



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 2ND DAY OF NOVEMBER, 2011 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Adams, Presiding; Commissioners Fish, Fritz, Leonard and Saltzman, 5. Mayor Adams left at 11:00 a.m. and Commissioner Fritz presided. Mayor Adams returned at 11:45 a.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Roland Iparraguirre, Deputy City Attorney was replaced by Ben Walters, Chief Deputy City Attorney at 10:40 a.m.; Steve Peterson, Sergeant at Arms.

Items No. 1153 and 1156 were pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS	Disposition:
1139 Request of Roger J. Meyer to address Council regarding presentation of Portland Peace Proclamation (Communication)	PLACED ON FILE
1140 Request of Michael Krupp to address Council regarding the salient issues of Portland city government (Communication)	PLACED ON FILE
1141 Request of Scott Somohano to address Council regarding livability, odor and health issues related to Water Truck Service (Communication)	PLACED ON FILE
1142 Request of Patricia Irvin to address Council regarding a septic pumper business and its impact on neighborhood livability (Communication)	PLACED ON FILE
1143 Request of Chabre Vickers to address Council regarding Young Professionals Of Portland Civic Involvement Month 2011 Proclamation (Communication)	PLACED ON FILE
TIMES CERTAIN	
1144 TIME CERTAIN: 9:30 AM – Proclaim November 2, 2011 to be National Congress of American Indians Day in Portland (Proclamation introduced by Commissioner Fritz) 20 minutes requested	PLACED ON FILE

November 2, 2011

<p>1145 TIME CERTAIN: 10:30 AM – Amend the Portland Comprehensive Plan List of Significant Projects, Public Facilities Plan and Sanitary Sewer Element to include additional sanitary sewer projects in the Fanno Creek Basin necessary to meet existing level of service standards, serve designated land uses and protect public health and safety (Ordinance introduced by Mayor Adams and Commissioner Saltzman) 30 minutes requested</p>	<p>PASSED TO SECOND READING NOVEMBER 9, 2011 AT 9:30 AM</p>
<p>1146 TIME CERTAIN: 11:00 AM – Tentatively deny the appeal of Cottonwood Capital Property Management LLC, Frank Fleck and Gary Gossett and uphold the Hearings Officer's decision with modifications to approve with conditions the application of Recology Oregon Material Recovery, Inc. for a conditional use to establish a waste-related use that accepts and processes food waste that is blended with yard debris, within a fully enclosed building at 6400 SE 101st Avenue (Findings; Previous Agenda 1070; LU 10-194818 CU AD) 5 minutes requested</p>	<p>RESCHEDULED TO NOVEMBER 16, 2011 AT 10:00 AM TIME CERTAIN</p>
<p style="text-align: center;">CONSENT AGENDA – NO DISCUSSION</p> <p style="text-align: center;">Mayor Sam Adams</p> <p>1147 Appoint Elki Lahav and Melissa Stewart to the Noise Review Board for terms to expire October 31, 2014 (Report) (Y-5)</p>	
<p style="text-align: center;">Bureau of Emergency Management</p> <p>*1148 Accept and appropriate an FY 2011 Emergency Management Performance Grant in the amount of \$160,000 from the Federal Emergency Management Agency to complete an agreed upon Work Plan (Ordinance) (Y-5)</p>	
<p style="text-align: center;">Bureau of Planning & Sustainability</p> <p>*1149 Authorize a sole source contract with Portland Community Media for \$150,000 to provide recording and cablecasting services for the Bureau of Planning and Sustainability and provide for payment (Ordinance) (Y-5)</p>	
<p style="text-align: center;">Bureau of Police</p> <p>*1150 Accept a grant in the amount of \$70,000 and appropriate \$55,000 for FY 2011-12 from the Oregon Department of Transportation, Transportation Safety Division 2012 Multnomah County DUII Intensive Supervision Program for sworn personnel overtime (Ordinance) (Y-5)</p>	
<p>*1151 Accept a grant in the amount of \$65,000 and appropriate \$50,000 for FY 2011-12 from the Oregon Association Chiefs of Police 2012 DUII Traffic Safety and High Visibility Enforcement program for sworn personnel overtime (Ordinance) (Y-5)</p>	

Bureau of Transportation		
1152	Accept a grant in the amount of \$98,000 from Oregon Department of Transportation to develop and implement specific efforts to improve transportation safety on six high crash corridors, and to work with the Metro Traffic Safety Workgroup to support transportation safety efforts in the Portland metropolitan area (Ordinance)	PASSED TO SECOND READING NOVEMBER 9, 2011 AT 9:30 AM
1153	Amend an Intergovernmental Agreement with the Oregon Department of Transportation to increase the amount of grant funding for pedestrian safety improvements at the intersection SE 82nd Ave and Francis (Ordinance; amend Contract No. 30000599)	REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION
Office of Management and Finance		
*1154	Authorize an agreement with Travel Portland for the promotion of convention business and tourism and provide for payment as required by City Charter (Ordinance) (Y-5)	184963
*1155	Create two new Nonrepresented classifications of Environmental Compliance Manager and Environmental Investigations Manager and establish compensation rates for these classifications (Ordinance) (Y-5)	184964
*1156	Create a new Nonrepresented classification of Equity and Human Rights Director and establish a compensation rate for this classification (Ordinance) (Y-4; Saltzman absent)	184972
Commissioner Randy Leonard Position No. 4		
Portland Fire & Rescue		
*1157	Amend the Intergovernmental Agreement with the University of Washington for a fire prevention research program (Ordinance; amend Contract No. 30001935) (Y-5)	184965
*1158	Authorize a competitive solicitation for the construction of two 50' aluminum hull fireboats (Ordinance) (Y-5)	184966
Commissioner Amanda Fritz Position No. 1		

November 2, 2011

<p>1159 Remove the Reversionary Clause from the title to the real property located at 3534 SE Main Street owned and managed by the Southeast Uplift Neighborhood Program (Second Reading Agenda 1130) (Y-5)</p>	<p>184967</p>
<p style="text-align: center;">Commissioner Nick Fish Position No. 2</p> <p style="text-align: center;">Portland Parks & Recreation</p> <p>1160 Amend Intergovernmental Agreement with Metro to receive the local share component of the 2006 Natural Areas Bond Measure (Ordinance; amend Contract No. 52843)</p>	<p style="text-align: center;">PASSED TO SECOND READING NOVEMBER 9, 2011 AT 9:30 AM</p>
<p>1161 Renew contract with Centennial School District for Afterschool At-Risk Meal and Snack Program sponsorship (Second Reading Agenda 1131) (Y-5)</p>	<p>184968</p>
<p style="text-align: center;">Commissioner Dan Saltzman Position No. 3</p> <p style="text-align: center;">Bureau of Environmental Services</p> <p>1162 Authorize a contract and provide payment for construction of the Ankeny Pump Station Upgrade Project No. E07833 (Second Reading Agenda 1133) (Y-5)</p>	<p>184969</p>
<p>1163 Authorize contracts with four consulting engineering firms for design related services as needed in support of sewer, wastewater pumping and treatment and drainage and stormwater quality projects (Second Reading Agenda 1134) (Y-5)</p>	<p>184970</p>
<p style="text-align: center;">REGULAR AGENDA</p> <p style="text-align: center;">Commissioner Nick Fish Position No. 2</p> <p style="text-align: center;">Portland Parks & Recreation</p> <p>1164 Approve the designation of six trees as City of Portland Heritage Trees (Second Reading Agenda 1122) (Y-5)</p>	<p>184971</p>

November 2, 2011

<p style="text-align: center;">Commissioner Dan Saltzman Position No. 3</p> <p>S-1165 Prescribe a public hearing process in accordance with Section 13-302 of the City of Portland Charter (Resolution) 15 minutes requested</p> <p>Motion to amend to accept the Substitute Resolution: Moved by Commissioner Fritz and seconded by Commissioner Leonard. (Y-5)</p> <p>Motion to add 2-108 to allow use of emergency funds to the list of Housekeeping Amendments: Moved by Commissioner Fritz and seconded by Commissioner Fish. (Y-5)</p> <p>Motion to adopt 13-301 to the list of Housekeeping Amendments to allow the terms of offices to be two years for Charter Commission members: Moved by Commissioner Leonard and seconded by Commissioner Saltzman. (Y-3, N-2, Fritz and Fish)</p> <p>Motion to tape or televise Charter Commission hearings: Moved by Mayor Adams and seconded by Commissioner Fish. Motion withdrawn. (Y-5)</p>	<p style="text-align: center;">SUBSTITUTE 36886 AS AMENDED</p>
<p style="text-align: center;">Bureau of Environmental Services</p> <p>1166 Amend Sewer User Charges Code to expand authorities for implementing a revised Extra Strength Discharge Program (Ordinance; amend Code Chapter 17.36)</p>	<p style="text-align: center;">PASSED TO SECOND READING NOVEMBER 9, 2011 AT 9:30 AM</p>
<p style="text-align: center;">City Auditor LaVonne Griffin-Valade</p>	
<p>1167 Approve Council Minutes for calendar year 2007 (Report) (Y-4; Fritz absent)</p>	<p style="text-align: center;">APPROVED</p>
<p>1168 Approve Council Minutes for calendar year 2008 (Report) (Y-4; Fritz absent)</p>	<p style="text-align: center;">APPROVED</p>
<p>1169 Approve Council Minutes for calendar year 2009 (Report) (Y-4; Fritz absent)</p>	<p style="text-align: center;">APPROVED</p>
<p>1170 Approve Council Minutes for January-June 2010 (Report) (Y-4; Fritz absent)</p>	<p style="text-align: center;">APPROVED</p>

At 12:12 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.

November 2, 2011

WEDNESDAY, 2:00 PM, NOVEMBER 2, 2011

**DUE TO LACK OF AN AGENDA
THERE WAS NO MEETING**

November 2, 2011
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.

NOVEMBER 2, 2011 9:30 AM

Adams: Good morning everybody, welcome to the Portland city council chambers. We're glad that you're here. We have three pre-gavel special recognitions and proclamations. The first one is the rotary – rotary's peace, understanding and goodwill day and is a - do we have representatives? Hi, great. Come on up. Have a seat while I read the proclamation. Yeah. Please have a seat. Yeah. Welcome. Go ahead and sit down.

Adams: Whereas the rotary community peace credo states respect for cultural diversity, and the life and dignity of every person without discrimination of prejudice, resolution of conflict within local and global communities, and the reconciliation of differences in the pursuit of harmony and whereas the rotary peace community of Portland and the city of Portland join together to promote peace, understanding and goodwill between our residents and in communities around the world by resolving to share our time and material resources in a spirit of generosity to put an end to exclusion, injustice, and political and economic oppression, defend freedom of expression and cultural diversity giving preference always to dialogue and listening rather than fanaticism, defamation and the rejection of others, promote consumer behavior that is responsible and development practices that respect all forms of life and preserve the balance of nature on the planet and contribute to the development of our community with the full participation of all people. And respect for democratic principles in order to create solidarity together. Now, therefore, I, Sam Adams, Mayor of the city of Portland Oregon, the city of roses, do hereby proclaim November 7th, 2011 to be peace, understanding and goodwill day in Portland and encourage all residents to observe this day. Thank you. [applause]

Roger J. Meyer: Just a moment, your honor. I think -- I appreciate your signing this and I also wanted to respect veterans' day and to introduce a couple of my colleagues on the peace committee. Al Jubitz is actually the chairman of the rotary district peace committee and i'm on his committee and Ann O'neal an executive of I triple E is also a peace co-chairman. And lou Roget is the president of the Pearl rotary. And [inaudible] is the past president and our communications person so thank you guys for being here of course. And we also have, your honor, our program, anybody would like a brochure we brought a few brochures, it's going to be the 4th of February at Portland state and it's going to be a lot of fun and we're celebrating peace and education.

Adams: Thank you for being here. [applause] so let's see, i'm also pleased to recognize today that the government finance officers' association of the united states and canada has presented an award of financial reporting and achievement to the accounting division of the bureau of financial services in the city of Portland. Do you want to come up here a minute and say a few words?

Richard Goward, Chief Financial Officer: Mayor Adams, i'm rich Goward, the cities chief financial officer and I have with me Jane Kingston, the city's controller.

Jane Kingston, Office of Management and Finance: Good morning.

Adams: Good morning.

Goward: And every year, we go through our financial audit but the city does one thing beyond that, and it submits it's financial statements to the government finance officer's association for a separate review and they look at it through the lens of how the statements display information and transparency and full disclosure and I'm happy to say that for the last set of financial statements we once again received the certificate of excellence in financial achievement for the presentation or

November 2, 2011

financial statements and what makes this is little more significance is that this is the 30th year that the city has received this award. So we've brought with us our team, our technical accounting team who do the heavy lifting and making sure that every year our statements are the best that they can be and receive this award for excellence and we have behind us here, our technical accounting team. If I could ask them to stand up for a second.

Adams: Thank you very much. [applause] Thank you very much and congratulations. All right. Your -- you're welcome to stay and watch the magic of local democracy happen you're also welcome to get up and leave. We will not be offended if you have other things that you need to be doing. Thank you for spending time with us today. All right. [gavel pounded] today is Wednesday, November 2nd, 2011. It is 9:30 a.m. And the city council will come to order. Karla, how are you?

Moore- Love: Well, how are you?

Adams: Chilly out there, isn't it.

Moore- Love: Yes.

Adams: Can you please call the roll. [roll call]

Adams: Quorum is present. We'll proceed beginning with communications. Can you please read the title to 1139.

Item 1139.

Adams: Oh we did - So we did the peace proclamation. Can you please read the title for 1140.

Item 1140.

Michael Krupp: I have a nice speech that's polite and favorable to everybody. Mayor Adams, you have done something so unique that history will record the fact that it is here in Portland where the government began to once again speak for the people. Despite the obvious monetary bullying to the contrary, you chose to tolerate the occupy movement. In so doing, you have both upheld the peace and clearly demonstrated the necessary direction the government must take from here on in. Although the dba actually demanded publicly that you disband that encampment, you chose tolerance. As a result, we have peace. Clearly you and chief Reese devised a strategy that works so well it shines, and results in a very safe environment, one favorable to tourism, our best hope for economic recovery here. Of course the dba will also benefit from the increased business they will have to suffer. It just didn't happen their way, through monetary bullying and threats. It is here now where corporate personhood will begin to feel what human personhood has become. To have their corporate wishes weighed on the scale of human needs no longer attended to in back room deals. Money can growl all it wants, but the growls of the many empty bellies drown it out. You might take this opportunity to point out that the police are primarily protecting the occupiers. Lieutenant Robert King informed me weeks ago that the only calls received, and there were many of them, were as to when will the police start using violence and could they help? And then there's the strange case of the disappearing rally and demonstration, held in pioneer courthouse square last week. There were speakers and performers who included a U.S. Senator, a congressman and leaders of various communities, both secular and otherwise. Storm large led the crowd in many great American songs. The crowd were packed like sardine with more pressing in from the sidewalk they sang enthusiastically to woody Guthrie and many other great American songs. Pink martini was there in force and there were four police officers. Three on foot and a sergeant sitting in a patrol car parked. The rally was well over an hour without incident. Thousands of demonstrators were left unattended and trusted. This trust was rewarded by civility. God bless america. A significant event, if not unprecedented, but no press. None. No helicopters showing the huge attendance or the virtual complete absence of police, which is rather unique. Almost two hours of 5,000 plus demonstrators successfully airing their grievances and not a word from murdoch or newhouse or channel eight underfoot. This may come as a shock, but Media is the

November 2, 2011

child of medusa, but with wires and towers for hair. A halo of satellites and death with suffering as its raysondetra.

Adams: Thank you, sir. Can you please read the title for 1141.

Item 1141.

Adams: Mr. Somohano. Hi, welcome. Please have a seat.

Scott Somohano: Hi, my name is Scott Somohano, I am a resident of NE Portland, I live at 4523 N.E. 89th. I am the current chair of summer neighborhood association. Hopefully, you have a copy of this handout. If you flip it to the back page, you can see they have a map of summer neighborhood and where it is. Where basically if you head out sandy boulevard, eastbound, we are the last neighborhood before you reach i-205. And so that's where our neighborhood is. If I look even slightly familiar to you, it's because our neighborhood won the spirit of Portland last year, last November. We do stuff out there like have a monthly litter patrol and commissioner Fritz joined us a few months ago. This year I think we picked up something like 1600, 1700-pounds of litter in, you know, eight or ten months of doing this just once a month. I'm here today to talk to you about an issue I really don't want to talk about, it's a unpleasant and unfortunate situation and basically we have a business, a rogue business in our neighborhood, they are a septic waste pumper and a processor. And they process the septage that they pump up out of septic tanks, bring it to a facility in our neighborhood and process it, and dump a lot of it down the sanitary sewer. And they don't have a conditional use permit to do this, at this location. And so they've just begun the process of seeking the conditional use permit. So that's the basic reason that I'm here. This five-page handout has a bunch of details. If you would just flip for a moment to page four. This is a color-coded version of what was in the recent conditional use pre-application conference that was held about a week ago down the street and I'll hold it up for everyone else. There's like a red square in the middle of this and then there's a yellow section along the top. That's all zoned industrial and then there's a green area in the bottom part and that's all residential. This particular facility is in an industrial zone, they need a conditional use permit, but it is very, very close to the residential part of our neighborhood. That nearest square caddie corner is a eight-unit apartment complex, there's a high school two blocks away to the west, there's chronic odor issues and health issues and other things. Was that a beep? Is that my three minutes?

Adams: No, that was a garbage truck backing up. [laughter] So go ahead and continue.

Somohano: O.K. So this you know, there's a timeline that's included in the handout. There's details where we've -- you know, we've basically worked with bds, so i'm here for three reasons. The first reason is to praise the hard work of city employees in bes and bds, who have helped us navigate to this point in the process, trying to get this rogue business compliant and possibly moved out of the neighborhood because the site is really not suitable. On the second page you can see all of the areas where they simply cannot comply at this site with the requirements of a waste-related use, conditional use permit. In particular, I want to call out Matt Grumm in your office, commissioner Saltzman, for his help in connecting some dots for us. It's been very helpful. Bes and bds came to our neighborhood meeting in September and so the second reason I'm mentioning this is to give you early warning in case the hearings officer approves the conditional use permit. That might be in April or so, based on the time line that I'm aware of. This could be coming before you in May or June and the neighborhood is unified against this business operating in this way in our neighborhood. It's much too close. Patricia is going to speak to you next about the specifics of the odor there. The last thing is that I'll, I want to ask the council to consider taking other steps to prevent such rogue businesses from operating in neighborhoods like this in the future. For example, for whatever reason, the city quit accepting septage directly at the waste treatment facility on north Columbia Boulevard. I don't know why that is. But it's having unintended consequences in our neighborhood. Very close to residential property, impacting the use of our backyards, you know, opening the windows during warm weather, really basic stuff. And the other suggestion is

November 2, 2011

providing some way for quicker action for shutting down businesses that are not in compliance with land use laws, conditional use permit process. These guys are being brought in compliance, bds is operating faster they say than they ever have before on a land use issue but, you know, it's still months and months of really nasty human raw waste, septage smell in our neighborhood.

Adams: We appreciate your presentation. And because it is potentially an item that comes before us, we're not allowed to - it's appropriate that we listen, but not talk.

Somohano: Right and I didn't expect any speaking. That's part of the instructions I saw on the clerk's website. (laughter)

Adams: But, thank you for your presentation and your advocacy and leadership in the neighborhood.

Somohano: Yeah. Thank you. And thank you for your public service and your time and the opportunity to speak to you here.

Adams: Thank you. Can you please read the title to item number 1142?

Item 1142.

Adams: Hi, welcome.

Patricia Irvin: Hi.

Irvin: As Scott said i'm patricia. I live about a block away from WTS. We've been in our house about five and a half years now. We bought into a mixed residential -- well, it's - we're on the edge of the residential neighborhood and industrial is right there. Which we understood and we're fine with our next door neighbor's concrete company, we have good communication with them and you know, we're used to living next to industrial. We have a large backyard. Because we're on an older piece of land, our house was built in 1941, so we get to enjoy this large backyard with the old, old walnut tree and anyway, it was all going great until about a year ago. WTS moved in on this lot that was previously, they were just leasing trucks in the area. We noticed a lot of activity and we weren't informed of this new business coming in. We didn't know what they were doing. Heard a lot of loud, loud noises and they have these pumps that when they pump out their tanks for whatever reason, for maintenance, for emptying, they're really loud. It's like rocks being sucked up a vacuum and this loud simultaneous siren and it goes on for three and four hours. I can't even hold a phone conversation. I live and work at my house, my office unfortunately faces north, which normally provides a nice view of Mount Saint Helens and nice cool breezes in the summer. Our largest modern window is on - in that room. Last summer that window was shut day, night. We couldn't open it. We actually stuffed whatever we could into the seals of that window. You know, like I said, we're in a older home, we don't have air conditioning, we weren't able to open our windows even in our bedroom at night to cool the house off. We had 90 degree temperatures in the house because we had to keep it closed day and night. We walk out in our backyard, off the back deck, where normally I would enjoy a cup of coffee in the morning. I was hit with raw septage smell. Especially if the winds came from the north, which is what we get in the summer a lot of times, to cool off, which is normally great - But it was overwhelming. I don't have a history of illness, I never have, I have an iron gut, have all my life. I have days of nausea now. I have to cut my workdays short. Like I said, I work for myself, so when I can't work, I can't make money, I can't pay my bills. The noises from the pumps, I started getting migraines and again, never happened. I work on computers all day long. I don't get that. So that's basically my personal experiences. My neighbor around the corner said she couldn't tend to her vegetable garden as often as she normally did. She has a nice big huge backyard; again, the smell was so bad she said she couldn't breathe and had to go in the house. And this is a young girl, a young healthy girl. All of our normal backyard activities just couldn't happen this year, we couldn't invite people over we just couldn't stay in our back yard and our front yard either, for that matter. Normally, we would just try and leave the house as often as we could which isn't feasible --

Adams: I apologize for interrupting. But I need you to wrap up.

November 2, 2011

Irvin: O.K. Helensview high school is around the corner and the principal there has described a rancid smell, Broadway cab is on the adjacent property and the septic smell comes into their building through their air system, they had to cancel their outdoor company picnics. My neighbor across the street described the smell so thick inside his house, he said it was like eating it. That's exactly what he said. And I guess i'm done.

Adams: Thank you, very much.

Irvin: Thank you.

Adams: Appreciate it. Can you please read the title for item number 1143.

Item 1143.

Adams: Hi, welcome. Would you like to say a few words before I read the proclamation?

Seth Warren: Sure. Hello, thank you. I'm Seth Warren, president of young professionals of Portland. Young professionals of Portland delivers a forum for Portland area professionals to connect, learn and lead. We're passionate about building your professional network, fortifying your résumé, identifying mentors and helping you get involved in your civic community. We embrace diversity, dignity and respect and it is our commitment to lift each other up to inspire and nurture professional and personal development.

Chabre Vickers: Hi, my name is Chabre Vickers. I am the vice president of civic involvement for young professionals of Portland. And also as a representative of one of the twelve non profits that we choose every year, WYPOP has been extremely beneficial for us as a local nonprofit and we have, in the past couple of years, gotten over 50 new people to become big brothers and big sisters in our community, which is huge. That's 50 new lives impacted, young children. And so, civic involvement month for us is a month that we look to ensure that our 5400-member base is introduced to many different nonprofits here in the local Portland area and given many opportunities to volunteer their time. Thank you.

Adams: Alright, I am now pleased to read the following proclamation, in recognition of your work. Whereas young professionals in our Portland community come together and provide fresh perspectives in their every day work place and whereas they continue to be an integral part of our community through passionate engagement in civic involvement and whereas young professionals of Portland are innovative thinkers, and contribute to the economy and the community and whereas they are the lifeblood that will perpetuate the city's engagement in local and regional issues that make a difference in our community, whereas not only do the young professionals of Portland work here, but they live here and plan to grow their families here to become future leaders and whereas these emerging leaders come together in many ways throughout the year and whereas, to ensure we continue to be a viable city through their outreach and to help us move forward, now therefore I Sam Adams, mayor of the city of Portland, Oregon, the city of roses, do hereby proclaim November 2011 to be young professionals of Portland civic involvement month, in Portland and encourage all residents to observe this month. Congratulations. [applause] We'll now consider the consent agenda. Anyone wish to pull any items from the consent agenda?

Saltzman: I'd like to pull 1156.

Moore-Love: And 1153 was also requested.

Adams: O.K. 1156 is pulled and 1153 is pulled. Any body else, any other items? Please call the vote on the remaining consent agenda items.

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

Adams: Aye. [gavel pounded] consent agenda's approved. We have three time certain. Beginning with 1144.

Item 1144.

Adams: Commissioner Amanda Fritz.

Fritz: Thank you, mayor Adams. And the representatives from the national congress of American Indians were not able to be here so Steffeni Mendoza Gray from our office of government relations

November 2, 2011

will be take greetings to them at the convention center. The national congress of American Indians is holding its 68th annual conference in Portland this week. 30 years have passed since they last gathered in the city of roses and as a side, we are very grateful for their business here at the Oregon convention center. Since it's formation in 1944, the national congress of American Indians has worked to inform the public and congress on the governmental rights of American Indians and Alaska natives, to enlighten the public towards the better understanding of the Indian people and to promote the common welfare of the American Indians and Alaska natives. The theme of this year's conference is footprints into the future, creating a path to a new era of tribal prosperity for future generations. This weekend I had the privilege and honor to participate in the opening ceremonies along the shores of the Willamette River, a historic event that was hosted by the executive committee of the affiliated tribes of the northwest Indians. As I listened to the traditional canoe drums and songs and witnessed the canoe family landings, then walked in the procession from Waterfront Park to the convention center I was struck by a strong feeling of community and rich traditions. It was an important reminder of the deep connection the city of Portland has with the native people of this region. We share many community, economic and natural resources concerns, challenges that are not confined by political boundaries. As governments we must continue to work together to find solutions to our shared challenges, to protect and promote the health and well-being of all who reside here and together we will also celebrate our successes. So therefore the mayor is now going to read the proclamation that is referenced in the title.

Adams: And whereas, Native Americans, the indigenous peoples and original stewards of this land have resided in the Columbia and Willamette river basins since time immemorial. And whereas there are nearly 60,000 people descended from more than 380 tribes in the Portland area Native community. And whereas the national congress of American Indians was founded in 1944 in response to United States termination and assimilation policies that was "forced upon tribal governments in contradiction of their treaty rights and status as sovereigns". And whereas since their founding, the national congress of American Indians has been diligent in informing the public and the U.S. congress on the governmental rights of American Indians and Alaska natives, working to restore and preserve rights under American treaties or agreements with the United States and promoting the common welfare of the American Indians and Alaska natives and whereas since their founding the National Congress of American Indians has been diligent in informing the public and U.S. congress of treaties and agreements of common welfare and whereas Portland was selected as the host city for the National Congress of American Indian's 68th annual conference being held from October 30th to November 2nd, the first time in over 30 years that the national congress of American Indians has been in Portland and the whereas the city of Portland is honored and privileged to have the American congress of American Indians annual conference in Portland and is deeply respectful of the sovereignty of tribal governments and whereas Native Americans contributed immeasurably to our country, state and city's heritage distinguishing themselves as scholars, artists, entrepreneurs and leaders now therefore I, Sam Adams, mayor of the city of Portland, Oregon, the city of roses, do hereby proclaim November 2nd, 2011 to be national congress of American Indians day, in Portland. And encourage all residents to observe this day. Thank you.

Fritz: Steffeni, did you have any comments?

Steffeni Mendoza Gray, Government Relations: Yes, on behalf of the affiliated tribes of Northwest Indians and the leadership of the national conference of American Indians, if you've looked at their program brochure, it's easily 30 pages and they deeply regret but they are extremely honored that this proclamation is declaring today and so on their behalf, I will deliver the proclamation to them.

Fritz: Thank you.

November 2, 2011

Adams: Thank you very much. Karla, please read the second time certain, non-emergency ordinance, item number 1145.

Moore-Love: That's a 10:30 time certain.

Adams: Oh, I'm sorry, we're ahead of schedule. That's great: It's a first. Ok, can you please read the title and call the vote for item number 1164.

Item 1164.

Fritz: Thanks to the heritage tree committee and the urban forestry commission, commissioner Fish for your leadership on this, for citizens for recognizing the value of nominating these important trees. And Michael McCloskey of the urban forestry commission who was with us last week. Aye.

Fish: Mayor Adams, as I announced yesterday, Portland parks & rec received a tremendous honor and recognition from the two most prestigious national parks associations yesterday when we were selected as the gold medal recipient in the category of large cities and large cities are cities with a population of 250,000 or more. And we had stiff competition. Other jurisdictions that were nominated, including miami-dade, kansas city, missouri, and parts of north carolina. As we at Portland parks & rec have been reflecting on the 160 year history of community involvement and support and investment in our parks system, I'm reminded that the backbone of what we do is the support we have from citizens who support us with their time and their treasure time and time again and have helped us build this enviable system and we are the current custodians and stewards of this system but really, it goes back to the 1850s when people had the foresight to sort of lay out the parameters and I will say to my friend commissioner Leonard, I had the pleasure of going to the city archives on Friday and seeing a project that frankly it would not have happened without your leadership and during my visit, I asked to see the original 1903 report that the Olmsted brothers submitted to the city and so they pulled it out of the archives and there it is. A typed document, the original, which I held and what was fascinating was, this was long before we had things like computers and printers so the thing is replete with corrections in pencil and carrots and other things because they didn't want to have to retype it. But very few people have actually held that document and that document and the maps are there for the public to see and in 1903, the Olmsted brothers had a vision for what this system could be and 100 years later thanks to the support of successive councils and leaders and the public, their vision has largely been realized. And it's really an extraordinary thing that they saw something that didn't exist but felt, and particularly I would say, the Westside wildlife corridor. The fact that from forest park to Riverview and then continuing out, we have this incredible linked system of wildlife corridor. So, you know, it's wonderful that we have these archives now in a proper facility and I want to thank commissioner Leonard and the council for the work they did on that. It's really exciting and I also want to thank again all of the folks who over the century and a half have been the stalwart supporters and to say how proud I am as the current commissioner, to celebrate the success of so many others and this item before us, is just another example of why we've become successful as a system. So thanks to chair mc closkey and all of the folks who volunteer their time to serve on the heritage tree, through that process. Dan Saltzman, every year, tells me it's his favorite item that comes before us and they did a marvelous job Mayor, in your absence presenting this years report, and I could not be prouder to serve as the commissioner in charge of this bureau. Aye.

Leonard: I always appreciate the historical perspective. It makes what otherwise might be a boring subject, very interesting. Thank you. Aye.

Saltzman: As commissioner Fish said, I want to thank the forestry commission the heritage tree committee and Portland parks and congratulations on that outstanding award but this really is important to me to preserve trees that have either historical or just sheer overwhelming significance because of their size and stature. And I really appreciate when we preserve those trees, I appreciate when private property owners consent to protect those trees from here on out. And I really think

November 2, 2011

these trees really are a part of the character of the city, what makes us a great city so I'm very pleased to support this again enthusiastically. Aye.

Adams: Good work. [gavel pounded] aye so approved. Let's knock out the minutes, so starting with 1167.

Items 1167-1170.

Moore-Love: The auditor may not be here yet. Did you want to take care of the pulled items off the consent?

Adams: Yea, but their going to take I think, longer than the 20 minutes we have. No let's just work through them and read the title and --

Fish: So Mayor could I just - a point of order on this element. We technically, it's my understanding is, we don't -- we generally do not have a rule that allows a member of the council to abstain from an item. Or it's discouraged and I've been reflecting on this in the context of minutes of proceedings that predated my service, for example.

Adams: O.K.

Fish: Normally as a board member of a nonprofit I would not vote on minutes or something, that I did not participate in. Not that I couldn't go read the record and compare the notes, but I wonder if we can get some guidance from the city attorney's office on that, because I don't want my vote to be misconstrued but, I don't see as someone, for example in 2007, I don't see how I can vote to adopt minutes for a time that I wasn't serving.

Leonard: Well you can do like I do and watch them on video every night. [laughter]

Adams: So, I want to move through this expeditiously. So can you please have a seat? I think just not voting is an option as well. So -

LaVonne Griffin-Valade, City Auditor: Sorry, I ran up the stairs.

Adams: This is pretty pro forma, so -

Griffin-Valade: Good morning commissioners and Mayor Adams, LaVonne Griffin-Valade city auditor. Here with me today is council clerk Karla Moore-Love. So, it's very straight forward I think, we are here to present four sets of meeting minutes for your approval, 2007 through the first half of 2010. These are separated by year to facilitate commissioners being able to approve those they are comfortable signing off on. We brought forward 2007 through 2009 minutes, for your approval last year, but we were asked to remove those from council agenda. So in the interim, Karla and Sue implemented a new process to add more scrutiny to the review of the closed captioning files. They've put in a great deal of work to clear up the backlog and are very close to being caught up. In addition Karla and Sue have worked to have draft minutes of 2011 council sessions available more timely. 14 sets of draft minutes from 2011 have been posted to e-files thus far and 20 sets are in the queue waiting for Karla's final review. So, and finally I wanted to let you know that we are in the process of updating our website to significantly improve users' ability to quickly locate all council agenda related files, including audio, video, agenda, disposition, minutes, resolutions, ordinances and reports and we look forward to introducing those changes to you and bureaus and the public in the very near future.

Adams: So on commissioner Fish's concerns, do you have an opinion?

Roland Iparraguirre, Office of City Attorney: We're not aware of any requirement --

Leonard: Turn on your mic, Roland.

Adams: Can't hear you.

Iparraguirre: Is this better?

Adams: Yes.

Iparraguirre: So, we looked at the issue and we are not aware of any requirement that you have to have attended the meeting in order to vote on it. It was our understanding that these minutes were transcripts.

November 2, 2011

Moore-Love: Karla Moore-Love, for the record. The closed captioning part of the -- is on the minutes.

Fritz: The question is, are we allowed to abstain?

Adams: We don't generally as a -- we don't allow --

Iparraguirre: I was looking through the rules I did not see anything that discussed abstaining on a vote.

Adams: You can either not be present for a vote, but there is no abstention at least in practice and you've just answered in terms of it doesn't speak to it. And you can also, I think you can also just have the option of just voting no. So it's really what you think is your judgment.

Leonard: Or voting aye.

Adams: Or voting aye. All right. So these -- the minutes are the closed captioning and that's people - if people want to verify the closed captioning, they can look at the videos, right?

Fish: I just have one other question.

Adams: Is that, well, I'm in the middle of asking one -

Moore-Love: The minutes are also part of the disposition -- include the disposition agenda. I have a paper copy if you'd like to see an actual -- what the minutes look like. It's the disposition, which is completed with -- it shows who attended the meeting, so that's how we know who voted and if somebody, what their vote was different, then we would put no and your name or you were absent maybe you left the room for that meeting and then it goes into you know, when the meeting adjourned and then it's followed by the closed caption transcript and that's the minutes that we're asking to approve. These don't include items like documents that were submitted for each item here. That would be with the documents itself ordinances or resolutions.

Adams: So in terms of the official record, it is the video of what actually happened or is it the minutes?

Moore-Love: No, we only keep the -- we are only required to keep the videos for a year. But we go back much further than that. We also have mp3 recordings, but the official minutes we're asking you to approve today are just what I described.

Adams: Right, but in terms of the official proceedings of the council, is that the -- what's -- what actually happened and what is contained in the video or is it the minutes?

Moore-Love: The minutes are considered the official.

Fritz: And if I might Mayor--

Adams: Commissioner Fish had a question and then commissioner Fritz.

Fish: Thank you, mayor. So maybe there's a way to simplify this for my concerns. This says it's a report. So, in effect, you're asking us to accept the report that you're filing and you're saying this is the trans -- this is the --

Griffin-Valade: Official minutes.

Fish: Official minutes that your office has prepared, is that correct?

Griffin-Valade: Yes.

Fish: So it's like, then in that case it's more of a public record that you're submitting you're asking us to accept?

Griffin-Valade: Exactly. It might be helpful if Karla, sort of talked about what the ORS requires.

Moore-Love: Right it's ORS 192.650, it's the recording or written minutes are required and we shall provide sound, video or digital recording and those are always available immediately for the public. The written minutes are, it says, it will be neither a full transcript nor a full recording of the meeting is required, so our closed captioning is pretty much a full transcript. The captioners aren't what you would think of as probably court reporters, not word for word, but they are very very good and we have been spending more time cleaning them up.

Fish: So if I could just -- So if we're accepting the report, then I have -- then I think that solves my issue. We're accepting your report. Just curious though, if we accept the report and someone in the

November 2, 2011

public then reviews these at some point and believes that you haven't captured accurately what they said or what we did, is there a process to amend these going forward?

Moore-Love: We haven't talked in depth about doing that because once we finish them and they're official, we put them in to e-files, we can easily go in there and get them back out, but I would think it would have to be something major wrong. If someone had said - voted aye instead of no. That would be something we would certainly change. And maybe a case by case basis.

Fish: So Mayor Adams, at least it's not like the records we have in the archives. If I can mention that, which are actually handwritten in books. And I don't know how they --

Adams: Aren't they summaries?

Fish: They're summaries but they're hand-written in a book that's bound and so there wasn't any room for mistakes but I'm satisfied that I can vote yes to accept the report.

Adams: Commissioner Fritz.

Fritz: I think that's a good illustration, commissioner Fish, in that the old records are in books which people can go look at and which are in summary form, so you can read the whole days in a relatively short time. I greatly appreciate the work that the auditor and the council clerk staff has been doing on this project and we have been discussing it multiple times. I also recognize that this predated your service as city auditor, auditor griffin-valade, so that you are catching up from previous delays in adopting the minutes. I think we have to get back to the public purpose of minutes and when I have been a neighborhood association board member for many years, the neighborhood associations are required to turn in written minutes on a monthly basis and there are sanctions if they don't and the reason for that is, anybody in the public needs to be able to find out what happened without reading through the entire transcript or without watching the entire video or even going online. I have a secondary concern. I've learned from you that the video isn't kept forever because of changing formats so if there is then a question about transcription where there are some errors in the captioning on a week-by-week basis, that we don't - we're not able to correct in a timely manner nor our citizens who come in to testify that -- it seems like we're not -- I -- I -- we're not where we need to be in terms of public process and letting - having citizens have easy access, particularly recognizing that not everybody has access to e-files. So I hope we can continue to work on this and what I would like to see, is on a month-by-month basis, having the previous months' minutes so that my staff and I can look through them. I'm not able to support even accepting the report because my staff hasn't had the opportunity to go through every single one to make the corrections that may need to be made.

Griffin-Valade: So as we've discussed before, the issue with summaries, for instance, is that the person who is writing the summaries, it's very subjective, they are summarizing what they think they've heard or and it can be relatively accurate, but it could also be inaccurate. So in addition to that, we don't have the staff available. This is already - to try and deal with the backlog has really pressed Karla and Sue for time, considerably. And so we are working away at this, it's unfortunate there was a backlog. It's unfortunate there are these concerns but we're doing the best we can with I think the technology that's available. And -- and I -- I also believe that the video provides ample opportunity to folks to go back and review. So, I think that it's not a perfect system, that's for sure, again, we're doing the best that we can to make it more accessible to you and to the public.

Adams: So if I could -- if I could just summarize. So under Oregon law, this satisfies the requirements under Oregon law. In terms of what actually happened, it's a combination of the minutes and other -- either audio or video recordings? Looking to you to say yes.

Iparraguirre: And in this case, we have a transcript.

Moore-Love: Right a closed captioned file.

Adams: Again, it's a combination of the minutes, which are the transcripts, and audio and video recordings. That's that is how we -- this satisfies Oregon law, but in terms of what actually happened, it's a combination of those three, right?

November 2, 2011

Griffin-Valade: And it, oh I'm sorry.

Iparraguirre: I assume that's the case here.

Griffin-Valade: And also a double-check by both Sue and Karla.

Adams: Right.

Moore-Love: And I've never had a citizen, or anybody call and not be able to get minutes out of us. Those minutes are available. If you can't find them in the e-files, you call us and we can get you those. The closed captioned file is usually available the next day. I've never had anybody complain about minutes not being available or done, or anybody getting them to them.

Adams: The reason that I ask that question, in that the case of lawsuits and when you're mayor, you take a lot of suits on behalf of the city, I just want to make it, I think everyone would want to make it really clear that we do this to satisfy Oregon requirements but in terms of what actually happened under the law, it's a combination of this, a combination of audio and video recordings. All right.

Yea.

Leonard: So, if I can just expand on the last point. Karla, you have minutes available for people at any given meeting passed 2007?

Moore-Love: Right, we, Sue usually finishes up the disposition portion of that agenda within a day if it's a Thursday meeting, it's usually available by Friday. And then the closed caption usually comes in within a day or two and we can give them a draft of that.

Leonard: So, this is just a perfunctory requirement of the state and not one necessarily that is a source that people rely on to get an accurate description of any particular council meeting?

Moore-Love: They could use it for that. I -- it's -- you know whatever -

Leonard: But there are other means.

Moore-Love: There are, sure there are yea, mp3, the video.

Leonard: So I would make an observation. I've been in one elective office or another for nearly 20 years, I have had numerous occasions to need to go back to whether I was in the state senate or the Oregon house to get actual verbatim testimony that either makes a point I was trying to make at the time, or refutes a point somebody else was trying to make and I've served with committee staff in -- in the Oregon legislature and now the auditor's office here, I -- I know of nobody who ever has done research trying to make a point that would rely on minutes when there are mp3 files available or video available. If you're actually trying to find out what happened during a meeting and I would go one step further, that I think that the staff here has been by far the most professional and responsive of any of the elective offices I have ever held at state or local government. And I take some umbrage at the suggestion that there's something improper here. I think if anything is improper, it's how it's being characterized or mischaracterized. I will sit here and listen to a lot of stuff being said and become increasingly silent about it, over the last year. This one, I will take exception to. I don't think it's a fair -- I just don't think it's fair to suggest that something proper is not being done and I appreciate the work that, of course, the auditor does, but auditors come and go. It's the staff that, on a day to day basis, keeps this place going. I think Karla and Sue do a great job and I appreciate it.

Moore-Love: Thank you.

Adams: Alright, unless there's additional council discussion.

Fritz: I just have a clarifying question. So, are we going to, on an ongoing basis, now that we'll be almost caught up, when we are caught back up, will we be having batches of minutes on the consent agenda so that we can check them and in a more timely manner?

Moore-Love: Sue has been sending them specifically to one of your staff persons. We've gotten, you know, those to you electronically.

Fritz: But would we be able to approve them on a month-by-month basis, because that would actually have the public purpose of -

Griffin-Valade: I don't think that's even - that's not realistic. It really is not.

November 2, 2011

Fritz: And can you tell the public why that's not realistic?

Griffin-Valade: Because we don't have enough staff to be able to do that.

Moore-Love: They can ask for them, it's -

Fritz: Well, when you're caught up, I mean however long it is, even if it was in two months later - I just have a concern about doing the whole year's minutes at one time, moving forward.

Griffin-Valade: And so our goal is to bring in bunches more often than that. We are just about ready to bring the second half of 2010 and it's --

Moore-Love: We have 2011, as well.

Griffin-Valade: And many of the 2011 are up, online, or about to be. We are again, working at this very diligently and in terms of priorities, I just -- I think that the most significant priority that Sue and Karla have is to make sure your meetings come off without a hitch. And to make sure that they're done professionally and follow the proscribed process. So, that's the number one priority, that, and being the elegant professionals that they are.

Adams: All right. Additional council discussion? Does anyone wish to testify on items 1167 to 1170?

Sue Parsons: No one signed up.

Adams: Sue, can you just start rolling through?

Parsons: 1167, Leonard.

Adams: I think you have to read the title and then call the vote. Sorry, if you could read the title and call the vote.

Item 1167.

Leonard: Aye. **Fritz:** [absent from the meeting] **Fish:** Aye.

Saltzman: Well, I just want to underscore my appreciation for the work of the auditor and Karla and Sue in doing the job as elegant professionals as they are. I like that. Aye.

Adams: Aye. [gavel pounded] can you please read the title and call the vote for 1168.

Item 1168.

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

Adams: Aye. [gavel pounded] Can you please read the title and call the vote for 1169.

Item 1169.

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

Adams: Aye. [gavel pounded] please read the title and call the vote for 1170.

Item 1170.

Leonard: Well just to put an exclamation point on my prior remarks, I have a hard time sometimes sitting here putting up with us. I don't know how Karla and Sue do it. [laughter] year in and year out.

Fish: May I second that motion? In the spirit in which it's presented. A friendly amendment, commissioner Leonard.

Leonard: I sometimes -

Saltzman: That does include everybody up here right?

Leonard: That includes myself included. [laughter] I don't lack the quality of self-awareness, because I actually watch myself sometimes and I shudder.

Fish: That's not a good idea.

Leonard: And, so we sit here some nights until -- I don't know, 10:00, 11:00 at night bleary eyed and I always look down, and they're attentive doing their work and again, it's the most professional work I've seen done in nearly 20 years of elective office and any information I've ever needed, I haven't even had to bother the auditor's office. I can go right to the webpage and get whatever I need and I'm sure Portlanders understand that and appreciate that and understand that what's being done here is really more of a technical requirement for the state, but anything they want, whether it's in writing or audio or video is available to them immediately. Thank you for your work. Aye.

November 2, 2011

*****: [inaudible] [laughter]

Fish: Karla, my advice – as my prior life I was a employment lawyer, so my advice is to tab this part of the transcript and have it available the next time you have a salary negotiation with the city because I think in addition to being elegant, you are masterful, in structuring this hearing. But since, for some reason this has become a larger referendum on our clerks, I will simply say I share the views of others, that it is a privilege to work with you and the team and hope you don't construe my questions about whether I could vote on something I didn't -- as any kind of criticism, I was actually sincerely --

Leonard: Just being a lawyer.

Fish: Knowing whether I could actually do that since I wasn't here and have no basis to know. But, thank you very much for your good work. Aye.

Saltzman: Aye.

Adams: Well, I've had the opportunity to work with you both for a very long time, and I want you to know not only do I concur with all the comments about your professionalism and your dedication and your hard work, but you're also, I think everyone would agree as well, incredibly wonderful to work with. So thank you very much. This is -- this is -- the fact that you've gone through and sought to improve upon all the transcripts really shows your dedication and our collective wish to get things right. But we also know that it has -- as commissioner Leonard said, it's -- when you want to look at context and you want to look at everything else, it's going to be always much easier to listen to the tape than it is to sort of read it. Even if you transcribed every word, to read it and get it out the next day. So, I think, you know, offering these options for folks to find out exactly what happened is the best I've seen and having worked for a member of congress, I mean that also -- and the legislature, I mean that in comparison to both of those bodies as well. So I'm very grateful and I want to thank you. Aye. 1170 is approved. Oh, it's not the long one? It says 15 minutes. O.K. Oh, I didn't know that. Can you please read the title for resolution item number 1165.

[Commissioner Fritz returned to the meeting.]

Item 1165.

Adams: Commissioner Dan Saltzman.

Saltzman: Thank you, Mr. Mayor. The charter commission co chair, mark white asked my office to introduce a resolution to meet this councils charter mandate to set a public hearings process for the charter commission. The resolution before us today lays out a proposed charter hearings process. Specifically the charter commission shall have at least two hearings for each proposed charter amendment they are considering with the exception of certain housekeeping items they are currently reviewing. They will have available to the public at least one week prior and following the hearings, the amendment language, and an impartial narrative summarizing the proposed amendment. They will set their hearings on either weekday evenings or weekend. They will notify local media about the hearings and they will provide at least two-weeks notice of any scheduled hearings. In addition, this resolution encourages the charter commission to televise their hearings and to hold their hearings in different geographical locations. So I'd like to invite up Sue Pearce, who is the newly elected co-chair of the charter commission. I see Joann Hardesty, who is a member of the commission in the audience. I don't know if she wanted to come up too.

Adams: Hi, welcome back.

Susan Pearce: Good morning, is it still morning? I'm Susan Pearce, co-chair of the charter commission. And would like to -- actually I brought some handouts, if I could break for a moment. Give this to Karla -- my comments are going to reflect comments that came to me by email from fellow charter commission members and if I have time left, I'll add my own personal comments. The first thing is that I'm handing out is a request that comes from me and one or two other commission members who are members of the housekeeping committee who just asked that we add to that list of housekeeping amendments. Sections number 2-108, and 13-301. These are

November 2, 2011

housekeeping amendments that we discussed in yesterday's committee meeting and so we'd just like to get them on the record as things that we could look at and I gave that to you, those are the ones in red --

Adams: Yes, we got it.

Fritz: What do those reference? What are they about?

Pearce: The 13-301 is -- asks that in the future, charter commission members be appointed for terms of two years. And I can talk a little bit more about the why of that, if you'd like, or continue on with my other comments. And the other one, I have to look up quickly here.

Fritz: I would argue that the terms and method of appointment of the charter commission is more than a housekeeping amendment.

Pearce: I actually am not going to argue with you on that, because I -- I think that's not a point well taken. It has been addressed within the commission as a housekeeping item because it's added to an existing -- an existing section. As are the rest of the housekeeping items. The -- so for that reason, I would call it a housekeeping item as opposed to the other items that we're looking at that are new amendments entirely or new items. Not the other housekeeping items but the other amendments that the commission is looking at that are -

Fritz: Do you know what 2-108 is?

Pearce: 2-108 is, has to do with an emergency fund that is appropriated annually, set apart the amount of \$5,000 to be known as the emergency fund of the council. The council may use such a fund and expend such a fund or any part thereof at its discretion for any purpose it may deem proper or advantageous to the public. The amendment we would like to make for that is to strike the phrase, the next phrase, "and shall not be required to furnish vouchers showing the purposes for which such expenditures were made." so that in the interest of transparency, the public would be given a report of when that fund is used. According to Mr. Scott of the omf, the office of management and finance, this -- this fund has only been used once by council in the time that he's been on -- working in the office of management and finance. So, I'm not concerned about misuse. Members of the housekeeping committee were just liked the concept of transparency.

Fish: Did you say this is a \$5,000 account?

Pearce: It's a \$5,000 sum, according to the existing charter. So it's what I might call petty cash, actually. So it's \$5,000 that currently council can use, so it's council as a whole, can use for discretionary use without going through the usually channels of funding.

Fish: Ok.

Pearce: We like the idea of transparency, however.

Adams: I think I suggested it, item two, to get rid of it.

Leonard: So I'm, I'm sorry, I stepped out of the room. But are you proposing amendments to the existing resolution?

Pearce: Yes.

Leonard: And that's 2-108 and 13-301.

Pearce: Just to add those as housekeeping items that we might present to the public for, at public hearings.

Leonard: O.K. And I asked you if the terms of the charter members and then the account you were just describing.

Pearce: Exactly. Oh good.

Linly Rees, Deputy City Attorney: Sorry, Linly Rees with the city attorney's office, I was watching upstairs. I just want to clarify one point as I heard Sue discussing this. 2-108, that change, Commissioner Fritz, was part of your original proposal. So, I just want to make sure. That may have gotten said while I was walking down.

Fritz: It didn't. Thank you.

Rees: O.K.

November 2, 2011

Fish: While you're here Linly, just can I ask you, because I'm not familiar with the language here. Is there -- is there some significance to whether it's a housekeeping item or not, in terms of how we proceed today?

Rees: The only reason it makes a difference is because you have in your resolution, distinguished in terms of the number of hearings that are required for them. In terms how it gets placed on the ballot and what it looks like on the ballot, there's not really a - there's no difference. From an elections perspective, if that's what you're asking. It just matters because you were saying you have to have two hearings if it's a non housekeeping item -- one hearing if it's a housekeeping, or I'm sorry, two or more if it's a non housekeeping item.

Fritz: So with that that clarification I move that we add 2-108 to the list of housekeeping amendments but not 13-301 which I think is a more substantial that requires two public hearings.

Adams: So and again just, sorry, 13-301 is, refers to which item? Linly, Could you stay up here please?

Fritz: It's setting a term of two years for the charter commission members.

Adams: O.K. so you want to vote on that separately?

Fritz: Yes.

Adams: So the motion is to add 2-108. I'll second it. Any additional council discussion?

Iparraguirre: Mayor, council, you have a substitute resolution, so you might want to vote on the substitute first. The motion -

Adams: That's not the motion on the floor, but thank you.

Iparraguirre: Before you amend.

Leonard: Yes so we want to adopt the substitute and then amend the substitute --

Iparraguirre: That's correct.

Leonard: So I think we want to adopt the substitute then amend the substitute.

Adams: What is the difference between the substitute and the original then?

Saltzman: The substitute reflects some changes that commissioner Fritz requested.

Leonard: Does that include the addition of the two public hearings?

Fritz: No, that was in the original.

Saltzman: That was in the original.

Fritz: The original assigned some duties to oni which are either impossible or extremely difficult to do. The original said that oni would provide notice of the hearings so that it could get into neighborhood news letters, that's not possible with two weeks notice.

Joanne Hardesty: And they would collect comments also.

Fritz: And that oni would collect comments. But nobody asked me if we could do that and we can't. So that's changed.

Adams: O.K.

Saltzman: My office will do those things.

Adams: What's that?

Saltzman: So, as a result of that, my office will do the notifications and also take comments.

Fritz: O.K.

Adams: That's part of the legislative --

Leonard: I will -

Adams: i've got -- i'm -- if I could, so i'm going to -- would you withdraw your motion so we can vote on the substitute.

Fritz: Sure.

Adams: So were withdrawing the motion and were now going to move the substitute, do I hear a motion?

Fritz: So moved.

Leonard: Second.

November 2, 2011

Adams: It's been moved and seconded to approve the substitute, unless there is additional council discussion, please call the vote on the motion to substitute.

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

Adams: Aye. Substitute is approved. Now do you want to make your motion?

Fritz: I move that we add 2-108, to the list of housekeeping amendments under the subsection specifying what are housekeeping amendments.

Fish: Second.

Adams: It's been moved and seconded. Additional council discussion?

Leonard: And 2-108 is the term of office?

Fritz: No, this is the one about the \$5,000 emergency fund which the commission is suggesting to require vouchers for that which both the mayor and I support.

Leonard: And is 13-301 the terms of office?

Fritz: Yes.

Leonard: Thank you.

Adams: Can you please call the vote on the motion?

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

Adams: Aye. Motion's approved. Is there an additional motion.

Leonard: I'd move to adopt 13-301.

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

Saltzman: I'll second.

Adams: It's been moved and seconded.

Fish: Can I ask the author of the motion, because I don't understand it. What's your motion?

Leonard: The motion is to allow the terms of offices to be two years for charter commission members, correct?

Adams: And currently there are no terms?

Pearce: Correct.

Rees: So if we're clarifying that it would be added to the list of housekeeping amendments.

Fish: You're proposing that it be a housekeeping matter or --

Leonard: No I'm amending the substitute resolution.

Adams: So if I --

Fritz: He's proposing -- may I? He's proposing that yes that would be a housekeeping amendment that would only require one hearing rather than a substantial amendment which requires two.

Fish: So Mayor, after the second on that, I just want a council discussion briefly so I understand the makers -

Adams: We're in the midst of that right now.

Leonard: [inaudible]

Fish: I understand, but before we vote on the motion, I just have to ask the maker a question.

Adams: Go ahead.

Fish: So Randy. The only issue that seems to be before us is whether this issue is subject to two hearings or one hearing, is that correct?

Leonard: Right.

Fish: And could I just get the benefit of your view, as to why you would have only one and not two hearings on an issue like this.

Leonard: I think that this is an issue that has arisen with one individual. And that early on, the charter review commission was told there is no process by which they could replace themselves and thus, they essentially were going to be abandoned, I think for a variety of reasons, some messages have been sent to the charter review commission that don't reflect, the first of all, what the will of the voters was when they adopted the charter review commission and I will tell you I sat here and I was not one who thought this was a great idea. But when we put it on the ballot, I expressed

November 2, 2011

reservations but it passed and it passed resoundingly and I think – now my job and the council's job is to facilitate the citizens that are the charter review commission and not put up roadblocks to make their jobs any more difficult than I think what it is. And it's a reasonable, I think, perfunctory, if I can -- expectation that there be terms of offices. We do that for all boards and commissions in the city. I know of no other that doesn't have a term of office and to me, this is a perfunctory housekeeping measure.

Fish: If your motion is defeated, then does the default that this would be subject to two hearings? That this is before, so this is simply a question of whether -

Leonard: I have a question about the two hearings, too, in the resolution.

Fish: At least with the respect to this.

Adams: Additional hearings.

Fish: Additional hearings, so that the purpose - the net effect of this motion is if adopted, it's one hearing on this particular issue. If it's defeated, it's two or more under the current proposal before us?

Hardesty: Yes.

Fish: O.K.

Adams: What would be -- just to make sure we've got the discussion maybe. What would be a reason not to support this? Is there a reason not to support this?

Fritz: To support what?

Adams: A reason not to have -- if I could just preview the topic slightly only because I'm trying to get context. What would - Are there any potential downsides to the charter commission having terms of office?

Fritz: I think the question is not -- no, there aren't. The question is, is it one year, is it two years, is it three years, some of the charter commissioners have proposed it being 10 years. So I think it's -- yes I know -- thanks Ms. Hardesty.

Hardesty: I didn't sign on for 10 years. [laughter]

Fritz: No, so I think - And it may be different in different situations. The reason that we were aiming for a shorter term for the current charter commission was in respect to the recession and that peoples time being valuable and that we just did an extensive -- I think three-year charter review process under mayor potter so sometimes we might want a longer term, sometimes a shorter term, we as a council, are responsible and did do the resolution about how charter commission members are reappointed and we were given -- we gave ourselves the authority to set the terms of the current charter commission. I just think the charter is our constitution and we need to have a robust discussion with our community members about anything that - more than housekeeping and to me, the term of charter commissioners is a significant issue that the community should be given ample opportunities to weigh in on.

Adams: Ok. Unless there is additional views to be aired out -

Fish: Well Mayor, I just, it's now clear to me, that this is not a question of whether it is one, two, or three years it's not a question of whether it goes before the public on a hearing or not. The net effect of the motion is, is it have one hearing or more than one hearing? So we're clear. So it's a procedural question.

Adams: Yep. Unless. Thank you. Can you please call the vote on the motion to include 13-301.

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

Adams: Aye. [gavel pounded] the motion to amend is approved. Is there -- I would like to motion that we require the charter commission to either televise or tape and televise their hearings.

Fish: I'd like to second that, mayor.

Adams: And then also, it sounds like commissioner Leonard has a potential opinion on that. And then -- or on the number of hearings but, and I'll let you take that up. The other is to require that they hold their hearings in different geographical locations, I think --

November 2, 2011

Saltzman: That's in there.

Adams: It's encourages, as requires - Just as a matter of clarity. I mean, I think, I wouldn't view these as huge changes but just to try to be clear about our legislative intent, that we -- we -- I think it should be an assumption. As opposed to an open question whether or not you can do that.

Hardesty: I do think that will challenge the charter review committee. We've been holding the hearings here at city hall so that we had the opportunity to take advantage of the technology, to tape the hearings. If we're required to do it somewhere else, then that requires additional resources that we don't have access to.

Adams: So I thought this whole thing relates to your final -- so I'm mistaken. I thought this whole thing relates to your final -- as you get to your finalizing your proposals.

Hardesty: No --

Fritz: These are the public hearings and I believe you still have about \$16,000 in the account and we --

Adams: Well I'm willing to invest more money for televised hearings and public hearings and in different locations so my motion references your hearings -- the hearings regarding and -- maybe it's legislative intent so that you know our expectations so I don't mark it up here, but as you get down to considering your final recommendations that those have to be televised and those have to be done in different locations. They can't just be done at city hall.

Pearce: These would indeed be the final hearings before our final decision to take input for our final discussion and decision about what we put forth to the voters either directly to the voters or through the city council depending on the number of votes on the commission. I would say that we -- I appreciate your willingness to add more funding if necessary. We -- in -- in discussing the forums that we have held, we talked about going elsewhere in the city and had difficulty finding anyplace that -- because we've been pinching pennies because of our funding. We had difficulty finding places that, where things could be televised and that were accessible and that's part of -

Adams: You're talking to experts on -- all of us have had to set up the meetings and get them televised. So, and - I'm referring to the first bullet. And I thought that the subsequent bullets sort of followed on the first bullet which is basically talking about all charter amendments proposed by the charter commission shall be presented to the public at two or more public hearings so my again, my intent with -- and I'm fine with just having it legislative intent. Is that as you move to your final consideration, that those be done in geographic locations and this is not a blank check because we don't have any blank checks. And that we'll -- we will help pay for the being televised and the additional rent or cost for space.

Pearce: O.K. Thank you.

Hardesty: May I --

Adams: So I'm going to withdraw my motion and just make that a clear legislative intent. When we say encourage, that's what we mean, it comes with a expectation and some additional funding.

Fish: Also what I would encourage our friends that you know, if you use one of the pcc campuses, they have, like at pcc cascade, they have spaces that are actually already set up for distance learning and that would make, I think adapting to community tv easier but the city is committed to work with you and offset those budget costs.

Pearce: Thank you.

Hardesty: If I might, I would be remiss if I didn't take advantage of this opportunity to say that I think the charter committee is a bit challenged. Half of our committee has been appointed in the last two months and there's expectations that somehow we're going to be done in December and we have some holidays coming up in the next couple months, so I would be remiss if I left this room and said that I think that we need to have a deeper conversation about what the expectations are of the charter review committee and the timeline that we have to complete our work.

November 2, 2011

Fish: Can I ask a, just a basic question? If you determine that you needed more time to do this, in a thoughtful way, what does that fundamentally affect? The dates, to the election in which you would refer stuff, is that the biggest consequence of that?

Hardesty: No, sir, commissioner Fish, what it would impact, is right now we're getting ready to do public hearings on administrative changes those would go on a primary ballot and so if it took us until march of next year to complete our task, I think we're required to have all of our information to you 120 days prior to the election, we would still make that for the November election next year, but I just don't want to leave this room and have you think that somehow in December, we would have done like 10 public hearings and we'll be ready to go, because that's not the reality of where we are.

Pearce: If I could piggyback, if I may. Some of the more recent appointees were appointed with limited terms, which would take them into, I'm losing track, but take them into early mid January or maybe into February. And as ms Hardesty -- I got that right?

Hardesty: Yes. [laughter] It's a learned behavior.

Pearce: I just pointed out, that in order to -- whether or not it is -- we're discussing an amendment that we would like to see on the may primary in which case I believe the date that we need to have those filed is January 10th, if I'm not mistaken or whether we have that longer timeline in terms of amendments to -- we have the problem of people leaving the commission. We have at least two commission members who are leaving as of December 31st.

Adams: So, I appreciate the conversation. I'm not prepared to weigh in on that issue. I'm glad you flagged it and I need to spend some time with commissioner Saltzman and his office who are staffing this and maybe Linley and you, to sort of -- I think it warrants serious consideration. I've just, I haven't had an opportunity to sort of delve into it but I commit myself to do that in the next week or so. So --

Hardesty: I'm available if you want to talk.

Adams: I appreciate that.

Leonard: Do we have a motion on the floor?

Adams: No, I withdrew my motion in terms of requirement it's just legislative intent, a deep understanding between all involved in the room.

Leonard: So just let me ask, I don't have any independent opinion about whether you should have one hearing on substantive issues or two hearings. What I have done is try to channel what I'm hearing from the charter review commission and act more as an agent to get what it is that you need to do your work. More than one charter review commission member has expressed to me a sense that the council has not been as cooperative as we can to getting your work done. That you've had a number of public hearings and feel that -- you all as a group -- feel as though -- I don't know that you two in particular do, but those who have contacted me do, that the requirement for two hearings is an attempt to make it more difficult to get your work done in a timely manner. Is that an accurate representation? Because if it is, I'm prepared to make a motion. If you're ok with the two substantive hearings, I'm ok. With that, but I'd like to get your candid reaction as to whether or not you think this is actually furthering public interest or possibly obstructing public interest.

Pearce: I would say -- thank you for that question. I would say that it is kind of a combination of both. We recognize many of the -- many of us recognize the need for public involvement and transparency and -- as much -- especially in Portland. But there's a sense that how can we -- how can we get this done in the amount of time that we have, given all of the factors that have been mentioned. Perhaps even a few more. How can we possibly get this done? So it becomes a stumbling block for that reason.

Adams: If I could -- yeah?

Leonard: I'd like to hear Joann's reaction.

November 2, 2011

Hardesty: If I could just add, I was going to say, I actually think it's important to have for policy issues at least two hearings. There's not a lot of public banging down the charter review committee door to provide testimony and other than the green party, that's been the only organized effort that has put pressure on the charter review committee and I think it's important to get more voices in there so those two hearings are extremely important.

Leonard: O.K.

Adams: Well also, the meetings happen outside of my door, I also see who hangs out outside of the door and that's great. I think that kind of involvement by organized groups and lobbyists is important, but some of these issues are really -- they're great discussions to be had about them and I think the issue of timing so that you can do that is an important issue and I see the connection of the dots and again, commit myself to take a look at that, so that we don't let this go on forever. And that you have enough time to do it well. We'll work on that.

Fish: I appreciate the mayor's comments and Joann, I appreciate your comments and the reality is every time we get a hearing out of this building, we do see, and you're often at those hearings, we do see different people and so I want you to know if the maker -- if Dan's substitute listed two hearings or more, I came at that along the spirit you're offering. Not to obstruct but make sure that a wide range of voices were heard and frankly my view on the term of the service is -- and I've been involved in that fight for 25 years, just talking about terms. The terms often become substantive because it's too short of a term, you can't do your work, if it's too long, you create fiefdoms, what's the balance? So, I view it as a substantive matter, not procedural and that's why I would've preferred two hearings on that as well. I respect the will of the council. I appreciate your guidance on this. It is not our intent to make it unworkable.

Adams: Does anyone wish to testify on this matter? Any additional discussion to be had by the city council? All right. Thank you for your work and your testimony. We really appreciate your service. We know how much time and effort this is. All right. Please call the vote on the substituted and not amended -- yes, substituted and amended resolution.

Leonard: Aye.

Fritz: Thank you, Sue Pearce and Joann Hardesty for coming today for this vibrant discussion and wonderful public process. These are two of my nominees to the charter commission and I'm really proud of you and I appreciate also commissioner Saltzman having taken the burden of the staffing of the commission from July onward. It's a significant commitment of staff time within whichever office is doing it as I found in the first six months. Thank you for your work, we will continue to support it and thank you for your support of public process and recognizing we are talking about amending the city's constitution. The city's charter and it does require diligence. The other I wanted to mention, is with the timelines commissioner Saltzman proposed and I'm supporting it doesn't leave time to get it into neighborhood newsletters and monthly publications so my office will work with commissioner Saltzman's and with the charter commission to help publicize and get it into as many publications as we can about the language being proposed and anything else you want publicized, we'll work with you on that. Aye.

Fish: Aye.

Saltzman: I want to thank the council offices for their help in crafting this process and especially commissioner Fritz and the 20 citizens serving on the charter commission and Alex Villarreal of my office who does the good work of staffing the charter commission and providing the minutes and keep up the good work. Aye.

Adams: I want to thank commissioner Saltzman for taking up this task and to Alex Villarreal for your good work on this. And we will take up the issue of timeline in the next couple weeks and again, thanks for your service. Aye. [gavel pounded] resolution is approved. That gets us to -- 1166 and then we have one item or two items we need to talk about?

Moore-Love: Two.

November 2, 2011

Leonard: Two time certain.

Adams: Oh, we still haven't done them. We have four items, five items left to do. Can you please read the title for nonemergency ordinance item number 1145.

Item 1145.

Adams: Commissioner Dan Saltzman.

Saltzman: Thank you, mayor. This comprehensive plan ordinance relates to the bureau of environmental services proposal to construct a new sewage pump station near the south end of sw 86th ave, near the existing fanno basin pump station in Washington County. This is to increase sewage pumping capacity for the fanno creek basin. The added capacity will ensure that the system can handle all waste water flows during large rainstorms. Last year a Washington county hearings officer denied the city's land use review application to expand the existing fanno basin pump station on the property already owned by the city. So bes has purchased property adjacent to the existing pump station for the new facility. The city will apply to Washington County for land use approval and the necessary building permits required for construction at this site. And with that, I'll turn it over to staff, if you have any presentation or comments or --

Michelle Kunec, Bureau of Planning and Sustainability: We do. We have a presentation. Commissioners, Michelle Kunec, with the Bureau of Planning and Sustainability, I'm also joined by Dan Hebert, Bureau of Environmental Services, and we have Andrea Baugh, joining us in a few minutes, with the Planning and Sustainability Commission.

Fish: Can I just ask a question? Which item are we now addressing Karla?

Saltzman: 1145.

Kunec: Well, interesting, we seem to have lost a few slides here. So I'm just going to speak to you about the relationship between this amendment and Portland's comprehensive plan. Kind of set some of that foundation before Dan speaks more specifically about the project itself. This matter was heard by the Planning and Sustainability Commission on September 13th and they recommended amendment to the comprehensive plans list of significant projects, the public facilities plan and the sanitary sewer element to add some additional projects necessary in the fanno basin, to protect public health and safety. This amendment while it's making these changes is post acknowledgment amendment. The bes is still intending to fully update the sanitary sewer element and it's portions of the public facilities plan as the city goes through periodic review which is ongoing as required by the state. Portland's comprehensive plan has three major components. There's the goals and policies, the map, and a list of significant capital projects. It's that 3rd piece, that list of proposed projects we're proposing to amend today. We're also proposing to amend the public facilities plan which is the support document to the comprehensive plan, and that plan was adopted by council and acknowledged by the Department of Land Conservation and Development in 1989. It includes an overview document that has a list of significant projects which is the same as the list of significant projects adopted as part of the overall comprehensive plan. It also includes a number of specific elements. There's an element specific to sanitary sewer which we're also proposing to amend today. These documents, as I mentioned, were adopted as supporting documents and comply with statewide planning goal and comprehensive planning goal 11. The statewide planning goal requires the development of this public facilities plan and specifically that it include projects -- sewer projects necessary to support the growth that is anticipated over 20 years. Our comprehensive plan goal 11, public facilities, addresses service responsibility for infrastructure services and includes specific policies and standards related to sanitary sewer provision. We do have findings included in the ordinance on those goals. The sanitary sewer element itself includes a greater level of detail about the existing and proposed systems, more information on the project specifics, timing, location, details such as that in a map and anticipated cost and funding mechanisms for those facilities. So just as an overview of the process, as I mentioned, this is a post acknowledgment amendment to the existing comprehensive plan. Because

November 2, 2011

the sanitary sewer project list was adopted as part of the comprehensive plan and since we're applying statewide planning goals, we have followed the procedures outlined in ORS 197.610 that relate to those post acknowledgment plan amendments. Our zoning code also lists these type of textual amendments as legislative procedures, so we followed those procedures outlined in zoning code chapter 33 including public notice and hearing requirements. We also decided to go kind of above and beyond that and notify residents within 1000 feet of the proposed project site just to make sure that we have notified as many people as might be interested and full details of both the dled notification and requirements and those public review and notification requirements are in the project record. In terms of the process so far, this was heard by the planning and sustainability commission and recommended, if it was to be adopted here at city council, it would be forwarded for acknowledgment to the department of land conservation and development as opposed to the acknowledgment plan amendment. With that, I think I'd like to turn it over to Dan who can speak more specifically about what we're actually proposing to amend.

Dan Hebert, Bureau of Environmental Services: My name's Dan Hebert. I'm an engineer with the design services division of the Bureau of Environmental Services and the assigned project manager for this particular project among many others.

Kunec: We're not actually matching what's on the screen.

Hebert: The first slide after the title slide is a map that depicts the sewer system in the fanno basin area and southwest Portland, and really the thing that put it into kind of geographical perspective is that the fanno creek basin is in the upper left-hand side of that map, and there's a large red line that comes across and down, that's the fanno creek interceptor that collects all the flows. There generated in the fanno creek basin. That includes some areas within the city of Portland and some within Washington County. Those flows all accumulate and come down to a point that nearest the end, the southern terminus of SW 86th avenue where there's an existing diversion manhole that either allows the flows to be diverted into the existing fanno basin pump station or to flow to clean water services conveyance system. In that event they're delivered to the Durham treatment plant. If the fanno basin pumping system picks them up they pump it to the East along an existing 17,000 foot force main that ties into the city of Portland's sanitary sewer system at SW 31st and Multnomah. The existing pump station was installed in 1998 and started up in 2000, and we've since that time been monitoring that fanno basin fairly intensively and have developed a lot of data with regard to actual flows. We know from that data that the peak storm inflows produced by infiltration, inflow in the basin, exceed the capacity of the existing pump station. We're tasked with trying to find a solution, in coordination with clean water services and DEQ, to handle that existing flow so we can manage it in accordance to the mpds permit and the existing service agreement we have with clean water services. We're here to talk about the solution we selected for that. Before I do that, I'll talk a little bit about the capacity issues in the station. In addition to the pumping solution that I'll talk about shortly, the bureau is also pursuing a two-phase infiltration inflow mitigation program in the basin. The first phase underway right now is to manage or resolve local capacity issues in the upper portions of the basin that are intended to maintain and not allow the peak storm flows to increase, and then the second phase of that program the bureau's involved in was intended for the foreseeable future to manage and prove the infiltration inflow problem in the basin so that we maintain a peak flow to the pump station at the lower end of the interceptor in the range of about 44 cubic feet per second. We think the technologies we know about and the techniques we have on inflow and infiltration mitigation is about the best we can do in that basin. If we can maintain that peak flow of 44 cubic feet per second, our existing pumping capacity at the station we have now is 24 cubic feet per second, so we have a deficiency of 20 cubic feet per second that we need to install in order to be able to handle the flows that are generated during the five-year storm in that basin. We evaluated many options. The first option was building what we're calling the southwest 86th avenue pump station and the associated facilities with that. We also

November 2, 2011

looked at the option of building another pump station higher up in the basin, generally near the intersection of Oleson road and Beaverton Hillsdale highway which would have required another pressure line system that would have had to go East in Beaverton Hillsdale highway for about 20,000 feet or so and would've required significant improvements in the gravity sewer system in Bertha Boulevard, to receive the flow if the project were constructed. Another option we looked at was building roughly a 5 million-gallon wet weather storage tank in an area somewhere close to the existing fanno basin pump station that would capture those peak flows during a storm and then, after the storm, bleed the flows back into the interceptor system to be pumped by the existing system. And we also looked at diverting excess flows to clean water services and coordinate it with the clean water services staff. On that alternative, and we - our engineering staff and our modeling staff worked very closely with the clean water services staff for a period of several months about a year or two years ago on this. Clean water services in addition contracted with another consulting firm to evaluate their system requirements and the capital improvements that would be needed if the flow was diverted to clean water services in lieu of our building and initial pump station near the location where our existing pump station is. It was really determined that diverting those flows to clean water services system would require some significant capital improvements in their system, either upsizing and building a parallel gravity interceptor alongside the existing gravity interceptor or building another wet weather pump station in another location somewhere to the south of the existing fanno basin pump station along with a forced main that would have had to be constructed from that new pump station location to the influent pump station at the durham treatment plant. Looking at all those options we've selected and would like to proceed with the new southwest 86th avenue pump station and associated facilities. The reasons for that are what's listed on the slide. We believe it's the most efficient way to capture the flow in the fanno creek basin. It's the least disruptive to the public and the most cost-effective based on cost analysis that the bureau has undertaken. And we believe it's the least impact to the clean water services collection conveyance system if we take those flows out before they get to their collection system. The three main project elements we are proposing to do are one, this 20 cubic foot per second minimum capacity pump station that will be built on the property the city acquired in August of this year in an area on that property that's outside the 100-year floodplain and outside the natural resource area. It's mapped by Washington County which were two of the major issues, that were a problem with the application last year that was denied by Washington County. And we also require new diversion flow control manhole on the existing interceptor just East of Fanno creek where the flows can either be controlled to go to the new pump station we're proposing or if the flows in the interceptor exceed 20 cubic feet per second, that excess flow can be diverted to the existing fanno basin pump station that would activate under those wet weather conditions to pumping in concert with the new pump station. And the third major element is a gravity sewer connection from that expanded diversion control manhole into the new pump station wet well. We've also tried to address in our proposal or we intend to address significant operational reliability issues in the pump station in terms of electrical reliability. Currently the existing station has a single pge power feed and a very large diesel generator system. What we're proposing to do with the new project is to enlarge the existing pge power feed to feed both of the pump stations and bring in a second independent pge power feed, with the same capacity to feed both those pump stations, and at the same time maintain the operation of the diesel generator at the existing station in the event that both pge power feeds should ever fail for any particular reason. We would still have the existing 24 cubic feet per second fanno basin pump station capacity to pump the flows in the interceptor. If all three systems fail, which really exceeds the deq and epa reliability requirements, flows could be diverted to the clean water services system based on a cooperative agreement we have with clean water services, and they would control the decision as to whether those flows would enter their system or not, because they have some pretty serious capacity issues during storm events in their conveyance systems. If we

November 2, 2011

were to introduce flows under certain conditions, they would actually result in sanitary sewer overflows and clean water services system that, in our terms of agreement with deq and clean water services, the city would be responsible for many penalties or fines associated with that. Also I'd like to talk a little bit about what we think are fairly significant public outreach involvement processes we've been involved in for the past two, almost three years now. Steven Sykes in the office is the director, has been managing that work for me. It has included a number of presentations to the local citizens participation organization in that portion of Washington county, public meetings, informational flyers, local newspaper media stories, frequent e-mails, almost weekly or bi-weekly e-mail updates to a list of several hundred people that have indicated their interest. And we maintain a project website to keep the people advised as to what's going on as best we can where we actually upload any project documents that were produced as a part of the design to go on to the website, and they're available to anybody interested in that. We know the neighborhood residents have expressed a lot of concern. They're in many cases opposed to this project, and I'm sure you'll hear testimony to that effect this morning. We're trying to address the concerns we've heard from the public, in terms of improved facility design, odor suppression, vibration and noise control. And working to try to incorporate neighborhood feedback in the design of the aesthetics, the lay out of the pump station site that we're proposing. We had a meeting with a group of the neighbors last Thursday evening, a workshop, or a meeting with the neighbors that actually border on the site or in the sight view of the site, and we plan to follow that up with at least two or more workshops if we need that. We're here this morning to talk about that project and ask the council to authorize amending the public facilities plan to list the three project elements: The pump station, gravity sewer connection, and the diversion manhole. Following that process, that certainly doesn't mean we're finished with our permitting process. We still have to go through a land use approval process with Washington County, actually two, one for the diversion manhole that is within the 100-year floodplain. That would be a type ii application process in Washington county that we intend to try to make an application in December of this year, and the type iii review application for the pump station itself would be likely an application submitted in April or May of 2012 when the project reaches about 60 to 90% design on the project. Assuming we do achieve or get authorization or land use approval, we still have to go through the building permit process on both projects and get grading permits, foundation permits and building permits and comply with all of those procedures. That and the planning and sustainability commission, after we had the hearing on the 13th, did vote to recommend that the city council adopt the ordinance to amend the facilities plan.

Saltzman: Thank you.

Kunec: I think we'd like to ask Andre Baugh, chair of the planning and sustainability commission to join us for a few words.

Andre' Baugh, Chair, Planning and Sustainability Commission: Good morning council. My name is Andre Baugh, chair of the planning and sustainability commission. On September 13th we held a hearing on the proposed proposal to amend the city's comprehensive project list and public facilities plan. The pce/pfc voted to approve the proposed amendment. We received written and oral testimony in opposition to the project from one Washington county resident. The proposal outlined in the recommended draft amends the city of Portland comprehensive plan list of significant projects, public facilities plan, and sanitary sewer element to include additional sanitary projects in the fanno creek basin necessary to protect public health and safety. The projects, a new storage, a new sewage pump station, diversion structure, and sewer extension are needed to address capacity deficiencies and ensure the city meets its regulatory obligations and agreements with clean water services. The planning commission recognizes the potential impacts of locating a sanitary sewer pump station in an existing neighborhood, including potential construction impacts and operational issues, such as odor. We encourage all city bureaus to be good neighbors and continue

November 2, 2011

to exceed applicable land use and development standards for public involvement and facility design to minimize potential neighborhood impacts. The planning and sustainability commission recommends that city council adopt the ordinance and amend the adopted comprehensive plan project list, public facilities plan and sanitary sewer element as specified in the recommended draft.

We appreciate the detailed work from bes staff and planning and sustainability staff. Thank you. Questions?

Fritz: Thank you Mr. Baugh.

Saltzman: I believe that concludes the presentations. For testimony, we do have Washington county commissioner Greg Malinowski here. And I'd like to extend the courtesy to elected officials to be the first one to testify.

Hebert: Thank you.

Saltzman: Thank you.

Fritz: Good morning, thank you for joining us.

Greg Malinowski: Thank you very much. It's a pleasure to be here. Greg Malinowski Washington county commissioner, district 2. My legal address 13450 NW Springville lane Portland Oregon, 97229. I'm not representing the Washington county commission here. I'm representing my district and the folks who elected me. Also I am a director on clean water services. And I'm kind of new to the job, been here less than a year, so I'm learning things all the time. You guys have done a great project here to try and manage this. In a perfect world, drainage basins would all have one sewer provider. We wouldn't be trying to pump things uphill because of a political boundary. However, that's not the world we have. My concern is you can grow bananas in Antarctica if you have the money to build a nice dome and you catch -- you bring dirt in, bring water in and heat. You can grow bananas, but you're better off with a field in Ecuador than a dome in Antarctica that is expensive to maintain and one earthquake away from a crack that will bring the whole thing down. What I'm suggesting here is that, to a great extent, you guys are doing a wonderful job of engineering, but you're doing it the hard way. You're pumping sewage 200 feet up an elevation is what I've been told. 17,000 feet of pipe that, if it cracks in the bottom -- and I don't know if you have backflow devices but, if you don't, that would explain why one little crack, we end with 17,000 feet of two or three feet pipe --and I apologize for not knowing-- where the whole thing empties out the bottom, nothing to stop it. The new proposal you've got only shows one overflow. I believe you've got the flow to be good up to a five-year storm event. Instead of overflowing every year, actually it's been eight times in the last 10 years into that neighborhood. You'll only overflow once every five years. That's still asking an awful lot of a residential neighborhood. I am not sure clean water services has always been the easiest to work with in the past. We have good folks, and they do a good thing, but we take care of our side of the line, and I want to make sure that being new to this we can do the most effective thing, that will work cheapest for the taxpayers in both districts, what will be cheapest for you and a what will keep that neighborhood smelling like a regular neighborhood and not eight out of 10 times smelling like something else. Part of our planning and having had a chance to talk to some of the staff at clean water services is that we have two pumps poised at the side of fanno creek. When things go crazy, fanno creek becomes an open sewer. That's our plan. That's our fallback plan if your system doesn't work. Fanno creek has been restored. We've cleared invasives. We're trying to get salmonoids back into it. Even a once every five years turning into an open sewer is just not going to be very effective for that. I don't know if you guys have any creeks in this city where you routinely plan on doing raw sewage dumps, but it's just not playing well in garden home. I asked about taking those pumps out if we were so sure the system was going to work, and they said then it will be stored in people's basements. Where do you want the raw sewage? I guess the pumps are staying now. We haven't ever had to use those pumps yet because, when we get in an event which is greater than what you guys can handle, we get guys up at 2:00 in the morning to take suction

November 2, 2011

trucks out, and they drive to a manhole cover near your facility and pump them full of sewage, and then we drive them several miles down the road and find another man hole cover that doesn't have restrictions and pump it in there. I don't think we're sending you guys the bill for that and frankly, if that's the plan to keep the sewage out of fanno creek, I'd encourage you guys to buy some trucks and get some crews, because turning people out at 2:00 in the morning to pump, they charge extra for that. It's a system. It can work. You guys have done an excellent job. You've involved the community. I'd sure like to see you work with clean water services to come up with a system that perhaps will save you money and will certainly save the nearly annual event of a sewage dump. We had one this year. I'm told last week we had the odor of sewage which is not the same as a sewage dump. It's a continuing issue and a problem for the people in this district. I have talked to clean water services. They're getting me new numbers. Actually the cost of hooking you guys in to us would be substantial. There is no question the durham plant is under capacity for taking all of this flow. However, one of the first things I did as a Commissioner is sit on the budget committee, we spent \$8 million to run a sewer someplace we're not even sure will ever be in the urban growth boundary. We're making it big enough just in case. I asked if we ever worry about what it costs to provide sewer service, and they said no, that's handled by county commission and the planning department, was the sewage agency response. Since that's what I was told last May, I'm assuming it's good here, too. If you guys really need us to provide this service, I'm betting we can figure out a way to do it. We would need a forced main to do it. We would have to tear up some existing Washington county neighborhoods. But it's not normal in a Washington county neighborhood to have eight sewer spills in 10 years. So I guess what I'm saying is, if you can put this off or at least work with us for a while to see what we can come up with, let me push from my side. Let me be your agent out there for you, because I want something that works. And being just an old-fashioned farmer, my background, I can tell you we have three creeks, three different drainages in our farm, and trying to get the water from one drainage to another is an awful lot of work, and it fails. I'm continuing to be concerned about a 200 lift of sewage. That's a lot of pressure at the bottom of a line. Not that it can't be done. You can grow bananas in Antartica. This would be a lot more secure if we could find another way. I want to throw that out today. I'm afraid you're about to set something in cement, and frankly from my position, if we have to keep running those trucks, if you guys aren't going to provide the trucks and crews, then you need to pay us to shuttle that sewage around when your system doesn't work. If we need added capacity to serve your customers, we need your help with that, too. But I think it will be a more secure and longer term, better investment of money to have it when you're not fighting gravity and god and everything else by shoving your sewage 200 feet in the air and transporting it 17,000 feet away to get it going your way. I appreciate your time today. I'm willing to answer any questions, but I'm telling you that I want a fix that will work. I don't want to make it hard for you or clean water services, and I especially do not want to make it hard for this neighborhood. Eight times in 10 years, they don't even believe we're not going to have another spill there. The guys with the pumps when I talked to them yesterday, said they're not taking the pumps out, so you know what they believe. I'm asking you to work on a long-term solution with us. I'm sure you're quite capable and have the funds to do it the other way, but why fight gravity if you don't have to? Thank you for your time.

Saltzman: Thank you. Do we have any other?

Moore-Love: One more person signed up, Michael Lilly.

Michael Lilly: Good morning. My name's Mike Lilly. I'm an attorney, but I'm representing myself and my wife today. We live in the neighborhood. I sent you each a fairly detailed letter yesterday, hand delivered to your office. I hope you got it. I'm not going to go through that and repeat everything. I want to make a couple other points here that I think are worth making. One is to explain why we're here today. You might ask yourself that question. Why is this before us? Bes didn't ask for this before when they applied last year. Answer: The Washington county hearings

November 2, 2011

officer looked at your facilities plan at my request and said, hey, this doesn't apply this doesn't provide for a sewage pump station here. So that was one of the seven reasons that hearings officer said no you can't build a new pump station in this neighborhood. So that's why we're here. Because in order to get that Washington county permit, you'll have to make a decision that amends your comp plan, and I just wanted to point that out so you'd know why you're here. Second, we found out new information today. Mr. Hebert tells us that he can't -- can't -- keep the peak flow to less than 44 cubic feet per second. That's brand-new information. We've been hearing Mr. Hebert talk to us for a couple years now. I've never heard that before, and I'm hoping he's going to give us the engineering study that shows us that, 'cause I don't know that it exists. I notice also that last year, when we were doing this, they asked for a 16 cubic feet per second pump, and now they're asking for a 20 cubic feet per second pump. Does that mean that we've got 4 more cubic feet per second of water coming down the hill? I don't know. The reason-- I hope everybody understands this. The reason we have a problem here is not the amount of sewage that people are flushing down their toilets in the west hills. It's the amount of inflow and infiltration from ground water, storm water flowing into your pipes through the leaks in your pipes, and that problem is just going to get worse. And your original plan, the plan that you have right now has a fix for that. It says, well, we're going to have to fix these pipes up there and make the pipes in the west hills not so leaky. That's your plan. It's the plan you have right now. It's the plan they want to throw out. I suggest you keep your existing plan. Let's make the pipes in the west hills not so leaky, 'cause we've got a brand-new pipe that was just installed this summer. We've already had a spill from that pipe. That pipe is already broken. It's only been a few months that it's been installed. It's already broken, created a major sewage spill in our neighborhood. It flowed out down the path. You know what happened to all that sewage? Part went into fanno creek. The other part is still sitting there because your folks wouldn't clean it up. It's still there. My time is up. Sorry.

Saltzman: Thank you Mr. Lilly. This is a first reading. Staff is certainly available if you have questions.

Leonard: What would be the response as to the ability to have some cooperative agreement as the Washington county commissioner suggested between clean water services and bes? What are the issues around that kind of a fix, if you will.

Dean Marriott, Director, Bureau of Environmental Services: Good morning commissioners, Dean Marriott, Environmental Services Director. With me is Bill Ryan our chief engineer, Bill has been very involved with working with Washington county and clean water services particularly. For the last couple of years, we've been working with them on selecting the appropriate fix for this problem. So I think it's fair to say that we believe we have worked cooperatively with them. We've shared information. They have shared information with us. That's how we know what they would have to do on their side if we were to send this flow by gravity. They would have to build a pump station. They would have to build significant sewer investments in some of their neighborhoods to accommodate this flow. We believe we've selected the right option for the reasons that were mentioned in the slide presentation.

Leonard: I guess I'm asking is it accurate to say that, from an engineering point of view that it would be easier if we had an intergovernmental agreement with clean water services to accept this sewage? And that's just a scientific question.

Bill Ryan, Bureau of Environmental Services: We currently have an intergovernmental agreement with clean water services.

Leonard: Please listen to my whole question. I'm asking you, is it accurate, as it has been portrayed to us, that this from a purely engineering point of view -- you know -- the slope of the land that it makes more sense to have the sewage go into the clean water services system versus pumping it over the hill or is that inaccurate?

Ryan: I believe that's inaccurate.

November 2, 2011

Leonard: And it's inaccurate because?

Ryan: Because clean water services actually investigated what it would take, and we made a life cycle cost analysis of the different alternatives, and their alternative for a gravity system that didn't require a pump was approximately four times the cost of the pump and forced main system on clean water services' side of the collection system. And then we compared our five alternatives to provide the service within the city of Portland against their preferred alternative, which was also a pump station and forced main. Their's having been selected on the least cost of the project overall.

Leonard: And did I understand you correctly that our fix, compared to what they proposed, is 20% of the cost they would charge us?

Ryan: No.

Leonard: You said five times greater.

Ryan: No. It's been said several times that the flow could be allowed to just flow by gravity to the durham treatment plant.

Leonard: Right.

Ryan: The problem they have is similar to problems that we have elsewhere that their collection system doesn't have enough capacity to bring that flow to the durham treatment plant. So they would have to build a parallel collection system, a parallel trunk, to bring the flow there. Comparing the cost of their building a parallel trunk to building a pump station and a forced main, which is just a different means of getting there, but it requires electricity, and pumping against pressure just as the commissioner indicated -- we're pumping uphill. They would be pumping a greater distance not as much of a hill.

Leonard: What are the comparative costs between what they would propose to us and what we are proposing to do here?

Ryan: The comparative costs, I don't have the numbers or recall what they were. Their best alternative from a standpoint of cost was similar. The differences that, for city rate payers, we would be paying wholesale rates for that sewage treatment, and it would overall be far more expensive for us.

Leonard: I see, thank you.

Fritz: The commissioner Malinowski asked about other backflow devices in -

Ryan: There are backflow devices, yes.

Fritz: Has there been a break in the main?

Ryan: There has been a break in the main.

Fritz: What was that due to?

Ryan: That was due to a weld failure. We investigated that, we spent the last two months investigating that, reviewing similar welds on the rest of the pipeline, finding that there was a quality issue with the one weld that failed. Not observing any quality issues with the rest of the welds.

Fritz: Is that normal for putting new pipes in that there are sometimes flaws?

Ryan: You do everything you can to avoid that, but we missed this one.

Fritz: What should the overflow needs be for pumping and trucks and such?

Ryan: The state requirements are that you be able to handle a five-year storm event, so you design everything size-wise, pump-wise, pipe capacity-wise to meet that five-year flow event. When it comes down to actually having a five-year flow event, there are quite often things you can do in your system temporarily to increase the capacity, such as closing gates to hold the sewage back and essentially store it in the system or, as clean water services did once during a period of time when we had no pump station available, they operated a vacor truck in Beaverton to suck the sewage out of where it was going to overflow, suck it out. As the commissioner indicated, drive it downstream a little ways and put it back in their sewer system. That was in accordance with an agreement we had made with clean water services prior to that where it was discussed who would do the work,

November 2, 2011

and it was their decision that they wanted to do the response in their jurisdiction. And we agreed to pay the cost of that. I don't know whether they've charged us for the cost of that, but we'd be more than willing to pay the cost.

Fritz: Thank you. I'm not as familiar with the Washington County land use process as I am with the city of Portland's. There will be a land use review. Is it a conditional use type of review for the new facility?

Ryan: Yes there is actually two different ones. One is a type ii for the diversion manhole, which is an allowed use in the flood way, flood zone. The pump station itself is a type iii process. Dan can you give me a little bit better terminology here, you've been through it.

Fritz: I guess my underlying question is that that would be a place where there would be approval criteria to look at the viability of the system, whether there are going to be adequate protections for odor and over flows and such? Because we're not, am I correct, we're not approving or saying, go forth and prosper with this particular facility? We're amending the facilities plan to say that there could be one in the future. Is that correct?

Hebert: That's correct. The land use procedure is very similar to the city of Portland's procedure, that they just apply the Washington county code and the approval criteria are all reviewed, and we have to address all of the approval criteria in our applications.

Fritz: And Mr. Lilly is correct that we're amending the comprehensive plan because it wasn't previously in it. But the planning and sustainability commission has advised us that this is an appropriate amendment to the comprehensive plan?

Hebert: That's correct.

Fish: If I could piggyback off those comments, I'm looking at the public involvement statement and it says in 9a that amending the comprehensive plan, blah, blah, blah, is not anticipated to have community impact. And I take it that's because we're simply amending the plan and we're not moving forward on anything. However, it goes on to say construction of the proposed projects will produce limited duration construction-related impacts and potential impacts resulting from the ongoing facility operation, are being addressed to facility design, and site lay-out processes. Therefore, there are land use processes that people can invoke to address these mitigation issues?

Marriott: Yes. To be clear, we are also doing extensive public outreach. Dan Hebert mentioned we had a meeting with adjacent property owners last week. We're going to have more workshops with them. Really going above and beyond what's required by the county code. We're going to do what the county requires, and we're doing more than that. We're meeting with them, talking about traffic issues, noise issues, odor issues, design questions. We want to be the best possible neighbor we can be under the circumstances.

Fish: So you're asking us to amend the comprehensive plan. What comes back to us and when, for further consideration about whether this is a prudent investment and to address some of the concerns we've heard from people who testify?

Marriot: Probably the contracts for construction.

Hebert: Yes. It would be the construction contracts that would come back for approval. The actual design approval is to the bureau's hierarchy, and the building permit reviews will all be at Washington County through their development services division. Once the plan amendment is adopted, the rest of the permitting process will be through Washington County.

Fritz: Any further discussion?

Fish: Just one other question I had. Because I haven't previously been briefed on this, I also haven't asked for a briefing. But it just hasn't come up through our bureau of planning and sustainability briefings or something else. Is this a time-sensitive request? If the council wanted more information on this, is there a clock running or some reason why this has to be addressed by next week or is there some flexibility, if it was the desire of the council to have more information?

November 2, 2011

Marriott: Well, we've been at this for quite some time, so I would -- and this is a first reading, I guess if you have a question.

Fish: I mean, is there some magic to having this resolved next week and effective 30 days thereafter? Is there a clock running here that you're trying to fit under?

Marriott: We are paying attention to the schedule, absolutely. But clearly, if you have a question that you would like to see answered before you act on this --

Fish: I'm not proposing that now, but I'm going to ask for some additional information between now and next week, and I just wanted to know if we're up against a hard deadline.

Saltzman: I think, if you didn't get sufficient information to make a vote or to form your vote next week, we'd certainly be happy to delay it an additional week, the second reading.

Marriott: Thank you.

Fritz: Thank you all for your testimony. Please read the title for time certain 1145.

Saltzman: 1146.

Fritz: Sorry, 1146 thank you.

Item 1146.

Fritz: My understanding is that this has been rescheduled to November 16th at 10:00 a.m. time certain. That is correct?

Moore-Love: Correct.

Fritz: Thank you. So moved. Please read the title for 1166.

Item 1166.

Saltzman: I'm sorry, which item is this?

Fish: 1166.

Saltzman: 1166. Thank you, madam president. The city currently spends more than \$12 million a year to clean and repair sewer lines that are clogged by fats, oils, and grease or fog for short and to treat waste water containing high concentrations of fats, oils, grease, and food waste. Food service establishments that discharge high concentrations of fog pay what's called an extra strength sewer charge to offset these costs. Right now a relatively small percentage of customers pay extra-strength fees, but the city has identified more than 2000 food service establishments that discharge concentrated fats, oils, grease, and food waste. The bureau of environmental services has launched an effort called cut through the fog that will add requirements and phase in new sewer rates for all food service establishments beginning on January 1st, 2012. After the city fully implements cut through the fog in mid 2013, this change will decrease sewer rates for other businesses and residential sewer rate payers. Food service establishments will be able to reduce extra strength charges by installing grease interceptors, removing kitchen garbage disposals, and participating in food composting and food donation programs. Bes is in the midst of an extensive outreach campaign to ensure that all food service establishments are aware of the program and can get technical assistance on how to reduce extra strength charges. The goals of cut through the fog are to reduce sewer overflows and back-ups, to provide great equity for all customers who discharge fats, oils, and grease into the system, and to protect public health and the environment. Staff is available if you have any questions. This is a first reading.

Adams: Any discussion or questions from council? Anyone wish to testify on this matter? Moves to second reading next week. In further consideration, we have two items pulled from the consent agenda. Can you read the first one?

Item 1153.

Adams: Discussion from council? Does anyone wish to testify on this matter?

Moore-Love: I believe the office wanted to refer this back to your office and submit another ordinance next week.

Adams: Unless there's disagreement, this is referred back to my office for a resubmittal. Read the second item, please.

November 2, 2011

Item 1156.

Adams: Commissioner Amanda Fritz.

Fritz: Actually, it's commissioner Saltzman.

Adams: Commissioner Saltzman.

Saltzman: I asked this be pulled. I think, with our budget issues that we are facing this year with issues I think the mayor has directed us all to look at around issues of span of control, I am concerned about setting the salary for the equity and human rights office director at a level 15 pay grade as it seems that the duties and responsibilities are more in line with those bureau directors at level 14. And I believe, if we do pass this and do create this level 15 for the equity and human rights director, this will create inequities with directors at pay grade 14 who supervise much larger staffs than we anticipate the office of equity and human rights to have. The fpd&r director is in pay grade 14. She supervises about 17 full-time equivalents. The poem director, who supervises about 19 full time equivalents, is also pay grade 14 and the director of oni, who supervises about 38 full time equivalents, is also pay grade 14. Directors in the pay grade level 15 supervise much larger staffs and oversee much larger budgets than we anticipate the director of the office of equity and human rights will do. I believe that the salary range at pay grade 14 of up to \$130,000 a year, is more than adequate to recruit qualified candidates, especially when you consider it in conjunction with what we recently approved, which are three-year contracts for new bureau directors, so this new director will have a three-year contract and \$130,000 a year annual salary. I believe that's more than sufficient. And if we do pass this at a pay grade 15, we will be setting the wheels in motion for directors at pay grade 14 to make an equitable claim that they should also be in pay grade 15, and I think that goes against our current budget environment, and I believe it's not the proper classification.

Adams: I appreciate commissioner Saltzman's comments, but I would disagree with them. I think, if we are going to realize our full potential in terms of being an equitable organization that we need to prioritize that and, yes, in terms of equity, it does mean with this classification that we are stating it as a priority. I don't agree with the prevailing city practice that these issues can only be decided upon issues that you mentioned such as span of control and size of budget. I do think it is appropriate, without setting precedence, and I don't intend to set precedence with this, that we do have this position classified above the others, and I do think it is appropriate and consistent to do so. It is within -- I believe it is within our discretion to do so, and those are the reasons that I support it.

Fish: May I pose a question? I intend to support the ordinance, but I have a question. Would you remind us what the ranges are, low to high, for both 14 and 15 since we're having a public hearing? People might be interested.

Yvonne Deckard, Director, Bureau of Human Resources: For the record, my name is Yvonne Deckard, Director for the Bureau of Human Resources. For a pay grade 14, the bottom of the range is \$93,288. At the top of the range is \$130,291. For 15, it's \$102,648 at the bottom and \$146,952 at the top.

Fish: Thank you. And having gone through this process recently myself, I want to be clear. Just because a position is classified 13, 14 or 15 doesn't mean that we are required to come in at the top of the range when we offer someone a position. Correct?

Deckard: Correct, commissioner. We negotiate the salary, and the range just means that you can't pay below the bottom and you can't exceed the top.

Fish: I can just speak from our own experience that we took a pretty hard line in keeping with the idea that there's a period of scarce resources and we try to strike a good bargain. The difference between the two ranges here is at the low end is 93 versus 102 and at the high end 130 to 146.

Deckard: Correct.

Fish: But that the actual pay for a 14 or a 15 and a starting pay could essentially be the same if that was the desire of the commissioner in charge.

November 2, 2011

Deckard: Correct. There's quite a bit of overlap between the two ranges.

Fish: There's a lot of overlap. To the question of precedent, because we often deal with those issues in our discussions, my understanding is that the bureau directors serve at the pleasure of the commissioner in charge and that we have broad discretion to strike the appropriate salary within the range. So, is there a precedent we're setting that -- in adopting this ordinance which would create actionable inequity claims by other people in the pipeline?

Deckard: What I'm going to remind council is that you actually have a compensation policy. And when we set salary, once we are looking at that compensation policy and how we set salary is broader than just span of control and budget. We are actually also looking at -- you know -- the error of consequence --

Saltzman: What was that phrase?

Deckard: Err of consequence. So if you make an err in judgment, an err, it's an err of consequence. We're also looking at what -- for this particular position, the reason -- and I can tell you, commissioner Saltzman, it was very easy when we first looked at this position to look at it and go, yes, it should be a 14. But in really delving in and looking at what this position is going to be performing and the criticality of that, I actually moved from the position being at a 14 to a pay grade of 15. What we know is that, for this type of endeavor, not only salary but where you place this type of position within an organization is critical for its success. Equity is one of those areas where you're looking at, we need to be able to attract and retain someone that has the ability to -- and the skills and expertise to approach this as a start-up. The same way you would start a non profit. They are going to have to form and maintain critical relationships, working relationships, not only within the city but across the city with other governmental agencies, other businesses and organizations both in the public and private arena. There is also a critical national relationship for equity programs and efforts in order for an equity program to be successful. If we aren't able to actually attract the right person, and the right fit for this position, it can really damage the program and our efforts to be successful in moving toward an equity program. Once that damage is done, it's very, very hard for an organization to recover from that. We're going to have to do a special recruitment for it, cast a very wide net in order to attract the right person, and I think we also need to send a message to our community both locally and nationally as far as -- you know -- the importance of seriousness this effort is for the city. And we often look at those other types of criteria where we are setting compensation. So for those reasons, I felt very strongly that we needed to really position this position at the right place in the organization and position it in a way that we could attract the best talent in order to achieve the success we need, because we really truly only get one shot at this.

Fritz: Thank you, director Deckard. It shows how much thought you've put into this and that you've been partnering on these issues for a long time. The only thing I'm going to add to that is that the director of government relations is a level 15 here in the city of Portland with eight in the office. To me, this director position is very much similar to the office of government relations director. I'm going to read from the ordinance that the office of equity and human rights will work with all bureaus to eliminate disparity in city policies, processes, decisions, and resource allocations, and with other governments, private businesses, non-government organizations academia and each community member to achieve measurable results reducing disparities within the city and throughout the community. That's a significant task, and thank you for your support.

Leonard: I just had a procedural question. I just don't recall having compensation levels brought before the council before. I mean, we've created the office, we've created the position, I thought typically that was an internal process done at the h.r.

Deckard: Generally, commissioner Leonard, you're correct. The council does set the compensation plan for the city but, when it comes to really evaluating where classifications or

November 2, 2011

where a position -- where that is placed on the plan and as far as pay equity issues, that rests with my office, and so normally that's how that's done.

Leonard: But that's my point. I thought you just decided where that was. Why are we -- why do we have this before us?

Deckard: Well, we have to establish the actual classification

Adams: Initially.

Deckard: Right, initially in order to be able to recruit and in order to be able to set up the office. And so, in order to have the classification and the pay raise, council does have to pass that.

Leonard: It's a procedure we would normally do.

Deckard: It's the procedure, and it's always on consent, so you normally do that, yes.

Fish: I, just to amplify on that because it's one of the notes I was making. I don't remember us in the past second-guessing HR on where the appropriate classification and pay rate should fall. I don't remember us having a debate about it. There are some things that we review within our discretion. I think there's other things we tend to defer. We don't have the benefit that you do of looking system wide where something fits. We also don't have the benefit of the information you have about the recruitment process. Again, having gone through this over the last six months, I think to the extent we take seriously the desire to get the best possible candidate and the most diverse pool, we've learned we have to go the extra mile to do that, to have that pool, and I don't think the council is generally in the position to second-guess that, 'cause we don't have all that information'.

Saltzman: I guess I would say, as the one who's second-guessing it, just last week we passed a new ordinance that provides new bureau directors a three-year contract. That counts for something monetarily and deals with the issues commissioner Fish encountered in his recent challenges in trying to attract out of town recruits to take these jobs or maybe even in-town recruits. Well, I had a couple questions I'd like to ask.

Fish: Can I just clarify the record on that point. Because I'd hate for someone to read the record and think that that's what we did last week. We did not create a term of employment. I cannot believe, after all the discussion we've had, that there are two members of council that keep saying that. We did not create a term of employment. We said that you can be fired for any reason at anytime. We said you can be fired for cause at anytime without compensation. What the council decided to do was, within the first three years, which is the period where someone is most at risk if they have sold their house, relocated, come to take the job, they would be eligible for severance if they were fired for no reason or for just political reasons. That's all we did. It doesn't change their at-will status. It doesn't create a term of employment, and I just think it's important we not misstate what we did last week. It's hard enough to explain --

Leonard: That just takes the fun out of everything.

Saltzman: I stand corrected.

Leonard: Are you kidding? The hearings would be so boring.

Adams: Commissioner Saltzman has the floor again.

Saltzman: It does create a level of security that we didn't have before for new bureau directors. So I do appreciate your clarification, commissioner Fish. But I guess my two questions were -- it sounds like we're going to be paying top of range no matter which pay range it is. We're paying either one \$130,000 or \$146,000 to get the talent?

Deckard: No.

Adams: She didn't say that.

Saltzman: From all the description and --

Adams: Commissioner Saltzman, nobody said that.

Saltzman: I'm asking.

November 2, 2011

Fritz: According to my record, I have hired a new bureau director for a newly created bureau, and we did not hire her at the top of the pay grade.

Adams: We're not making those assumptions.

Fish: Ms. Deckard reviews the offers that are made and is quite protective of the public treasury.

Leonard: Now if I was hiring the director of the office of human relations, I would hire them at the top of the pay rate.

Saltzman: We know that.

Leonard: Absolutely.

Saltzman: O. K. let me move to my second question –

Deckard: The other thing commissioner is that –

Leonard: fortunately I'm not doing that so - so your concerns are misplaced.

Saltzman: That's correct.

Deckard: In order to pay at top of range, in order to pay above mid range, then it actually does take the h.r. Director signing off on it, and so it's not something that just automatically happens.

Saltzman: O.K. And so will this not create a legitimate pressure on us from grade 14 directors that I just mentioned that control larger offices to also make a similar request to you and of us to? Well, I guess they'd ask each one of us individually to move to pay grade 15 also. The 'me to' effect.

Deckard: Well, we are - I'm just going to give a little clarification here. We did our first non-rep study in 1990. We didn't do another one until 2000. There's a problem with an organization of this size doing a pay study once every 10 years. That allows things to morph. There's way too much time in order for things to stay in really good alignment, to stay competitive with the market. We are in the process right now of looking at -- and we've had some compression. As a result of that compression, we've made some minor adjustments. One, we had a huge compression issue with our fire command. We had to make some adjustments there. We made some adjustments with some other ranges. And so we are looking at those positions currently, but we were looking at these positions before we got to the equity director, and so we are doing work there. It's a possibility that we have not looked at these particular jobs for over 10 years. We may have some compression issues. But I think those issues weren't created by where we place this position. That compression issue existed for a long time because we haven't looked at those ranges and so it's possible that we will be making adjustments.

Fish: I apologize Mayor Adams, but I have to go. But this is an emergency. Do you need my vote or, commissioner Saltzman, do you intend to remove the emergency clause?

Saltzman: One last question and I'll tell you that. So do you intend to –

Leonard: At this rate, Yvonne, (laughter) listen to this question -

Saltzman: Do you intend to do this compensation level study and bring it to us in the next three, four months or --

Fish: I think she's nodding her head perhaps.

Adams: Perhaps.

Deckard: Perhaps.

Adams: Additional discussion from council?

Deckard: Perhaps, yes.

Adams: Do you want to us go through a vote on the emergency or do you want to -?

Saltzman: I would prefer removing the emergency. I need to digest what was said -

Fish: If we do that, it's going to hinder the recruitment. Let's be clear about this.

Deckard: Correct. That's what I was going to say.

Fish: It means we cannot launch the recruitment which means we have a bureau with no leadership. We I think have four votes prepared to --

Leonard: Maybe Dan can go to the meeting you're scheduled to go and you can stay and vote.

November 2, 2011

Fish: If you absented from voting, we can move forward with the recruitment Dan. But if we remove the emergency, we're causing about a two-month delay in moving forward.

Saltzman: Is that true? You can't issue a notice for the hire?

Deckard: Well, if we don't set the compensation and establish the position, we don't recruit for it.

Saltzman: Well, we'll do that next week if we remove the emergency.

Deckard: No, because it doesn't go into effect for 30 days. And that's one of the reasons why -

Saltzman: You can't begin recruitment until that 30 days passes?

Deckard: Generally we don't. It's very difficult to go out and say to the public we are recruiting for a position that really hasn't been established, and that's why we always put emergencies on compensation issues.

Saltzman: To what event am I going? (laughter)

Fritz: Thank you very much for your contributions.

Fish: You're being honored for something.

Leonard: Thank you for leaving.

Adams: You're getting an award to thank you for your service. Does anyone wish to testify on item number 1156? Karla, please call the vote.

Leonard: Well, in all seriousness, the change in the charter that allowed for director appointments to serve at the will of the commissioners did not create political positions. They created -- they are political appointments, but these are not political positions, and I heard that said here recently, and I quietly disagreed with that. I am concerned about what appears to be increasing meddling in these appointments by the council. I think commissioner Fish's ordinance that I happily supported went a long ways to making these more attractive positions to people who might want to come and work for the city by at least setting up some kind of objective standard by which they would be treated their first three years, which is the kind of issue I've fought for my entire adult working life, so I appreciated that. This issue today, I'm concerned has become politicized, and it shouldn't be. There's an objective standard by which BHR develops these classifications. I'm comfortable that BHR has done that. And as commissioner Fish accurately pointed out, I don't think we're in a position to second-guess that nor should we nor is it appropriate. Aye.

Fritz: Thank you, each one of my colleagues, including commissioner Saltzman who had to leave on his pressing engagement. This is democracy in action, and thank you for your expert advice from a bureau director's standpoint, Yvonne. Thank you for elucidating much more carefully than I can why this position is so important and why we must work together to make it work. Thank you, commissioner Fish, for pointing out the issues with the hiring process and the timing. We're already -- I'm nervous about our capacity to be able to deliver the work plan by the end of march that we promised to do on September 21st. And thank you, Mayor Adams, for your ongoing leadership and your partnership. This Director will be hired in a partnership between the mayor and myself, as the commissioner in charge, which is unlike any other position. For anybody watching, this vote signifies how important it is, and we want everyone's help in advertising this position so we attract the best candidate. Aye.

Fish: I want to associate myself with the remarks of both Amanda and Randy, because I think they said it perfectly. The only thing I will add is that, based on the presentation that you've made today, Yvonne, I see no cost issue here which should sway us one way or another, and I do share the belief of the majority of my colleagues that we have a professional HR staff which guides us in these things, and I think we should be very reluctant to wade into these waters unless we think there's been an egregious violation of our existing policies. I will also say that the kinds of things we did last week and this week are ultimately intended to give you the strongest possible hand to get the most qualified person to do this job. It's my hope that we get the best person, that this bureau is successful, and it continues to be successful beyond this year and next year. Thank you for your work, and I appreciate the mayor and commissioner Fritz for bringing this forward. Aye.

November 2, 2011

Adams: I'd like to thank commissioner Fritz for her continued leadership and getting this start-up started. I'd like to thank just the ongoing fantastic work and leadership in the bureau of human resources and the entire team. Thank you. And I don't think -- I, too, would associate myself with the comments that have previously been made, and I look forward to all of us helping in the recruitment. Aye. We are adjourned for the week.

At 12:12 p.m., Council adjourned.