a wonderful program that they set up that I always am engaging in because there's so much to learn. You know, as the previous speaker spoke. There's so much to do and learn and really makes me feel I'm not alone. We're starting to go through another growth spurt and I expect to hire more people in the Portland area and more raw materials. The most wonderful vision -- the experience I had, one of many was when I went to order -- I developed a product called drain shield and went into the local company who makes them for me and I shook his hand. It was the first time I had purchased something that I had invented and he made. And I shook his hand and looked around and it really dawned on me that I was having an effect, you know, on these people's lives. And so it's been a great experience and I'm very excited to be here and I want to thank Mercy Corps so much and the SBDC for everything.

**Adams:** Where can people find your product online?

**Guzzetta:** I have brochures here if you would like.

**Adams:** That would be great. But tell the people watching on tv.

**Guzzetta:** Well, [www.packingpearls.com](http://www.packingpearls.com) and you can order there and we sell to local garden centers, there's a list there.

**Adams:** Congratulations, I think another round of applause. [applause]

**Fritz:** And since I think possibly not everyone will stay for the entire fascinating proceedings this morning, in the winter budget adjustment we'll be voting on later. The mayor put in \$150,000 for small business working capital and not only recognizing your accomplishments through this proclamation but also adding more money because that's a pretty impressive number. \$7.8 million.

**Adams:** And more to come. Thank you. The city council will now come to order. We're not offended if you need to get back to work. We appreciate this very much. Today is Wednesday, February 16th, 2011. It's 9:30 a.m. Good morning, Karla.

**Moore-Love:** Good morning.

**Adams:** Please call the roll.

[roll call]

**Adams:** Communications is the first order of business. Would you read the first item.

**Item 146.**

**Leonard:** Mr. Ellmyer.

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**Adams:** Is the individual here? Good morning, Mr. Ellmyer, welcome back.

**Richard Ellmyer:** My name is Richard Ellmyer. The adult bankers, brokers and barons of Wall Street mismanaged their businesses so badly that they caused a painful recession in our country of the deputies running America's biggest car companies avoided accountability and mismanaged their business so badly, that they, like their wall street brethren needed to be bailed out by us taxpayers. Closer to home, the adults in charge of the Portland Public Schools plead for a bailout to deflect accountability for their mismanagement of public money. After years of adult mismanagement of the public funds by the Portland city council, it cried for public safety and bamboozled just new voters to pay for their fiscal sleight of hand and public cowardice. Funds were diverted to other expenditures until the bill came due. The Portland Public Schools seeing success at covering up the fire bureau's financial failure saw a strategy. All they needed was a slogan, for the kids. This issue is not about kids. It's about adult mismanagement of public funds. Every argument against the PPS tax increase is based on this fundamental fact. Our demonstration in front of Portland city hall will send messages. The Portland Public Schools, Multnomah county and Portland's legislative delegation in Salem are put on notice that adult mismanagement of public funds includes, a, a failure to include in a annual public budget true maintenance and capital replacement costs and unfunded liability. B, diverts monies to capital replacement costs to any our expenditure. Number two, raises new taxes in Portland recognized as being one of the hardest hit cities in the world by this recession with the highest property taxes in Oregon, a state with more than 10% unemployment is a very, very bad idea. The heaviest economic burden as always will fall on the poor and the low-income. A group, the Portland Public Schools school board, has denied exemption proving PPS institutional opposition to progressive taxation. Democracy is not a spectator sport. We can defeat the outrageous and insulting PPS tax increase but need to take organized public action to do it. Please join us outside today from 11:30. Bring a sign and a lunch and your sense of humor. Satisfy your need to do something to stop the adults who have mismanaged our public funds and want us to pay for it again. Thank you.

**Adams:** Thanks for your testimony. Please read the title for communications item number 147.

**Item 147.**

**Adams:** Welcome back.

**Barry Joe Stull:** Good morning. I'm Barry Joe Stull. Free Camp David W. Crowther was my project in the way I pranked Portland for decades now. From -- it's one of the things we did, we camped out on Pioneer Courthouse Square and I founded Free Camp David W. Crowther and named it after a notorious Portland police scandal. Scott Deppie was convicted of using forged prescriptions to obtain narcotics and they admitted they had brought drugs with them to the St. John's club to plant on the bikers and fabricated information justifying the search warrant and they went in to plant dope and the officer was fatally shot and killed. We have a \$50 million moth-bound Wapato jail in this county and thousands sleeping outside, I've browbeat council about the extra judicial mugging that came as a consequence of my landlord bringing an eviction case locking me out illegally and destroying my property and research for my book and beating me out of a quarter of a million dollars and I drew attention that we have a housing crisis and PGE park turned into a soccer stadium and hundreds sleeping outside in this weather and that's shameful because we can house the Clydesdales when they come to Waterfront Park. We have a statewide mandate -- and Judge Gallagher heard the norm and norm junior, remember, came when I was working with Portland Community College and he could do his homework in the back of a pickup truck. The way the anti-camping was unconstitutional and the 1995 legislature had a mandate that the municipalities like ours have a policy to address the social problem caused by camping on public property. There's an exception for a permitted campsite. There's nothing stopping us from allowing people to have some semblance of shelter and dignity. The only thing stopping it is the absolutely mean spiritedness and absolute bankruptcy policies that you all know that I know all too much

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about. So I would draw your attention to it and I'll give this to Karla and I'll see you all. And by the way, the potties -- the -- the hottie hand-warmers are saving lives.

**Adams:** Barry, it's time -- thank you. And I'd encourage you because you do a lot of research and encourage you to research how much the local governments in the four-county area each spend of their own money on services -- no, you're done with the mic.

**Stull:** Letting you know, listening to you.

**Adams:** How much money each loam government including counties and cities within the four-county area how much they spend on affordable housing and homeless services. Do that research and come back and talk to me.

**Stull:** I'm sleeping outside.

**Adams:** Do the research and come back and talk to me.

**Stull:** Come to my camp. You're welcome.

**Adams:** Do the research. We'll hear now from item 148.

**Item 148.**

**Adams:** Mr. Yandell? All right. Moving on to the consent agenda. Does anyone have any item to pull from the consent agenda? I have I guess noted two have been pulled. 156 and -- to the regular and 158 for an amendment. Do you want to read those? Would you read them before we pull them.

**Moore-Love:** We're going to take the amendment -- do you want to do that before?

**Adams:** No.

**Moore-Love:** Ok. We'll read them when we take them.

**Adams:** Any other items to pull from the consent agenda? Please call the vote on the consent agenda.

**Consent agenda roll.**

**Fritz:** I didn't want to pull this because I'm very happy about it, item 153 is an intergovernmental agreement to accept \$700,000 from metro to create a concept plan for the Barbur corridor and several thousand dollars in contract provisions and encourage the Bureau of Planning and Sustainability to engage neighborhood and community groups in those contracts. Aye.

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

**Adams:** Aye. [gavel pounded] Consent agenda is approved. We have a time certain at -- a 9:30 time certain. We're a little far behind. Please read the title for ordinance, budget adjustment item 149.

**Item 149.**

**Andrew Scott, Office of Management and Finance:** Good morning.

**Adams:** Good morning, Mr. Scott.

**Scott:** I'm Andrew Scott, the financial planning manager for the city. We're considering the winter budget adjustment. The winter bump adjusts 43 funds by a total of \$25.9 million. On the general fund side, it appropriates \$2.4 million to capital projects, this was money that the council has set aside in the fall bump to deal with immediate capital needs. It sends \$800,000 of compensation set-aside to the police bureau for hiring and this was also set aside by council in the fall bump were finally appropriating to the police bureau and finally, makes a \$222,000 net adjustment to the general fund contingency. About \$727,000 of that is actually spent out of contingency but \$504,000 is put back in for that net \$222,000. We had a work session on February 8th and I want to note the major changes from the work session to now. There were a number of capital program changes and those are detailed in exhibit three where we ended up on that after the council conservation and graffiti abatement was funded at \$130,000 for ONI and \$40,000 for the police bureau.

**Adams:** And a minor amendment to propose to council -- for council's consideration.

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**Fritz:** I have an amendment also. The cable broad band was unfunded. I was able to reduce it from \$55,000 to \$45,000 by a generous donation from Comcast to fund outreach to underrepresented communities. We had the kickoff a few weeks ago in this chamber, a couple weeks ago and it was filled with enthusiastic people from all kinds of backgrounds wanting to get this broadband plan done. My son teaches at Marshall High School and he certainly experiences the digital divide there where not all the students have access to internet services which many of us take for granted and I believe getting this plan done will offer the strategy for reaching that -- bridging that digital divide is the best way to go and move that we fund the request at \$45,000.

**Fish:** For purposes of discussion, I'll second the amendment.

**Adams:** Moved and seconded.

**Leonard:** For discussion.

**Fish:** For discussion.

**Leonard:** You'll note that I have not requested money to hire back any of the over 150 people laid off at Bureau of Development Services and specifically in areas dealing with neighborhood enforcement of nuisances such as abandoned cars, abandon houses, some of which have become attractive nuisances because of longstanding vacancy, particularly north precinct. Drug dealers, drug users, and while I appreciate the sentiment commissioner Fritz brings with this amendment, I don't think this is an appropriate time nor an appropriate allocation given the variety of needs that we have at the city. I don't have a problem with the intent. I do have a problem with this coming at the last minute. It's not something I can support, given the need that's I hear from neighbors daily around the city about our lack of enforcement of basic nuisance laws due to lack of funding. So I'd recommend this worthy project commissioner Fritz is supporting be rolled into the budget discussion for July 1st, as I plan to do in the request that I would like to make to restore some of our nuisance inspectors at BDS.

**Fritz:** The plans are already underway and the council approved that. We want to get it done in a more expedited fashion and be able to implementing the improvements and fold in that plan into the Portland plan.

**Adams:** The biggest benefit is?

**Fritz:** The excitement that's already been generated. Each of your offices sends a delegate to this steering committee and I think it's a well thought out strategically efficient plan to deal with this important problem.

**Adams:** Ok. Please call the vote.

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

**Adams:** Aye. [gavel pounded] Amendment is approved. My motion is to restore the ask on graffiti. My fear is that there's every indication that graffiti is on the rise. Our existing efforts are not keeping up with the increase.

**Scott:** I will just note, this includes \$130,000 for ONI for graffiti and \$40,000 for the police bureau.

**Adams:** I withdraw my motion.

**Fritz:** Thank you supporting that effort. And did have a discussion last week regarding this should be done in the general budget process. In talking with the mayor, the need is definitely urgent and with one police officer and one graffiti specialist in ONI, we've been doing well and we're still behind and the problems generally get worse during a recession and they do contribute to other nuisances in neighborhoods, the presence of graffiti and we have a multiple-pronged strategy to involve more volunteers and the volunteer efforts have increased many times over the past year and that's been successful. It has to be partnered with city staff doing the enforcement part. Notifying property owners that they're -- of their responsibilities and also offering those volunteers to help.

**Adams:** If I -- unless there are objections from council, could the folks that are working with the graffiti, please stand up and introduce yourself. Marsha, that's all of you. [inaudible] Thank you all

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very much for your work. This scares the heck out of people and it's a crime and a blight on the city. And I especially Marsha, how long have you had the position? Obviously, you've got a little bit of help but the city relies on the success of you doing your job on this issue more than I think anyone understands and I hope I speak for everybody when I say to all of you thank you very much [inaudible] You're going to get it now. Any other discussion on the proposal in front of us? Ok.

Anyone wish to testify on --

**Scott:** Mayor, I think we need to open the hearing.

**Adams:** According to the Oregon state budget law ORS 294.480, I open a hearing on the fiscal year 2010-2011 winter supplemental budget. Any member of the public who wishes to testify?

**Moore-Love:** We have four people signed up. Please come on up. Amy Boggs, Marta Bones and Bruce Silverman.

**Adams:** Amy was with the proclamation.

**Moore-Love:** And Joanna Guzzetta.

**Adams:** Welcome, glad you're here. Give us your first and last name.

**Bruce Silverman:** Hi, Mr. Mayor and city council, I'm Bruce Silverman, I'm a regional vice president for Whole Foods Market, pacific northwest and responsible for the stores in the Portland area. I came to just speak on -- in support of the nonprofit grocery in the new Columbia neighborhood. Our company's mission is to bring the freshest tasting, freshest and best tasting natural foods to our customers and certainly part of that mission is to see those kind of products available in neighborhoods that are under-served and I know the new Columbia neighborhood is in particular is an under-served neighborhood as far as grocery stores close by and I had the opportunity -- I work with the food initiative advisory council and had a opportunity to meet Charles who was setting up the store in new Columbia and I wanted to come as a businessman in town and lend my support to the grocery store and I've personally told them I'd be happy to advise them and help them build a strong foundation for success.

**Adams:** How's the Hollywood store doing?

**Silverman:** In what way?

**Adams:** Sales.

**Silverman:** We're growing, we're doing very well.

**Adams:** Good, it's a great store.

**Silverman:** Thank you, thank you.

**Fish:** This gentleman and his company recently did a cooking demonstration in Director Park and --

**Adams:** Did you help?

**Fish:** We called them --

**Silverman:** Flash kitchen.

**Fish:** And they're doing it around the city teaching people how to do healthy cooking.

**Silverman:** Pop up cooking schools. We do 12 a year.

**Adams:** We appreciate that partnership.

**Silverman:** Thank you very much, I appreciate it.

**Adams:** Hi.

**Marta Bones:** My name is Marta Bones and I'm the executive director at Pittock Mansion. I'm here to thank you for your support and since 1968, the collaborative relationship between the city and society has brought the strengths of both to bear for benefits of the mansion and thousands of local and national visitors. The society assumed responsibility for the day-to-day operations of the mansion in 2007. Since then, we've laid a strong foundation for basic relations and adopted a strategic plan that will guide our work for the next few years. We define our mission statement. Our mission is to inspire, understanding and stewardship of Portland history through the mansion and its collection and programs. Our goals will ensure it remains a vital part of the community and

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include offering in-depth offerings like the behind the scenes tour and kids camp. And making the visitor experience more interactive and working with the city to address structural preservation needs and which is important to me, because the mansion turns 100 in 2014. The budget requests included in the winter bump will fund repairs. It causes me great concern because the stone railing is broken and eroded in sections making it dangerous to thousands of park goers. I'm pleased this funding will ensure visitor safety and appreciate what it means for the city and society. As I think about the mansion turning 100 and what it represents and means to the city of Portland, I think of Henry and couldn't be achieved out the city and society working so well together. So thank you for listening to my comments, particularly, commissioner Fish, along with the park staff for being open to our concerns and exploring the best ways to address them. Mayor Adams, commissioner Fritz, commissioner Leonard, I'm grateful for your support. Thank you so much.

**Adams:** Thank you very much.

**Fish:** Marta Bones was recruited for this position from Brooklyn where she has a MFA?

**Bones:** No, I have my undergraduate in art history.

**Fish:** And works with a strong board, mayor, and a little known fact, that the Pittock's were not only involved with the founding of the Rose Festival but also behind what we call the Martha Washington. And made a great contribution to our city. And --

**Adams:** And talking to students I can guarantee you that they didn't know it existed and didn't know how it fit into its history and your work on improvements for more educational programs is. Appreciated.

**Bones:** It was great to have them. I enjoyed meeting them.

**Fish:** Thank you for your great work.

**Adams:** Anyone else wish to testify? Karla, please call the vote.

**Fritz:** Aye.

**Fish:** First I want to thank Andrew and Ken and Claudio and the whole OMF team for the way they managed the winter bump process. This is a lot more complicated than you would think. But there's a ton of work that goes on get can the material prepared and the debate and the trade-offs and I want to thank our stellar team for their good work and particularly, mayor Adams for having the vision to set aside \$2.4 million for capital projects and the reality is our biggest ongoing challenge is finding capital dollars and in a number of our bureaus we're falling behind because of the tremendous use of things like our streets and parks. But the fact that we don't have the capital dollars to keep pace. So even \$2.4 million makes a dent in our backlog. So Sam, thank you for that vision. There's a few people I would like -- because there's a number of programs in here that council supports, I would like to call out a few so the public understands what we're doing. The community garden initiative, which is a cornerstone of the city-county climate action plan calls for a thousand new gardens by the end of 2012 and the winter bump will be allocating \$125,000 for the capital side of that project which will allow us, I think, to build out an additional six gardens this year. I want it specifically thank Sarah Huggins who were at parks bureau and Abbey Warren and Emily Hicks who have been working so diligently on the community gardens initiative. And next, to show you that some of these things are mundane but important, the \$135,000 set aside for east Delta Park will help us to repair a sewer line that is at risk of breaking. No one, particularly the people who use the fields would prefer we don't have a sewer line break any time soon. This is not sexy work but important. Last year, the council made a historic commitment to reinvest in forest park and coming out of tough reports last year. Part of the winter bump adds \$190,000 to repairing culverts at risk of eroding. And in league with the Japanese Gardens and many other first-class amenities but it's 100 years old and in need of repair and this money allows us to do long overdue structural work. The bump includes \$166,000 for Waterfront Park turf renovation. This allows us to restore the integrity of the grass and the subsurface in Waterfront Park and you challenged us to match that from the private sector. The project will cost over \$320,000. We'll be sitting down with

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the people who permit and use the park to ask for private sector contributions so we can do that work this year. And finally, we had testimony on the village market and I'd like for acknowledge from Janus Youth Village are Amber and Charles. Will you stand? Amber and Charles are part of a community coalition trying to bring a grocery store to what the mayor and I refer to as a food desert. There are 3,000 people who live at the new Columbia. They don't have a grocery store that's accessible and we've had challenges getting commercial activity on the main street of the new Columbia and last summer in the main park there was -- there were challenges, including a shooting. As part the a neighborhood revitalization plan that brings healthy food to people who live there and creates jobs for people in the community and also puts a presence on an important street corner, eyes and ears on the park, we think this is an innovative idea, mayor, in concert with your larger agenda addressing food deserts around the city would give us another tool to provide healthy food to people. So Amber and Charles, thank you for your good work and the \$50,000 will be matched from our foundations and private sector to allow them to open the grocery store. Thank you both. And finally, I'd like to acknowledge Fred Cowell and the team at parks including Zari and my team who have been working on prioritizing these tasks. We have hundreds of millions of dollars of need on the capital side and with your support, we'll be going out for a capital bond measure in the next couple years but through the short temple, you've allowed us to fund three of our biggest priorities which will create jobs and meet longstanding needs and I'm appreciative of your support. Aye.

**Leonard:** Aye.

**Adams:** Well, as you heard, during the summations before the votes, the resources that we have invested in the community through this bump come from the previous more conservative predictions of what our revenues would be. In other words, we cut sooner and earlier than we had to in part to be able to fund some of these high-priority needs and almost all of them are matched with community effort or cash, and so I thank you all for -- my colleagues and the great city team for being very frugal and leveraging what little money we have for the best benefit of the city. Aye. [gavel pounded] It's approved. That gets us to time certain land use appeal, item 150.

**Item 150.**

**Adams:** And thank you, Bureau of Financial Planning for your good work. Andrew, Claudio, everybody.

**Adams:** Hi, welcome back.

**Sylvia Cate, Bureau of Development Services:** Thank you, mayor. And commissioners. I'm Sylvia Cate with the Bureau of Development Services. And with me, you'll recall that the council heard the appeal on the Powell Butte master plan amendment environmental review and adjustments on February 3rd at 2:00 p.m. The council agreed with arguments of the appellant on two points and directed staff to return to council on February 16th with revised findings and two conditions of approval. One to address safety, and one to demonstrate that state and federal permits have been obtained prior to building permit issuance. These revised findings and conditions of approval are presented in the findings and conclusions document before council. Since that document was sent to you, staff has provided an addendum today which adds more specificity to the condition of approval to develop an emergency notification plan and includes a map of the hazard notification area.

**Leonard:** I'd like to move that amendment.

**Adams:** Second. It's been moved and seconded. Any council discussion? Do I need another person? Can I go with three?

**Moore-Love:** We're good with three for this.

**Adams:** Please call the vote on the proposed amendment.

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



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**Adams:** Aye. [gavel pounded] Amendment is approved. Can we go with three on the full vote? Yes? Ok. Unless there's anyone that wishes to testify on item 150 -- please call the vote. You do want to testify?

**Linda Bauer:** Yeah, I decided to.

**Adams:** Great.

**Bauer:** Linda Bauer, resident of Pleasant Valley. I hope this map that's being entered into the record is draft. Because this property right here is built on a huge --

**Leonard:** Can't see what you're pointing at.

**Bauer:** This property right here is built on a huge fill and will never ever flood but it's within the boundary, and two properties down is a USGS monitoring system complete with solar and everything and they're not scheduled for notification. So if the draft is -- if the map is draft, then staff can bring people in and let people out as they see fit.

**Adams:** The legislative intent is that's illustrative of providing staff the authority to make the changes as need in finalizing the notification system.

**Bauer:** Thank you all very much.

**Adams:** We will over-notify to error on the safe side, is that fair?

**Tom Carter, Portland Water Bureau:** That's fair. Tom Carter with the water bureau and this was the starting point notification is not intended to be the ending point as you noted. POEM will work with the residents, is my understanding.

**Adams:** And we'll make sure, you, Linda and other expertise, you'll see it as we finalize it to make sure -- because you know this part of the city really well. Ma'am?

**Kathryn Beaumont, City Attorney's Office:** Good morning, Kathryn Beaumont, City Attorney's Office. May I suggest that for purposes of clarity, you have what you would be voting on would be a motion to deny the appeal to uphold the hearings officer decision as modified and with the additional condition that have been proposed and to adopt the findings presented to you today.

**Leonard:** So moved.

**Adams:** Moved and seconded. Unless anyone wants to testify on the motion, that was helpful. Karla, would you please call the vote?

**Fritz:** Thank you very much, Kathryn Beaumont and water bureau staff. And thank you to Linda Bauer and the Pleasant Valley neighborhood association and others who were here last week. This has been a good process and I appreciate having the appeal before council. As discussed at the hearing, I believe the hearings officer error in interpreting the appellant's argument that engineering was the solution rather than meeting that portion of the criterion which deals with safety and livability of nearby residential lands. The revised findings represent a site-specific measure associated with this development that assists the local residents in addressing a emergency plan for notification should an emergency warrant evacuation. Where the tank will need to be rapidly discharged and I also appreciate the work of the Portland Office of Emergency Management in partnering in the ongoing plan for this and commit the resources involved with the neighborhood involvement to that effort. I believe that the findings now represent a more defensible position for the city in regard to meeting the livability criteria associated with the conditional use approval and this really shows the benefit of the conditional use process in being able to target site-specific solution that meet everybody's needs. Thank you to staff and everybody involved. Aye.

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

**Adams:** Aye. [gavel pounded] Thank you. So approved. That gets us to the items that were pulled.

**Moore-Love:** You said we'd take those last.

**Adams:** That gets us to the regular agenda. I missed a week and I lost all memory of process. Please read the item for 167.

**Item 167.**

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**Adams:** Second reading and call the vote.

**Fritz:** Mayor, I have an amendment to propose, a new proposed condition of approval for the vacation. Which I've discussed with staff. Last week, there was discussion there would be four fewer parking spaces available because of the street vacation and that was of concern to me in being able to support the street vacation so I propose a condition of approval that there will be four -- off-street parking spaces and labeled for park use, seven days a week and the future -- there will be further discussions on the best location and how do this, which the staff has asked for, but I believe that the four parking spaces with minimal hours of use during week days and in the afternoon and weekends is necessary for approving this vacation.

**Fish:** Is the amendment --

**Leonard:** I have not -- if you want to second this for the purpose of discussion.

**Fish:** Second it.

**Adams:** Moved and seconded.

**Leonard:** This is the first I've seen the amendment. This is a project assigned to me by the mayor. It could quite possibly be something I could have considered, but what we heard last week from staff was some flexibility when the project is actually completed to try to identify four or even more spaces and I'm uncomfortable putting this condition in at this point until the project is completed and we know how much spaces we have.

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

**Fritz:** Can we hear from staff?

**Dee Walker, Bureau of Transportation:** Dee Walker, right of acquisition, I've been speaking with Jim Coker, the supervising project manager from OMF regarding this and he would like to have a little bit of time to work on language so our office and your office is comfortable. Due to a couple of different factors for the parking and how it's being labeled, there's different signs going up at the entrance of the parking lot and he just wants to make sure it can be used for visitor as well as for park purposes. So I just wanted to convey that today.

**Leonard:** I guess what I'm trying to express, I can't support an amendment at all, given staff represented last week that our intention is to try and identify adequate parking for guests at the park and that I think it's -- it's premature to block out any amount for anybody for any reason at this point until the project's completed but certainly our intent is well articulated last week by staff is to do the best we can.

**Walker:** And that's what Jim Coker said, he would like to do no amendment and actually do it later when it's actually being --

**Fish:** Mayor Adams, I'm satisfied -- this is a second reading, I'm satisfied, I seconded the motion and I intend to vote no that the legislative intent has been established and the commissioner in charge says he wants to revisit. I think we have enough to vote on the underlying ordinance.

**Fritz:** As long as we have the legislative intent that four spaces are necessary to accommodate the lost off-street parking I can approve it as written and appreciate Dee and Jim who has addressed my concerns and happy to have my office work with you on that.

**Leonard:** I want to be crystal clear, when the project is done, if for some reason we determine it's not possible to have four parking spots, there may not be four parking spots. I want to be clear about that. What we'll try to do is manage the spots in a way to be able to create four or maybe more, but I can't commit at this point and I want that to be part of the record, can't commit to reserve any parking spots for anyone at this point.

**Walker:** Understood, and Jim Coker said he also needed to meet with other departments and department heads to determine this. He felt that there was a good chance, but that he also wasn't in a position to make it set right now as well. Since there are other departments and people that to weigh in on this. But he thought there was a good chance they could --

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**Adams:** And he's one to be loathed over-promise and is very cautious about -- but definitely think the legislative intent is clear.

**Fritz:** I would like to withdraw my motion and also ask commissioner Fish, since it's a park use we're talking about here, if we can't accommodate the parking on the emergency communications site you would work with the neighbors to figure out alternative parking.

**Fish:** Thank you, I would commit to that because I understand that the council's agreeing to make a good faith effort to reach the aspirational goal without committing us to any particular plan.

**Fritz:** Thank you.

**Walker:** Thank you.

**Adams:** Thank you. Aspirational goal, our best effort but we can't guarantee it. So you've withdrawn your motion and you've withdrawn your second and ready to proceed with a vote as part of a second reading.

**Fritz:** Thank you, to all the staff involved, it's helpful. Aye.

**Fish:** Aye.

**Leonard:** Well, I -- I don't normally take time to explain my vote but want to make sure that everybody listening understands the import of this project. This is a culmination of not only a number of years of work to try and bring together all of the various emergency operations centers that currently exist on the west side of the river. In fact, the Portland Office of Emergency Management rents space on S.W. 6th, I think it is, S.W. 6th in downtown, the police bureau has its own emergency communications center and five and water has theirs, PBOT has theirs and this action we're taking actually is I think the final act the council needs to take to consolidate this piece of property that began with us purchasing houses back there some two, three years back, removing the houses after we purchased them and creating a centralized emergency communications center that will allow for the city to -- for the first time have a central gathering place for the council in emergencies or various entities in the city that have emergencies and also includes -- was part of the bond that the voters passed in November allocating \$4 million to bring the last financing piece to construct the project there. Which has been done very closely with the Bureau of Emergency Communications under commissioner Fritz's portfolio. So this for me is a very exciting project. One that I'm hoping that the neighborhood finds complementary to the neighborhood, particularly if we can find ways to open up spaces for people to park and if there's a opportunity to do more than four, I would want to do that. So thank you all for your support and I vote aye.

**Adams:** Well, it shouldn't go without saying that this wouldn't be before us if it weren't for the work, the leadership, the fundraising, the elbow grease of commissioner Leonard with going out and putting together a bond measure for the voters to consider, raising money for it and campaigning for it and getting it passed, barely. But getting it passed. A win is a win.

**Leonard:** Won by one. [laughter]

**Adams:** And in the process, we're going to be a safer city and a safer city without having to cut other very basic services in the city in the rest of the government over the next 10 to 20 years, because we have to have -- this type of emergency communications. And, of course, a lot of those have to be housed in facilities and that's what we're voting on here today. Change happened and improvements happen sometimes one piece at a time, like a mosaic, but this is actually a very big, good deal for the city of Portland, so thank you, commissioner Leonard.

**Leonard:** Thank you very much.

**Adams:** Aye. [gavel pounded] Approved. Please read the title for ordinance -- regular ordinance item number 16. Item number 168.

**Item 168.**

**Adams:** Commissioner Amanda Fritz.

**Fritz:** Thank you. Many people can relate to the constant sneezing and running nose and itchy and watering eyes that pester us.

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**Leonard:** I certainly can right now.

**Fritz:** Would you like a lozenge?

**Adams:** Always a healer. [laughter]

**Fritz:** According to the American Academy of Allergy Asthma and Immunology, the AAAIA, goodness gracious, approximately 50 million Americans suffer from some form of allergic disease like hay fever, asthma and food allergies. Certain chemicals can also cause allergic reactions and asthma flare ups for some people. Perfumes and fragrances are a combination of chemicals that can contribute to these allergic reactions especially to those already suffering from allergies, asthma or chemical sensitivities. And what's interesting about perfumes and fragrances, they're considered proprietary so there isn't a listing what the contents are. I was not aware of this problem until I started working in city hall. I have led a sheltered life in hospitals and school where there's not a lot of fragrance use and I've come to realize there's some perfumes I love to smell and others that make me cough and I'm unable to breathe which is a significant impairment in my ability to concentrate on whatever the person who's talking to me is wanting to convey. The symptoms can vary from upper respiratory problems, headaches, nausea, fatigue and skin irritations and these are well documented. We've received some comments questioning whether this is in fact a real problem that needs to be addressed. I believe it does. And being the commissioner in charge of wellness, I believe we need a city policy that discourages employees from using personal scented products while at the same time encouraging them to have a clean and good appearance and professional work attire, etc. We did hear feedback from city employees about the discomfort they experience in the workplace, which is what led me to investigate what other jurisdictions apply similar policies. Portland State University has a similar policy and the bureau of emergency communications is already fragrance free because of the particular sensitivities. So I've been working with Anna in human resources in developing this administrative policy. Let me be very clear. This rule is not about telling city employees how to manage their personal lives. It's requiring employees to maintain a clear -- clean appearance and we're not asking employees to radically change what they do. We're asking for everyone to be aware of the fact that some employees and citizens who visit us can be harmed by fragrance use and with that, Anna Kanwit will tell us more about the proposed policy.

**Anna Kanwit, Bureau of Human Resources:** Thank you, commissioner Fritz. Anna Kanwit, assistant director of the Bureau of Human Resources. The ordinance amends the current administrative rule 4.03 on dress and appearance to add a new section on fragrance in the workplace. As you know, the Bureau of Human Resources is responsible for maintaining, revising and implementing the human resources administrative rules which are binding policies on employees. A little bit of background on how we got here, although the commissioner did an excellent job. Over the past probably two years, I have received feedback from some employees asking why we don't have any statement citywide about the use of fragrances in the workplace. Last summer along with other revisions, I did send out some language to try and raise awareness of the fact as the commissioner stated that allergies to certain fragrances can cause serious health consequences to an employee and as an employer, we need to look at reasonably accommodating those issues so that employees can perform the essential functions of their jobs. We pulled that change at commissioner Fritz's request so we could further look at the issue and determine the best policy to bring forward. The research we've done looking at metro area jurisdictions as well as state of Oregon, shows that while most follow an ADA model, the accommodation, very few actually have an expressed policy, no one bans the use of fragrance. Few have an expressed policy on this issue. We do have several city bureaus that have workplace rules governing the use of fragrance but not a citywide policy. To the extent, this is citywide and we're on the cutting edge for the state of Oregon. It's not a ban, it asks employees not to wear colognes and perfumes and after-shaves where the only reason you're wearing them is to emit a scent. We also ask that employees avoid

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strongly scented personal hygiene products. We believe this has struck a balance between allowing most employees to continue to use the personal products they enjoy but also recognizing that this can be a serious health issue for impacted employees. The other thing the policy does is provides an explicit avenue for employees to come forward if they have an issue. We hope that that will encourage employees to talk to their supervisor if they're suffering from an allergy to fragrance in their workgroup and we've found that employees do need often to have that explicitly stated. If you have a complaint, go to your supervisor. You don't need to address it with your coworker, your supervisor should address the problem. Equally important, if not more important, the reason for a citywide policy to address this issue is even if we have a particular workgroup for example the records division in the police bureau is fragrance free. As those employees move perhaps to other city offices and bureaus conducting their work, they're exposed to fragrances that again can cause a damaging reaction. We did send the policy before you out for notice and comment to employees in December. Received quite a lot of feedback. I think over 100 responses, which is large. And the majority I would say about three-quarters at least were very much in favor of moving in this direction. The last thing, just to bring up, I did send it to you in an email. We have drafted a question and answer document that though it's not part of the binding policy is an attempt to address some common concerns that employees have here and so we think that will really help explain to employees why we're doing this and what they can do. To address their concerns or ensure their coworkers are not adversely impacted.

**Fish:** I have a few questions.

**Adams:** Yes, sir.

**Fish:** Anna, you and I are working on H.R. issues and in the past, we've talked about those things that have to be brought forward and changed through ordinance and those that have to be bargained and those that we can unilaterally implement. Can you tell me why you can't do this in the -- just implement?

**Kanwit:** Council delegated to Ken Rust the authority to implement changes to the human resources administrative rules. We've drawn the line where any change impacts compensation for employees which includes vacation and sick leave accrual, those things because that obviously solely rests with council to determine and we have also a gray area between what we consider major policy shifts within the city and have tried to bring those forward to council as well. So this is really in that category, and started out with us looking at a ban, which was not well received and the decision was to bring this back to council.

**Fish:** You've drawn a distinction between a out-right ban and the wording of this particular policy which asks employees to refrain. One way of looking at that is if you violate a ban, I assume there's disciplinary consequences. What is the consequence if you violate a request to refrain from some behavior?

**Kanwit:** There actually isn't a consequence. Unless we have a specific situation in the workplace or we have an employee who has come forward and who has an allergy to fragrances that's causing health issues in the workplace. That the point, it does become mandatory for that workgroup or, you know, whatever the segment of the employee population is, but what I think most importantly this does is we're asking people to really think about it. Wear your perfume at night and on the weekends. You don't need it in the workplace. We're working to raise awareness of this issue.

**Fritz:** If I might jump in with a further response to your question. First of all, one of the reasons we're bringing it to council is to publicize this is the new policy and everyone agrees on it on the council. And secondly, that the previous wordings with a lack of any wording in the policies before put the burden of proof on the sufferer to get doctors notes and wasn't clear that the supervisor had to do something about it. This policy says that if someone reports they have a sensitivity, it's up to the supervisor to do something about it.

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**Fish:** I appreciate that distinction, and I will tell you that -- I'm heavily allergic to certain kinds of perfume and makeup. So when I have guests in my office who have a lot of powder on and makeup on, you know, it could be -- men and women, just people who are frankly an actor, I have all kinds of reactions to it. My eyes get red and it affects my membranes and for some reason I'm allergic. I frankly haven't known what the protocol was to raise that with someone, because it always felt to me somewhat presumptuous to tell someone. And what I'm understanding, then, under this policy, we're creating a climate in which you can feel less inhibited about telling someone this causes a problem and then working it out?

**Kanwit:** Absolutely. And you know, along with the raising of the awareness, would be talking about signage. In offices. As we have in some bureaus and offices now. Because you can create particular work places fragrance free.

**Fish:** I guess I want -- I thank you for your -- your clarification earlier because I think there's been some misunderstanding of this particular ordinance and it's not a ban and not linked to a disciplinary policy but an attempt to raise awareness and create a mechanism where people can talk about allergies with a coworker.

**Kanwit:** Correct although we encourage employees to go to the supervisor and manager. Most employees are uncomfortable bringing the attention to the coworker.

**Fish:** Thank you very much.

**Fritz:** One final comment before we take testimony. I had conversations with Jeff Baer, to decrease ways -- dealing with the cleaning products and why we aren't dealing with that holistically, when, in fact, we are.

**Adams:** Who would like to testify?

**Moore-Love:** Three people are signed up.

**Adams:** Welcome back to city council. Glad you're here. I think you were first, weren't you.

**Jasun Wurster:** Either way, it doesn't matter.

**Adams:** Go ahead, please begin.

**Wurster:** I'm here to share with my fellow --

**Adams:** Name first.

**Wurster:** As if you don't know. My name is Jasun Wurster. I'm here to share what stinks about this confusing and repugnant aroma policy. Workers having an issue, it appears that the city that works is to a point where conversations that city human resources finds tough or embarrassing are resolved with a threat of disciplinary action if one does not change the way they smell. It does not sound like a place I would like to work, as if any of you would hire me, but to help me understand this knee-jerk wisdom behind this policy, can you clarify the following? How many serious health incidents have occurred over the past 5 year that have been directly contributed to strong scents? Is it masking the lack of cleaning of buildings due to budget cuts? Several OHSU doctors have labeled the Portland building as a sick building. Could this be the real problem creating asthma and heightened allergies? This appears to be a complaint based policy that the managers and supervisors are saddled with the burden of making sure that their daily reports pass the sniff test. Where can I find the process for official nose calibration so one sniffer is not over or under-registering? Does this include natural body odors? And are employees safe within the stink zone? Then there's the quagmire of spd's but I don't want to go there. Last year, Dan Saltzman was reported in the Oregonian about how vindictive one of his fellow co-workers is. Is there a review process that ensures this policy is effective anymore than providing remediation skills to empower employees to resolve their own issues or is the policy open to abuse. I give a hypothetical example, Samantha is furious at Danielle for standing up and supporting Rose, Samantha decides to be unethical and lie about Danielle's smell. How is Danielle to defend herself against Samantha's harmful, inappropriate tactics? Has anyone checked with risk management to see if there's vulnerabilities in process? By this time, is there any quantifiable scientific procedure for this policy based on parts

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per million or what is actually strongly scented or just a quantitative based process based on the oral factor of the offender? This is a poorly written policy, the product of dysfunctional leadership and the same kind of lack of communication highlighted by outside reviewers that pointed this out on 339 on the comprehensive annual financial report. Last, I'd like to point out that the city ordinance applies only to city employees. You five are exempt and that's wrong.

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

**Stull:** I'm signed up. Barry Joe Stull. Sorry to hear about your allergies. As a person with an invisible disability, I'm heartened to at least see the discussion. As we've heard there's some other opinions on how this should be handled. I wanted to reinforce that as was mentioned by the staff report that the ADA does play a role here and it would also be an employment matter separate to that under the Oregon civil rights legislation, which is -- which is interpreted and enforced by the -- enforced by the Oregon industry and civil rights division. There's two different sides of the coin. One, this being a building that people come into that may have the allergic reaction. There's the impact on them as this being a government building that would have to have those standards just like we have ramps or buttons on the elevators that are accessible for people in wheelchairs or the water fountains. There's that issue and I don't want to over-rate the importance of the city recognizing these other agencies have already taken action on this. We have the ADA. My personal experience shows how a lot of the disability legislation just is not at all enforced nor is it enforceable because we have to have heinous experiences to draw the lawyers into the fray that would create the pressures to address these kind of social concerns. I'm glad that we have these infirmities that show we have diversity and people with all types of abilities and disabilities and I'm celebrating the attention to this matter. Just please don't create legislation that you would be embarrassed by and if you could, please rely on the existing state and federal legislation. Thanks.

**Adams:** Thanks, Mr. Stull. Jeri.

**Jeri Jenkins, Bureau of Transportation:** My name is Jeri Jenkins, and I'm an employee with the city of Portland for nearly 20 years and I'm here today to support the ordinance that commissioner Fritz has brought forward and you're reviewing. I just want to share with you my personal experience around the issue of fragrance.

**Fish:** Move the mic closer.

**Jenkins:** I'd like to share my personal experience around the issue of fragrance. Three years ago, I began to experience severe and life-changing physical ills, my symptoms were extreme fatigue, chronic dizziness, sort of a brain fog, burning in my eyes and nose. And headaches. And after a lot of research and help, I found out that I was diagnosed with multiple chemical sensitivity. What that is extreme sensitivity to the smallest amount of chemical you could imagine. Things you would never think you would respond to if diagnosed with this and you begin to respond to it. So, um, the reason fragrance is relevant, commissioner Fritz, it's made of chemicals, dozens if not hundreds of synthetic compounds so if you have multiple chemical sensitivity it, what I learned to get well was to minimize my exposure and that was easy at home because I had control of my environment but it was difficult to do in the workplace because I had no control over the scents that others wore. Three years later, I'm significantly better and I don't remember the last time I had brain fog or chronic dizziness or my eyes burned. One, this is Portland, Oregon and we have excellent naturopathic care and I got treatment and I worked with a group that was supportive of me. The PBOT director and my manager and immediate group people supported me and on the eighth floor of the Portland building became fragrance free. My peers changed products and habits and behaviors to support helping me get well and I did get well. It was not a big deal for them and while people want to make this about something other than healthy air, they want to make it about employees don't communicate with each other, they want to make it about the long arm of government stepping in. It's simply about healthy air. It's an issue of an employer saying to all employees, we want to provide a healthy place to work. Healthy air and productive employees and

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it's simply good business sense to provide that opportunity for your employees. I could go on with one more example if you give me a minute.

**Fish:** Could you give us one more example?

**Jenkins:** I will. Because there's been discussion about whether or not another a city has brought this forward, I want to tell you about an article I read about the city of Detroit where a woman had asked her coworker to quit wearing heavy perfume. She had asthma, not chemical sensitivity but asthma. And fragrance exasperates many conditions, asthma, migraines, low grade irritation to your sinuses. In this case, she asked the coworker, the coworker declined and continued to wear heavy scent. We work in cubicle environments here in the city and I'm sure in Detroit. She asked her supervisors, they laughed at her. They acted as if it was her issue. This is the article I read, maybe they took liberty but later, finally, she got a lawyer. And under the ADA, she because asthma, because it was affecting her asthma, which affects her ability to breath which affects her ability to live, under the ADA she sued the city of Detroit. She won \$100,000 but they also had to implement the policy. The policy she asked them to implement several years before. Had they done that, there would have been no lawsuit, the woman would have been able to work in a healthy environment. And I recognize that this is gentler language, this is not a ban. For me it's a huge step forward, because for me, it's bringing recognition at a public level to an issue that I've seen the news reports, I've heard the radio commentators, people are making fun of this right and left, but it's a serious serious issue. It was a life changing issue for me and I'm grateful to have my health back, but I still have to stay away from fragranced products, and I have to stay out of meeting rooms where people are heavily scented. So I appreciate your effort here, and I appreciate even though there's a lot of ridicule, I appreciate the attention to it, and I'm hoping some of that will come forward in a way that the 10% of the population does experience this, will be recognized. It's an invisible disability is what it is.

**Adams:** Thank you very much. Thank you all for testifying. Anyone else wish to testify on this matter? This is a nonemergency. It moves to second reading. Any final thoughts?

**Fritz:** Thank you, Jeri in particular, to the courageous employees who have stepped up and privately or publicly to explain to people what this really means. And it is a serious issue, and it is something that affects the taxpayers of Portland, because we need our employees to be at work and functioning as well as they can be, and we need them to not be using the city's health insurance, which is paid for by taxpayers. You may think it's a frivolous type of ordinance, it isn't, and it's important, even if it's for a few folks. I appreciate Barry Joe's testimony also in that some disabilities are invisible, and they are no less real, they're sometimes more difficult for people to recognize as necessary for accommodations, and this week we celebrated the one-year anniversary of the Portland Commission on Disability, and recognized many of the advances that they've been able to make in just a short time. This is another step forward in that and we all need to be more thoughtful about the ways that we couch others' disabilities and indeed our own. Thank you very much for all your work. And thank you especially to Anna Kanwit.

**Adams:** Clarifying question, if I might. Are we -- one of the testifiers says the city council is exempt?

**Fritz:** We're city employees. I get a paycheck.

\*\*\*\*\*: We don't think you're exempt.

**Adams:** I didn't think so. So we're not exempt.

**Fish:** So my understanding is, council members are not exempt, this is not a ban, and there is no disciplinary trigger here. This is a request.

**Adams:** Mr. Wurster, how do you think we're exempt?

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



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**Adams:** That will be enough of that rudeness. But you as -- and the city attorney agree that we are covered by this rule. I just want to be very clear on the record, because it's the city attorney and you that decide.

**Kanwit:** Yes. And we all -- the attorney -- we agree and I think all the elected officials agree that you follow the binding resources policies, that are binding to all city employees. I think the distinction here that is causing some trouble is the fact that there's no discipline process obviously for you, because you report to the voters. You're accountable to the voters as opposed to those of us who are accountable to you or employees --

**Adams:** This does give the private right of action if we are out of compliance, an employee could bring an action against a city council member.

**Kanwit:** Absolutely. Because again, it's been discussed with the Americans with Disabilities Act does governs these types of issues, and we're required to make accommodations.

**Adams:** If I could make a comment, I have had the opportunity to work with Jeri for however many years I've been here, and I didn't know that you suffered from this disability, but for those of you that don't know Jeri, she is a smart and as level headed and as tough hard working employee as you will ever find. She is the furthest thing from what anyone could possibly describe as a whiner, weak, a complainer, a troublemaker. Nothing like that whatsoever. So frankly, Jeri, your testimony today, and just your personal story, is very surprising, and puts a human face on it. And the face of a lot of ridicule. And I really appreciate you coming forward.

**Jenkins:** Thanks for your work.

**Adams:** This moves to a second reading next week. [gavel pounded] Can you please read the title for procurement report item number 169.

**Item 169.**

**Adams:** Good morning, Ms. Moody.

**Christine Moody, Bureau of Purchases:** Good morning mayor, good morning city council. Christine Moody, procurement services. You have before you the procurement report recommending a contract award to Stellar J Corporation in the amount of \$2,450,358. The city identified eight divisions of work for potential minority, women, and emerging small business subcontracting opportunities. Subcontracting participation on this project at bid time was 13.1%. With work being performed in the areas of painting, insulation, masonry, survey, concrete, and trucking. Stellar J has committed to using a women owned business for some of the HVAC work, which brings their participation level up to 15.7% on this project. They're also looking for additional opportunities in underground piping and concrete work. I'll turn this back over to council, if there are any questions regarding the bidding process, Scott Gibson from BES is here to answer technical questions, and Bob Kinghorn from Stellar J is also here.

**Adams:** Where's the headquarters of Stellar J?

**Moody:** The headquarters of Stellar J, I'll ask Bob to come up here.

**\*\*\*\*\*:** In Washington.

**Adams:** Great. And this is obviously with a bid in hand, this is a high confidence transaction, right?

**Moody:** Correct.

**Adams:** Ok. Any other questions from council? I'll accept a motion to accept the procurement --

**Fish:** So moved.

**Fritz:** Second.

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

**Fritz:** Thank you again for your good work. Aye.

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

**Adams:** Aye. [gavel pounded] 169 is approved. Can you please read the title and call the vote for second reading item number 170.

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**Item 170.**

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

**Adams:** Aye. [gavel pounded] 170 is approved. Please read the title for resolution item number 170.

**Moore:** 171?

**Adams:** Sorry, 171.

**Item 171.**

**Adams:** Commissioner Randy Leonard.

**Leonard:** Director Paul Scarlett.

**Paul Scarlett, Director, Bureau of Development Services:** Good morning. Good morning Mayor and Commissioners, Paul Scarlett, Bureau of Development Services Director. I'm this morning in front of you asking for a loan, a reloan of temporary operating loan from the Bancroft bond interest and sinking fund. The reason we're asking for this loan is a number of reasons. Quick background, March of 2010, almost a year ago, we asked for a loan to provide us the opportunity to essentially navigate the unpredictable aspects of our finances. And the construction activities, the economic crisis, the volatility, we needed a loan to ensure that we were not -- that we would be able to be -- operate a cash flow. We wanted to make sure that in case we were not able to meet cost recovery, we'd have a loan to shore up any one day or one month of operating expenses. We're pleased to share with you that based on the major actions we took to balance budgets, which included letting go -- cutting more than 150 staff, we're in a position now that we're now operating at cost recovery, and as seeing that over the last few months, however, there are times when construction activities vary, and we may not meet cost recovery.

**Adams:** Cash flow management?

**Scarlett:** Cash flow management. Our proposal is, we are in a position right now to repay the loan that we borrowed last year, March, and given the uncertainty of what will happen in the out months, right now things are steady, but we don't have the necessary cushion to feel comfortable enough to not have a backup system, if you will. A loan. And so we're asking for the ability to pay back the loan along with interest that's been accrued, effective today, and we'd ask for a reloan that would be on the books or at least take effect tomorrow, February 17th. That would provide us the opportunity to sort of bridge the gap between this financial -- or fiscal year, which -- the requirement for a loan is to be paid by the end of the fiscal year, so June 30th, 2011. And we're wanting to pay it back now. We would have a loan on the books that would be again required to be paid the end of the fiscal year, so that would be June 30th of 2012. It really is a -- for us we have determined a prudent financial measure to have in place to allow us to mitigate for any unforeseen financial shortfalls. That's essentially the gist of it. We are feeling very confident that based on projections and the economic recovery, which we're seeing some slight indication and anticipate come spring and summer, our bureau will be in a position to operate at financial cost recovery basis on a regular basis and into the future. However, as you know, over the last two years there's been a huge fluctuations in the economy, so we just want to have a loan on hand in case some of these things are not realized. But we anticipate in our years not having to have another loan that will be in a better financial situation to rely independently on our own operating revenues, which is dependent mostly on permit fees. And there is a direct relation to construction activities which is anticipated to be picked up in the next several years.

**Fish:** I have a few questions if I could. Paul, for the benefit for people who are listening, could you describe what the Bancroft bond interest in sinking fund is and what the current balance is in the fund?

**Scarlett:** The -- maybe I can ask Denise --

**Leonard:** Maybe one of you --

**Scarlett:** We're able to repay it, but --

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**Fish:** Someone could give us a Bancroft 101, that would be good.

**Eric Johansen, Office of Management and Finance:** Good morning mayor and commissioners. The projected ending fund balance in this fund as of the end of this current fiscal year would be about \$11.8 million.

**Fish:** And what's the source of those funds?

**Johansen:** The source of funds are monies that are paid in on assessment contract payments that are -- where the associated bonds have been paid off, and those payments are coming in and go into the reserve account.

**Fish:** Do we have any city protocols or guidelines or rules on what we can and cannot do with that money?

**Johansen:** It's governed by charter. We've written a very recent memo covering this subject, where we are recommending that the fund not be further reduced, however, we approached this from the standpoint that a loan is different than a transfer out of the fund. So our position is that this loan is fine, if it were a transfer at a permanent reduction, we have concerns about the ongoing level.

**Fish:** The way this is describe assist a loan to be repaid and then a new loan issued. So it begs the question, why not just roll over the existing loan an additional year?

**Johansen:** Essentially that -- under budget law I believe we have to repay it in this year and go through the process of reloaning it.

**Fish:** Effectively that's what you'd be doing.

**Johansen:** Exactly.

**Fish:** Given what director Scarlett has said is the need for this money, which is to provide a cushion with some uncertainty in your projection, why a loan and not let's say a line of credit? Why take the whole amount versus setting up a de facto line of credit and using what you might need?

**Scarlett:** We consulted with OMF as to the different options, and this was the one that was recommended.

**Denise Kleim, Bureau of Development Services:** With a line of credit -- Denise Kleim, Bureau of Development Services. With a line of credit, there is a gap in terms of when we would receive funds. So for a line of credit we would need to expend funds, pull together documentation, submit that documentation, and then receive reimbursement for that. And there's a four to six or so week gap between the time the funds are spent and the time the funds are reimbursed. So that would actually contribute even more to cash flow issues than what we are requesting here with a loan.

**Fish:** Is the security for this loan just essentially a pledge against future revenues that you receive?

**Scarlett:** Yes. It would be repaid through the revenues that's generated through permit activities.

**Fish:** My final question is, have you projected in your budgeting for the next year the possibility that a school bond measure is successful and there are substantial permits and fees generated from that particular -- the Portland public schools bond effort?

**Scarlett:** I'm not sure I can answer to that level of detail. We have based on projection the meeting with economists that will be 3-4% growth increase in activities that could accommodate. I did meet with the school district director who is also planning on --

**Fish:** The documents that I think the mayor and I have seen, they've done some projections off what is a half billion dollars worth of construction generate in fee and permits and SDCS.

**Scarlett:** Above and beyond would be great.

**Leonard:** We take a very conservative approach projecting, and of course that's continued upon voter approval would not be part of our analysis. That would just -- as Paul just alluded to, it would be --

**Fish:** I guess my final question, thank you for the clarity in your answers -- the risk here?

**Johansen:** I think the risk here is if we don't get the kind of recovery that creates the cash flow that the bureau is expecting, it could be a need down the road to reassess this loan. I should also point

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out we will be coming back in a couple weeks with the line of credit request for the purchase of the permit tracking system as well.

**Scarlett:** Scheduled for next week, Wednesday I believe.

**Fritz:** What's the interest rate on the loan?

**Johansen:** The interest rate on the internal loan is set at the city's investment portfolio yield, so there's no give up in yield either side. Right now the loan rate would be a little bit in excess of a half percent. But it's tied to the city investment professional of portfolio yield.

**Fritz:** Where is it the money, revenues come from to pay back the first \$1.5 million?

**Scarlett:** Each day money comes in through construction activities, permit activities.

**Fritz:** Could I get a breakdown of what those revenues are?

**Scarlett:** On a monthly basis it's -- we have to bring in at least \$2.1 million to match our expenses, that's happening now. And we have currently about 500,000-700,000 in reserve. We continue to monitor that closely, but all of our activities is dependent on construction activities. Some lien collections. We can provide you a breakdown, I'm not sure what level you would like.

**Kleim:** If I could also add to that, the 1.5 million was put in our account, and was drawn down a couple of times. But that money has -- is in our account. Is in our reserve right now.

**Fritz:** We have 1.5 in that reserve?

**Kleim:** That's right. More than that.

**Fritz:** I'm looking at information the DRAC was given, and it seems like staffing percentage changes minus 7% over the last year. But many of the other indicators except for enforcement revenues are down way more than that. So I'm -- I'd like more information on how your cash flow is working and -- on those projections.

**Leonard:** What I'd ask and I had to be a little careful about requests from offices to BDS, because of the decrease in revenues and cut in staffing, you would think that if we laid over half the people the workload would drop by half, and the revenue even dropped more than that. But that's not the case, because we still get a lot of permits, they're just for low values. I'm going to request of you, commissioner Fritz, please send them to my office first, to the extent Sarah who is my liaison can answer them, I will have her do it, as a last resort I call on the staff to do it because they are working often times weekends and evenings to keep up with the current workload. So if you have specific requests for information, we may have it to give to you in our office, if not, we will get it from them and then forward it to you.

**Fritz:** Great. Thank you.

**Adams:** Is there anyone who wishes to testify on resolution item number 171?

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

**Adams:** Please call the vote on item 171.

**Fritz:** I appreciate your diligent work and I do recognize you're still battling the adversity of the recession, and I'll be in touch with commissioner Leonard to get more information in the meantime. I'm glad you have the 1.5 million to pay back and it seems simple to have that cushion for your ongoing operation. Aye.

**Fish:** Aye.

**Leonard:** Thank you Paul and your whole team for manning us through this crisis, and particularly OMF for helping us, it's been a life saver. Aye.

**Adams:** Aye. Thank you. [gavel pounded] Approved. Can you please read the title for emergency ordinance item number 156.

**Item 156.**

**Adams:** Can you give us an overview of what 156 is?

**Ruth Lane, Bureau of Transportation:** I'm Ruth Lane with the Bureau of Transportation. It's an agreement to use parking spaces in a surface lot, the lot is owned by Tri-Met and operated by the city. I manage the lot. It's for 25 spaces at the current monthly rate.

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**Adams:** Any other -- any questions from council? This is an emergency ordinance. I need one more vote. Anyone wish to testify on 156? Please come forward.

**Wurster:** Thank you, my name is Jasun Wurster. About almost three years ago working on commissioner Fritz's campaign I learned about what emergency ordinances were and the consent agenda. From reviewing emergency ordinance 156, I see that the need of the emergency is based on signage being placed up by April 1st. I don't agree that's an appropriate use of the emergency ordinance. Furthermore, this parking spot or parking lot should I say, comprises about half a block at 18th and Salmon, for mayor Paulson and Peregrine. It's being given away at the rate of about \$5 per day per spot. I don't think that is a realistic price for someone to have exclusive rights for 25 parking spots of prime space next to PGE park at that rate. So I ask that this be further reviewed to see if the monthly rate for this lot for 25 spots for about \$5 a day might not be appropriate and if the city taxpayers are not getting the maximum yield off of such a prime piece of property, as we know, parking is probably one of the hardest things to do in that part of town. I appreciate you revisiting this and also understanding my dismay at the use of an emergency ordinance in placing something like this on the consent agenda.

**Adams:** Thank you. So just to make sure I understood your presentation, this is -- this is property owned by Tri-Met who has contracted with us to manage it and you are the manager.

**Lane:** I am.

**Adams:** And it's the cost per spot is set by market.

**Lane:** It's just a market area study that we do pretty much annually. And it's -- that use is not going to be for PGE park events. That's separate this, is just for weekdays.

**Adams:** So it's for the rehabilitation center.

**Lane:** Yes.

**Fish:** The monthly rate is --

**Lane:** 110. Monday through Friday, that's what the permits are in that lot. It's for businesses in the lot.

**Fish:** [inaudible] That advertises I think 90 to \$95, so less than the full -- that are closer to 150 or more, so this rate was arrived at by looking at using it five days, not seven days, and based on a market study?

**Lane:** Right, and it's not downtown. It's only during commuter hours, and it's on the other side of the freeway.

**Adams:** It's intended to, as was alluded to in earlier agreements and conversations, this is part of the overall deal, but they had to do it at market rate, but the rehabilitation clinic, which is on that side of PGE park, needs access to parking. I'm pleased to see this move forward because I've also had calls from some of the businesses around the new rehabilitation center that are afraid that the rehabilitation center clients will crowd out their customers. Any additional discussion? All right. Karla, please call the vote on item number 156.

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

**Adams:** Aye. [gavel pounded] 156 is approved. We just have one more. Is 158, does it need to be amended?

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

**Adams:** Can you come forward? We'll do this really fast if we can.

**Item 158.**

**Adams:** So what is the amendment that meets to be moved?

**Marty Maloney, Bureau of Transportation:** I'm Marty Maloney with the Bureau of Transportation, right-of-way. Basically the amendment that needs to be in place in the ordinance would be an obligations agreement, the Multnomah county is requiring putting it into the easement itself, so it's just changing these a bit in the ordinance. Nothing else is changed.

**Adams:** The change is at the request of Multnomah county legal department.

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**Maloney:** Exactly.

**Adams:** I move it.

**Fish:** Second.

**Adams:** It's been moved and seconded. Any discussion on it?

**Fritz:** Do I have it in writing?

**Moore-Love:** Those were distributed in your packet.

**Fritz:** Ok. Thank you. And my staff has reviewed it.

**Adams:** Additional discussion? Can you please call the vote on the motion to amend.

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

**Adams:** Aye. [gavel pounded] Does anyone wish to testify on item 158? Can you please call the vote on the amended item 158.

**Fritz:** Thank you for your diligence. Aye.

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

**Adams:** Aye. [gavel pounded] Approved. We're in recess until 2:00 p.m.

At 11:31 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, and should not be considered a verbatim transcript.

Key: \*\*\*\*\* means unidentified speaker.

**FEBRUARY 16, 2011            2:00 PM**

**Adams:** Good afternoon, February 16th, 2011, it's 2:00 p.m. The city council will come back from recess. Karla, please call the roll.

[roll call]

**Adams:** A quorum is present. We shall proceed. This is a continuation of a land use hearing.

**Moore-Love:** Shall I read the title first, Kathryn?

**Adams:** Sorry.

**Item 172.**

**Adams:** Kathryn Beaumont, City Attorney.

**Kathryn Beaumont, City Attorney's Office:** Mayor Adams and members of the council. Just a reminder of where we have been. The council held a hearing approximately a month ago and heard testimony pro and con on this appeal. At that time you closed the public hearing -- public testimony portion of the hearing, and left the record open according to a schedule as follows. All parties had until 5:00 p.m. on January 26th to submit additional evidence on the use issue. After that, all parties had until 5:00 p.m. on February 2nd to respond to the new evidence submitted on the use issue. And the applicant had until 5:00 p.m. on February 7th to submit final argument. The parties have done all that, and you have that information in front of you. Today is the time for council deliberation and a tentative decision if you are so disposed. The options available to the council are as follows. There may be some slight variations on these. One, you can uphold the design commission in its entirety. Both as to the design issues and the use issues and find that no conditional use is needed. You can overturn the design commission's decision in its entirety and find that you disagree with them on design issues as well as on use issues. You can uphold the design review portion of their decision, but decide that the entire facility requires conditional use review as a detention facility. Or you can uphold the design commission decision but decide that some of the facilities constitutes a detention facility and requires conditional use review before it can be occupied or used. So those are essentially your four options at this point. The staff is here if you have questions, but basically this is the time for council discussion and deliberation.

**Adams:** First off are there any clarifying questions about our options? From council? Ok.

**Leonard:** Mayor Adams, would I move to support design commission's decision of approval for the building design and the use classification of the processing area as accessory to the primary use of office.

**Adams:** A motion. Second. Discussion? Do you want to speak to your motion?

**Leonard:** I listened carefully to the testimony, but I think it was clear from those that testified on the record that the characterization of this as anything but a processing center wherein people are brought in, are identified as to who they are and then within a short period of time transported to a more permanent facility as was testified to in this case, Tacoma, was persuasive. The facility doesn't have beds, it doesn't have anything that approaches what would appear to be a jail, and I think that given our constraints in terms of how we designate a building use, it clearly falls within the parameters that the design commission decided in their process.

**Adams:** Other discussion? Commissioner Fritz?

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**Fritz:** I disagree with that characterization. I believe that the detainee processing center is a primary use, the fact that the amount of square footage designated for the processing center will be minimal in comparison with the amount of square footage designated for the rest of the building is only one of many factors that council should consider when deciding whether a use is primary or ancillary. The fact it was convenient for ICE to have this detainee processing center in the same building as the Portland suboffice does not mean that the detainee center would be clearly incidental to the office space. Convenience and incidences don't mean the same thing. I believe managing people in custody is a central part of ICE's responsibility, it's not incidental to the work, it follows that the detainee processing center is essential and important part of ice's work in the region, and it should be classified as a primary use. I believe that this part of the facility should go through the conditional use process.

**Adams:** Thank you for your comments. Commissioner Fish?

**Fish:** First of all, mayor, I want to restate what I said at the last hearing, which I think staff did a superb job laying out the case and the options. Now we get paid the big bucks to try to sort through the options, and what strikes me is that there's nothing that clearly fits in my view. And some of the -- one of the memos we got it alludes to the fact it just doesn't fit naturally within anything, so we have to bring some common sense to this. After reviewing all the submissions and thinking about this, I too have concluded that there are two primary uses. I think it's the only way that we don't do violence to the code. It's to determine that there are two primary uses. A detention center and an office, and that is what's going to guide my vote today.

**Adams:** May I ask a clarifying question of the city attorney or somebody else? Is this set a definition of what is a detention center? How precedential is this vote today?

**Beaumont:** Well, what this -- one word to agree with commissioner Fish and commissioner Fritz, this does involve some interpretation of your code. And an explanation of why this particular facility most closely matches or a portion of it most closely matches the characteristics of a detention facility. So I suppose its precedent setting in that sense, but then the council often -- it's not unusual for the council to interpret the code because it doesn't anticipate all circumstances that arise.

**Fish:** Can I address that point too? Again, I think reasonable people can come to different conclusions on this. I think there have been very strong arguments made on both sides, but when I took a look at the code, 33.920.520, detention facilities, by the way use of the term "detention facility" which is the language in the RFP issued by the government for this space, it describes -- it says under characteristic it includes, and it lists a bunch of things. It includes, we heard from the attorney who testified, is illustrative but not meant to be exclusive. That was the attorney for the applicant. The examples listed include prisons, and jails, it doesn't neatly fit within those. But also includes probation centers. And as we discussed last time, a probation center is not a 24-hour facility, need not be a locked facility, it could be just an administrative facility. A place where you come during work hours to check in with your probation officer. So I view the example section as going -- as indicating that the characteristic section should be read more broadly than a facility that we are -- that is under lock and key for 24 hours. And to your point, mayor, you often raise this at these hearings, precedential effect --

**Adams:** I'm a worrier.

**Fish:** I think it's a good worry and I'm a recovering lawyer. So I would say because of the unique facts of this case, I think like a lot of the land use matters that come before us where it is somewhat unique to its facts. If it's Wapato, there's clear guidance. This isn't Wapato, this isn't purely an office space, it's something in between, and what I think we're trying to do is find the portion of the code that in spirit, if not letter, if not letter if not spirit, fits. And I was persuaded based on the testimony and the submissions that the best way to get there is two primary uses. But it is limited to the facts of this case.



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**Adams:** And Kathryn, if I could -- if you could indulge me with some additional informational questions, clarifying questions, if the path forward effectively separates moving forward is sort of separated into two tracts, I don't know if that's the right word, one would move forward and the other one would then go through a conditional use process? Is that right?

**Beaumont:** That's correct. The detention facility portion of it would go through conditional use review.

**Adams:** And if they both went forward under the motion on the table right now, and somebody appealed it, the whole project would be appealed?

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

**Adams:** It's one application?

**Beaumont:** It's one application.

**Adams:** The whole thing is being treated the same?

**Beaumont:** Yeah, it would be the decision that would be appealed.

**Adams:** And how vulnerable, given that the code is less than absolutely clear as commissioner Fish pointed out --

**Fish:** Or as staff said it, the proposed use doesn't fit squarely in any of the three options.

**Adams:** That's what I meant. Is the basis for any appeals decision making will be still part of it could be around that piece, but it would affect the entire project. It would pull the entire project along with it, or would future decision makers be able to break apart pieces of this project?

**Beaumont:** It would be the entire unitary decision that is appealed. We -- I think the city's -- it is a final decision until LUBA or somebody else overturns it and says that it was incorrect. We do allow applicants to pull permits while a case is on appeal. They are required to sign a hold harmless, and effectively agree that anything they do should the decision be overturned, has to be pulled out at their expense if that's required.

**Adams:** One last question, I appreciate the -- your patience. If this is an inappropriate question to ask a city attorney by the mayor in public, you'll let me know. But if the chances of the issue of detention succeeding through a conditional use process is --

**Beaumont:** That's a question I can't answer. Because I'm not --

**Adams:** Appropriate but not answerable.

**Beaumont:** Not answerable by me.

**Fish:** That's a question that as part of my analysis I looked at, and commissioner Fritz will correct me if I'm wrong on this if I don't say it accurately. But it's my understanding that if we allow a conditional use process to occur relating to the so-called detention facility, it allows the community to weigh in on such factors as safety. And some of the impacts, which is what we've heard from some people they would like to have a chance to weigh. And there are some criteria, but it doesn't prohibit this facility. This doesn't set up a process where there can't be a detention facility and an office, but it sets up a process for the community to be heard on the detention facility portion, and to weigh in on such factors as safety, and then for the process to move forward.

**Adams:** To have some agreement.

**Fish:** To potentially reach an agreement.

**Adams:** There are amendments to the motion on the floor that anyone would like to make? Even if it's just conceptual to see how other members of council feel?

**Fish:** I want to give deference to the commissioner in charge of the Bureau of Development Services. I mean, these are not easy --

**Leonard:** Vote for my motion.

**Fish:** These are not easy --

**Adams:** You set yourself up.

**Fish:** So I would ask the maker of the motion, commissioner Fritz and I have a view, you stated a view, I guess our job is to see whether we can get a consensus view. We can go through procedural

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motions, but maybe we could see whether this approach that we've proposed would get the support of at least three.

**Leonard:** I'm open to suggestions.

**Adams:** We'll have some dialogue on whether it's an amendment to the motion or new motion. Would someone like to be recognized?

**Fritz:** I would.

**Adams:** Commissioner Fritz.

**Fritz:** I want to -- for the record, in case this does get appealed by either side, I do want to go into why I believe the detainee processing center should be classified as a detention facility. The purpose of both detention facility and the processing center is to detain people. The argument was made, and by the way, thank you everybody for your input, both at the hearing last time and by in writing, very, very good testimony. The argument was made that detainees are not judicially required to be in the facility by court order, but the code doesn't define what that means. And I believe that the detainee processing facility and the council could make interpretation that this is judicially required. And it was also suggested that the portion -- it wasn't a detention facility because there isn't 24-hour supervision. The reason for that is because the detainees are only in the facility for 12 hours, but just because they're only being detained -- they're not being detained for 24 hours doesn't mean they don't fit the definition of detainees. So for those reasons and others, I believe it would be wise to support commissioner Leonard's motion to deny the appeal and uphold the design commission, however, to amend it with both conditions b and c in the memorandum from Kara dated February 10th, and also have findings that reflect the council's interpretation of the code, indicating that the detainee portion of the facility be classified as a primary use, required to go through the conditional use process prior to approval as indicated in the conditions.

**Fish:** If that were to be an amendment, first I would ask whether that would be accepted as a friendly amendment, commissioner Leonard's motion.

**Leonard:** Yes.

**Adams:** It's again accepted as a friendly amendment.

**Leonard:** It is offered friendly?

**Fritz:** Yes.

**Leonard:** Then I'll accept it as friendly.

**Fritz:** Good.

**Adams:** The motion on the floor just to summarize is, Kathryn as you understand it --

**Beaumont:** A motion to support the design commission's decision and to modify it to indicate that there is another primary use, the processing area and holding area, and associated offices are a detention facility that requires conditional use approval, and to adopt the staff's revised condition b, revised condition c, and it would be the second of these suggested new conditions of approval on page 2 of the staff's February 10th memo. That's how I understand the motion.

**Fritz:** Thank you. That was the intent of my motion.

**Beaumont:** I guess the effect of that would be to I guess -- I don't know whether you want to phrase it as denying the appeal, deny it in part, grant it in part --

**Fish:** Mayor, just to grant --

**Adams:** Grant it in part and deny it in part?

**Fish:** To clarify, commissioner Fritz has provided some guidance in terms of her reading of 33.920.520 a, and I would also just note that we've had testimony as to b, accessory uses, and c, examples, and I think it is equally important that examples include, quote, probation centers, which I think illustrates that it was contemplated that the characteristics list was meant to be illustrative but not exclusive because a probation center and if you use the normal definition of that normal

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understanding of that term, would not include a 24-hour supervised facility. So it's my view that it was intended to be broader than just essentially Wapato.

**Beaumont:** The only minor clarification I would make, suggest not in the motion, but just as a reminder, there is also a small retail use on the site. So in effect, if you adopt this motion there will be three primary uses on the site. An office use, a small retail use, and then the detention facility use.

**Leonard:** To be clear, to allow for those three different uses, you're suggesting that we adopt the last condition on page 2 prepared in Kara's February 10<sup>th</sup> memo?

**Beaumont:** You have two choices. The first of her suggested conditions would require the entire building to go through conditional use review. The second would capture only the detention facility portion of it.

**Leonard:** Ok.

**Adams:** All right. Unless there's additional council discussion, Karla, please call the vote. For the tentative decision.

**Fritz:** Again, thank you to everybody who participated, particularly the staff has done excellent work, our colleagues in a collegial manner have right in front of your very eyes figured out what we wanted to do with this, and I think it gets to a reasonable decision that both recognizes the appeal and the neighborhood association's concern about the process for reviewing things and also makes clear that the office use and the retail use are allowed by right and will not be subject to the conditional use review. It doesn't matter that there are some differences between the description of detainee processing facility and the detention facility. The code doesn't require a perfect fit. For policy reasons, it makes sense to classify the detainee processing center as a detention facility and to consider it necessary to have a conditional use. Detention facilities naturally give rise to safety issues and concerns and other important livability concerns of neighborhood residents. The conditional use process provides a forum for addressing these concerns. And as the city attorney noted, thank you Kathryn Beaumont for your assistance on this case too, this conditional use process is a discretionary review. The answer can be yes or no. As a practical matter, it mostly addresses the safety concerns and traffic and other issues, which will allow the neighborhoods to have input. It seems likely that the facility will be able to be permitted or to be approved under that conditional use process, but that's a separate process which everybody will be welcome to participate in, and the hearings officer will make that determination. So with that, I thank everybody who's been involved in this, particularly Tom Bizeau and my staff who helped me with all the intricacies, and I'm pleased to vote aye.

**Fish:** I'm going to associate myself with Amanda's remarks, because I think she hit all the bases. Kara and the team, thanks very much for your presentation, I appreciate the testimony and submissions we had from the public, it was very helpful to me to reach my decision. I also appreciate the collegial way this body functions in trying to get the decision. And I go back to what was in a memo to us from staff at one point that said, quote, the proposed use doesn't fit if it squarely in any of the three options. I viewed that as a starting point of starting to bring just common sense and best judgment to a case that doesn't clearly fit, but I think we struck the right balance, and I appreciate commissioner Fritz's comments. Aye.

**Leonard:** Aye.

**Adams:** Well, I appreciate everyone's testimony, public testimony of high quality and very useful to me. I also want to thank staff and the whole team amongst the various bureaus for their very good analysis. For those of you that might be new to these kinds of hearings, our deliberations and decision making is governed by state law. It would be easier perhaps if we had the full authority to say yes or no to things, but that's not the way the system works. So in this particular case, detention facilities aren't necessarily granted outright, but they're not prohibited either. The other facilities appear to be absolutely granted by right. So this as commissioner Fish and Fritz have noted, this

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will allow for us sorting out through the conditional use process the opportunity for the neighborhood and the business district is if it goes forward, to have it go forward in a way that it is a good citizen of the neighborhood. And that you have all the operational assurances and partnerships that if it goes forward, it's done in a manner that is safe, and does not detract from south Portland. So thank you all. Aye. [gavel pounded] All right. That gets us to adjournment, isn't it?

**Beaumont:** Before you adjourn, you do need to set a date and time for making a final decision.

**Adams:** Yes.

**Moore-Love:** It would be February 23rd at 10:30 a.m. time certain.

**Adams:** Thank you. We are adjourned.

At 2:30 p.m., Council adjourned.