



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 11<sup>TH</sup> DAY OF JANUARY, 2012 AT 9:30 A.M.

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

Commissioner Leonard arrived at 9:38 a.m.

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

On a Y-5 roll call, the Consent Agenda was adopted.

|                       |  | <b>Disposition:</b>   |
|-----------------------|--|-----------------------|
| <b>COMMUNICATIONS</b> |  |                       |
| <b>26</b>             | Request of Jan Walker to address Council regarding the benefit of programs that educate, mentor and support small business development and growth (Communication)  | <b>PLACED ON FILE</b> |
| <b>27</b>             | Request of Silke Akerson to address Council regarding police presence and expenses related to protests (Communication)   | <b>PLACED ON FILE</b> |
| <b>28</b>             | Request of Karl Chromy to address Council regarding his civil rights (Communication)   | <b>PLACED ON FILE</b> |
| <b>TIMES CERTAIN</b>  |  |                       |
| <b>29</b>             | <b>TIME CERTAIN: 9:30 AM</b> – Accept the Graffiti Abatement Semi-Annual Progress Report (Previous Agenda 1349; Report introduced by Commissioner Fritz) 30 minutes requested<br><br><b>Motion to accept the report:</b> Moved by Commissioner Fritz and seconded by Commissioner Saltzman.<br><br>(Y-5) | <b>ACCEPTED</b>       |

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|---|---------------------------------------|
| <p><b>30</b> <b>TIME CERTAIN: 10:00 AM</b> – Accept the Report on the 2012 State Legislative Agenda (Report introduced by Mayor Adams) 30 minutes requested</p> <p><b>Motion to include proposed legislative changes to Oregon senior and disabled property tax deferral program:</b> Moved by Commissioner Leonard and seconded by Commissioner Saltzman. (Y-5)</p> <p><b>Motion to accept report:</b> Moved by Commissioner Fritz and seconded by Commissioner Saltzman.</p> <p>(Y-5)</p> | <p><b>ACCEPTED</b><br/>AS AMENDED</p> |
| <p><b>CONSENT AGENDA – NO DISCUSSION</b></p> <p><b>Mayor Sam Adams</b></p> <p><b>31</b> Appoint Catherine Howells, Thomas Badrick and Vincent Sliwoski and reappoint Janis Adler and Charles Van Rossen to the Portland Utility Review Board for terms to expire December 31, 2013 (Report)</p> <p>(Y-5)</p>  |                                       |
| <p><b>Bureau of Planning &amp; Sustainability</b></p> <p><b>32</b> Authorize the City Attorney to intervene on behalf of the City of Portland in Oregon Public Utility Commission docket UM 1565 (Resolution)</p> <p>(Y-5)</p>  | <p><b>36895</b></p>                   |
| <p><b>33</b> Authorize an Intergovernmental Agreement with Metro to receive funds in the amount of \$8,000 for the Build it Green! Home Tour and Commercial Salvage Workshop in FY 11-12 (Second Reading Agenda 6)</p> <p>(Y-5)</p>   | <p><b>185092</b></p>                  |
| <p><b>Bureau of Transportation</b></p> <p><b>*34</b> Amend Intergovernmental Agreement with Portland Development Commission for construction of the North District Infrastructure Conduit Project in the SW Moody Ave right-of-way (Ordinance; amend Contract No. 30002422)</p> <p>(Y-5)</p>  | <p><b>185093</b></p>                  |
| <p><b>35</b> Authorize an Intergovernmental Agreement with the Oregon Department of Transportation to define the roles and responsibilities for real property to be obtained and used as part of right-of-way for road, street or construction of public improvements for the NE/SE 50s Bikeway Project (Second Reading Agenda 10)</p> <p>(Y-5)</p>   | <p><b>185094</b></p>                  |
| <p><b>Office of Management and Finance</b></p> <p><b>*36</b> Authorize Intergovernmental Agreement with Multnomah County for the Revenue Bureau to collect Transient Lodging Taxes on behalf of the County within Portland City limits (Ordinance)</p> <p>(Y-5)</p>   | <p><b>185095</b></p>                  |

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**Commissioner Nick Fish  
Position No. 2**

**Portland Parks & Recreation**

- \*37 Authorize contract with GreenWorks, P.C. for design and construction administration services for the Westmoreland Park Nature Play Area for a total not-to-exceed amount of \$109,580 (Ordinance)  
(Y-5)

**185096**

**Commissioner Dan Saltzman  
Position No. 3**

**Bureau of Environmental Services**

- 38 Amend contract with KPFF for additional work and compensation for the South Airport Basin Phase IV Pump Station, Project No. E06790 (Ordinance; amend Contract No. 37735)

**PASSED TO  
SECOND READING  
JANUARY 18, 2012  
AT 9:30 AM**

- 39 Authorize the Bureau of Environmental Services to convey a parcel of City property owned in fee title to Tualatin Hills Park and Recreation District (Second Reading Agenda 18)  
(Y-5)

**185097**

- 40 Transfer ownership and maintenance of public sanitary sewer facilities to the Port of Portland (Second Reading Agenda 19)  
(Y-5)

**185098**

- 41 Amend contract with Skylab Architecture LLC for additional work and compensation for the Columbia Boulevard Wastewater Treatment Plant Support Facility Project No. E09023 (Second Reading Agenda 20; amend Contract No. 30001585)  
(Y-5)

**185099**

**Commissioner Randy Leonard  
Position No. 4**

**Water Bureau**

- \*42 Authorize application to U.S. Bureau of Reclamation for a WaterSmart grant (Ordinance)  
(Y-5)

**185100**

**City Auditor LaVonne Griffin-Valade**

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| <p><b>*43</b> Authorize permanent bonded lien interest rates for installment payment contracts financed by the Limited Tax Improvement Bonds, 2011 Series A (Ordinance)<br/>(Y-5)</p> | <p><b>185101</b></p> |
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**REGULAR AGENDA**

**Mayor Sam Adams**

**Bureau of Transportation**

|  |                      |
|--|----------------------|
| <p><b>*44</b> Authorize two year contract with Good Sport Promotion, Inc. for \$248,500 for volunteer management and recruitment services through the Portland Sunday Parkways program (Previous Agenda 9)<br/>(Y-5)</p> | <p><b>185102</b></p> |
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|  |                      |
|--|----------------------|
| <p><b>45</b> Vacate a portion of NW Irving St between NW 4th Ave and NW 5th Ave subject to certain conditions and reservations (Second Reading Agenda 23; VAC-10077)<br/>(Y-5)</p> | <p><b>185103</b></p> |
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**City Auditor LaVonne Griffin-Valade**

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|--|------------------------|
| <p><b>46</b> Propose Measures for Charter Amendments at the May 2012 Primary Election (Report) 10 minutes requested<br/><b>Motion to accept report:</b> Moved by Commissioner Fritz and seconded by Commissioner Saltzman.<br/>(Y-5)</p> | <p><b>ACCEPTED</b></p> |
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At 11:35 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 11<sup>TH</sup> DAY OF JANUARY, 2012 AT 2:00 P.M.

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

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

|  | <b>Disposition:</b>   |
|--|---|
| <b>47</b> <b>TIME CERTAIN: 2:00 PM</b> – Appeal of Verizon Wireless, lessee, against the Hearings Officer's decision to deny a conditional use and adjustment for a wireless telecommunications facility at Mt Scott Fuel Company, 6904 SE Foster Road (Hearing: LU 11-125536 CU AD) 3 hours requested | <b>CONTINUED TO<br/>MARCH 1, 2012<br/>AT 2:00 PM<br/>TIME CERTAIN</b> |

At 5:00 p.m., Council recessed.

January 12, 2012  
A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,  
OREGON WAS HELD THIS 12<sup>TH</sup> DAY OF JANUARY, 2012 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Adams, Presiding; Commissioners Fritz and Leonard, 3.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Jim Van Dyke, Chief Deputy City Attorney; Greg Goodwin and Wayne Dykes, Sergeants at Arms.

At 2:58 p.m., Council recessed and at 3:03 p.m., Council reconvened.  
At 4:40 p.m., Council recessed and at 4:44 p.m., Council reconvened.

|             |  | <b>Disposition:</b>            |
|-------------|--|--------------------------------|
| <b>S-48</b> | <b>TIME CERTAIN: 2:00 PM</b> – Establish as a position that the City of Portland praises United States troops and their families, applauds the end of the Iraq War and supports the further drawdown of troops in Afghanistan with funds being redirected to domestic priorities (Resolution introduced by Mayor Adams) 1 hour requested for items 48 and 49<br><br><b>Motion to accept substitute resolution:</b> Moved by Mayor Adams and seconded by Commissioner Fritz. (Y-3)<br><br>(Y-3) | <b>SUBSTITUTE<br/>36896</b>    |
| <b>S-49</b> | Establish as a position of the Portland City Council that corporations should not receive the same legal rights as natural persons do, that money is not speech and that independent expenditures should be regulated (Resolution introduced by Mayor Adams)<br><br><b>Motion to accept substitute resolution:</b> Moved by Mayor Adams and seconded by Commissioner Fritz. (Y-3)<br><br>(Y-3)   | <b>SUBSTITUTE<br/>36897</b>    |
| <b>50</b>   | <b>TIME CERTAIN: 3:00 PM</b> – Accept the Report on the 2012 Federal Legislative Agenda (Report introduced by Mayor Adams) 45 minutes requested<br><br><b>Motion to amend wording of LT2 priority:</b> Moved by Commissioner Leonard and seconded by Commissioner Fritz. (Y-3)<br><br>(Y-3)  | <b>ACCEPTED<br/>AS AMENDED</b> |

At 5:03 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.

January 11, 2012  
**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.

**JANUARY 11, 2012            9:30 AM**

**Fish:** Unfortunately Mayor Adams is out sick but because of a number of important issues on the agenda, he has requested that he be able to participate by phone and as required by law, I need to state the following; the Mayor is not physically present today due to illness his failure to participate in today's council session would jeopardize the public interest, health, safety or welfare, therefore unless there is an objection by any member of council, the mayor will participate in today's hearing by teleconference. Hearing no objection, Mayor Adams, how are you doing?

**Adams:** Well, I'm hanging in there, thanks.

**Fish:** Well, we're pleased you're able to join us by phone. Karla, before we officially begin today's council session, we have a proclamation. And I've asked commissioner Saltzman if he would read it.

**Saltzman:** Ok, thank you, president Fish. This is in honor of big brothers and big sisters. And the proclamation is as follows: Whereas the city of Portland, is strengthened by the diversity of cultures, traditions and experiences of its employees, and big brothers/big sisters, columbia northwest, is open and inclusive with their children, families and volunteers, from all backgrounds, and whereas the need for positive interaction between youths and adults is vital to our community's well-being and big brothers/big sisters is creating one-to-one relationships between caring adults and youth. And whereas the worth of such interaction has been documented as an effective strategy to reduce crime and the fear of crime, reduce the high school dropout rate and reduce the use of alcohol and illegal drugs by youth and reduce the numbers of youth and especially minority youth in the criminal justice system. And whereas, big brothers/big sisters represents a local organization that can facilitate increased involvement between adult Portlanders and our community's most disadvantaged youth and whereas big brothers/big sisters has extended an opportunity to city of Portland employees to volunteer to enhance their lives and the lives of youth in their community and whereas in january, 2012, big brothers/big sisters will recognize these outreach events. Now, therefore, i, sam Adams, mayor of the city of Portland, Oregon, the city of roses, do hereby proclaim january 2012 to be big brothers and big sisters month in conjunction with national mentoring month in Portland and we encourage all residents to observe this month. I'll present you with the proclamation.

**Fish:** Congratulations. If you would like to say a few words, just bring the mic up if you would. And all we need is your name not your address and take as long as you like.

**Chabre Vickers:** I am chabre vickers, the director of community relations and diversity programs for big brothers/big sisters and I think this is about the third year that i've got to do this with you guys here and with mayor Adams on the phone. Hope you get better. Our belief is that, through changing perspectives we can change lives and that has continuously happened here in the Portland Oregon area. We serve annually, typically, 3,000 children which makes us the largest mentoring agency on the west coast and I think that speaks to the citizens of this community and how they step up to really support the children so again, thank you guys for helping to make certain that we can continue to celebrate national mentoring month here in the city of Portland. Thank you.

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**Fish:** Thanks for all you do. Round of applause. [applause] ok, Karla, would you please call the roll. [roll call]

**Fritz:** Happy 80th birthday to Colonel Edward Fritz at Cherry Wood Village. Here.

**Fish:** Okay, we're going to start with council communications. Karla, would you please read item number 26.

**Item 26.**

**Fish:** Welcome, ms. Walker. All we need is your name, and you have three minutes.

**Jan Walker:** My name is Jan Walker. My business is inform restaurant accounting and we provide accounting and payroll services specifically to the restaurant industry. I want to thank you for all of your efforts to support small businesses and to continue this really great work. I'm very grateful to have been a recent recipient of a generous scholarship through the Portland business alliance for a one year SBDC entrepreneur program at the Portland community college climb center and through this program I learned there's a big difference between owning a business and growing a business. Like many new business owners, I quickly realized how daily operations and responsibilities could take me away from the decisions and actions I needed to take to grow my business and take it to another level and I was really learning my way on my own. But through this program, I learned lessons in the classroom, through one-on-one coaching and encouragement from our small business owners that helped me to refocus my business strategy and learn new business strategies. The opportunity to attend this program with other small business owners greatly enhanced this experience, to hear their stories and their struggles and to learn together such an important part of this program. We affirmed each other in what we knew we were doing right and together we received guidance in areas where we needed help. I know my business would not be on track for growth today had I not had access to this program and the continued support and resources through the SBDC. When small business owners learn to innovate and execute new ideas they bring in new business. New business leads to new job growth and new jobs bring economic benefit to local neighborhoods and surrounding communities. And I ask that you continue this partnership for your support to small business. Our success really depends on your support and I thank you.

**Fish:** Thanks very much for joining us this morning. Karla, would you please read council item number 27.

**Item 27.**

**Moore-Love:** She has emailed and is not able to make it.

**Fish:** Ok. Please read council communication item number 28.

**Item 28.**

**Fish:** Mr. Chromy, are you here? Ok. That concludes communications. Before we move to time certain, let's take up the consent agenda. Is there any item on the consent agenda that any of my colleagues would like to pull? Hearing none Karla, would you please call – oh excuse me -- any members of the public wish to pull any items? Karla, would you please call the roll.

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

**Fish:** The consent agenda is adopted; we have two time certain this morning. Karla, would you please read the first one, council item number 29.

**Item 29.**

**Fish:** Commissioner Amanda Fritz.

**Fritz:** Thank you, president Fish. It's my pleasure this morning to give an interim report to council and the community regarding the additional funding that was generously allocated for graffiti abatement services. Traditionally or historically during a recession, graffiti tends to go up and so we, the council realized this early and allocated additional resources. We had for a long time, had



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one stalwart in the office of neighborhood involvement marcia dennis and one in the police bureau, officer matt miller and we have doubled our efforts with our staff which has more than doubled our community results so we wanted to present to council today an interim report to let you know how the money has been spent and what the results have been. So I'd like to invite the team to come forward. We have dennis LoGiudice our new staff person volunteer coordinator in the office of neighborhood involvement. marcia dennis, our long time manager of the program and officers matt miller and tony zanetti from the Portland police bureau.

\*\*\*\*\*: Thanks for having us.

**Fish:** Who would like to go first?

**Marcia Dennis:** I guess I will.

**Fish:** Welcome. We just need your name and please proceed.

**Marcia Dennis, Office of Neighborhood Involvement:** Thank you, mayor Adams, commissioner Fritz, other commissioner, i'm marcia dennis. For nine years, I've been the graffiti abatement coordinator for the office of neighborhood involvement in the city of Portland. Prior to that, I was a crime prevention coordinator, very active in graffiti abatement and prior to that, I was one of the first inr people at the police bureau and ran the graffiti hot line in the '90s after mayor katz started the program. I enjoy this job. Seems to have job security in terms of the amount of graffiti we keep seeing. Other members I would like to introduce today in the audience are members of our graffiti taskforce which has also been meeting since the '90s and specifically, we have deputy district attorney amber kenney, i've asked people to kind of stick their hands up when I introduce them. The two new as of october contractors who do graffiti removal from private property on certain qualifying properties, Jim carr from cleanscapes, robert barry from the graffiti removal services, we have matt smiley and other members of his team from clean and safe, which is the downtown graffiti removal program through the Portland business alliance, we have people from crime prevention, we have volunteers from the pearl district graffiti busters and probably some other folks that i'm leaving out because I don't know they're behind us. But we will start with just a very brief history of the graffiti abatement program prior to the additions that were made in the winter bump. So dennis, you want to move that slide on, please? So the graffiti abatement coordinator prior to dennis' addition to the program managed the graffiti hotline, facilitated the graffiti taskforce, there are two codes that we work with the graffiti nuisance property code 14b.80 and the graffiti materials sales ordinance 14b.85. We have two databases; one is the pdx reporter using iphones or droids. There's also the trackit system we use for city properties and the graffiti tracking system, which is the public portal for public reports and also it connects us with a lot of other law enforcement agencies that work on graffiti abatement. So part of my job is to coordinate the cleanup of graffiti all over the city when it's reported, we have the two contracts with cleanscapes and graffiti removal services now. I work with owners to facilitate the cleanup of their properties, send out abatement notices when those are necessary to notify owners that they have 10 days, per our city code, to clean up graffiti. In some rare circumstances, we have obtained administrative warrants to have private properties cleaned up when the owners were not cooperating with us. So we also -- next. [laughter] The material sales ordinance we have worked on as we are able to check for compliance with merchants to make sure that they are locking up or securing spray paints and other graffiti implements and obtaining photo i.d. And that's been going on since 2007. Again, we have the two city contractors. And i'm going to turn it over to dennis to talk about what he's been doing now as the volunteer coordinator.

**Dennis LoGiudice:** Good morning, mayor, feel better. Good morning, commissioners. My name is dennis LoGiudice. I'm the volunteer coordinator for the city of Portland's graffiti abatement program and I want to thank you for the opportunity to speak to you today about the progress

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we've had for the past nine months. I have it written down and I would rather go by that because I'll forget something and I'll be mad about that. So, just to briefly recap some April, 2011, we have conducted and or facilitated 102 cleanups, added more than 500 additional volunteers through outreach and formed partnerships with several organizations and educational institutions that have provided diverse volunteers for cleanup events. These particular organizations include bridgetown ministries, immigrant and refuge community organization, hands on Portland, Catlin Gable school, Concordia University, Heald college, Warner Pacific college, University of Portland, and Portland state university. Although the program has had a volunteer clean up component, it has been significantly strengthened over the past year. From June to November 2010, there were 31 volunteer cleanups with 575 hours of participation. As a comparison, results indicate that there were 68 volunteer cleanups with 1,166 hours of participation during the same six months in 2011, more than doubling volunteer efforts in only one year. The wonderful benefit from utilizing volunteers in graffiti abatement is the education component, volunteers removing graffiti from public properties become more aware of the existence of graffiti as a blight on the neighborhood livability. Since I began in April 2011 we have formed 15 additional livability teams raising the total to 22 neighborhoods. Livability teams go out at least once a month -- Thank you --

**Dennis:** Oh I'm sorry. (laughter)

**LoGiudice:** -- as a group and clean graffiti in the public right-of-way. There are also currently 12 additional neighborhoods that I helped to form that participate in ongoing cleanups. This brings our community involvement up to a total of 34 neighborhoods that are engaged in keeping their respective areas safe and graffiti --

**Saltzman:** and gap --

**Fritz:** to that map please --

**Dennis:** Where's the map --

**LoGiudice:** oh it's --

**Dennis:** that's what I thought we were getting to?

**LoGiudice:** The graffiti abatement program gap stands for. Where's that map -- there's that map: Ok. So we've created a successful community grants program that is currently administered through our neighborhood coalition offices, funding projects throughout the city. These grants have funded the formation and upkeep of the current livability teams as well as partial funding of a few dozen legal murals created throughout the city of Portland turning properties that had previously been chronically tagged for graffiti into positive community focus locations. Additionally we have a wonderful partnership with irco which currently holds a 2011-2012 youth walking crews grant. They have been seen hard at work throughout the year rain or shine. Cleaning thousands of tags off of telephone polls, neighborhood boxes -- excuse me, newspaper boxes, metal street poles, backs of street signs and fire hydrants on the main arterials of our streets. The program provides job development opportunities for at-risk youth and also partners with the mayor's summer youth connect program to provide ongoing opportunities for these youth. I feel fortunate to have the opportunity to work with such a competent team and I also couldn't be more thankful for our partners and volunteers, for the surge of commitment in the community to tackle the problem of graffiti in the city. They make this program successful and have made a positive difference in Portland. The expansion of the program and increase in these activities would not have been possible without the focused funding provided by council. So we want to thank you so much for your commitment to addressing graffiti through this program and --

**Dennis:** Go back to the murals now.

**LoGiudice:** Yeah, we should go back to the murals. There you go.

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**Dennis:** These are some of the murals that have been funded partially with money from our small grants through the graffiti abatement program.

**LoGiudice:** Right.

**Fritz:** So we have really revised the way that we are engaging the community in -- abatement.

Dennis is leading these livability teams which are greatly expanded and the pearl district has been a great example of where people have really taken ownership of their block and their neighborhood. And thank you very much for that. These grants were a component to see if areas that get tagged a lot, that having art approved by race and gone through a couple of different processes could cut down on graffiti. We often hear that providing a free graffiti wall would be helpful in cutting down on graffiti but the research shows that it doesn't. The art -- skip that slide, please. Get rid of that slide.

**Dennis:** Oh, sorry.

**Fritz:** Thank you. Here we show the volunteers doing the -- some of the work. And so the art murals are both beautifying the neighborhood and helping to prevent the graffiti.

**Dennis:** A little bit more about the graffiti taskforce. As I said before, it was started by mayor katz, we still meet the third thursday of every month, we have expanded our network considerably to include regional partners, we have law enforcement participating from hillsboro to gresham and we have members included in our network in salem, Vancouver, all over the region. Friendly streets has been a great partner, they're a nonprofit involved in public transportation issues and safe streets they've helped us sponsor the graffiti summit the last -- this will be the fourth year that we've held a summit. Next slide, please. We also worked very closely with the police and the district attorney's office on dealing with the vandals when they've been arrested and I think we're about ready for officer zanetti's report if we can get to that slide and he can take over.

**Tony Zanetti, Portland Police Bureau:** Absolutely. Mr. Mayor and commissioners, my name is officer tony zanetti, I'm the second member of the police bureau's graffiti investigation unit. My position was funded by the council last year, and I transferred to the unit in may of 2011. During my short tenure officer miller and I have worked diligently to prove that A. my addition to the unit has increased our efficiency and effectiveness and B. tangible results can be directly attributed to my acquisition. Investigating graffiti crimes is incredibly time consuming and requires an officer to divide their attention between several major responsibilities that include, investigation, documentation, prevention, arrests, abatement, home visits, training and education. Statistically speaking each one of these areas carries equal importance because one cannot effectively impact the graffiti problem without addressing all of these factors. A team of two officers can much more easily handle these tasks without neglecting any one of these areas. Officer miller has led the fight against graffiti over the last seven years as the only graffiti investigator for the city. He told me his greatest frustration has been the amount of time he was required to spend behind a computer instead of on the street, making arrests and taking preventive action to curtail the problem.

Another roadblock he faced was being required to assist other officers with unrelated investigations while his work remained in limbo. My acquisition to this unit has assured that if officer miller is temporarily reassigned to assist with other tasks, I will continue our important investigation work. The community is much better served when their needs are met in a timely manner. In addition to accurately recording our progress, officer miller and I took the initiative to document our daily activities so that efforts could later be reviewed and evaluated. Since this type of information wasn't previously maintained we do not have comparative statistical data in all cases. A healthy prevention strategy is key to slowing the progression of the graffiti problem. And officer miller and I have made this our top priority. By sharing our daily documentation and clerical responsibilities we freed up valuable time to conduct 30 home visits of known and suspected

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graffiti vandals who were new taggers or had recently begun reoffending. Where applicable these visits involved the parents or legal guardians and resulted in commitments from both parties to work together to change the criminal behavior. Visits like these are a proven effective tool in the fight against graffiti vandalism, but were almost totally absent when officer Miller, who was forced to triage his responsibilities as sole investigator. As a unit, we made 32 citizen contacts and 59 business contacts for the primary purpose of educating citizens on how to avoid becoming victims of graffiti vandalism and the available methods of reporting such crimes. These numbers completely exclude contacts where citizens call in to report graffiti, applications where we went out and seek out interested people. This is a dramatic shift in preventive strategy because we know that the time to educate citizens before they are victimized rather than at the scene of the crime when a report is being taken. My addition to the graffiti unit has enabled us to conduct 80 follow-up investigations that were initiated by street officers or deputy district attorneys. These investigations helped us identify and arrest suspects for probable probation violations and lead to the discovery of additional graffiti victims who might never have reported the crimes. Our number of investigations almost doubles that of last years numbers at this point. Of the 67 graffiti related arrests made by the Portland police bureau since may 1st, 2011, 25 of those arrests were the result of our investigative efforts. This number doesn't include the significant number of felony cases submitted by us to the district attorney's office for prosecution and the outstanding arrest warrants associated with those cases. Six undercover missions were conducted over the last eight months which resulted in seven field contact reports and the execution of a search warrant and subsequent arrest of a adult offender who was responsible for tagging hundreds of Portland area locations over the last two years and causing tens of thousands in damages. Aside from our investigative responsibilities here in Portland, we regularly train and provide valuable graffiti related information to in-state police agencies. Our unit also aided the investigation of several out of state law enforcement agencies in atlanta, georgia, victoria, b.c., boston, massachusetts, san josé, California, union pacific railroad and burlington northern railroads. It should be noted that these numbers were effected by a one month reassignment to the occupy Portland encampment security detail and other occupy related events. From a purely statistical standpoint we believe the quality of our investigative work over the last eight months will compare favorably to that of any police agency of equal size in the u.s. The real question is whether or not we've been effective here in Portland. Our answer to the question is yes. The most significant sign of our success has been the gradual decrease in graffiti written by our embedded old-school graffiti vandals and their crews. The veteran writers that inspire a new crop of up and coming taggers over the last six years has dwindled over the last eight months due to arrests and prosecutions. The tone of the graffiti seen in Portland is much more reserved. With many writers in the community distrustful of each other and fearful of arrest, what we are left with is a disorganized group of younger graffiti writers and crews that are battling to gain status and respect from those -- from others in the tagging community. Although the demographics changed, the potential for damage has not. When I talk to citizens they tell me the presence of graffiti creates fear in the community and casts a shadow of doubt regarding the safety and livability of the neighborhoods. As a team, officer miller and I believe we can positively change this perception through quality police work and frequent communication with our community members. We would ask the mayor and council members to strongly consider the refunding of my investigative position within the Portland police bureau's graffiti investigation unit. Our success and gains will be short-lived if we don't continue to pressure these destructive vandals who have little respect for public and private property. Thank you.

**Saltzman:** Could I ask a question on one of the previous slides, there was something called gts entry, 20 hours. What does gts mean?

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**Zanetti:** GTS is the graffiti tracking system. It's our computer database where we track and record.

**Saltzman:** So entry into the database?

**Zanetti:** Correct

**\*\*\*\*\*:** It's a database we share with other police agencies up and down the west coast, from Washington to California.

**Fish:** Other questions from my colleagues? Commissioner Fritz do we have any more invited testimony?

**Fritz:** Does anybody else have – going to be testifying? Would anybody like to testify on this issue?

**Fish:** Has anyone signed up Karla?

**Moore-Love:** We have one person signed up for public testimony. Pete Colt.

**Fritz:** Thank you very much, thank you for all of your work.

**Zanetti:** Thank you.

**Fish:** Welcome, Pete. All we need is your name and you have three minutes.

**Pete Colt:** Pete Colt. Hi, everybody. Happy new year. Commissioner Leonard, thank you, because years ago with a lot of people pushing back, you were the one who instituted the need for people who sell paint and graffiti material to keep them behind the shelves and I appreciate you a lot for doing that. In fact, that's something that should be on the legislative agenda because Portland should be leading other cities, in the ability to reduce the amount of money that's spent removing graffiti. If we could lobby Salem to make this a statewide ban, that would be a good idea and then we should reach across to Gregoire and see if we can do the same thing in Washington, that way people won't be going across the river to buy their tagging material and coming back. Another thing we can do is for \$269, we can buy up to eight cameras from Fry's. Now I know in my neighborhood on West Burnside, at Southwest 20th, there's a little florist there that gets tagged every week. If you set up the cameras there, you're gonna you know, you're gonna have the ability to see who is doing what. I want to thank NWDA and the Pearl District because they've picked up the ball and really done a really great job of cleaning up the neighborhood, and Commissioner Fritz, when you got involved in graffiti abatement, is when the graffiti abatement program really took off and I want to really thank you a lot for that too. So thanks. That's it. Thanks, you guys. Oh, yeah, yeah, yeah. By the way, walk through my neighborhood, Monday, for example, from 14th in the Pearl up to 20th, I did -- Burnside, the north side of Burnside, I also did 16th. Last week, I did Everett from the freeway to 21st. And the taggers that I see all the time this -- first it was rerun, late last year. Now it's raw. Women used to be raped in my neighborhood, pulled off the streets because of the mentally ill that come and tag – you know, you cross the 405, you're out of the clean and safe zone but you have the taggers coming in and they tag. And this is where we're living and this is where we're living, that's how your cleaning up the graffiti has made a dramatic difference in Northwest, from the freeway to 21<sup>st</sup> and from Burnside to Glisan. So, thanks, and thanks Mary Ann.

**Fish:** Thank you Pete.

**Fritz:** I move to accept the report.

**Fish:** Is there second?

**Saltzman:** Second.

**Fish:** Karla, would you please call the roll? [telephone tone]

**Moore-Love:** When I touch my screen it disconnects.

**Fritz:** I'm sure we're not losing the Mayor, really. It would be help - there we go. Thank you very much, and thank you for everybody who is here. The short presentation, is just a smattering of the amazing work that's being done both in neighborhood involvement and the police force and

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with - - throughout our community and I thank everybody who is here today and all of our community partners, it's been a -- and indeed, I think thank pete colt for mentioning commissioner Leonard's leadership on this when he was in charge of the challenge. We're trying every -- all different kinds of ways to address this problem and people -- I didn't realize before I became in charge of the graffiti abatement program how much of a problem it is and why it matters. It's more than damage to private property and damage to public property. It's a way that people feel about their neighborhood, that it doesn't feel safe when other people can come in and - - without permission do what ever they choose to do so we are now making a -- fighting back and some of the graffiti now is actually naming some of our officers and our staff here and indicating their kind of giving up, which is good. Because there are legal ways to get permission to do murals, to get permission to do whatever kind of decorations a person might want to do without doing it without permission. And that includes flyers on telephone poles -- utility poles. It includes actually the yarn bombers, you know it's --if you don't have permission, its graffiti. And it would be very helpful -- it's tragic at this time, because the property owner is responsible for cleaning it up. Businesses and homeowners who are already stressed by the recession are having to find the money to do the cleanup. So thank goodness for our community volunteers, thank you to the council for funding the grants which provide the resources in terms of paint and other supplies and most of all, thank you to the thousands of volunteers who do the work. We often get phone calls to our graffiti hot line, which is 823-4-tag, eight two three four - the number four, tag. If you see graffiti vandals in action, please call 9-1-1 and the police will respond. So that's something else. It's all about reporting, and about cleaning up as quickly as possible. Because that's the way that the - our partners in the district attorney's office are able to have successful prosecutions and thank you, amber for being here today. That we need to show when the tag went up, who has been doing it and that when -- even though it may be when they go to court, they say this is the first time, if we can document that we've seen these tags over and over again over a period of time, then it's not the first time. It's over and over again. So that's how we need the community to help us with this challenge. We don't have staff, although we greatly appreciate the clean and safe staff and clean sweeps and others, and irco, our community partners who won the grant, when we went out for a proposal. We have some assistance, we don't have enough assistance. So if you would like to take care of your block, your neighborhood, please call us at 823-4000, to get anyone in the city that's the number to call for any question you have in the city. 823-4000, say "i'd like to start a graffiti abatement program in my neighborhood, volunteering once a month. It's actually really satisfying to take ownership of just one mailbox or one area of your neighborhood and keep it clean. Because then over time, they go somewhere else. Thank you to my colleagues for hearing this presentation and also for funding these two positions which makes a huge difference in our capacity to be able to leverage the thousands of hours of volunteer time. Aye.

**Saltzman:** Well thank you, commissioner Fritz, for I think as pete colt said, we've really started revving things up here on the graffiti abatement. I want to thank marcia and dennis and officers zanetti and miller and our deputy district attorney and all the volunteers in this audience too because without you this would not be successful. But it definitely sounds like it's being more successful than ever before and I'm very gratified. Also I live in one of the neighborhoods who benefited from one of those murals, in hillsdale. And I was always wondering who was responsible for that. It's a beautiful mural, I love it. You know, it's like one surprise, like nobody ever thought of that before. But, it's really great. And it does enhance the beauty of my neighborhood. So I just want to say good work to everybody. Aye.

**Leonard:** I've had the opportunity to work with marcia dennis quite a bit on this and I continue to be impressed by her dedication, I appreciate commissioner Fritz's support of not only her efforts,

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but I've also worked a lot with Matt Miller on this, so I'm actually very pleased Matt finally has somebody to help him and Officer Zanetti who seems to be equally as enthused on the subject and I appreciate that a lot and you can count on me assisting you with these positions that you two both so competently filled to be funded again next year, I think that they're doing a great job and people need to understand, not only does graffiti end up being an insult to the neighborhood that it exists within, it also attracts more graffiti and other types of crime. And it's one of the reasons I felt as strongly about it as I did when I was in Commissioner Fritz's position overseeing those efforts. So I really appreciate the work that all of you do to get to the root of some of the crime that occurs in Portland by going after the folks that do this in our streets. Aye.

**Adams:** Well I want to thank Commissioner -- I would like to thank Commissioner Fritz for her leadership on this issue and for a genuine passion. I share that passion. As I know other members of the Council do. As we just heard from Commissioner Leonard, this is a scourge on the city and it only gets better with the kind of prevention, through the kind of -- having a process in place for people to report it and that is managed by Marcia. And having the volunteers clean up like Dennis has managed to quadruple the number of volunteers we have on this. And also, to the investigations and law enforcement, my colleagues in the Portland Police Bureau. This is fantastic.

Since we funded it, I've noticed it hasn't gone away, but I definitely see it cleaned up faster and I see it coming back less often in some obvious places, that are repeatedly hit. So thank you all.

And look forward to the continued support of this on my part as well. Aye.

**Fish:** Well I agree with all the comments that have been made and Commissioner Fritz, it's taken your leadership, I think, to take this to the next level, so congratulations and to the Office of Neighborhood Involvement, our friends at the Police Bureau, our community partners IRCO, all of our volunteers, District Attorney's Office, thanks for a great team effort. Aye. Well, next item is a -- so the resolution passes -- or the report is adopted. [laughter] [gavel pounded] excuse me - we have another time certain. People are free to stay or as the Mayor says, watch democracy in action. Karla, would you please read the title for time certain item number 30.

**Item 30.**

**Fish:** I'm pleased to invite up our crack legislative team, Martha Pellegrino et al, to walk us through our state legislative agenda. Martha welcome.

**Martha Pellegrino, Office of Government Relations:** Thank you very much, Commissioner Fish, Mayor Adams and Commissioners, I'm very pleased today to bring the report of the 2012 state agenda for your consideration. With me today, I have Dan Eisenbeis, state government relations manager and Andy Smith, senior associate of government relations. As you may very well know, this is the first time the state legislature will meet in an official short annual session and that's going to be coming this February. So you'll notice that the agenda we're bringing to you is quite short and it is very much reflective of what we're anticipating. Before we get into the details of the report, I just want to say a few words on how this agenda was developed. We began back in August, soliciting input from your offices, from the bureaus and from the public. In November, we held a event hosted by Mayor Adams and Commissioner Fritz inviting the community to provide some input into both our state and federal agenda bill and processes and had a great session. Representative Tina Kotek came to that and gave us a sense what she's expecting in February, so not surprising, quite a bit of what we are anticipating is the attention to be focused on the state budget and in closing some gaps there. So what I would like to do before I turn things over to Dan is just to acknowledge the great work that's gone into building this agenda and so I'd like to thank both Dan and Andy. Also, Matt Jaffe from my team is here, our staff associate, not here today but someone who is also critical to our efforts is Steffeni Mendoza Gray who has worked hard on the community engagement part of our agenda and then just a special thanks also to our administrative

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team, Amy Julkowski and Lesley Kelley. I'd also really like to thank each of the legislative liaisons in your offices and in the bureaus they really have provided us with very good information to bring us to where we are today. So at this pint I'd like to just turn things over to dan to talk a little bit about what we're expecting in salem in 2012.

**Dan Eisenbeis, Office of Government Relations:** Good morning, again, for the record, dan eisenbeis, with the office of government relations, I would like to just provide a brief sketch of what we're expecting in the 2012 session. The legislature will convene on february 1st for what will be the first regular even-year session, following voter approval of annual sessions in 2010. The session is constitutionally limited to no more than 35 days in duration. Legislative leadership is targeting february 29th for sine die. The session will address both budget and policy issues.

**Fish:** Could you just, for people maybe tuning in for the first time, describe what sine die means.

**Eisenbeis:** Sine die means adjournment at the end. So they are leaving themselves a few days of cushion room. The state budget pressures continue and, in fact, the legislature anticipated that when in the budgeting process in 2011, for the current biennium, they created an ending fund balance of \$446 million by holding back 3.5% of funding for state agency budgets.

**Saltzman:** Could you say that again now, they created a -- ?

**Eisenbeis:** They created an ending fund balance by holding back 3.5% of state agency budgets, the funding for the approved budget. So essentially, what that means is that the legislature said that in order for agencies to implement their approved budgets, the legislature will need to proactively approve that final 3.5% of funding in february 2012, if the revenue is available. The most recent state revenue forecast in november indicated that general fund revenue will be \$277 million less than had been projected at the end of the 2011 session. And lottery revenue is down \$29 million. The legislative fiscal office has published reduction option lists for state agencies, representing 3.5%, 7% and 10.5% to the current biennial budgets. That first 3.5%, essentially represents the cut that would occur if that hold-back of state agency funding is not released. The legislature will receive its next economic and revenue forecast on February 8th, 2012, early in session. On the policy side, the short session will involve far fewer bills than we're accustomed to in long sessions.

Each legislator has been limited to two bill draft requests and each legislative committee as well as the governor's office and judicial branch have been limited to five bill draft requests. That equates to approximately 300 bills for the short session. As compared to 3,000 bills that were introduced in the 2011 session. Bills will be pre-session filed and will need to move quickly through the process in order to secure passage, given the short time lines involved with the session. So with that, i'd like to turn things back to Martha to begin an overview of the agenda that we have before you today.

**Pellegrino:** Alright, thank you, dan. What you will see in this report is the agenda broken into three thematic areas. The first is economic development and job creation, the second is public safety and community livability and the third is promoting government efficiency. So without further ado, we'll just briefly touch on these items and then open it up for your questions. So the first item is support for the reauthorization of our bonds for the Oregon sustainability center. It is a -- that is a building where the city has been a partner and we are going to salem to support the -- that request. It's \$37 million in revenue bonds that means bonds that are going to be paid back by the tenants in the building and not general obligation bonds. So for the next items i'll actually turn things over to both andy and dan to walk through.

**Andy Smith, Office of Government Relations:** Thanks Martha, for the record, my name is andy smith with the office of government relations. Regarding education funding we will work with our education partners to ensure stable and adequate funding across the education spectrum. On state shared revenues we will work to preserve the city's share of liquor, cigarette and 9-1-1 tax revenues



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and on public safety, at liquor establishments we will oppose legislation that impedes the city's ability to respond to crime and public safety issues at those establishments. And in the area of promoting government efficiency, the agenda includes items to strongly oppose any legislation that would preempt the city's local authority. And support legislation that proposes to lift such preemptions and also to monitor state agency budgets and advocate for adequate funding of programs that impact city of Portland services. In addition to the items that are included in the agenda before you, there are a number of items that we've planned to monitor and also work on. Such items include proposals to ensure health benefit coverage for autism spectrum disorder, proposals to enhance consumer protections in the foreclosure process and an effort to add \$5 million in funding for preservation of the existing deeply subsidized housing.

**Pellegrino:** So with that, i'd like to open it up for questions.

**Fish:** Commissioner Saltzman?

**Saltzman:** I was delighted to hear the support for autism health insurance coverage. Is that what -- did I characterize that --

**Eisenbeis:** Just to clarify that, that item is not included in the agenda that we've presented to you. It is an item that we're expecting to be proposed in the 2012 session that we would monitor in the course of the session.

**Saltzman:** Ok, well I - i'm wonder, andy, if your former boss, senator hass is involved in proposing something in this session?

**Smith:** Yes, Senator Hass does have a bill at the request of advocates. We think it's going to be a pretty big hill to climb in this short session given the time constraints of the 2012 session.

**Saltzman:** I agree it's a big hill to climb and I think as martha knows I was initially saying we should put this on our legislative agenda as a priority because we do have city employees who -- as many parents with autistic children really struggle on a day-to-day basis and that getting health insurance to cover the many therapies and things like that, that can help their autistic children become mainstream is something that's important to me and I think all of us, unfortunately, it does mean it's more expensive and I realize before we can go to salem and advocate unambiguously for this, we probably need to take a close look at our own insurance coverage in this area and I think there - that's what i'm going to be doing in the next few months. And hopefully, proposing something we can do for our own insurance, for our own employees. But I am pleased that senator hass is moving forward and this is something we will monitor. And I hope if it does get to the point, that we will weigh in and support as well. So, thank you.

**Fish:** Other questions? Martha, I have a question, it's not directly related to what's before us, but I just wanted to make a request to get some additional information for the council on three things. One, the county has now announced that they're going to do a two-track process in terms of library funding. We have previously tried to gauge what the impact would be on our general fund through compression of the original proposal. If we can get an update on that. The renewal of the levy in may, and then the proposed library district in november. Because that as we know, could very well have an impact on our budget. Second is I think we all read recently that there's some effort being contemplated to put a soda tax on the ballot in november. What caught my eye was that the petitioners are planning to -- if successful, use a portion of the money to cover after-school programs and a number of programs which we may be actually be thinking about cutting in this budget cycle. So I would like -- I think we would all like the benefit of know a little bit more about what's being proposed and what - if it is successful, how those dollars would be spent and in particular, whether they'd have an impact on proposed cuts to SUN schools or any other programs that we're looking at. And the third, since you - in the agenda, you talk about resisting efforts to put preemptions or limitations on our rights to do things locally. I would not that there is an effort

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by the realtors to put a statewide constitutional bar on a real property transfer tax now. There's a - some people have raised the question of why would that be necessary since we are already preempted from considering such a thing. But could we get an assessment from you about that effort and whether there's going to be any organized opposition and sort of how that likely will play out? I think Washington county has a bigger direct impact by that proposed change, but I would appreciate more information on that.

**Pellegrino:** Sure, happy to report back, commissioner.

**Fish:** Thank you. Commissioner Saltzman?

**Saltzman:** One last question. I know last session; I think it was hjr11, which was a proposed constitutional amendment that would allow local option levies to, among other things, would allow local option levies, like your children's levy, to go for ten years rather than the current five years before seeking voter reauthorization. Is there any -- is that being discussed at all this session or is that sort of the next full session type of deal?

**Pellegrino:** Commissioner, that was the -- that was an effort, as you mentioned, that was spearheaded by the league of cities. My understanding is that they will -- they are currently revisiting to consider that for 2013.

**Saltzman:** For 2013?

**Pellegrino:** Right.

**Fish:** Karla, has anyone signed up to testify?

**Moore-Love:** Yes, we have four people signed up.

**Fish:** Well thank you all very much.

**Pellegrino:** Thank you.

**Fish:** And we'll now take public testimony.

**Moore-Love:** Please come on up.

**Fish:** Why don't all four of you come up, if we can make seats. And -- welcome to the council. Sir, why don't you begin. And you have up to three minutes, if you would. And just adjust the mic so it's right in front of you.

**Darvel Lloyd:** President Fish, mayor Adams, if you're still there, city commissioners, i'm darvel lloyd, and I'm the chair of the senior advisory council at the southeast multicultural center in Portland. I would like you to -- to urge you to add one more item to your 2012 state legislative priority list. Under the -- could probably go under the category of public safety and community liveability. Regarding the state's senior and disabled property tax deferral program law, revisions to this 40-year-old law last year created widespread unintentional and very adverse consequences to thousands of Oregonians, including over 500 homeowners in Portland. We hope you will join our coalition's effort to fix this law for an immediate reinstatement of the -- of all former program participants, especially those who were disqualified very abruptly, simply because they had reverse mortgages. And we need to also lobby for assurance from the legislator that they will be working, not this legislative session, but in 2013, for long-term sustainability of this -- what has been a very popular program, the property tax deferral program and we need to advocate for broader reform of the tax deferral program assuring that the program's long-term sustainability without sacrificing the truly needy. I've -- you'll have this one-page position statement from our coalition to give you a little more background. We are all going to be down there in salem on the 20th of january, friday, between 1:00 and 5:00 p.m., when the revenue and finance committee is holding a public meeting - - a public hearing. And we hope Portland lobbyists are there too. Thank you very much.

**Fish:** Thank you very much. Ma'am?

**Lenore Bijan:** My name is Lenore Bijan, i'm 80 years old, i'm one of those 500 people who have been dropped off the cliff, with the property tax deferral. I did not get my recertification this year,

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because of the fact that I have a reverse mortgage. There is a simple misunderstanding, there was, at the passage of this law of the actual particulars of a reverse mortgage. Reverse mortgages are not things taken out by people with \$500,000 who are very well placed. They're acts of desperation and they're done by people like me who raised two severely disabled children, one severely autistic and who have very little in the way, nothing, in the way of savings, its all been medically spent down and I am dependent upon a fixed security income. It has been \$812 a month until this year, for the first time in years, I got a 20-dollar increase and so now i'm comparatively rich. But I have managed to do this because I planned ahead and when I bought my house, I realized that I was not going to have much money to take me into old age. I was going to have to really fight for it, and as a result, I spent every dollar I could scrape together planting fruit trees, I bought a piece of property that is one-third of an acre in northeast Portland right across, by the way, from where the shooting occurred yesterday. And -- and I have farmed it for the 30 years I have lived in that house, I have created, I have chopped up my debris, have recycled everything, it's a model place of making do with what is on the property. I have worked like a fiend on this property. Now I serve to lose it. Because when you have a reverse mortgage and all of -- and the state guaranteed that you could have concurrently reverse mortgage and the property tax deferral, and I have had it for a number of years, the minute you miss a payment on your state income tax, you are considered to have defaulted on the terms of your reverse mortgage and foreclosure begins and I am facing that position very rapidly because of the fact that I don't have a lot, fortunately, I do have a line of credit, it gives me about six years to live. Or six years to live in anything like a situation that I can even conceive of, before I have totally spent down every cent that I have on the equity of my house. And there are many, many permutations of this. I teach yoga pro bono to elders at the Hollywood senior center and I have put up a notice saying, do you feel like you've been dropped off a cliff with the reverse mortgage legislation, if you need somebody to talk to, call me at home. And I have gotten a tremendous number of calls. I can't offer them any legislative fix. All I can do is listen to them. But that is a big service and I beg you, to do more than just listen to us. But to do something about people who are literally in their 80s and 90s and they're fighting for their lives. This is a very serious situation. Thank you.

**Fish:** Thank you very much. Pete.

**Pete Colt:** Wow, I agree with lenore. Yeah, it's very heartbreaking. And you guys, what a tough job you have listening to this week after week after week. I don't envy you. I'm here to say that inside of this legislative session, the next one, i've got -- I know that the city is fighting to be able to be in charge of speed limits on certain roads. You probably heard of the kids zone Portland, which is - it goes from congregation hover shalom in beth israel, first emanuel lutheran, trinity Episcopal cathedral and st. Mary's Catholic cathedral, metropolitan learning center, the northwest children's theater and school, and jeld-wen stadium. It used to be 100,000 kids a year came into this neighborhood, now it's, with the stadium being bigger, more children are coming in. Here's the problem, we have everett and glisan and 18th and 19th are one-way streets and they're 30 miles per hour. I live near the intersection of Everett between 18th and 19th and I see accidents all the time. I've seen accidents in which cars have taken out historic stone walls from the catholic church, I've seen police cars t-bone other cars and the police cars were not on an emergency, so it would be a really wonderful thing if the city could have the ability to calm those streets either with stop signs at every intersection or converting them to two-way streets which seems to be working really well for downtown Vancouver, where the day after they got rid of their couplets, businesses were saying, thank you, our businesses have increased, people are actually seeing us. Another thing I want to say is, I love the idea of the sustainability center. I was very sad when we had to cut back the size of it. I'm even sadder now after reading in the Oregonian that several other cities

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have beaten us to the punch and have working sustainability centers that are bigger than what we wanted to build here. And saying is there something that we can do to rethink this? And the thing about that is, like if I were living in Tokyo, or I were living in France, or Germany or Sweden, somebody said, well are you going to visit the United States to see a livability center, and they say, oh, yeah, Denver already has one, let's go there. You know, it's been up and running, for a few years, they've got their act together. So, we should be taking that into consideration too when we're asking for \$37 million. So thank you all very much. And again, happy new year to all of you, and Lenore, I hope things turn out ok for you. I'm sorry.

**Fish:** Thank you, Pete. Karla, has anyone else signed up?

**Moore-Love:** Yes, we have three more.

**Fish:** Welcome, all. All we need is your name and you'll each be given three minutes. Sir, why don't you begin?

**Paul Terdal:** I'd like to defer to Anastasia to go first.

**Fish:** Okay.

**Anastasia Puha:** My name is Anastasia Puha, thank you for giving me the opportunity to speak with you guys today. My husband works for the city of Portland maintenance bureau and we have a three and a half year old daughter, Millie, who has autism. Autism affects one in 110 children with even higher rates in Oregon. Currently there is more than 8,000 children in Oregon with autism and 600 are diagnosed every year. Decades of medical research clearly demonstrate the effectiveness of many therapies in improving the health outcome and ability to function for these individuals. The city of Portland's employee health insurance sharply limits coverage for medically necessary evidence-based treatment forcing many individuals with autism to do without the medical and behavior healthcare that could dramatically improve their health outcome and ability to function independently. We have Kaiser insurance, our family does, through the city of Portland, it limits speech, occupational, and physical therapy to 20 visits per year. Kaiser also refuses to cover intensive behavior health treatment, called applied behavior analysis, or ABA, despite endorsements by their own pediatricians and psychologists. Kaiser has been ordered to pay for ADA for another child already, and we are going through a similar process and expect similar results by January 23<sup>rd</sup>. Our daughter, Millie requires weekly occupational and speech therapy, she also needs 20 to 25 hours of applied behavior analysis. Since our coverage is limited to 20 visits per year for speech and occupational therapy, she goes more than half of the year without these essential therapies impeding her ability to progress. Out of the speech benefit allowed to us, over the last two years, she's only received seven speech therapy visits because she requires feeding therapy which falls under and consumes the majority of our allowed speech therapy benefit, through the city. Plus she currently has no verbalization skills or form of communication. Multiple Kaiser providers have advised us that these treatments for her are medically necessary and she's in strong need of them but due to our limited coverage, she's receiving inconsistent treatment. Therefore, what would be deemed a complete medical treatment plan for her is not covered under the city's medical benefits. Her progress is limited by lack of consistency in treatment and Kaiser's refusal to provide the ADA therapy for her. To provide Millie with the medical treatment that she needs would cost our family almost all of our yearly income. Millie goes without medical treatment and we are forced to rely on charities and government services to provide her with services our own insurance refuses. Oregon already spends \$200 million per biennium on special education for children with autism. This number could be greatly reduced if she – if children like Millie were receiving the care that their own insurer should be providing them. The time that it's taken me to acquire services and that Kaiser refuses to provide care for her is time that she's losing and falling further behind, causing more money for this school system and medical -- and social

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services to provide for her. By the end of the month, the city is more than likely going to be providing ada therapy for millie, so I ask you to please allow all of the city employee benefit recipients that are in medical need, the opportunity to benefit from this treatment as well. I'm also asking you to please reconsider your limits on speech, occupational and physical therapy to provide for more medical – for more effective treatment for individuals in medical need. Thank you.

**Leonard:** I appreciate you bringing this forward and it's a compelling thing, but i'm trying to tie it to what we're considering here. Is there a particular -

**Saltzman:** There is, as we were talking about earlier. There was discussion about our legislative agenda supporting senator hass in his efforts to increase health insurance coverage for autistic children and --

**Leonard:** Outside of what an insurance provider --

**Saltzman:** Yeah, and we need to take a look at what we do ourselves and I think that's what Anastasia is talking about. And I'm pledged to do that examination, so I think that's the next step.

**Leonard:** Thank you.

**Fish:** Thank you very much. Sir?

**Paul Terdal:** Thank you, my name is paul Terdal, I'm a resident of the city of Portland. And I am here with anastasia also to talk about the autism health insurance forum and I was very pleased to see that you have put it as something that you're monitoring in your agenda and I certainly appreciated commissioner Saltzman, your comments beginning, and Amanda, commissioner Fritz, the discussions that we've had over the last couple of weeks as well. We do have a bill that we have drafted for the 2012 session, this will be the third session we have had a similar bill in process. This is an issue we have worked on for a very long time. We are very pleased that senator hass has put it in. We have spent the last six months at the end of the last session working closely with the insurance industry to basically address all of their technical concerns, at this point we believe we have a very clean bill. Ultimately it really comes down to a couple of things. We're not, I mean, the bill that we're talking about would basically clarify and strengthen the existing, you know, laws regarding insurance coverage. It is not really creating a new mandate that isn't already there. Anastasia mentioned that kaiser had basically been ordered recently to provide the very same coverage she's asking for for another child. That was my son. I spent 200 hours of my time, over a period of about the last five or six months, as well as 40 hours of the insurance divisions time to go through the appeals process and at the end of the day, kaiser realized they simply had no legal basis to deny coverage of the intensive treatment for my child. They are currently working with the insurance division to figure out how they're going to comply with that order, they have promised me an authorization by the end of this week. This law would simply clarify that -- you know, that requirement that is already there, that has been ordered by the courts for specifics for another family, it would also streamline the process, kaiser, you know, kaiser's contract, requires them to pay for licensed mental health providers at \$91 an hour, if you do the math, 25 hours a week for her child, that's going to be \$118,000 a year that they're going to be obligated to pay her. Personally, i'm paying \$25 a hour for greet care that meets national standards of care through a team of current professionals and expert supervisors and if this bill passes, we're going to be getting the same coverage that's already legally required but we're going to have a much better structure to provide high-quality care at about one-third of the cost that is currently legally required. So, again, i'm thrilled that the city is looking at this, I really appreciate the warm welcome that we received from commissioner Saltzman and commissioner Fritz's office and the time you're taking today. We know this is a tough hill to fight for this bill but it's extremely important and we believe that as the legislature really understands the true cost implications of not

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coverage, such as the \$200 million they're already spending on special ed for these kids, that they would realize this is actually a very cost-effective thing do. So, thank you very much for your time.

**Fish:** Thank you, sir, for your testimony. Ma'am welcome.

**Felicia Williams:** Hi, my name is Felicia Williams. I'm the chair of the downtown neighborhood association. And I want to start by thanking commissioner Fritz for inviting us to weigh in on this.

I noticed that one of the issues that we were very supportive of, the Oregon sustainability center, did make it on the agenda. There are three of these six that we are also very interested in, because they directly affect our neighborhood. The Oregon sustainability center, of course, the education funding, especially for Portland State University, directly affects our neighborhood, and the public safety at liquor serving establishments also has a direct impact on our neighborhood. So we do have our state legislators coming in to our neighborhood association meeting at the end of the month and we would be happy to advocate for all of the positions that are currently on this agenda. So, thank you for your time.

**Fish:** Thanks for joining us today. Martha, do you want to come back for a moment? See if there are any questions. I -- I did have a question on the property tax deferral program. George Hocker, on my team, went to the last town hall that was held at the hollywood senior center and I know that there are a number of state legislators that are working on this, I also know that the county has an interest in this. What is -- what is -- what is our role here and what is your recommendation?

**Pellegrino:** Oh well, on that issue, let me actually invite andy to give us just a quick update. We do know that there will be discussion during the february session. But in terms of action, i'm not sure the legislature is prepared to act in february. But let me turn things over to Andy.

**Smith:** Thanks Martha, what we've been hearing is that a possibility of a one-year extension for folks with reverse mortgages is in play. And i'm pleased to monitor the issue and report back to your offices.

**Fish:** Who is the lead person at the county on that, do you know?

**Smith:** I'm not aware of that.

**Fish:** Ok, do we -- this sounds like it's not something we would need to amend the legislative agenda but we could follow it and you could report to us so that we are working in tandem with the advocates on this?

**Pellegrino:** Absolutely.

**Leonard:** So why -- I guess I'm wondering why we wouldn't want to amend the agenda to add this formally, given there does seem to be some momentum to resolve it. It would seem to make some sense that we could weigh in to say that the city formally supports resolving positively for seniors, this is issue. Why would we not want to do that?

**Pellegrino:** I think that's absolutely up to the council. What we could do is -- there will be a number of bills and efforts that are introduced during the legislative session, not reflected here that we'll be working through our regular legislative process. But if it's something that council would like added, we can amend that to include.

**Leonard:** You don't see it as for some reason being harmful to formally add it?

**Pellegrino:** You know, I will say, that it's an issue that we are aware of. Typically, I would like to do a little bit of -- a little bit more research into it so I can give you a sense of where the -- who the major supporters are and what the effort looks like, I think at this point, you know, we could do that and do a little bit more background research, but I don't actually have enough information to make a recommendation at this point.

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**Leonard:** But it sounds to me like there's enough interest to resolve it that - and particularly given lenore's testimony and others, who we've worked with here, I'd be inclined today to suggest that we add it formally to our list, if the council so --

**Fish:** Other comments?

**Fritz:** I agree with the sentiments and I'd like more information about why would we not at least support the one-year deferral extension. I'm wondering is there a particular reason that we need to adopt the agenda today or would next week do?

**Pellegrino:** If at all possible, today would be -- it would be great if we could accept the report today, we'll make the amendment, if council is asking us to do that, and the reason why it would be helpful next week, the legislature is meeting for three days in their last round of interim committee days and if we can have an adopted city's legislative agenda, then dan and andy can actually be effectively informing our Portland legislators of what is items we're going to be working on.

**Leonard:** In my -

**Fritz:** So why you would prefer to have more time to look into the suggestion you would --

**Pellegrino:** Yeah, there certainly is --

**Fritz:** -- today rather than waiting?

**Pellegrino:** I think that's right, I mean if there's consensus from the council that you'd like an item added, we can certainly make that amendment, but to the extent it's possible for council to accept the report, I think we understand that there will be items that will come up during the legislative session that you'll want us to take action on.

**Leonard:** I guess my suggestion would be that we amend this conceptually today and give you the latitude to frame it based on whatever research you do in the way that you think is the most effective. But I would like it to be part of the package that's presented to legislators. Because having been in that position, that's an important document for me that I use throughout the session to touch base with to make sure we're doing the things for the city that needed to be done. So if the council agrees, i'd like to formally adopt it as part of the written directive in terms of our legislative agenda and have it in a conceptual form so that martha, based on her own research, can draft language supporting that effort and in the most effective way possible.

**Fish:** We have a motion to include proposed legislative changes to Oregon senior and disabled property tax deferral program. We have the motion, seconded by commissioner Saltzman. Further discussion? Karla, would you please call the roll?

**Fritz:** This just goes to show that when we have a long process, including public input, to get input, you can still turn up at the last public hearing and make a difference. So thank you thank you very much for bringing this to our attention today, and I am very happy to support it. Aye.

**Saltzman:** Aye. **Leonard:** Aye. **Adams:** Aye.

**Fish:** Thanks again for your time and for your hard work on this. Aye. The amendment passes. Further council discussion? Is there a motion to adopt the legislative report as amended?

**Fritz:** So moved.

**Leonard:** Second.

**Fish:** Karla, please call the roll.

**Fritz:** Well thank you, martha and your team for this process and also to mayor Adams, he and I in our very first month in office in 2009, had the first community forum to look at that year's legislative agenda and we realized at that point, that that was too late. That once the session is going, it's difficult because as you said, it's a month before and you're already starting to work with legislators. So in subsequent years we had a more expanded public process. We did a smaller version this year, knowing that the session will only have two bills per legislator and be limited to the 35 days. It was still a wonderful forum and I greatly appreciate representative Tina kotek

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participating in that, I know she's been very concerned about the foreclosure and senior mortgage issues so I'm happy that commissioner Leonard took the lead on adding that to the agenda. I'm in charge of the city's wellness program and the council's liaison to the labor management benefits committee. Greatly appreciate your bringing this to my attention last week and also happy to hear of commissioner Saltzman's concurrence that we need to take a good look at the city's benefits as well as supporting state legislation. Jennifer yocom in the mayor's office, who's the city hall expert on benefits, the city's benefits plan and also very experienced in working with the legislature, is going to be helping me to work on this particular issue. It was very helpful that you came today to give your own personal experiences and also to give us the state of what's happening at the legislature. We found with the 9-1-1 taxes with liquor control, with the number of the other important issues that are on this agenda that it often takes more than one session. In fact it sometimes takes more than three sessions and when we have persistent citizens, expert staff and committed elected officials who want to get things done, we don't stop trying until we get things done. So thank you very much for your partnership in this and I look forward to our success. I have to pause and take this moment to recognize our city lobbying team in the government relations office. I hear over and over again, talking with state legislators, they start the conversation with, I need to tell you how great your team is in salem. How constructive and helpful and you have certainly been very helpful to me in guiding me as to when it is helpful for Portland politicians to speak up and when sometimes it's better for us to let other processes take their - make their way. So thank you to all concerned and i'm happy to vote aye.

**Saltzman:** I want to echo commissioner Fritz's comment about how effective -- what praise we hear about our team from legislators and staff, so and good luck. Aye.

**Leonard:** I agree. Thank you.

**Adams:** I want to thank martha and her team for the great work that they do at the state level and we'll be considering the federal agenda and their work on the federal level tomorrow and I also want to thank commissioner Fritz helping to lead the outreach to the community and everyone that was involved. Look forward to lobbying on these issues. Aye.

**Fish:** Well Martha it's a pleasure to work with you and your team, even when you're admonishing certain commissioners, it's great. And I want to echo what Amanda said, when we're down in salem and we watch the interaction of the professionals on your team with the decision makers, that reinforces for me every time just how highly regarded our team is down there and congratulations for all your good work. You know, I have a disagreement, not a big disagreement, but a I hope a principled disagreement on one of the issues in our legislative agenda which can be resolved if we change the funding mix and make some other changes. But this document is a consensus document, reflects the will of the council and so i'm going to vote aye because I agree with the overall thrust of our agenda and I think you've done a good job getting this document prepared and I want to thank our stalwart advocates for issues involving seniors and one of the folks who testified was actually at the parks budget forum the other night and hung out for a couple hours and had a chance to weigh in on another important issue. So, thanks for all that you do in our community and for being so vigilant. Aye. The report is accepted. [gavel pounded] thank you very much. That concludes our time certain. We're now going to move to our regular agenda. We have three items today. Karla, would you please read council item number 44?

**Item 44.**

**Fish:** So if we could -- who is here for this? If you can come forward. Mayor Adams, I have a note that says that it's the desire of the bureau of transportation to take the emergency clause off?

**Adams:** Correct.

**Fish:** Is there any --



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**Saltzman:** I would suggest, before you do that, if I could have an exchange of questions, it may not be necessary to take the emergency clause off.

**Fish:** Ok. Welcome to council.

**Linda Ginenthal, Bureau of Transportation:** Thank you. My name is Linda Ginenthal and I'm the program manager for transportation options with the bureau of transportation. And the program manager who works with a team of folks on Sunday parkways. I will be brief. Although I love the opportunity to talk about Sunday parkways, it's a lot of fun. So this is a two-year contract and it begins the work of recruiting volunteers for our five Sunday parkways for 2012. And also for the five that would be scheduled budget permitting for a '12-13 season. So this is a contract that would be funded through three fiscal years, so it is currently budgeted in this fiscal year to begin and then it would be for next fiscal year, and then a piece of it would be in the third fiscal year. So it's funded through a -- through, the contract runs through three fiscal years. So Good Sport Promotion, who is the contractor, was chosen through a bidding process. And I have to say they are amazing experts at volunteer recruitment and also managing the -- helping us manage the event. And we really couldn't do this program without their support. So historically, the city has supported with city dollars Sunday parkways with about 50% of city money and then the balance of it coming from the private sector through either sponsorships, grants, individual contributions and vendor fees. And the goal for the next fiscal year, which obviously, we -- we are yet to have that budget conversation but we're in the middle of those conversations but our goal is to have the city funding scaled back significantly -- to a third of the support and then really ramp up the fundraising and -- as part of that, I've been doing a lot of talking about Sunday parkways, a lot of fundraising and at this point we have committed from our sponsors a -- as much as we had last year, for sponsorships, we're at currently today. So I believe we'll be able to hit those marks. So I'm going to be brief and then there's -- I think.

**Adams:** If I could interrupt.

**Ginenthal:** Sure.

**Fish:** You're the mayor, go ahead.

**Adams:** Before you wrap up, just to expand on that point. We're also looking to expand to southwest. Which we have not offered Sunday parkways in the west hills. And also, before you conclude, Linda, I just want to note that I'm sure there is another public event that leverages more volunteer hours, but if there is another public event that leverages 17,500 hours over five events, then that's great, we need more of them. I also wanted to note that the numbers in the council document are -- the city's contribution for two years. And that -- this is a highly -- this is a volunteer-driven event, that's entirely sponsored by the private sector, it doesn't have a every \$10 comes from the other private or other funding sectors and we're expanding into another neighborhood while reducing the city's contribution.

**Saltzman:** If I could --

**Fish:** Commissioner Saltzman.

**Saltzman:** Well thank you, mayor and Linda. I was one who originally pulled this from our agenda last week and the mayor suggested we set it over a week so I could talk to you in the interim. But the reason I originally pulled it was because of the \$248,000 of both general fund and general transportation revenues. And the commitment to future years to that funding and I think we all know, the transportation department is looking to cut \$12 million to \$19 million from its current budget and it'll probably be at least another 5% in its ongoing budget and not to mention the general fund as well. And I just felt that, you know, while Sunday parkways is a great event and a success by all measures, I am not prepared at this point to commit to the next fiscal year that this is the highest and best use of precious transportation or general fund dollars. I mean, there are roads

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that are not going to be paved, there's a million pedestrian and bicycle safety improvement projects that are important stuff and I just don't think necessarily our sponsorship of sunday parkways rises above that. It's a fun thing, but it might also warrant a hiatus in the next fiscal year. And I -- so I had this talk with linda and I just want to kind of make sure I understand it correctly, so the \$248,000 for this contract, includes money that we've currently committed in this fiscal year and then you said you're going to seek hopefully in this coming fiscal year, a level of one-third of what general fund and transportation revenues are currently going towards this.

**Ginenthal:** The budget for the -- the tentative budget for sunday parkways for the 2012 season is \$494,000. That includes the police costs, it includes the bureau of maintenance costs for putting out the barricades, it includes transportation, engineering staff, our staff, it includes this contract, half of this contract, this is a two-year contract. So what we're look at for next year is that instead of funding it, which we have done in this last season --

**Saltzman:** You're saying next year, you're speaking in fiscal years, right? When you say next year, you're talking about next fiscal year?

**Ginenthal:** For the next fiscal year, yes. So what we would be looking at is having, instead of 56%, which is what was last year, what would have been this year, looking at being only a third of that \$494,000 being committed from city money and the rest of that money would come from the private sector and the thing about that is because we've leveraged so much private money, essentially, that money, that helps pay for police and bom and our staff, we would actually be taking a larger cut in transportation and parks and police in order to not do sunday parkways.

**Saltzman:** So that reduced support would be either transportation, general revenues or general fund?

**Ginenthal:** I'm sorry? Yes.

**Saltzman:** The one third support would come from one of those, or maybe both of those sources --

**Ginenthal:** Yes.

**Saltzman:** -- and that would be decided by this council in the upcoming budget process.

**Ginenthal:** Exactly. And I think one of the things that makes this a little bit different than a lot of the other kinds of city projects that come before you, is that we're sort of running like a nonprofit, where we're fundraising and so you know, you keep your fingers crossed and you make sure you do the best job you can do for fundraising but often don't have the fundraising dollars committed, you know, a year and a half out for the next fiscal year and so that's kind of where this gets a little squirrely, because we're making a decision about a contract that's two years long that -- and the contractor understands this as well. If we don't have the money, we can't -- you know, we can't employ them. So they're --

**Saltzman:** They have no legal claim against us if we don't fund the second year of the contract.

**Ginenthal:** Exactly. They'll be sad.

**Saltzman:** They'll be sad yes, we'll all be sad.

**Ginenthal:** We'll all be sad.

**Saltzman:** I think with that understanding, I just want to be clear that, you know, the council still has the right to examine this use of transportation and general fund dollars against many other compelling uses and I will be doing that and -- and, therefore, i am prepared to support this item at this point.

**Fish:** This is a very helpful exchange and I just would note, linda, that we have to raise almost a million dollars a year to do the summer free for all program so we're enthusiastic partners of sunday parkways to the parks bureau. But if we fall short in our fundraising, it just requires that we scale back on the number of events and we might have to reduce the number of events at Washington park or neighborhood concerts or rock climbs or whatever so, we set sites high but we

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then have to calibrate based on how we do on our fund raising. But I appreciate that exchange, I think that actually clarified some questions that probably all of my colleagues had. Are there any other questions? Hearing none, do you have anything more you'd like to add?

**Ginenthal:** No, I think there's a few people who have wanted to speak.

**Fish:** Are they people you've invited or have they signed up?

**Moore-Love:** I have five people signed up.

**Fish:** Alright, very good. Thank you. Karla, why don't you call the roll?

**Fish:** Welcome to the council. I know a number of you have been here before. Sir, why don't you kick us off? And you have three minutes.

**Roger Averbach:** Thank you very much, I appreciate the opportunity to speak to you today, my name is Roger Averbach. I serve as a volunteer chair of southwest neighborhood's transportation committee, and I also have volunteered at Sunday Parkways events for the past two years. I would like to communicate to you that the southwest neighborhood's board has voted on October 26th in support of having a Sunday Parkways event in southwest Portland as the mayor noted. And this would be the first time that this event would come to our part of the city. And we appreciate that opportunity, we look forward to the partnership and the collaboration with, not only Good Sport Promotions, the Bureau of Transportation, the Police Bureau, and all the coordination that it takes. I'll note that this event could be also in collaboration with the 100th anniversary of the celebration of Terwilliger Parkway, and it will be a separate event, but it'll be closely organized in collaboration with, and so it will be quite seamless with both, you know, both events happening simultaneously to serve our community. So definitely you have the support of the 17 neighborhoods and the business associations out there in southwest to bring this event to our part of the city. I'd also, very briefly, like to speak to you from my experiences as a volunteer, in the past two years. Good Sport Promotions is an excellent company, and I've seen them evolve and improve their services that they provide in a number of ways. They are very—they plan in advance. They're very well organized. But they're also flexible and adaptable to the changing conditions that you might have in a large event, and they also are very open to and receptive to feedback from all the volunteers that they have out there on the streets after each event. So I've seen them grow and evolve. And this comes from 20 years experience in a prior career where I have dealt with the incident command system and in wildfire management, and I can tell when an organization is successful. They know how to adapt to the changing conditions. So I strongly encourage you to support renewal of this contract and to, you know, provide these services to the community. Thank you.

**Fish:** Thanks very much for your time sir. Welcome, all we need is your name.

**Brian Benson:** My name is Brian. I thank you all very much for hearing testimony today, and for the thoughtful discussion already on Sunday Parkways. As I said, my name's Brian, and I'm the community engagement director at the community cycling center we're a nonprofit up in northeast Portland. And I'd like to speak to this event from that perspective. Also having been a volunteer, as well like Roger, I'd like to really quickly echo his comments about Good Sport. They do a really wonderful job with the resources they're given, and I've only had good experience with them. But I'd like to speak a little bit about why I think that Sunday Parkways is actually a really great priority for the city and a really important thing to fund this year and ongoing. I really think that it's all about equity. And I speak for our organization in saying this. At the community cycling center our mission is broadening access to bicycling and its benefits. And for the past two years, we have been conducting the Understanding Barriers to Bicycling project, and that's basically a program with the goal of identifying barriers to active transportation that are faced by low income communities and communities of color. And there is the accompanying goal of course of dismantling these barriers, working with the communities to figure out ways that we can approach them and

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overcome them. Specifically we've been working closely with new columbia and hacienda, with a resident committees there and they're two affordable housing communities, as I'm sure everyone here knows, up in North and North East Portland. Through focus groups, in depth programming and ongoing committees, we have heard over and over again that people are concerned about safety and they're concerned about having access to our city's world-class active transportation infrastructure. And many folks just don't have the information about it. Sunday parkways provides both safety and access, it encourages a highly diverse group of community members to be active, to be neighborly, and to take ownership of Portland's ever improving bike and pedestrian infrastructure. So last year's Sunday Parkways groups connected directly to new columbia and hacienda and we were able to work with local leaders to organize workshops, to have some fix it fairs that would get folks back on their bikes, and to lead rides from these communities. So Sunday Parkways creates an opening, it crates an opportunity, and it is definitely creating momentum. I think canceling the events or not supporting them would be a sad step backwards for our city. And it would really send the wrong message. So I believe in making the benefits of our great city available to everyone really requires the courage and commitments to support innovative and I'd say cost effective, I'm guessing carl might have some more things to say about cost-effective. But our programs like Sunday Parkways and Portland is and will continue to be recognized as a city that is designed for people, and I believe that by funding sunday parkways we all can demonstrate our commitment to making it safe and accessible for all people. Thank you.

**Fish:** Thanks very much. Chris welcome.

**Chris Poole-Jones:** Welcome. My name is chris Poole-Jones, and i'm project director for the June Key delta community center. And I came here to support sunday parkways, because we hope to be one of the sites this year. We were asked to do it last year, but we weren't ready. But also, too, i'd like to support it in the sense of – to bring - make a commitment from our organization to bring more diversity to the -- we volunteered also last year also -- to the whole event and also to make a commitment from our organization.

**Fish:** Thanks very much.

**Carl Larson:** Hi. My name is carl larsen. I teach bicycle safety for the bicycle transportation alliance. And I'm pleased to be here to send the good word out about one of my favorite events. It's no coincidence that sunday parkways is a core mission of Portland's bureau of transportation and the bicycle transportation alliance. Our goal is to see that the streets are as safe and accessible for walking and biking as possible, and pbot wisely shares that goal, because it saves the city money and it saves lives. More people walking and biking means less money spent building and maintaining streets. It also means safer streets not just for people walking or riding bikes but for all modes. So all over the world, events like sunday parkways have proven to be one of the most effective means of empowering people to walk and bike in their neighborhoods. Pbot has an aggressive fundraising strategy to bring private sector investment into sunday parkways, and approving this agenda item is only the first step to unlocking that money. And about the private sector investment, it's really no coincidence that the major, primary sponsor in the past has been a healthcare provider. That says a lot. They know that their money isn't just going towards --

**Saltzman:** You should give them a plug, carl.

**Larson:** Kaiser permanente. I don't know if they're renewing their deal, so, okay. Anyway, [laughter] they're not just there for the transportation, clearly there's a health benefit as well. They're helping reduce obesity and causes of heart disease by encouraging healthier, more active lifestyles. So it's a smart investment considering that, last year alone, 107,000 people in our city participated in sunday parkways, young and old. So, keep in mind that sunday parkways investments aren't just leveraging volunteer resources and private sector money. They're also

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providing living wage jobs in our town. So, in short, we can't afford not to invest in Sunday parkways, and I urge you to renew this contract.

**Fish:** Thank you very much. Karla who else has signed up?

**Fish:** Thanks very much. Thank you. Good morning, Veronica.

**Veronica Bernier:** Oh good morning, [inaudible] – I mean a character actors – a no I didn't mean that either. [laughter] This isn't comedy line is it, but I'm your comedian. You guys needed a laugh, didn't you? Good. Hi, good morning. Gracious, good morning across America, USA. It is the Portland City Council, and I see everybody's here except for one person.

**Saltzman:** He's here by phone.

**Bernier:** I knew he was here in spirit, I could feel his presence.

**Adams:** I'm here, Veronica.

**Bernier:** I knew he's here, Sam. Good morning, Sam. Good morning, America. How are you? Today it's important to support your local BTA, bicycle transportation alliance. It's been around for years. I'm a member of that group, too. Karen Frost and all the good volunteers support the local parkways ordinance or initiative. It's a good thing to do. And also while bicycle pedaling around the city, please remember the little old ladies like myself who travel at about eight tenths of a mile an hour usually while pulling a cart or luggage rack. Just remember that the grannies across America, you know, walking along at their safe pace. It's important to remember the other pedestrians there, and also I'd like to say good morning, Randy. How are you doing? You're looking well this morning. You're always looking well. Appreciate your support at PSU and also the general good work you do for the police, fire, and EMS.

**Fish:** Veronica, some people think Randy looks better in person than on TV. Do you have an opinion on that?

**Bernier:** He sure does. You know, he hugs real nice, too. He's a big teddy bear. But anyways, thank you, kudos to your group, especially Maria Benedetti, his quarterback there. Anyway, I'd like to salute Randy also for his past work in police vital services and support of the American Red Cross nationally and locally. American Red Cross is always there first. And I just want to put in a plug for our local chapter, Rodney Rogers, is doing a great job on a bicycle. Bicycle pedal is he, out there on the parkways, and usually pedaling along at a good pace. Tandem bikes is what we're trying to push this year. And for that, Amanda Fritz comes in, because I know she can do it. I've seen you on a bike, and you're looking well this morning. I like your suit. It looks nice. Amanda always puts in a good thought for the ladies, and I just wanted to put in a special plug, 823-0260 is the number to call. If any of you need me, ladies are stuck and need a little extra help, be sure and call that number and look for Amanda, she supported Rose Haven and Sister Cathy and their work, and they pedal on bicycles, too, so the parkways. Dan Saltzman, I wanted to mention you. I know as commissioner in your area, you're doing a great job, and you always have well spoken always in good form. And commissioner Nick Fish, thank you for your support of the YWCA, they're on bicycles too. We look forward to seeing you in the parkways definitely. You've come forward for the girls at the Y, made the streets safe at night, and it's part of a larger package, so thanks very much.

**Fish:** Veronica thank you for joining us. Anyone else who wants to testify? Karla, could you please call the roll?

**Fritz:** Thank you to Linda and Katja Dillmann, in the Mayor's office, for briefing my staff ahead of time and also to Polo Catalani who helps coordinate some of the refugee volunteers for Sunday parkways. I appreciate this discussion. Thank you, Mayor Adams. Aye.

**Saltzman:** Well, as I said, I had some questions about is this the highest and best use of transportation dollars and general fund dollars, and I do respectfully disagree with Carl that Sunday

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parkways is a core mission of the transportation department. As I said, it's a fun event. It does help get people out on bikes, but it's not as high priority to me as paving streets or putting in pedestrian and safety improvements. You know, I get major pages from 9-1-1, and we get a lot of pages about shootings, but we also get a daily page about a pedestrian being struck, often fatally. So we have a crisis in pedestrian safety not to mention bicycle safety. So I am not by, supporting this today, i'm supporting going ahead with the contract, but i'm by no means yet, signaling my support for any transportation or general fund dollars for the fiscal year of 12-13. That's going to have to compete against a lot of things, including officer zenetti who we heard from earlier today, who is doing great work in graffiti abatement. His position will also be determined by the budget process. So, like I said, it's a great event, but there are to me more critical priorities that I will be looking closely at, and i'm not committing that this one will at least have my support for future funding, and it may mean, maybe I spoke too strongly in saying hiatus it may need to be scaled back, fewer events. And maybe good sponsors like kaiser and others, and I appreciate Linda's entrepreneurial work here, will step up to the plate more. And, you know, I want to thank kaiser for their past support. Aye.

**Leonard:** Aye.

**Adams:** Well, I appreciate the conversation. I think the detail also of what's being proposed here helps make the case why this is such an important event to continue. It's actually looked at as a model of inspiration by cities around the world. The fact that it is moving to both expand and produces relative support, I want to thank linda, kaiser permanente, all of her team and all of the sponsors that allowed us to do that. I do think that this is a core aspect of the bureau of the bureau of transportation's mission. I think that if it comes to the environmental education work that we do, through the bureau of environmental services, and I do agree that it needs to be done in the most effective manner, and it needs to be done leveraging as much non-city support as possible. I don't agree with rating this as a choice between pedestrian, safety improvements or pavement or sunday parkways. I think that this is a false choice. I think that we obviously need to do all and that the amount of effort and focus on safety improvements, you know, that has been the core of what i've been about as transportation commissioner. Part of the lasting benefits of sunday parkways is getting people to feel confident and entire families to discover their neighborhoods by bike and frankly discover the adjacent neighborhoods by biking and walking. And in doing so, they come back to us to demand or suggest improvements to safety improvements and other improvements to their neighborhoods. Many Portlanders have also discovered parks that are in their own neighborhoods or adjacent anew, and the benefit here is not just with transportation, although the benefit to transportation is very deep, but there is benefit with the parks bureau, and many bureaus in the city. So again, I want to thank linda, I want to thank her team, the bureau. I want to thank Catherine Ciarlo and Katja Dillmann of my office and we gladly to step up to the higher expectations we've placed on ourselves for even more non-city funding for this event. Aye.

**Fish:** I also thank linda and her team for the superb job they do. Last year was kind of a watershed for me. I think I managed to go to all of them. I managed to get my 7-year-old son to come with me to one. And, you know, it's a juggernaut. One of the events, harper's playground, set up a tent and was doing fundraising. Another event, the Portland timbers farm players did an exhibition in the park. Another one, free for all people were doing a fitness class, people were out dancing in the middle of the field. I had older adults lobby me about our funding for senior programs, and I went to a book signing party and had my bike looked at one stop, on and on and on. I think it keeps getting bigger and better. Portland parks and rec is a proud partner in this, because what it does is it gets people to engage in healthy activities. It builds community, and it focuses attention on some of our great assets, including our parks. And I think the sky is the limit. And I appreciate the

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discussion about tough choices, about how we spend limited resources and it's going to be a very difficult budget cycle. But I'm a true believer in the community building benefits of this program. And really personally I benefit from it, and I know our community does. So thank you for your great work. Aye. [gavel pounded] Ok. The matter passes. Item number 45 is a second reading only, vote only. Karla, would you please read the item and call the roll.

**Item 45.**

**Fritz:** Aye. **Saltzman:** Aye. **Leonard:** Aye. **Adams:** Aye.

**Fish:** Aye. Matter passes. Our final item is item number 46. Karla, would you please read it?

**Item 46.**

**Fish:** Is the auditor present?

**Leonard:** Co-chairs are here.

**Fish:** Co-chairs are here. Welcome. Nice to see you both. Who would like to start? Mark?

**Mark White:** My name is mark white. I'm co-chair of the charter commission.

**Susan Pearce:** And i'm susan pearce. I'm the other co-chair of the charter commission.

**White:** And under the charter, it's up to the charter commission to present the measures to council.

And on january 5th, you were sent a memo from the auditor, and we believe that is actually has everything in it that you need, so i'm going to restate that here for you. At its december 21st meeting, the charter commission voted in favor of sending a request and message of concern to you. No. That's the wrong one. Thanks. On wednesday, december 21st, 2011, the Portland charter commission voted to submit nine housekeeping amendments to the voters at the may, 2012 primary election. Present for the vote were 17 of the 20 charter review commission members, and all nine amendments were supported by an affirmative vote of at least 15 members. The proposed measures amend the following sections of city charter. Amend charter section 1-106, amend section 2-105a14. Delete charter section 2-105a50, delete charter section 2-105a51, delete charter section section 2-105a54, amend section 2-108, amend section 2-206b, and amend section 13-301 and delete chapter 14. And you were given an exhibit a for the specific amendments. The city attorney is going to prepare the ballot title and explanatory statement for each measure. And following the ballot title, challenge process, the city auditor shall file the measure with the county elections officer for the may, 2012 primary election. The measure shall be considered referred as soon as the measures are certified to the ballot. And I believe that's the extent of our responsibility to bringing that fourth to you. I must say, from a personal perspective that, well first of all, i'd like to thank sue and the rest of the housekeeping committee for the work they did. They were quite diligent, and there was absolutely no rubber stamping of any kind whatsoever. I think the effort that they put into it was very, very intensive considering that all of the measures were considered to be noncontroversial in content. So unless you have any questions, I think that's our part of it.

**Fish:** Well let me turn to my colleagues, Commissioner Fritz?

**Fritz:** Well first, thank you so much, and I agree that the housekeeping committee and indeed the entire charter commission has been extremely diligent in looking at the charges that the council asked and then looking into things on your own initiative as well. My one technical question is I support all of the amendments, and I appreciate the way that they're presented. Will they be on the ballot as one measure or as nine?

**Pearce:** They will be on the ballot as nine measures if for no other reason because that's the state law. Because --

**Fritz:** So then my follow-up question, three of the current 65 special powers of the council are proposed to be deleted, so each of the proposed deletions then renumbers the following one as if that was the only one. How will that be corrected once it gets -- if all three pass or two or three -- is the -- and maybe the city attorney can answer this question for me, is, does -- if the voters pass all

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three of the specific power deletions, does the city then have the power to just renumber the others?

**Tracy Reeve, Sr. Deputy City Attorney:** I think that that would just be more or less of a housekeeping, not a substantive charter provision, so the renumbering would just occur to make sense, to make sure that the charter made correct sense.

**Fritz:** And they will all nine go separately?

**Reeve:** Correct.

**Fritz:** Thank you.

**Pearce:** As the amendments were presented to us -- and I actually think you got the same packet -- in each case, it's something like 92 pages long. And in each case, they present the amendment with the explanation, and for those three potential amendments, in each case the entire section is in your packet renumbered, repeatedly.

**Fritz:** Right.

**White:** So I think that's the way it happens.

**Fritz:** Right thank you.

**White:** So I'm not sure if it's the same, but chapter 6 was deleted at some point, and it's still listed but it says deletion, so the items that you mentioned could potentially be done the same way, but it's structured a little bit different than the chapters themselves, so I think that's probably going to be up to the city attorney's office to see how that would work out.

**Fritz:** Thank you for the clarification.

**Fish:** Commissioner Saltzman?

**Saltzman:** I also appreciate your work, and I know that these are not controversial and they get rid of words like vagrancy and paupers and stuff like that. But my curiosity was peaked by Commissioner Fritz's question, what are the three powers that are taken away from us?

**Pearce:** Oh just a moment. I didn't quite know how to organize this to anticipate your questions.

**Saltzman:** Do you know off the top of your head?

**Pearce:** So in one case it is -- in all cases its deleting language in those three amendments it's -- in all cases deleting language that's archaic and most likely offensive. In one case, it deletes a segment that -- I can read it for you if you like.

**Saltzman:** Perfect, if you want to just summarize.

**Pearce:** So in one case it prevents the sale and circulation of obscene manner and continues to go into detail about that. That is essentially covered by state law in some ways by the state of Oregon freedom of speech laws. It makes it archaic. Because of that, another one is again, as you, commissioner Saltzman pointed out, uses the words vagrancy and vagrance and paupers that is considered to be archaic. And it -- other city ordinances and laws override that in terms of the sit/lie -- such as the sit/lie and the history of the sit/lie. And the other one is to prohibit -- this is really archaic, it's short but it is archaic and offensive, to prohibit the exhibition of deformed or crippled persons and to prohibit all persons from begging on the street or in public places. So those are the -

**Saltzman:** Thank you.

**Pearce:** - in a nut shell.

**Fish:** Other questions or comments?

**White:** Actually, I think the question had referred to specific powers that were going to be deleted by council. So it's 2-105, continuation of specific powers, and 106, which is a numeration of powers not a limitation, and 108, which is the emergency fund. And we can look those up for you I have my charter of course here.

**Saltzman:** We've got them right in here in front of us.



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**White:** And all those listings were part of that package, and it includes the summary narrative for - well, the proposed summary for the voters as well as something from the city auditor that describes it and where it is in the charter itself.

**Fish:** Thank you both very much. This is a report. Do we have a motion to adopt the report?

**Fritz:** I Move to adopt the report.

**Fish:** Is there a second?

**Saltzman:** Seconded.

**Fish:** It has been moved and seconded. Karla, would you please call the roll?

**Moore-Love:** I don't know if anyone wanted to testify on this.

**Fish:** Excuse me, does anyone wish to testify on this matter? Seeing none --

**Fritz:** Thank you for your work. I am thrilled with these amendments. In december, 2010, the council unanimously adopted a resolution appointing the 20 members of the charter commission and requesting that you consider three issues while recognizing that you have the power as the charter commission to look at anything within the charter. And you have done so, and I greatly appreciate your work. It's taken a little longer than I expected and, in retrospect, my hope for six months was completely unrealistic. I think it's amazing that you've gotten all of this work done within a year. And so thank you very much for your diligence. The three requests that council made of you was a recommendation on future appointments, and it's really important to recognize that you've already – you've taken care of that issue as well and made a recommendation. We'll be working with the public involvement advisory committee and other boards and commissions to get more suggestions so that we can get more input before we appoint the next charter commission. We asked you to come up with a list of bigger challenges that needed more discretion at the end of – during the Portland plan and at the end of the Portland plan. I know you have a few issues that you're still hoping to be able to get some consensus on and then there are some others that are bigger than even your diligent work has been able to accomplish in just this short time, plus requiring more community involvement. So I'm very pleased that you've brought up a number of issues and that your public hearings have brought up a number of issues the citizens have been able to bring to you and you have highlighted, so I'm looking forward to those robust discussions over the next year. And then thirdly, the so called housekeeping amendments. They aren't housekeeping amendments. There have been other commissions who have tried and have not addressed these horrendous and outdated and in some cases abhorrent language in the charter that has no business being there in the 21st century, and your commission has knuckled down to the details and made sure that these things will be put towards the voters. And indeed you were bold; you didn't restrict yourself to the very easy ones to do, you looked at for example, striking the council's ability to regulate what's obscene and what is not obscene. That actually could have – as we know from various ballot measures has a lot of discussion involved in it, and yet you very wisely have concluded that since state law and the constitution governs that, it's not a power of the council and so therefore that it should be deleted. Similarly, you looked very carefully into the so called secret service fund and decided that, yes, indeed the mayor needs to give vouchers and to call it a discretionary fund because that's what it is. So I really appreciate the diligence that the 20 members -- in fact more than 20 members since there's been some turnover -- have put into this process. I must also mention Milena Malone in my office and also alexander Villarreal in commissioner Fish's office – sorry Saltzman's office, thank you. I'll say that over again, Alexander Villarreal in Commissioner Saltzman's office, who have shared the load of staff work and have put in a lot of time to support the commission's work and to support the public outreach as well. So again, thank you very much for all of your work. I'm really excited about these measures

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going to the ballot, and I fully support and hope that the citizens, the voters of Portland, adopt every one of them. Aye.

**Saltzman:** Well, I, too, want to thank the charter commission for its good work on these. As commissioner Fritz says, they're more than housekeeping amendments, but they really are things that need to change. And I appreciate the work that you've put into this. I also want to thank alexander villarreal in my office and Commissioner Fritz's Milena also, for being faithful scribes for the meetings and more. So we'll look forward to seeing what you come up with on a couple other issues, but this was one of the main responsibilities, and you've executed this faithfully and with good work. So, my commendations, and i'm pleased to vote aye.

**Leonard:** Thank you Mark and Susan, Aye.

**Adams:** I'd like to thank the co-chairs and everyone on the charter commission for their work. I've wanted to get rid of that secret fund for - ever since I found out about it as a new chief of staff. I think these are important changes to make for a variety of reasons, and i'm pleased to vote aye.

**Fish:** Thanks for your good work. [gavel pounded] The report is adopted.

**Pearce:** May I just say one little thing? And that is thank you both, commissioner Saltzman and commissioner Fritz, for recognizing milena and alex without whom we could not have done our work. They've been indispensable.

**Fish:** Thank you for those kind words. That concludes our agenda for this morning, and we'll be reconvening at 2:00 this afternoon for a hearing. [gavel pounded]

At 11:35 a.m., council recessed.

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

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

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

**JANUARY 11, 2012                    2:00 PM**

**Fish:** Just for a moment, we'll see if Commissioner Saltzman is going to be joining us, I'd like him to be here from beginning to end. And on cue. Okay, council will come to order. Mayor Adams is home sick. But has indicated his desire to participate. Is he available by phone, Karla?

**Moore-Love:** Yes, he is.

**Fish:** Hello, mayor.

**Adams:** Hi.

**Fish:** Hi. So I'm going to read this into the record, just for the formality. Mayor Adams is not physically present today due to illness. His inability to participate in today's council would jeopardize the public health, public interest, safety or welfare. Therefore unless there's an objection by any member of the council, the mayor will participate in today's hearing by teleconference. Hearing no objection, welcome to the hearing, mayor.

**Adams:** Glad to be here. Thank you.

**Fish:** Now the mayor usually does these hearings, and as the president of the council i'm going to pinch hit today. But we're ably assisted by a wonderful attorney who is going to walk us through the guidelines. So Linly how are you?

**Linly Rees, Deputy City Attorney:** I'm fine. So the first we're going to have Karla read it right?

**Fish:** Yes, Karla would you please read the matter before us.

**Moore-Love:** Do you want a roll call first?

**Fish:** Okay.

[ roll call ]

**Item 47.**

**Fish:** Linly would you please walk us through our ropes, please.

**Rees:** I will. This is an on the record hearing. This means you must limit your testimony to material and issues in the record. You can't bring up anything new. This hearing is to decide only if the hearings officer made the correct decision based on the evidence that was presented to him. If you start to talk about new issues or try to present new evidence today, you may be interrupted and reminded to limit your testimony to the record. For an on the record appeal hearing we begin with a staff report by the bureau of development services staff for approximately 10 minutes. Following the staff report the council will hear from interested persons in the following order. The appellant goes first, and has 10 minutes to present their case. Following the appellant, persons who support the appeal will go next. Each person will have three minutes to speak to council. The principle opponent will then have 15 minutes to address the city council and rebut the appellant's presentation. If there is no principle opponent, the council will move directly to testimony from persons who oppose the appeal after supporters of the appeal conclude their testimony. After the principle opponent, the council will hear from persons who oppose the appeal and each has three minutes. Finally, the appellant has five minutes to rebut the presentation of the opponents of the appeal. Council may then close the hearing, deliberate and take a vote on the appeal. If the vote is a tentative vote the council will set a future date for adoption of findings and a final vote on the appeal. If council takes a final vote today, that will conclude the matter before council. For on the

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record hearings, there are a few guidelines for those who are addressing council. First, again evidentiary record is closed, as an on record hearing you must limit your remarks to arguments based on the record compiled by the hearings officer. You may refer to evidence that was previously submitted to the hearings officer, you may not submit new evidence today that was not submitted to the hearings officer. If your argument includes new evidence or issues the council may not consider and it may reject it in their final decision. Objections to new evidence. If you believe a person who addressed council today improperly presented new evidence or presented a legal argument relying on evidence not in the record, you may object to that argument. And finally, under state law, only issues that are raised before the hearings officer may be raised in this appeal to council. If you believe a person has raised issues today that were not raised before the hearings officer, you may object to council's consideration of that issue.

**Fish:** So can I clarify something? Because it came up at a recent hearing we had. And that is, when someone is testifying and either deliberately or inadvertently starts introducing new evidence, are you authorized to jump in at that point and advise us that someone has crossed that line?

**Rees:** I will not always know that because the city attorney is not present at the hearings officers, and so we're not cognizant of everything in the record. But certainly if council is concerned about it or staff raises the issue or another party does, council has two options in front of it. One as i've described, they may reject that evidence, alternatively as you may recall from the prior hearing where we talked about this, council may determine that if that evidence is useful they don't want to reject it, they would simply need to give other parties an opportunity to respond to that evidence.

**Fish:** So my preference as today's -- as the president of the council for this proceeding is that if staff or council believe we are veering into an area that's clearly outside the record, we would appreciate a prompt on that. So there's a few things that we also have to put on the record as decision makers today, so i'll read my script. Do any members of the council wish to declare a conflict of interest in this proceeding? Seeing none. Do any members of the council or have any of the members of the council had ex parte contacts, which they wish to declare or have you gathered information outside of this hearing which you would like to disclose? Commissioner Saltzman.

**Saltzman:** Well I would -- I read yesterday an email I think from a marcel representing the opponents, i've also been as the commissioner in charge of the bureau of development services, i've been briefed on today's hearing by staff.

**Fish:** I would also say that as is our practice, any communications on this matter would have come to my staff and I have received a briefing, but i've had -- no one has had direct contact with me and that is our standard process. Any one else?

**Fritz:** I've talked with staff.

**Fish:** Alright. So no council members have -- oh, excuse me, with the exception of what commissioner Saltzman has disclosed there are no other ex parte contacts to declare.

**Rees:** So you would -- It would be appropriate to ask if anybody in chambers wishes to ask any of the commissioners about those ex parte contacts.

**Fish:** Does anyone present in council chambers wish to ask commissioner Saltzman or any of my colleagues about any of their ex parte contacts? Seeing none, thank you. Do the council members have any other matters that need to be discussed before we begin the hearing? Very good. So the first order of business is the staff report. And so we'll invite up Sylvia cate to make the presentation. Welcome.

**Sylvia Cate:** Good afternoon mayor and the council. I'm sylvia cate, i'm the assigned planner for this review. Before I get started i'd like to note for you that this application is subject to both 120-day clock and the fcc shot clock. Both of these clocks will expire on february 4th unless extended

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by verizon wireless. Also we have kurt krueger with us today representing pbot, and is available to answer any questions you might have regarding the public rights of way. Verizon proposes to construct a wireless telecommunications facility that includes a 45-foot tall monopole posting up to a total of 12 antennas with an initial start of nine. The equipment compound would be located at the base of the monopole. This includes electrical equipment cabinets, and an emergency generator. Verizon also requests an adjustment to waive the required landscape screening of this facility due to site operations and conditions. The site we see here is zoned general commercial and is part of the mount scott fuel company which sells crushed rock and bulk landscaping materials. There's a buffer overlay zone along the south property line but it has no relevance to the conditional use request. This site is developed with two storefront retail buildings along foster, surrounded by bulk piles of sand, gravel, bark dust, and decorative rock. Southeast foster road is a designated major traffic and major transit street. The proposed location for the wireless facility is indicated in this slide behind an existing commercial building on an abutting lot. This is the site plan, it mirrors the aerial photo you just looked at, it shows a proposed 20 by 47-foot lease area behind the commercial building and a dashed line in this picture shows the location of a six-foot-high concrete wall with a chain link fence that provides visual separation from the adjacent residential areas. This detailed plan shows the equipment cabinet layout, which includes the emergency generator, and monopole within the leased area. The wireless facility would be protected from public access by security fencing. And this elevation shows that compound, the monopole and the security fencing. The zoning code trigger for this review is this existing 45-foot monopole located near 65th and southeast foster, which is 1600 feet west of verizon's proposed site. The verizon proposal would otherwise be allowed by right if this existing monopole was more than 2,000 feet away by the code standards. In order to provide a co-location opportunity on this existing pole, it would have to be extended to at least 60 feet in height. However, the ground space for additional cabinets is very limited. I'm telling you these facts because of the very first criteria that staff believes is applicable to this case, and is perhaps the most stringent of all the conditional use criteria that apply. This shows the available ground space at the existing monopole, and there simply is not enough room for verizon's equipment, which requires a 20 by 47-foot area. Verizon also explored placing their facility on a building rooftop near southeast 63rd and foster, which already hosts two other wireless facilities. You can see that configuration in this slide. The city has permitted 15 antennas plus equipment on this rooftop. As verizon explored the site, they discovered that the roof is not structurally sufficient to support any additional antennas, and further, their equipment compound would have to be placed in the parking lot, removing a number of parking spaces that would reduce the number of parking available below the required code minimum. Verizon also investigated the right of way placement possibilities, and they determined that the antennas could be hosted at a sufficient height on utility poles along southeast foster. However, the large equipment compound will not fit within the right of way, nor immediately adjacent to it. There's another shot down foster showing you the utility pole run. Pbot responded to this application with comments that there is not room in the right of way either above or below grade for this equipment. Pbot also noted that site lines for both drivers and pedestrians would be compromised if this equipment was placed on the sites frontage adjacent to the sidewalk so it could power antennas located in the right of way. In the interest of time, the balance of the conditional use criteria findings are in the staff report that's part of the record for this review. The code -- the applicant also requested an adjustment. The code allows required land escape screening for these sorts of facilities to be relocated elsewhere on the site and the facility will already be screened by existing fences and buildings. Verizon requests an adjustment to waive the relocated landscaping. Their application notes that there's no reasonable area on site for the landscaping due to the site

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conditions and operations on the site. Staff report recommended approval for both requests to the hearings officer. The hearings officer denied the application but not with findings under any applicable approval criteria. Instead, he wrote findings that there was inadequate evidence in the record for him to determine that the facility operates below 1,000 watts erp. He concluded that the evidence in the record was not credible, and due to these issues, he made findings that he could not determine which approval criteria apply in this case. The zoning codes utilizes the term erp, or effected radiated power as a review threshold to distinguish low powered wireless networks from high-powered broadcast facilities. The decision the hearings officer made raises three issues that staff believe city council should consider. The first is to consider and determine the intent of 1,000 watts erp threshold as defined by the zoning code, again, which distinguishes between various radio frequency facilities and from that point also distinguishes which approval criteria come into play. The council also should consider whether or not to accept a signed and stamped engineering report in the record documenting that the facility does operate below a thousand watts erp. The hearings officer rejected this report as not credible on the basis that the engineering report relied on information provided by verizon's r.f. engineer, who does not hold a license in the state of Oregon.

And finally, given the series of decisions, it would enable council to also determine what approval criteria are applicable to this application, again, based on the affective radiated power of the facility. At the public hearing there were a number of issues raised before the hearings officer. One category was notification. The hearings officer found that notification was adequate. The neighbors also raised a number of additional concerns about the proposal which are listed here on this slide. And this slide completes a list of concerns raised by the neighbors to the hearings officer. I'm now going to take on you a quick virtual tour of the site and vicinity. The mount scott fuel company has been in this location for over 70 years. Inside mount scott is a large paved area behind the two main buildings. Dump trucks and front loaders access multiple bins and piles of bulk landscaping materials. This front loader is an example of the large equipment that works at the site. In this slide it's replenishing some bins that are very nearby the proposed location of verizon's facility which would be behind the building wall that we see. This is a view of the site looking northwest along southeast foster road, the site has a chain link fence completely enclosing it but the chain link is absent on the site obscuring slats at the corner of southeast foster and 70th, which allows open views into the site and the products available.

**Fish:** How much more time would you like?

**Cate:** I have two more slides.

**Fish:** Ok.

**Cate:** The rest of the site has slatted chain link fencing with a six-foot-high concrete wall that blocks the views of the site from all sides and this view is from the adjacent residential area along the south property line at southeast 68th avenue. Finally, I want to show you three photos of the residential area immediately surrounding this site, which consists of a charming mixture of housing styles, some directly abutting the site, such as this home, this is another view of other homes nearby. And this final view is looking at the residential area, the white fence that you see in this photograph beyond the bicyclist, is the perimeter fence of mount scott fuel, and that concludes staff presentation.

**Fish:** Thank you very much.

**Fritz:** I have one question, and that is, why is the equipment box for this facility so much larger than a standard one?

**Cate:** Well, I believe there are two reasons. First of all, both verizon and at&t wireless were the first entrants into the market, and because of that, they have a - both of those entities have much larger equipment needs than the younger if you will, pcs providers like sprint, nextel, t-mobile.

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Part of that is because they own a lot more spectrum, they have a lot more transmitters in their equipment area, and the fcc is now requiring under certain criteria for emergency power through a generator to be provided at certain sites and I worked with the applicant to try to shrink that pad to see if we could do something about getting it situated in a different location, but there are fire codes and building codes that require separation of electronics from generators, so it ends up being 20 by 47 so it can comply with all the relevant codes.

**Leonard:** So I wanted to ask about the issue that the hearings officer raised with respect to the 1,000 watts erp. So there's a magic line it would appear at a thousand watts erp below which certain criteria apply and above which different criteria apply, and if that's true, what's the distinction?

**Cate:** That's exactly right, Commissioner. The code is structured very much that way. The original structure of the code before the 1996 telecommunications act set the erp at 100 watts, which was an fcc standard for the maximum erp wattage allowed for the cellular class of spectrum. When the telecommunications act passed, we saw an explosion, literally, in the marketplace with new technology and new spectrum. With the new spectrum options, the fcc set the effective radiated power for the additional classes at a thousand watts erp, so we revised the code in 2004 to change that value in the zoning code to a thousand watts consistent with what staff at that time believed was consistent with fcc regulations so it becomes almost an inherent definition, if you're a wireless telecommunications facility you're automatically going to be at or below a thousand watts, because the fcc controls that standard. The code picked that particular item as the threshold so we could distinguish what facilities should go through criteria that include a number of additional aesthetics and standards versus the larger broadcast facilities for radio and tv which obviously we see at Healy heights and on skyline ridge, those towers are usually close to a thousand feet in height and they're very different, they're very different systems than a networked wireless telecommunications facilities.

**Leonard:** But the hearings officer determined he couldn't conclude whether or not this was at, above, or below a thousand watts erp.

**Cate:** Yes.

**Leonard:** Is that a practical concern or is that technically because the person that submitted the documentation that worked for wireless was not licensed in the state of Oregon as an engineer?

**Cate:** I believe from reading his decision very carefully, multiple times, because I really wanted to understand his logic, he felt that, and staff respectfully disagrees with the hearings officer on this point, but he felt that enough issues were raised by the neighbors regarding erp that he couldn't make a judgment call based on the evidence. I believe in going through all the testimony the neighbors submitted during the open records period, which he also considered and of course relied on as he made his decision, that testimony seems to confuse the zoning code's intent and use of erp as a threshold versus the real world engineering meaning of effective radiated power, which has a very different definition from the zoning code, and then making the neighbors - drew a number of conclusions from some very technical engineering reports verizon has to file with the fcc. And the first report was expressed in the fcc format. I sent an incomplete letter requesting that some of the information be re-expressed in terms specific to our zoning code because staff is not going to try to do the math and the calculations to convert say angstroms to Milo watts per centimeters squared, that's not the intent or purpose of the erp at all. We just simply need it stated in a specific terminology so we can document that it - that criterion in the code requiring a provider to document that they are compliant with the fcc.

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**Leonard:** I guess what I'm trying to get at, is there some health concern that the feds allow local governments to regulate if the erp is greater than 1,000 watts, and does that change when it's less than? What is magical about that line?

**Cate:** That line is magical, if you will, from the zoning code's point of view. As simply as you stated earlier, drawing a bright line. These criteria, these standards apply to you if you're below a thousand watts erp, and if you're above these other standards and criteria apply. It has nothing to do with the emission levels. It's a different calculation.

**Leonard:** And I don't care about that, I'm more interested in why he hung his hat on not being able to conclude whether or not he could rely upon the engineer's report that it was less than a thousand erp. What if he concluded that it was greater than a thousand erp? What would the upshot of his decision have been then?

**Cate:** If he had concluded that and continued forward with reviewing the application, he would have made findings under criterion 338 15225 D 1 through 3, which specifically address the higher powered broadcast facilities. I frankly believe that if he had gone that extra step he might have made findings that the application fails because the very first criterion under that group of criteria state that towers have to be clustered together. Which is why we have the healy heights plan district with a number of towers hosting high-powered antennas clustered together. Obviously in a wireless telecommunications network, that's designed to cover the city, designed to allow people to be mobile while they're talking or downloading and going from site to site, you can't cluster all those towers together or you effectively negated the network.

**Leonard:** But the staff, you as staff have obviously concluded different, that it's less a thousand erp, what is it that you're relying on that gives you that assurance that he could not --

**Cate:** I accepted the revised engineering report. It's stamped, it's signed, it has calculations and values in there that in my experience doing this work for 16 years --

**Leonard:** 10 that I know of.

**Cate:** Everything looked exactly as I expected. I didn't see any anomalies, anything unusual about that report. My objection with the first report is I simply needed some additional -- some of his technical information recalculated, in Milo watts per centimeters squared, which is the value that we use at bds in the emissions chart, in the code we use that particular column just to verify.

**Leonard:** And so had he concluded that he could rely on the evidence presented that it was less than a thousand watts erp, it's your opinion that he would have found that this was a permissible location for the cell phone tower?

**Cate:** I do believe if he accepted that report he would have made findings under those criteria. The same criteria that staff believes are applicable. I don't want to second guess him in terms of the additional information that came in, but I -- I would suspect that his findings would be different from staff's perhaps or augment some of staff's findings, but I suspect that he would likely head towards an approval.

**Leonard:** Thank you.

**Fish:** Thank you very much.

**Fritz:** Is it unusual for the hearings officer to just basically say I don't know rather than make findings that either are sustained or denied?

**Cate:** This is a unique case, in my experience.

**Fritz:** I don't think in 20 years I've ever seen one that doesn't go through each of their approval criteria and say whether they were met or not met.

**Cate:** I haven't seen one similar to this my own self.

**Fritz:** Thank you.

**Cate:** You're welcome.



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**Saltzman:** One question. So there's a six-foot-high concrete berm and on top of that is a fence? Or is it total six feet?

**Cate:** There's a six-foot-high concrete wall and then just in front of that is a chain link fence on the property lines that abut residential, there are site obscuring slats in that fence and then along the southeast foster frontage those slats are gone so you have open views into the site.

**Saltzman:** But the fence is not sitting on top of the berm it's --

**Cate:** No.

**Saltzman:** Okay.

**Fish:** Thank you very much. Now we'll hear from the appellant. If you could please come forward. Welcome to city council. We just need your name and who you represent and you'll have the full 10 minutes, is that correct?

**Phil Grillo:** Thank you. Good afternoon commissioners and mayor Adams. I'm phil grillo, I'm a land use attorney with davis wright tremaine, on behalf of verizon wireless. I just want to begin by saying that I think that this is both a important and as commissioner Fritz mentioned, unusual case coming out of the hearings officer. It's important to verizon of course because we have a gap in coverage and capacity in this area that needs to be filled and that's the reason why the facility is being proposed. It is of course also important to the neighborhood, and I want to acknowledge that. Because they like many other neighborhoods don't want additional facilities in their area. But it's also important to the city, I think, and this case is important because as staff has explained and as we talked about in our material, how you come out on what i'm going to call the threshold issue in this case with regard to erp is going to determine not only how you process cases, this particular case, but all virtually all other wireless cases in the city. So I think it's an important case, and it's one that obviously we want to get right, both for you and for ourselves, and for the neighborhood. So before I get into the key issues that I kind of outlined in my hearing memo, I just want to touch on about three real preliminary points and then save the rest of my time for my testimony. First I just want to quickly thank sylvia Cate for her efforts in this case. I think as you well know, her knowledge and kind of specialized experience in this area has been very helpful I think to everyone in this case and her responsiveness and professionalism I think needs to be acknowledged here. Second I just want to quickly introduce others who are with me here from our team, from verizon wireless I want to introduce jody anderson, heather campbell, scott carlston and jeff cully. And again, those are all in-house with verizon. Also with us today is tom gordon from the consulting firm of hatfield and dawson. And he is available to answer kind of technical questions with regard to any of the r.f. issues that you might have. And then I also want to just mention that the site owner, mr. Clay tyler with mount scott fuel is here as well. So just to let you know who we have with us here today. Finally, I just want to call your attention to several exhibits. I think that you've probably had a chance to look at my january 6th appellant's hearing memo. Attached to that I think it was a nine-page memo, are several exhibits. The exhibits a 1, 2, and 3, are additional -- are essentially new evidence. And I want to caution you and point out to you that that is new evidence. And what that evidence is, is additional legislative history with regard to the intent behind the 1,000-watt erp standard, we felt that would be appropriate to submit legislative history with regard to the intent of council when they adopted that in 2004. You will have to make a determination as to whether or not you're going to accept or reject that evidence as the city attorney pointed out, but I just wanted to call your attention to that so you know it's there.

**Saltzman:** So you're directing us to look at something we shouldn't be looking at.

**Grillo:** Well I -- I've already submitted it so it's there, and your choice, and I don't want to speak for city attorney, but your choice is to reject it or accept it. But I wanted to call your attention to it that it's there.

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**Rees:** And Mr. Grillo, am I correct that exhibit b to that is also new evidence?

**Grillo:** Yes. The next one I was going to point out is, that's correct, exhibit b is also new evidence. And it is a two-page letter from Mr. Gordon with Hatfield and Dawson that essentially verifies the expert testimony from our experts in the record. So it's -- it is new evidence, and again, you'll need to decide whether to accept or reject that. We wanted to offer that to you so that you knew that it was there, but obviously it's your choice and completely your choice whether to accept it or not.

**Fritz:** But you are asking us to accept this new evidence?

**Grillo:** I am. I am. I wanted to keep this fairly limited. But I think that certainly the legislative history is important because I think it very much helps you focus on what the intent of the threshold standard is. And then second piece of evidence in exhibit b I think is important because to the extent there's a credibility issue about whether or not somebody was or wasn't an engineer, we thought having a third engineer come in and say this is credible and here is why, would be helpful to you and to essentially move past that issue and deal with the expert testimony as it is. The final thing I just want to mention in terms of these exhibits, there's a third exhibit that I prepared and old habits die hard, but I prepared a set of draft proposed findings, and I did that in order to kind of help you understand what I believe to be the evidence in the case as it relates to each of the relevant approval criteria. These weren't meant to be findings for you to adopt, were you to make a decision, but I was preparing them as a shortcut so that you can see what I think the evidence is and connecting them to the approval criteria. So I did that for your convenience, at this stage of the proceedings. So that's all I have in terms of preliminary matters. So I just want to use the rest of my time really to talk about the key issues and then really react to any questions you may have. So with regard to the key issues, as I mentioned in my memo and as staff has talked about, really the first set of issues are the -- is the threshold issue with regard to whether or not this criteria in 33.815.225c applies, and that's the ERP of a thousand watts or less with regard to the conditional use standards. Within that threshold issue, there are really two sub-issues. And I talk about them separately in my hearing memo. The first is an interpretive question. About what did council intend when it adopted that standard in 2004? And the second question is the factual question that flows from that, which is, okay once we know what the council intended, what is there in fact -- is this facility in fact a thousand watts or less ERP? And then of course the final question is the broader question, the overall question, which is, are all the substantive approval criteria met? I'm not going to spend a lot of my time here the short time I have on that third question, which is why I prepared the substantive findings for you on that. I imagine you'll have some questions, but I want to focus for the next couple minutes, really, on the threshold question. And try and simplify it for you as much as I can. With regard to the interpretive issue, the issue that I think you really need to focus on and that the hearings officer unfortunately did not is what was the intent of council when it adopted the 1,000 watts or less ERP threshold in subsection c? That's the legal question that you have before you. And we think, and I believe that staff agrees, that there is substantial evidence in the record that shows that council's clear intent was to essentially use that threshold as a way to define all wireless facilities. So that all wireless facilities would be reviewed under subsection c. That's how the code is structured, that's what we believe council intended to do, and that's not what the hearings officer was looking at when he rendered his decision. Instead he focused on a very narrow issue of exactly how do you define and calculate ERP, and in essence lost touch with the broader picture of what was council trying to do when it established that standard. We think if you focus on the legislative intent that the first issue, the interpretive issue is actually fairly easy to resolve. And that is - is that - that standard was intended to encompass all wireless facilities including this one. Now the second issue has to do with the

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factual issue about, ok, once we know now that this sub c was supposed to apply to wireless facilities does this particular wireless facility have an erp of a thousand watts or less? We believe the answer to that is yes, and the way you get there is actually fairly easy. The first point to be made is - is that all of these wireless facilities are regulated by the fcc and all of these facilities have as a matter of federal law a erp that is a thousand watts or less. So as a matter of law, all these facilities have to be less than a thousand watts erp. So having that kind of situation means in general you don't have to get into this math problem when each case comes in to try and figure out exactly what the erp wattage is, which is generally how things have happened in the past before. But beyond that, we've also got evidence in the record from experts showing what the erp was. We think that evidence is credible and that it's consistent with the federal law and the way that standard is implemented at both the federal level and at the state level.

**Fish:** Mr. Grillo if I could on that point, i'm just reading your memo, you said that as a matter of federal law it has to be below the thousand watt in order to get the license. And you say that you further state that we could do a conditional approval conditioned on being below the thousand erb, watt erp threshold. So how - how would the federal government or the city of Portland monitor compliance with that?

**Grillo:** Well --

**Fish:** How do you determine that it stays within that threshold?

**Grillo:** Not being the engineer in the group, I can only surmise and then look to my experts to tell me whether i'm essentially wrong, but I would assume that what you could do in that situation is literally measure the erp based upon the federal standard, and determine based upon the actual build and operation of the facility whether it is in fact operating at a thousand watts erp or less. So I assume that you could do that through some physical measurement later on.

**Fish:** But you're telling us at least in your submission, that as a matter of federal law, you don't -- your client doesn't get a federal license unless this operates at below a thousand watt erp.

**Grillo:** That's correct.

**Fish:** So whatever the federal regulatory interest in compliance is, you have that protection.

**Grillo:** That's right.

**Fish:** And then you're further stating that your client is prepared to condition approval on remaining below that threshold and there would be some mechanism to ensure compliance with that.

**Grillo:** Well, i'm not saying that we should condition it, i'm just saying that if you don't believe that we have to be under a thousand because it's a licensing requirement by the federal government, and if you don't believe or you have difficulty -- you have you concerns about what our experts say that it will in fact be not only below a thousand watts but actually quite a bit below a thousand watts, that you could impose that condition. I'm not recommending or suggesting that you should, i'm just saying that if the hearings officer had any doubt, he could have, and I think under the statute, should have conditioned it. I don't think you need to, nor should you.

**Fish:** Does your client have the right to petition the fcc for -- at some point in the future to exceed that threshold?

**Grillo:** Not to my knowledge, unless there is a way to amend the fcc code. I mean certainly I suppose the fcc could at some point in time change that - that level, but we're looking at the facts as they are today, under this code and this criteria. And again, keep in mind, I just want to point out, this is not an emissions standard. This is really just a review criteria threshold so --

**Fish:** No I understand, but as commissioner Leonard I think helpfully pointed out earlier in his exchange with ms. Cate, it triggers a different level of -- a different criteria for approval. So we would want to make sure if there was a change in the watt, in the watt erp that the city had another

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bite at the apple if it came to us as one facility and at some point your client sought to upgrade it in some way.

**Grillo:** Well I think if there was going to be a change like that, that review -- subsequent review it seems to me would probably be required. But doing an -- I mean I hear what you're saying, but I'm just trying to think as a practical matter, do you really want to be ongoing monitoring facilities that as a matter of federal law have to be below that level?

**Fish:** No but in fairness, because the hearing officer didn't make the finding, and you're -- you're -- in this appeal, you're in effect asking us to make a finding, it does seem that there's a different -- practically we have a different concern. Because that's not really our expertise. We're not -- normally we have a finding by a hearing officer that we're reacting to. And in this case the hearing officer demurred in making that finding, so you're in effect, as part of your appeal, asking us to make that finding.

**Grillo:** I hear what you're saying. I guess I would simply say that I -- you know, with all respect to the hearing officer, I'm not sure that he has any more technical expertise than any of the members of the council do. I think it's really just an issue of whether or not you want to continue to monitor this and other facilities and I guess what I'd say is, you know, think about this in terms of whether you want to do this with all similarly situated facilities, because there -- there are requirements for instance under the telecommunication act to treat in essence similarly situated services the same. So I don't think you'd want to be having one facility be monitored like that one, the issue is really common to all wireless carriers. So, I think it's really an issue that you may want to consider whether or not that's the best approach to it, or to look at it in terms -- if there was some sort of violation or some request to go beyond a thousand watts, that would require additional approval. And we certainly would understand that.

**Leonard:** But that -- but the issue I think is a little more subtle than that. Because I understand the hearing officer -- and he's not trying to get in and second guess whether or not one of your antennas on a channel is at a thousand watts or more or less, he's grappling with whether or not the cumulative total of the nine to 12 antennas that you project to have each should be added to another to get to a sum that's greater -- that is the -- would be the sum of all of those antennas or whether or not the definition by the FCC only means that you have one channel with one antenna, at a thousand watts or less, you're ok. You're arguing as I understand it, that we don't want to get into the technical aspect as to what you're generating in terms of wattage there. I agree with you, that's not what he is saying. He is arguing that there's not a clear definition as to whether or not you take the cumulative total of each of the antennas, add them together and then in this instance you would be -- because I think you put -- you submitted something that showed each antenna would emit 780-some watts of power. He's arguing if you have nine antennas you multiply that by nine, or the neighbors are arguing that, and he's agreeing with the neighbors and thus he's saying, city council, you need to decide whether you want to consider this kind of a placement and one part of the code or the other based on the number of various antennas that exist. So I guess I'm more interested in how you address that issue as to why we should consider multiple antennas not cumulatively adding up to more than a thousand watts than whether or not technically we want to get in and decide how much they're radiating. Was that a clear enough question?

**Grillo:** I'll try. I appreciate the struggle that you have with it and frankly the struggle of the hearing officer had with it. And I think anyone who doesn't do that for a living would struggle with the issue. And let me try and be as responsive as I can. I want to clarify that I think that the hearing officer did actually decide that there was an ambiguity as you point out, commissioner, with regard to do you sum things up or do you look at just one antenna, you know, the highest antenna or one -- the highest channel on an antenna. And I think that the hearing officer actually

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did decide that you don't sum up the power from all of the antenna on the site, that you really just -- and he thought that you just looked at one antenna. But then there's an additional level that he went to which is ok, now do I distinguish between channel on antenna, and antenna itself, and he wasn't comfortable there because I think what he was focused on was really the definitions and the words in the definition and didn't really understand how that worked. And he lost sight of the intent of the code. Because if you're going to sum up the channels on an antenna in a wireless situation, you often times are going to get above a thousand watts erp and that would be inconsistent with the purpose of using the - creating a thousand watt erp standard for wireless facilities. So it also is inconsistent with the way the federal government would calculate erp for these wireless facilities. So I think that there is plenty of room for confusion here and I think it's all a good reason to not get lost in the technical details of it, because we know as a matter of federal law that these facilities cannot be more than a thousand watts erp or they won't be licensed. Or their license will be revoked if they are more than a thousand watts erp. And that's really it seems to me the clearest way to proceed. And again, this is not about emissions. This is really just about a threshold at which criteria apply. So we think that that's why this goes under the root of subsection c, and then once you get under subsection c, then you can get to the business of deciding whether all the substantive approval criteria make. So I hope I answered your question without confusing it more.

**Leonard:** No you did, and you're right, I mean he says, the hearings officer agrees with bds staff, that the language is properly interpreted to read erp is based upon one antenna, but he says, the hearing - he goes on to say that he finds there's no reference to channel or any definition of any word -- in pcc so he's still talking about the cumulative total of radiated wattage -

**Grillo:** But only from -- he's now talking -- by one antenna, as opposed to --

**Leonard:** - various channels.

**Grillo:** the components we're talking about was summing the power from all of the antenna --

**Leonard:** So help me understand that because I -- that's going to help me a lot to understand --

**Grillo:** Well if we look at this lets just say from plan view, from top down, and you have antennas on the facility, each of which will have multiple channels on them. Some of those antennas are going to be receiver antennas some are sending antennas --

**Leonard:** And as I understand it, we don't count the receiving antennas, just the sender antennas.

**Grillo:** Right. And then within that, there are sectors in essence directions of how this works. The opponents were arguing that it doesn't matter what direction any of this is pointing. You simply add all of the power from all of the channels in any direction, and that's erp. And the hearings officer I think made it pretty clear, correctly, that that's not -- that's not correct. That it's -- it's more limited than that. What the hearings officer didn't do is take it to the next step to focus just on the channel, the channel within the antenna itself. So the fcc's regulation with regard to erp speaks both in terms of antenna, channel, and directional. So in this situation we believe that the proper way to look at erp again for purposes of determining the maximum allowed output from that facility is to look at the maximum allowed output from a particular channel, in this case the highest output of any channel in the facility. That's the best layperson explanation I can -- I can give you at this point. So I can certainly -- we can certainly get more testimony on that from -- you know, from the experts that we have here, but that's my best try as a layperson.

**Fish:** Mr. Grillo, why don't you wrap up with your presentation, then we'll move to the supporters of the appeal.

**Grillo:** Well, really the only thing that I want to kind of add here, finally, is I want to provide you with a memorandum, a brief legal memorandum in this case. And we've already talked about some of the local and kind of state issues, and I just wanted to provide you with a short legal memo on, in

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essence, the federal issues under the telecommunications act. I purposely did not want to make that a big issue in this case, we're trying to get this resolved based on legislative intent, and the normal pieces of how this works under the fcc. But I think it's important for you to understand that I think the hearing officer's decision raises important issues under the telecommunications act and i've tried to brief those here for you. So i'll just submit this to the --

**Fish:** so Mr. Grillo, is there anything in your memo that argues that somehow the city is preempted in any part of its review process?

**Grillo:** Yes, certainly under the telecommunications act local regulation of r.f. impacts is preempted to the extent that it complies with federal regulations. So that in essence goes in part to this a thousand watt erp standard and the emissions side of things that are relevant with regard to the city's local approval criteria. There's also the issues about discrimination of among functionally equivalent service, but I think commissioner Fish your question to me was really is there anything about preemption, and that's essentially preemption issue.

**Fish:** If you could turn that over to Karla, she'll distribute it. And a – one last question commissioner Fritz?

**Fritz:** Thank you. So is this a new memo? Should I have had this already? Or is --

**Grillo:** It's a memo that I just prepared this morning. It's two pages, and I supplied it to staff and city attorney this morning. So it's new, but it's not evidence, if that's --

**Fritz:** Where's the evidence, the new evidence, when did you submit that?

**Grillo:** The new evidence was attached to my january 6th appellant's hearing memo and those are exhibits a 1, 2, 3, the legislative history and exhibit b, which is the letter from mr. Gordon with hatfield and dawson. So that's where that is.

**Fritz:** And you'd like us to consider that. Would you be willing to extend the land use clock in order for us to be able to do that?

**Grillo:** Yes I would.

**Fish:** We'll grapple with that a little later, but -

**Fritz:** I have one more question.

**Fish:** Okay.

**Fritz:** Thank you. And that is regarding the nine antennas, and predicted for 12, why do you need nine rather than one?

**Grillo:** I can't tell you as a land use lawyer exactly why we need nine antenna, but I know that it has to do with the coverage and capacity issues on that site. So it's – it's for the technical reasons that they're trying to fill the gap in, is why they would do that. And again, it's - a lot of this is directional, so you've got different sectors that you're trying to deal with and within that you've got individual channels that you're – that you're handling in those directions. We can certainly have that testimony if that's what you're getting at.

**Fritz:** Is there somebody on your team I'd really like to hear that, because also what i'm trying to look at is, if the answer is no on this, then would the alternative be nine separate antennas or twelve separate antennas in different locations?

**Grillo:** When you - as a body if you determine to take new evidence we can either help you answer that question today, it may not be a bad idea to do that if you want to do that today, because we do have the folks here. And in just sort of the interest of trying to be efficient, it might be helpful to do that, especially if you're going to keep the record open, which you should to have any rebuttal. I mean, we want you to do - if you're going to open the record, to do it obviously in a fair way so everyone has an opportunity to be heard.

**Fritz:** Thank you.

**Grillo:** Thank you.

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**Leonard:** I - I hate to keep beating on this, but I need to get it clear in my mind before I get too much further in listening to the testimony. But the hearings officer does – he does say that the applicants erp wattage estimates based upon one channel of one antenna are not consistent with his interpretations of pcc 33.815.225. And he goes on to say that the facilities operating at a thousand watts erp or less means erp wattage related to one and one only antenna, they all - the hearings officer also found that the phrase did not include any reference to the word channel. So he is really focused on, on – and you're going to have to help me wade through this, as I assume you are with my colleagues, helping us explain why we shouldn't consider more than one channel and - on an antenna as cumulatively adding up to more than the thousand erp. And because I haven't got it -- I haven't got your answer yet clear with what I think I clearly understand his argument is. And I don't have the technical knowledge to be able to nuance between what you're arguing and what he is clearly saying, and have those – those be consistent or have you persuade me that what he is saying isn't accurate. So i'm going to need some help either from you or from somebody on your team.

**Grillo:** Let me try it this way. If you simply look at the city's code definition of erp, it's unclear how - how you would calculate that. And that's why he was looking at the text and context under the - what we would call the pge v boli standard, that's what he was doing. What he failed to do and the reason that you should reverse the hearings officer on this is he failed to follow what we call the cardinal rule of - statutory interpretation, which is based on a relatively new case from the Oregon supreme court, a 2009 case, the gains case. And that says that even at this -- if you call the first level of statutory interpretation, you look to legislative intent. And if you were to say that you have to sum up all of the channels into one antenna, and therefore you end up with more than a thousand watts erp you're going to have all the things that you thought were wireless facilities become reviewed under subsection d which the intent was to have wireless reviewed under c, and broadcast facilities, these higher power things, reviewed under d. So the result of that interpretation is completely contrary to the legislative intent of why you established the threshold in the first place.

**Leonard:** So do you have examples of other facilities that we permitted similar to the one you're asking us to permit where we would have applied the code the way you're interpreting it?

**Grillo:** Well, the best that I can say is if you look at the staff briefing that sylvia Cate provided, I believe that she says that there are roughly a thousand cases that were processed previously under the assumption of what we're talking about in terms of this interpretation. So you'd have literally hundreds of cases that would have come out differently. Because you would have then looked at them under subsection d and you would have tried to group towers, you would have done all these things that the code is clearly not trying to do with regard to wireless facilities.

**Fish:** If I could on that point, you're saying that not only is the intent clear, in terms of the legislative intent, but you're saying if you look at our past practice --

**Grillo:** That's right.

**Fish:** you believe that we've consistently applied the standard that you think should apply to your case?

**Grillo:** That's correct. And I think that if you don't look at it that way, it produces a number of unintended consequences, many of which I detailed in my hearing memo, and at the end of the day it creates an absurd result, which is something that should be avoided when you're trying to --

**Fish:** Doesn't that – I mean doesn't that then throw us back to this question, and I appreciate commissioner Leonard has a lot more experience in this area than I do as the former commissioner in charge, but – but if – if we accept your point about intent and practice, then doesn't it just – doesn't it throw us back to the remaining technical argument about whether the hearing officer

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should have accepted the report that was filed and - or should accept I guess take notice of the fact that under federal law it has to be below a thousand? So either way just make that finding.

**Grillo:** Yes. Once you get past the interpretive question, which is the first sub-issue under the threshold issue, then you're faced with the factual question of does this facility operate at a thousand watts or less. And we think the way you resolve that is the -- recognizing that as a matter of federal law the thousand watt standard and then the factual determination by the -- by our experts.

**Fish:** Colleagues, do you have enough to proceed just to hear some more and we can bring Ms. Cate back later if necessary? Thank you, sir for your testimony.

**Grillo:** Thank you.

**Fish:** And so now, Karla how many people have signed up to testify in support of the appellant?

**Moore-Love:** No one else signed up in support.

**Fish:** All right. So that means we -- next up is the principle opponent. Would the principle opponent please come forward? Welcome.

**Chris Hill:** Hello.

**Fish:** I just need your name and who you represent in this proceeding.

**Hill:** Yes. My name is Chris Hill, I am here on my own behalf as one of the neighbors, in the Mount Scott Arleta neighborhood association also agreed to have me appear as the principle opponent.

**Fish:** Welcome.

**Hill:** Thank you. And good afternoon. I also have some written testimony to submit to you today, it's more or less argument and referring to things in the record. It contains no new evidence, and I'm happy to have that distributed to you right now.

**Fish:** [inaudible] Karla if you would. Have you furnish a copy to the other side?

**Hill:** I have not. So we'll just - nor have I seen their memo or proposed new evidence, although I do have copies.

**Fish:** If you could furnish linly with a copy and the appellant with a copy that would be great.

**Hill:** So, I do thank you for helping us to sort out this dispute.

**Fish:** It's an interesting dispute?

**Hill:** Yes, it is. And you know, I would also like to compliment Sylvia Cate, throughout this process, she's been very polite, very easy to work with. And same for the hearings officer, Mr. Frank, I thought that he was very good with public process type issues. There are basically three things that I want to cover today. They are the three big points that are in the memo that I just submitted to you. The first one starting with the -- how we figure out if we're under sub c or sub d. The code does say facilities operating at a thousand watts or less are under sub c, everything else is under sub d. The plain meaning of the word facility is that it's the whole thing. And the hearings officer Frank more or less agreed with that at the hearing, even if he did ultimately reach a different conclusion if you look at the text and context of the code, I think that that bears true as well. If we look at 33.925.40, it lists several examples including broadcast towers, communication towers, point-to-point microwave towers, some of which have multiple antennas on them. So to refer to a facility as just one antenna, we are going outside of the meaning of the word. Basically the meaning of the word facility. To reinforce that the plain meaning of it is exactly that, the Verizon consultant report distinguishes between the facility and the antennas. This is the August Hatfield and Dawson report. The proposed wireless facility will have a new mono pole with nine panel antennas. The BDS report made a similar distinction, the applicant requests a wireless telecommunications facility that will include up to a total of 12 antennas. The code also mentions the difference between towers that support facilities and facilities supporting at least two additional



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transmitter or antenna systems. So to say that that particular language in the code means antennas I think ignores the word "facility." One other thing, a point raised by mr. Grillo, essentially their position is sub c, facilities operating at a thousand watts erp or less, means wireless facilities. But if that's really what the code meant, then that's what the code could have said. You know, the council that passed that particular set of language could have simply said all wireless cell phone facilities shall meet these requirements. And then list the requirements in subc, everything else or even listing it as broadcast facilities are under sub d, but that is not in fact what the code says. The code talks about the erp, the power emissions of the facility. Where did the thousand watts erp come from? And this is something where ms. Cate in response post hearings submitted some of the documents which I cite at some length in this memo, the fcc we start with, they're measuring exposure. One of the things that they tried to do was lighten the regulatory load so that if we have things that are not likely to lead to too much exposure, then we can lessen the amount of review that they have to go through. The thousand watts erp is essentially a short hand for exposure, throughout that, and even in the code of federal regulations in the local officials guide to r.f. and in the oet bulletin 65. In all of those places the fcc makes it perfectly clear that they are looking at all facilities, all things that are emitting r.f. on a particular site. And they variously use the word site - location, and I apologize, I forget the others. But they use a variety of words to express the general area and the general project. So, to the extent the council relied on the fcc in the past, the fcc has made it quite clear that they are talking about all antennas and sure they did distinguish with sectorized antennas, all antennas pointing in the same direction. But never the less, it is more than one channel of one antenna. So you know is it -- is this facility over a thousand watts or under a thousand watts? I think a pretty plain meaning and contextual meaning of the term facility would tell you that we have to look at everything, and when you add everything up it is well over a thousand watts. Now the significance of that i'm not sure was something that really came out before, and commissioner Leonard getting into some of your questions, what is the difference between a sub c analysis and a sub d analysis, all right, under a thousand watts versus over a thousand watts. There are two common factors; one of them is the public benefit of the project, out weighs the impact which cannot be mitigated. The other one is, it complies with the r.f. exposure rules. Under a sub c we also have some more concrete things. You can't have a mono pole within 2,000 feet of another mono pole, and I believe there was visual - something about the look of the pole to make sure it doesn't stand out. So that's the difference between those two analyses. Other than that, you know, the two things that are common to those are the public benefit of the project must outweigh the impacts. Here, sorry - the impacts that cannot be mitigated. Here nowhere in the record does verizon show that they can mitigate any of the impacts. You know, there's voluminous testimony at the hearings level from me and from my neighbors, some of whom you'll hear in a minute, talking about the impacts of this facility. At no place in the record did verizon rebut any of that at no place in the record did verizon show that they were going to do anything or could do anything to rebut that. So weighed against that we have the project purpose, right, the public benefit, which is verizon, one cell phone carrier among many, wants to have better coverage inside its buildings, or inside buildings from 52nd to 72nd on foster. Which while it is something which is a public benefit, does not outweigh the significant impacts that showed up at the hearing. And the third big point that i'd like to make today, and the second factor that is common to both a sub c and a sub d analysis, is the fcc's exposure guidelines. And here's where we get into some of the technical issues, and I apologize about having to get into that, but you know I think that it is important because it's pretty clear that based upon verizon's own engineering reports, they do not comply with the fcc's emissions guidelines. The reason why is they did not account for the time of the exposure. The fcc sets maximum public exposure standards, mpe standards, which for the

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public in uncontrolled situations are a time limit of 30 minutes. So if you're exposed to that level of exposure, that level of emission for more than 30 minutes, then you've gone over the federal mpe limit and it is a violation of federal law. The oet bulletin 65, which is exhibit h26, in the record, on pages 10 and 11 covers the bulk of this. They have an equation there showing exposure power, milowatts per centimeter squared, times the time of the exposure, must equal the mpe standard in milowatts per centimeter squared and 30 minutes. So the analysis that they went through in the consultant's report which is at h 28 a, it's an attachment to Ms. Hopefirs post hearing submission, show 7.09% of the public mpe limit at the adjoining apartment complex. This is one of those properties that is just along the west side of the mount scott fuel site. They also went through and did a measurement study for rf in the neighborhood. There are ambient levels of r.f. floating around out there, they found that as .61 of the public mpe limit when averaged over the number of sites that they measured it at. So we have in the back yard of the properties on the west side of this project, 7.70% of the public mpe limit. If somebody is outside for 6½ hours, in their back yard, they are exposed to 100.1% of the public mpe limit. So is it a reasonable assumption that somebody will be outside for 6½ hours? And unless verizon can show they've limited people's access to that particular area in their own back yard, they can't show that they comply with the rf transmission guidelines, the exposure guidelines. They have to submit an e.a., an environmental assessment under [inaudible], to the fcc for approval of this particular project. And until they've done that, they can't get it, they can't comply with the fcc's guidelines and by extension, they can't comply with the part of the code dealing with that, which is 33, I believe it is 815.225 - no, sorry 33 274.040, my apologies. One of the other things that you should take into consideration when dealing with verizon and numbers and this is something that mr. Frank hammered them on, their numbers have changed over time. And they've gone from less than 10,000 watts down to 39 watts, in their most recent things. And if you look at exhibit a 4, which is the initial r.f. transmission facility form, that has two pieces of information, one is the less than 10,000 watts which should give you pause about whether this is a facility that's over or under a thousand watts, but also on that, they have a listing of the power density. 0.5 9, milowatts per centimeter squared. That is the same unit as the federal mpe limit. The reason that's important is in verizon's consultant's report, and in the tables of the Portland city code dealing with r.f. emissions, you can calculate that the maximum allowed is 0.45 9 milowatts per centimeter squared. So on the face of the application back in march before anybody was paying attention, we have verizon submitting something into the record to the decision-maker to say that we're going to have a power density of .5 9 milowatts per centimeter squared when the allowable amount is less than that at .459 milowatts per centimeter squared. You should take that into consideration in deciding whether or not you're going to rely on their numbers. Another reason you should take that – take their numbers into consideration is looking at their august report from hatfield and dawson, and comparing that to the october report from hatfield and dawson. In august, we have 39 watts erp emitted and a calculated exposure right at the apartment complex of .2263. Well in october we show up with 10 times the emissions, 392.8 watts erp and at that same spot, we have an exposure of .221 slightly less for a difference in power emissions of a magnitude of 10, actually exactly 10. It defies logic to have more power emissions and less exposure. Right? That's the whole thing behind the fcc's guidelines, is to prevent the exposure. As to absurd results, if I can cover this in 20 seconds or less, if you believe verizon's version of the thousand watt rule, one antenna, one channel. They can gang a hundred antennas on one tower and that's still less than a thousand watts, even though that's not what the fcc says. And even though that is many, many more watts than are allowed under the code.

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**Fish:** I think we're probably going to have some questions Mr. Hill. So let me start with my colleagues, commissioner Leonard.

**Leonard:** Yes, so Mr. Hill, the easiest question to ask is, that according to Mr. Grillo, who represents Verizon, by definition these facilities as regulated by the FCC cannot emit more than a thousand ERP. And thus by definition it – his argument is, obviously it doesn't emit more than a thousand ERP. Now I've read your memo and I appreciate your argument particularly where you quote how the FCC calculates ERP. And just so you know, I will be asking them about that. But respond to his position that they're regulated by the federal government via the FCC and by definition they couldn't -- they wouldn't be allowed to install a facility that emitted more than a thousand.

**Hill:** The only thing they would have to do is to go get an environmental assessment, right, go through their NEPA requirements, the National Environmental Policy Act, once they do that, they submit it to the FCC, the FCC will make a decision about whether they need to do an EIS and give it a yes or a no. They can emit more than a thousand watts. And, you know, if you have any doubt about that, even the CFR's, this is 47 CFR 1.1307, it has a table as you read down into there, so you know, in there they get into the operating power of these units, and at least as far as I can tell they can operate at more than that.

**Leonard:** They can?

**Hill:** As far as I know, yes.

**Leonard:** So - so have they submitted any documentation for this proposed unit to the FCC that you've seen?

**Hill:** Not that I'm aware of, no. And I assume that if they did have permission from the FCC, we would see it or hear about it at some place in the permit file. I think that the way they've certified that compliance was with the Hatfield and Dawson reporting.

**Leonard:** Do you have any documentation from the FCC relative to any other facility in the city that has an effective -- an ERP greater than a thousand that we have treated as less than a thousand?

**Hill:** I do not. But as to that concern, you know, I would certainly agree that that is something which is a bombshell might overstate it, but it's certainly something to be concerned about. I think all of the prior ones if they were approved, under sub C would probably also pass muster under sub D. At least as to the two elements that are common to those. One other thing I would point out, and a way to explain the difference in moving forward, prospectively, I am not sure that anybody ever raised this before. My general impression from Ms. Cate and from the hearings officer is nobody has ever really gotten into what is over or under a thousand watts, because nobody's really challenged that or looked into what that means in the code.

**Leonard:** but again, don't presuppose any conclusion on my part by the questions I ask you, it's my way of helping me better understand the issues.

**Hill:** Sure.

**Leonard:** But you're basically saying all the decisions the council has made here to fore are wrong, because we have incorrectly interpreted how one calculates ERP. I would think that given the tremendous amount of work you have done you would have anticipated this question before now, and come before us and said, no I'm not asking you to say everything you've done before is wrong, just say from now on you're going to do it this way. But rather would have come up with an example where on a very specific facility you pick the facility, the – you have documentation to show that the FCC has calculated the total ERP is 9,270 and you, city of Portland, incorrectly regulated it as less than 1,000 ERP and thus, yes, you have made -- you have been applying the standard incorrectly for all these years. Do you have any examples?

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**Hill:** I do not have any specific example like that. I also, you know, in terms of things that were done in the past, I think that they've -- they were decided with a previous understanding, those are all going to stay in terms of prospectively once this came to light, I think that all decisions in the future should be made with a correct understanding of the code as based upon the fcc rights.

**Fish:** Commissioner Saltzman.

**Saltzman:** So Mr. Hill, I guess if these facilities or this facility in particular is subject to subsection d, and I guess all facilities that we've perhaps approved previously that fit into this same category, doesn't that mean they'd all have to either be up on skyline or healy heights? And wouldn't that sort of defeat the very purpose of what I understand they need dispersal for antennas for wireless services?

**Hill:** Not necessarily. I believe that the code does distinguish between things that are over a certain amount that is above even the thousand watt distinction elsewhere. My recollection is it's either a 10,000 or 100,000 watt broadcast facility communications tower. My recollection of perusing the titles of chapter 33, there are some special districts just like that. And so those things were put up there, I assume because they were the best place for them.

**Saltzman:** You're saying those are things like 10,000 or above.

**Hill:** My recollection is there is a much higher erp number elsewhere in the code. I did not really prepare to discuss that today but --

**Saltzman:** Well we can bring staff back up for that, but okay.

**Hill:** And yet the difference between the sub c analysis and a sub d analysis, the sub c certainly has some other very concrete things like the 2,000-foot rule, a sub d analysis I think invokes a lot more discretion on the part of the decision-maker and you know, it sure would be nice to get more concrete rules under sub d to figure out if we're under a thousand versus over a thousand, so that we have to rely less on volume of comments and more on a set of rules that everybody knows, both the applicants, but also the neighborhoods.

**Saltzman:** Thank you.

**Fish:** Commissioner Fritz.

**Fritz:** First, thank you for your presentation. I commend you, it's very clear and brought up some arguments that I haven't heard in 20 years of looking at this issue, including the last three years of pretty intensive discussions. So thank you for raising those issues. Did you raise the issue of maximum public exposure at the hearing?

**Hill:** I did not, but the maximum public exposure issues I did not have that information until after the hearing. And honestly I didn't have it until it was middle of December when I got all of the documents that showed up post hearing during that seven day time line. So it -- did I have that? Well, you know if I dug into the byzantine portions of federal law and administrative interpretations of the cfr's it was available but I also think that the five of you have the ability to decide those issues and use those same arguments because all those facts are already in the record. Alright, the fcc documents that I site in there oet technical bulletin and also the local officials guide to rf are both attached to Ms. Cate's post hearing submission memo.

**Fritz:** So what I think I heard you just say is that it wasn't raised as a specific issue at the hearing; however you would like us to consider it now.

**Hill:** Yes, please.

**Fritz:** Thank you. And I'm also assuming that you'd like some time to overlook - - to look over the appellants materials?

**Hill:** Yes, I did not get a chance to take a look at those.

**Fritz:** Thank you very much.

**Hill:** All right. Thank you.

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**Fish:** I have a couple of questions if I could mr. Hill.

**Hill:** Yes.

**Fish:** Do you agree that the hearing officer determined that erp, which stands for effective radiated power, is a calculation of the amount of power emitted from one antenna?

**Hill:** I think he did. He split the baby on that issue. Between the applicant and I suppose the city, who was saying one channel of one antenna is how you measure the erp of a facility. The point that the opponents made, myself among them, is that the code refers to the facility operating at 1,000 watts or less. So it depends on whether you focus on the way to measure power. And I would agree with you, that you have to measure power unit by unit. But the power of the facility is what the code looks to. So the hearings officer was somewhere in between there. Because he said that it is the -- the code looks to the number of power -- the amount of power emitted by multiple channels of a single antenna.

**Fish:** Would you agree, then, also that the code is not especially clear on the definition of facility?

**Hill:** I would disagree with that. I think that there is only -- the code refers to a facility as a grouping of things. And that's where we get into the definition at --

**Fish:** I guess, let me be more clear. I'm just going off of your submission. Radio frequency transmission facilities has no definition in the code, that's your language.

**Hill:** Correct, although it is a use category. So while that is technically not a definition. Under the pge template, I would say that that is context. Much in the same way that the city has made some analogies about what is practical versus practicable, what is livability versus quality of life and I might quibble with that particular one, but it is -- it is not technically a definition, but it's some pretty good evidence of the meaning of that term.

**Fish:** And I guess since we have now a question before us that involves interpreting our code, looking at some key terms and definitions and also looking at federal law, ultimately, are we bound by the federal law definition?

**Hill:** I don't know what is in your oath as a councilmember. Most of the oaths for public officials that i'm aware of require upholding federal constitution and federal law in addition to the state and the local government body.

**Fish:** It's a very heavily regulated area and so --

**Hill:** The other thing that I would say is 33.274.040 does essentially rely on the fcc rules regarding exposure so if you - and that's to avoid the preemption issue, so the city says we're going to look to federal law about exposure so you comply with federal law you've complied with this particular part of the city code.

**Fish:** So if federal law ultimately decides this question, one of the issues we may come back to you later on is whether you believe 47 cfr, section 27.4 which defines erp, ultimately resolves this question because the appellant cites to that and says that that is -- resolves the question.

**Hill:** What I would say about that is the fcc elsewhere in its guidance documents, the ones that are cited in my memo, makes it quite clear that whether you are looking at emissions or whether you are looking at exposure, right -- emission, power at the source, the emitter, exposure, power at the receiver of that, in this case, the apartment complex, or whatever it is that we're trying to figure out how much the exposure is. The fcc in both of those situations in the guidance documents and even in the cfr provision itself says we're looking at all of that. And the reason is they are trying to regulate exposure, they're trying to minimize exposure below a certain limit and so there's some guidelines in there, some rules of thumb, 1,000 watts erp for a facility, but that doesn't get you around the need to comply with the exposure limit.

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**Fish:** And I appreciate your point, although I have to say that i'm not sure that the fcc's bulletin and local office guide ultimately carries the day if we were to determine that federal law was clear and the code was clear and that's something we have to grapple with. Thank you very much.

**Hill:** Thank you.

**Fish:** Are there others who wish to testify in opposition?

**Moore-Love:** We have 12 people who signed up opposing the appeal.

**Fish:** So the mayor is not here to give his customary speech, so I'll do my best. Welcome to city council, thank you for taking time to join us. We're going to stay here as long as necessary to hear all the evidence and make a judgment about how we're going to proceed. I can tell you that in my experience though, no party has ever gotten an advantage by having lots of people say the same thing over and over again. So what I would say is, it would be most helpful to us to focus on points that maybe are not before us, we haven't heard. If a number of you are coming forward to say the same thing, it is within your discretion to say I agree with joe or mary and what they've said.

Again hearing the same point multiple times doesn't advance your cause. We'll try to follow the first time you make your point. Each of you will have up to three minutes but I encourage you to use less time if possible, because we're going to be paying very clear attention - close attention to the points that are actually at issue in this appeal. So thank you for being here and ma'am, why don't you start. All we need is your name, we don't need your address, and you'll have up to three minutes.

**Shannon K. O'Connor:** Good afternoon, mayor Adams, good afternoon, commissioners. Thank you for having us today. My name is shannon kathleen o'connor. I just wanted to say that I thought the hearing officer did a great job being fair to all parties involved. Us as neighbors, verizon, as well, and everyone had a chance to speak. He said that how he determines his decision is based on substantial evidence in the record, plausible argument and interpretation. He told all of us to keep to the approval criteria, the words itself in the criteria and I think that was an important point that he made. He said it's very important that we're thorough and that we stick to what is stable. And I think that he based his decision justly, based on what was presented by verizon wireless. How feasibility should be interpreted, he had stated that it presented him with more challenges than even the environmental sections in the proposal, he said the approval criteria being discussed requires that substantial evidence beyond the record that the proposed tower is the only feasible way to provide this service and I believe that verizon wireless fell a little bit short. I think they could have expanded their research a little bit, looked at other areas. I think they focused on a single area in -- to put their facility and they didn't look at other areas that might be a safer placement for members of us in the neighborhood, as well as the city as a whole. I am a -- obviously, I live in the neighborhood; I'm also an employee of a local utility company. We are a highly regulated company. I believe in regulation. Regulation protects the community. Regulation and laws and zoning codes protect all of us. One for interpretation, I think this whole case has brought up a really challenging interpretation for you as council members and as we go forward in the future, obviously telecommunications is expanding in a rapid rate. We all love our cell phones. But at the same time we have to protect our community, we have to protect the members of the community members in the neighborhood, from exposure, excessive exposure to emissions. Thank you.

**Fish:** Thank you, very much, ma'am. Sir?

**Matt Iverson:** Good afternoon, my name is matt iverson, I'm the treasurer of the mt. Scott Arleta neighborhood association. Thanks for having us here. I do agree with the representative for verizon that this particular situation represents a very important case and I would disagree with him, I think that it sets a very dangerous precedent to allow them to build this tower in this spot, given that the engineer's report came from an engineer who is unlicensed in the state of Oregon.

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To me, having that as the primary basis for their argument is inherently problematic, alarming and dangerous as I said earlier. And other than that, I agree very much with the previous comments. Thank you.

**Fish:** Thank you very much. Welcome.

**Jonathan Brandt:** Thanks. Good afternoon, mayor and commissioners. My name is Jonathan Brandt, I'm the sustainability representative from Mt. Scott Arleta neighborhood association. Today I'm speaking on behalf of Lisa Anne Ross who is the board chair for the neighborhood association. In that capacity I represent the board of the neighborhood association and the citizens and businesses within our neighborhood. I'm testifying against the proposed Verizon cell tower as laid out in the earlier testimony to the hearings officer. The proposed development does not meet city code and therefore should not be allowed. The hearings officer, experienced in reviewing land use cases and specialized and very familiar with Portland city code has already ruled that the application should be denied. His decision was based not just on his findings, that the application does not meet city code but also on the lack of credibility of the applicant and application materials. I feel it is very important for city council to uphold the hearings officer decision and to show the citizens of Portland that zoning code does apply everywhere in the city and that city council indeed supports its mission of providing the protections to Portland citizens by defining up front what is allowed and what isn't. That level of clarity, certainty and consistency is a basic foundation of our justice system and it's important for government to uphold that principle. Mt. Scott Arleta is a lower income working class neighborhood, through our neighborhood association we are working on making people feel part and proud of their neighborhood and we are working on a growing number of small scale projects, getting people involved in their neighborhood and in caring for our neighborhood. Allowing the cell tower at this location would undo a lot of the progress and recent positive direction in our neighborhood. The Mt. Scott fuel property is already a non-conforming use and a non-conforming development. With its chain-link fence, piles of bark dust and other significant nuisances for immediate neighbors and adjacent properties such as dust, noise and heavy truck traffic. The Mt. Scott property is already exacting a fair toll on the livability of our neighborhood. Our citizens, as well as the city are working hard on improving the livability and quality of life in our neighborhood. The proposed development would not only further aggravate the situation and degrade the appearance of the area but also establish a facility that would create additional unnecessary obstacles to redeveloping the area into better and more suitable land uses in the future. Several of the city's own plans from the last several years will be undermined and taken back by this proposed development. Portland city council has added this area of Foster Road to the Lents urban renewal area. The purpose of the urban renewal area is not to further degrade the area, however, that's what would happen if the waivers and exemptions were granted. There are already several other radio frequency transmission facilities within walking and sight distance from this proposed facility and adding yet another cell tower would turn this stretch of Foster Road into some sort of cell tower alley. Therefore on behalf of the chair of the Mt. Scott Arleta neighborhood association, I urge you to not approve this proposed development from version and Mt. Scott fuel. Thank you.

**Fish:** Thank you sir. Welcome.

**Shaun Cunningham:** Thank you. My name is Shaun Cunningham. Good afternoon, Mayor Adams and Commissioners. Thank you for the opportunity to share my concerns today about the Verizon proposal. I am a homeowner in the Mt. Scott Arleta neighborhood and along with my neighbors I'm working to create and maintain a healthy and vital neighborhood for families, residents and for businesses. And I'm not here today to tell you that I don't want a cellphone tower near my house for all the obvious reasons, that it's ugly, that it might make my house harder to sell

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some day or that i'm afraid about the health risks to my young child. I'm here to ask you respectfully to consider the numerous and fundamental deficiencies in the technical and business cases presented in versions application and to sustain the hearings officers decision. Verizon's application fails to meet the very high standards of proof required by Portland city code in this type of land use proceeding by several objective measures. Hearings officer frank noted the most substantive of these in his decision november 2nd denying the application. Among these, verizon's data and claims were found to generally lack credibility because of the technical analysis and assertions attributed to an inadequately credentialed and unlicensed verizon employee. Verizon's claims regarding erp are inconsistent and unreliable. Their projections don't address the number of channels proposed in relation to the 1,000-watt threshold and are not nearly explicit enough to be clearly understood. Verizon failed to show, by a long shot, that erecting a giant mono pole on this site was the only feasible way to provide service that outweighs the public benefit and I would add that i'm a verizon customer and I don't experience any problems or lack of quality with my own service. Verizon fails to acknowledge even one single impact to nearby residents, let alone mitigate impacts in any way, as part of the lents town center urban renewal area, we have hopes and aspirations for higher and better conditions in our area than this. So in summary, I ask you to please see that this proposal does not meet the city's criteria and it should not move forward. Thank you for your time.

**Fish:** Thank you very much.

**Fish:** Karla, how many more people have signed up?

**Moore-Love:** We have eight more.

**Fish:** Could we, just as a courtesy to anyone who is here with a child, could we put them ahead on the list? So does anyone here who has a childcare issue which would like to testify, we'll give you the courtesy of moving forward now. Ma'am, please come up and if you could bring three others up, Karla.

**Fish:** And I apologize, I should have invited you earlier, but --

**Liz McKeever:** That's fine.

**Fish:** but commissioner Fritz only just passed me the note to a remind me of the

**McKeever:** He's not doing too bad so -- [laughter]

**Fish:** courtesies of the house. Ma'am, welcome.

**McKeever:** Hi, my name is Liz McKeever, and I - i'm just here to say that I agree with all of my neighbors, and all of the research that they've done. They've done really well and I just want to say that I am opposed to it and that I am the house -- i'm the [mic feedback sound] -- lift it up? The home that is directly behind where the cell phone tower is going to be. My house was not in any of those pictures, but if you stand in my backyard, it would be towering over you. My main concern is with the 2,000 square foot rule or ordinance, whatever it is, if I stand in my front yard, that other cell phone tower is very visible, I can see it where I'm standing. With this cell phone tower if I go around to my backyard and play with my daughter or my husband back there, which would be longer than six hours in the summer, each, you know, day, but that one will be very visible and it will be towering over me, it would be 50 feet from my property line and it's just not -- it's not something that I want in my neighborhood and I ask you to adhere to the laws and the rules that we have, with the 2,000 square foot and everything else that my neighbors have pointed out. That's all.

**Fish:** Thanks very much for your testimony. Sir.

**Matt Cooper:** Good afternoon my name is matt cooper. I'd like to first say that I believe the hearings officer was correct we he found that erp is not measured according to a single channel of one antenna, though some opponents did initially argue that it should be the sum of all the



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antennas. He found that it was one antenna, that's fine. But it's not one channel of one antenna. And the applicant has made absolutely no strong argument to support that contention. If I look to the record, the most concise argument for their position that it should be one channel of one antenna, I found in bds's memo post hearing to officer frank where they cite cfr title 47. Officer Frank directly referenced that definition of erp in his finding that it is one antenna and then there was a second document referenced, which is known as the fcc's human exposure to radio frequency fields guidelines for cellular and pcs sites. BDS adds the comment, quote, this shows that the fcc permits erp levels per channel. When you actually read the document cited it states as follows and I quote, although fcc permits erp of up to 500 watts per channel, depending on the tower height, the majority of cellular or pcs cell sites in urban and suburban areas operate at an erp of 100 watts per channel or less. Though we've questioned the reliability of the applicant's data, one number that they've continually used regarding the erp of their facility is 759 watts erp per channel. On the face of it, 759 is more 500 and would seem to contradict what the fcc says that it allows. There's no -- there's no evidence of any sort that these antennas would operate on a single channel and you know, there was discussion earlier, when the appellant was making their case, well, you know, could we go out and measure the erp at these facilities. What about all these facilities that are already out there and I would ask you, do we have any idea what the erp is on these facilities? The appellant has stated a couple things, one, I'll try to speak quickly, that well, the thousand watts erp really just means a wireless facility and he also stated if we're going go into summarizing these channels, we'll find out there are a bunch of facilities out here that operate above a thousand watts erp and hey, that's why it just means -- that's why the intent, the legislative intent was -- this just means a wireless facility. Commissioner Leonard, I think also raised the same issue; don't we have a bunch of towers out there that are not compliant now with our regulations? Whether that's the case or not, that's not a good reason to approve this facility and I want to just also say that the appellant stated very clearly a couple of times in his testimony today, that if you go and add up the channels, you will of course come to more than 1,000 watts erp. I have more points to add. I'm out of time. I do have a written summary of what I was going to say. If I can submit that, I will. It just refers to the record.

**Fish:** If you would go ahead and submit that and we'll have a chance to look at it. Thank you, sir. Welcome.

**Marcel Hermans:** Thank you. My name is marcel hermans, and yeah, there's a reason I can't cover anything that's wrong with this application within three minutes, and that is simply because there are so many issues. Erp is one of those, but there's many more. Pretty much this whole application is full of holes. It doesn't hold any water. And I can't possibly go through all of that. Try to touch on a few of those. The hearings officer couldn't review the application throughout because he couldn't get past square one. It didn't really have credibility or clarity, so he just put it aside and said, ok, I can't do anything with this, denied. We have the same issue. We as the citizens of Portland are trying to review this we find all these things that don't make sense. How do you go past that if it doesn't have the basic credibility? I think it's a good sign that this hasn't happened in 20 years. As you said before. That's -- he throws it out on square one. Which I think you should give value to that. There's a message in there. So anyway, in the written records, as provided for the hearing, the earlier hearing, there's lots of details on there, the application doesn't meet it. Lots of details on the erp and also on the other city code requirements. No need to repeat all of that. Um, as far as credibility, sure, you can side with the applicant, and bypass the hearings officer. Applicant was found to be non-credible. So I know what I would do. Other points as to credibility in the records, by applicant, 759-watts, 10,000 watts, 6,732 watts per sector with multiple sectors, 39.28 watts, it's all in there. Other points, Oregon law, as far as licensed

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engineers. There's a reason for that. This whole application violated Oregon law. It's happened before other company, Eugene, they were fined and the city of Eugene said we're not going to even consider this application because it violated Oregon law, can't do that. Doctors, will have to have a license for practicing medicine, if they don't, consequences. Engineers, they deal with public health as well. There's a reason that there's licensing. I know that the firm, Hatfield and Dawsons, has licensed engineers, they rely on data from a non-licensed engineer. It's in my mind, the same as a doctor -- non-licensed doctor prescribing a prescription and then saying that the pharmacist was licensed. Um --

**Fish:** If you could just wrap up with your final point, sir.

**Hermans:** Ok. If there is going to be any additional evidence in the record, obviously, I hope that everyone gets a chance to see that, review that, comment on that.

**Fish:** If we extend -- if the council chooses to go that route, then everyone would be treated the same.

**Hermans:** Ok. Let's see, there were two other things. Oh, one is -- there's lots of language in the FCC rules as to multiple antennas, cumulative. It's in the record. I would look at that and if needed, go back to the actual FCC. Also I have an email from the FCC, they confirm that it's cumulative for these types of things. Thresholds.

**Fish:** Thank you, sir. We have to be fair to everyone else. Thank you. Welcome, sir.

**Scott Vala:** Hello. My name is Scott Vala I'm from the Mt. Scott neighborhood association and as their delegate I'm also representative on the board for the Southeast Neighborhood Coalition. I want to thank the Commissioners and the Mayor for giving us this opportunity. I have submitted a letter that was endorsed by the Southeast Coalition Board on Monday in support of the Mt. Scott Arleta neighborhoods position on this. Most of those issues have been covered. It's more of a livability a concern about many neighborhood associations all along Foster and in that area who've been working very hard to improve that area. I'm not going to get into any of the technical stuff. I've read it several times trying to understand it myself. And I think I got a pretty good grip of it. I would just like to touch on the fact that from a personal standpoint being involved in neighborhood associations system, that this group of neighbors that came together really did great things in our neighborhood and they - a couple of them had come to some neighborhood association meetings in the past but they weren't really involved with us. We also have a very new board, a lot of young people who have never really been involved in a neighborhood system for much more than six, seven months and these people came to us and involved us and brought their case to us and we went to some of their meetings as board members, they came back to us, and I think we all learned a whole lot from it and our board members who sometimes seem overwhelmed with the responsibility that's involved in being in their positions, have really worked very hard to do things right. They've gone out of their way to go make sure that everything is documented. This group has documented all their meetings, all the people that came, all the questions they had. And the neighborhood board didn't just rubber stamp approval of this just because they didn't want a cell tower in the street - in the neighborhood. But they looked at all the issues and thought about it a lot. I think the main thing for me is that, you know, there's right ways to do things and there's codes and there's issues like that. And people need to be held accountable for not doing that and I think this group and the neighborhood association this time, really did things as right as they could and for me there's really only one way to do this, and that's to judge in favor of the neighborhood association and the hearings officer on this. Because I think that's just the right thing to do. Thank you very much.

**Fish:** Thank you, sir. Next group.

**Fish:** Can we get everyone up? Mr. Nichols, welcome.

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**Walt Nichols:** Welcome. Welcome council, I'm Walt Nichols and Mayor I'm glad you're listening to this whole thing on the phone. This whole issue, I don't think would have even come to light to the neighborhood association had it not been -- if it'd been 2,000 feet away from the current cell tower and you know, the only other issue might have been the screening and so forth. But this neighborhood association, the current board has done some pretty miraculous things as far as livability issues. There's been 214 trees planted in mt. Scott arleta alone this year. So there's a lot of pride. One thing I would like to ask the Mayor and the council, Since lake oswego dumped the streetcar, we would consider to put that money down the hawthorne and out foster to increase our urban development, renewal development and the other issue is, that we need to look at the big picture of mt. Scott Arleta – or Mt. Scott fuel because that whole facility is -- it's going to reach a point in time, it's going to be too valuable for what it's currently being used for, with a family owning it for 70 years and then what's going to become -- if this tower does go in? But we really need the screening, it needs to be – I don't think it should be – because it is within 2,000 square feet, I don't think we should go down that slippery slope with it and I strongly suspect that this issue is going to be one that's going to form a lot of cell tower issues in the years to come, with what has come to light with this [inaudible]. So thank you for your time.

**Fish:** Welcome.

**Neal Sutton:** Hi, my name is neal sutton, and I'm a land use chair for the mt. Scott arleta neighborhood association and I thank the commissioners and Mayor Adams for taking the time to listen to this very important item. I agree with my fellow residents on the fact that the erp wattage data used by Hatfield and Dawson in their engineers report was submitted by an unlicensed engineer by the name of jeff culley, he signed as an rf engineer. During the hearings process we had done an extensive search trying to find license information for mr. Culley and could not find any in the Oregon board of examiners for engineering and land surveying. So in the recent past, the law enforcement committee of the Oregon state board for examiners had specifically confirmed that the title r.f. engineer cannot legally be used in Oregon by someone who is not licensed as an engineer. I once again attempted the same search, recently trying many different variations for Mr. Culley's name and still came up with no results, but I did recall at the initial hearing, lara hopfner, stating that Mr. Culley was licensed in several states including Oregon and Washington. So I did a complete search on Washington states department of licensing and again came up with no results. I decided then to maybe try Idaho's board of licensure, with no results, utah, no results, california, no results, but when you google rf engineer jeff culley, several past verizon cellphone tower cases come up and these past proposals included data and written testimony prepared for and signed by mr. Culley, again listing himself as an r.f. engineer, so it kind of made me wonder if during these past land use cases, anyone ever bothered to actually check and see Mr. Culley's credentials and I will remind you that Mr. Culley is an employee of verizon. So as hearings officer frank noted in his findings since Mr. Culley is not licensed under the Oregon state board of examiners for engineering and land surveying and any and all testimony and data prepared by him and then submitted by verizon were referred to by other external consults, generally lacks credibility. Thank you.

**Fish:** Thank you sir. Welcome.

**Max Trisler:** Hello, my name is max I live in the neighborhood. My main concern is, we have a ordinance and -- what do they call it a -- rules, essentially, to govern our city and what goes in and what doesn't go in. We have an ordinance that's says cell phone towers are supposed to be 2,000 feet away. I personally were not – were not at the council that enlisted this ordinance, but apparently verizons or whoever they were would like to give his testimony as to why they did it. We don't know what it is, but it's there. And the same thing, I would like to bring up the fact if I

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didn't like a rule or an ordinance, like, say, the keeping your yard maintenance, right, maybe I don't want to mow my grass and it stays six feet tall, I think there's a ordinance against that. Should I go to city council and ask, oh well I just want to [inaudible] because I don't want to follow the rules or the ordinance? That's not going to fly. From my understanding, is that, you know, the rules are here for a reason. I don't know exactly the reasoning, but they're there for that. So my only objection would be that, you know, and we all play by the rules, we play by the rules. If you don't like the rules, there's legislation and a road that you go down there to change it that I believe that's what needs to be – or what needs to happen, because all of us are governed by the same rules. Obviously, the city of Portland put that there for a reason. I don't know what the reasoning is. But I appreciate their -- their role in that. And I just wanted to say that i'm not for it and there are a lot of holes in this case and I don't believe it's a rubber stamp that says, you know, yes or no. It just - you know, it's within the box that the rules are and verizon wants to play out of it. If they don't like the box, they need to square or circle it around their facilities and their wishes. And that's all i'd like to say.

**Fish:** Thank you very much very much for your testimony. Thank you all. We're now at the point of the proceeding where the appellant gets to rebut the evidence, Mr. Grillo, we're going to welcome you back and i'm sure we're going to have some questions. And then council will have the option of inviting staff back to answer any final questions and then we'll proceed to have a discussion about what is the will of my colleagues and how we will proceed. So Mr. Grillo, welcome.

**Grillo:** Thank you.

**Fish:** Before we start peppering you with questions, would you like to address the specific issues that you want to address?

**Grillo:** Yes, and let me just touch on a couple of things and in the interest of time, be more responsive to your questions and then if it's council's pleasure to either continue this or take additional evidence, we can work on it through that direction. First, I just want to kind of address this issue about emissions. The erp relative to emissions versus erp relative to the limits for power output for a facility. As you know, and as we talked about a little earlier, the fcc, the '96 telecommunication act preempts local governments from regulating r.f. emissions in a way that's different than what happens at the federal level. I don't think there's really any question about whether or not that's the state of the law with regard to that preemption issue. The erp issue here therefore is really we should really not be arguing about erp with regard to emissions because that's not what the standard in 33.815.225c is about. It has nothing do with emissions. That is simply a threshold standard that the city has adopted that is based upon the power output of those facilities. Emissions under the city's code is regulated not under the conditional use standards in 815, it's regulated under the other development standards in another section of the code. So there are two completely separate things under the city's code. So conflating erp for purposes of emissions is incorrect under the city's code, and it's incorrect and it is unlawful under federal law. Federal law is going to regulate the emission standards with regard to this facility. So when you start mixing the two, it becomes extremely complicated and is just not the right way to go. The real issue here and I go back to it at least as to the threshold issue is this facility is either going to be regulated under one set of standards or the other. It's either going to be under sub c or sub d. There are no other choices. It's one or the other. And if you adopt the hearings officer's position, or the opponent's position, it will be regulated under d. If you adopt our position, it will be regulated under c. That's really that whole issue in a nutshell. And that issue, I think, as a matter of law in this case turns on the legislative intent issue in terms of what the purpose of adopting that standard was and I think there is overwhelming evidence that the purpose of the standard was to regulate

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wireless facilities like this under the sub c provisions and I think that's where you need to go with regard to that question. Once you have decided that this is a sub c kind of a case, then we can get into the relevant approval criteria. If on the other hand, you decide this is a sub d case, keep in mind that when Verizon came to the city to locate this facility here, as would happen normally, you'd have a pre-application conference and we were told that we would be under the sub c criteria.

That's what the notice was based on, that wasn't something that at that stage of the proceedings, there was this evidence of the emissions reports and things. That wasn't in the record yet. The city was clearly going to be processing this as a sub c as it had done with hundreds of other cases with regard to wireless. So if you decide, the reason I'm saying this is, if you decide that it's a sub d case, then I think you're in a situation where frankly, we probably need to send out new notice and deal with it in that way. Because that's not how this case was processed. That's not how the evidence came in, it wasn't -- the evidence didn't come in as if it was a sub d case. It wasn't treated as a sub d case. It was treated like hundreds of other wireless cases as a sub c case. I don't believe you want to go there, I hope you don't go there, I hope you will treat this as a sub c case. With that said, I think that, you know, issues in terms of credibility and qualifications, I think I've tried to explain that in our materials. I will try and do a -- more work on that if you decide to keep the record open. Again we have both Mr. Culley and our other engineer here if you want to ask questions. The only other thing I would mention, is really kind of procedural, if you do determine to keep the written record open for a period of time, the only thing that I would ask you to consider is merely keeping the record -- written record open in a case that is potentially as complex as this, means you may not be able to ask questions of the folks who you want to ask questions of without in essence, taking more evidence by hearing their testimony. So you may want to consider that. I want to do what is best for you as decision makers to make a good decision in this case. I'm sure everyone here probably feels that way. So consider that if, in fact, you are going to merely keep the written record open and think about whether or not you want to create a situation where there may be some opportunity for actually to have some questions and answers particularly on some of these technical issues if you decide to go there. So that's in the interest of time, I want to wrap it up and give you an opportunity to ask questions.

**Fish:** Commissioner Leonard.

**Leonard:** Why would you object to be regulated under sub d?

**Grillo:** Well I'm not sure so much is it - it would be an objection to be regulated under a sub d. Other than that was certainly not in our view why - the city's intent was, I don't think to regulate us under a sub d, so you're essentially regulating wireless facilities under a much different standard and I think that what will happen if you do that is you will likely run afoul of telecommunications act as a practical matter because facilities, many facilities will simply probably not be able to be approved under those kinds of high-output sorts of criteria that you've created in the code.

**Leonard:** Not so much not be approved but be required to be congregated in a specific area, in a larger footprint in a specific area.

**Grillo:** Well that's yes that is one of the unintended consequences; I've termed it, in this situation. But as a practical matter --

**Leonard:** Why would you argue that we would be preempted from doing that?

**Grillo:** Because what would happen, as a practical matter, is that would in essence, prevent wireless service from expanding in certain areas because you're going to have coverage and capacity gaps in areas where now you can't locate facilities because you're having to congregate them in certain areas. Now it may not just be up on Healy heights and other places but your - that's exactly opposite as to the dynamics of a wireless system which is spread out. It needs to spread out and fill coverage and capacity gaps throughout the system. If you regulate it like you regulate

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higher power television and radio broadcast facilities and cluster them, it I think would run afoul of the provisions in the telecom act.

**Leonard:** Are you arguing that the fcc preempts this from regulating the placement of towers based on reasonable sets of conditions?

**Grillo:** No I'm not. Framed that way, i'm not arguing that. What i'm arguing is, is that if it effectively precludes service, then you would be preempted from doing that.

**Leonard:** So in reading the hearings officers report, one cannot help but, at least my interpretation, since he feels like he's been blown off by verizon, asked for documentation to support your definition, erp, didn't get it, somebody testified in front of him that mr. Culley was a licensed r.f. engineer in Oregon. Turns out he was not. I mean, I've read in 10 years a lot of these reports and I have never got the flavor i've gotten from this one that it's distinct that he's irritated. So help me understand why you took the approach that you did, given some of the reputation the cell phone industry has, not with standing, I would think, in a quasi-judicial kind of setting before a hearings officer, you would make sure you straighten your tie, and if he asks you a question, answer it. I he asks you if you're an engineer, you either are or you aren't. What happened?

**Grillo:** Well let me try and answer that as best as I can, with the caveat that I wasn't there.

**Leonard:** I was going to ask you that but I didn't want to put you on the spot --

**Grillo:** No, I -- [laughter]

**Fish:** You're throwing your partner under the bus. Is that how you get ahead at davis wright tremaine?

**Grillo:** None of my partners or associates were there.

**Fish:** Uh-huh [laughter]

**Grillo:** So this was a case where there wasn't - Verizon did not have land use counsel or a lawyer present at the hearing and in all fairness, at least the best way I would, at the risk of characterizing anything, the way I would characterize it is that this was a relatively routine case and I think going into the hearing, that the notion of having the kind of debate that we're having here about erp, it hasn't happened in hundreds of cases and I don't think that was the anticipation going in. And the arguments that were made, I think made this into the case that it is, and so just from that standpoint in terms of the confusion about erp, I think that was happening on one level. The other level is, again, most of the expert testimony here was really focused on the emissions side of the issue. That's mostly what the report was built around. And when it shifted into the threshold question of the erp, that's a different animal, if you will, and that -- there was some difficulty, I think in refocusing on that part of the issue because that's not usually what people are talking about in these proceedings. With that said, I think that there was confusion about the different numbers of erp for different purposes in the report. I've tried to explain that in my materials and I can go into that more if you want me to here. But I think the issue of credibility is really, in this case, a bit of a red herring, I so think that it was a mistake and i've tried to make it clear that it was -- that's not accurate, that mr. Culley is a licensed r.f. engineer. His title within verizon is r.f. engineer. He did not represent -- he did not say he was a licensed engineer in Oregon. Laura hopfer said that. And Mr. Culley was not at the hearing, neither was mr. Pinion. So the engineer Mr. Pinion and the person who has the title of r.f. engineer at verizon, neither of them were at the hearing. So I think that added to the situation. So at this point, we're -- what I tried to do, frankly, was with bringing, now, another Oregon licensed engineer that also has the r.f. qualifications with us from hatfield and dawson, I wanted to essentially try and move past that issue --

**Fish:** Mr.Grillo in fairness, as I understand your argument, is that if we agree with you that the federal standard is established by virtue of licensing, we would not necessarily have to reach the question of the credentials.

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**Grillo:** That's exactly right.

**Fish:** That's your argument, but we --

**Leonard:** But that, I mean, I have not disagreed with your analysis at all. And commissioner Fish may be misunderstanding what i'm arguing. I'm not arguing at all the health effects of the transmission tower. I understand that that's an issue that has been preempted from local governments from deciding but it is as to whether or not we decide under section c or d. That's that's you know the question for me. So I'm not confused at all about what my role is here. I've been through dozens of these hearings of cell phone towers since i've been on council, but I do think they raise a legitimate issue in that verizon went unprepared to the hearing, i'm sympathetic with that it was probably, and it sounds like the staff as well was unprepared for the some of the questions that were raised. But still we're left with looking at a record that was represented to be one thing and later found to be wanting. And at minimum, with some questions, legitimate questions raised as to not whether or not we get to -- say whether you get to have the cell phone tower or not, but as to whether it's regulated under section c or section d of our zoning code and I don't think that you get to the question of whether or not the fcc considers it is a cellphone facility or not, and then case closed, you can put it wherever you want. We have a lot of history of knowing that we get to regulate where these are more appropriately located. So I think we -- you know, the staff's hard work notwithstanding, I think some legitimate -- very legitimate issues have been raised by the neighborhood. Some of which I agree with, some others I don't agree with. But some legitimate issues that could cause the council to reconsider the criteria we've been applying to the placement of these facilities, based on the questions that the hearings officer raised, first posed by the neighborhood association, with respect to erp. And whether you count channels, or not, I think is a legitimate question. And he didn't -- he asked for you to clarify that to him. I hear you say you weren't prepared to do that. Still, we're left with a record that -- that wasn't -- that issue wasn't clarified for. But for the neighbors coming forward with some documentation from the fcc that does appear to give some guidance as to how you calculate erps and that seemed to indicate you take the sum total of all the channels and there's your erp. So, I mean that's what i'm sitting here trying to grapple with, erp I'm sorry.

**Grillo:** Just a comment with regard to your comment is that I do think that while the city's code and the fcc's code is far from crystal clear about how you calculate erp, it is still a calculation, it's not simply a function of a definition. There is a calculation that's involved. And a consulting firm like hatfield and dawson, that's been doing this professionally for many years, not just with local governments, all over the west, but also certainly with the fcc, they are in the best position to know how the fcc calculates erp for purposes of federal law. And their testimony has been that it is done by channel. And we believe that that's consistent with federal law. And because of the ambiguity in the city's code and its need to be consistent with federal law in that regard and because that would make it consistent with what your legislative intent was with regard to regulating wireless facilities under subsection c. Again, I go back to that issue, because to me, that's the linchpin issue. Is that -- if you really intended to regulate both wireless and broadcast facilities under subsection d, then you wouldn't have needed subsection c. There's -- it's really superfluous. It's not going to regulate anything.

**Leonard:** If you have towers that emitted less than a thousand erp?

**Grillo:** I understand, but for -- as -- I think as staff has testified and as i've testified, really virtually all of the facilities the wireless facilities that would come in, would be regulated under subsection d. Because of the amount of power that would come out if you were summing all of the channels on a particular antenna. It's partly just the way that technology has developed over time. So as a practical matter, you've got a situation that just doesn't work based upon how you set up the

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regulations. Now, you know, I don't want to get into the policy debate, of was that the right mechanism to use to try and characterize wireless facilities. We are where we are. And so I don't want to get you into that kind of debate. But that's what we have and that's why under the pge v boli analysis, why it was so important for the court in gains, to say that you have to use legislative intent at that first level. You cannot lose track of legislative intent. That's the cardinal rule. And so I urge you to start there. That's the most important issue because you have an ambiguity and that's the best way to resolve it. The worst thing you can do is get lost in the weeds of looking at these definitions that are confusing and then parsing it based on that, which is what the hearings officer did. And I understanding that view. But gains really changes that kind of analysis and reminds us all to not lose track of the legislative intent and to have that be the cardinal rule for interpreting these kinds of things. So that's where I urge you to go.

**Fish:** Mr. Grillo, I'll tell you this, listening to this discussion and realizing that under the worst case scenario, someone could argue we've applied the wrong criteria and had we applied the correct criteria under our own code, we would be preempted under federal law, that -- it does not cause for comfort. I can't speak for my colleagues and we're going to have a discussion shortly. But based on everything i've heard, I can't decide this case today. And I don't say that because you have not addressed adequately in your submissions or the other side hasn't made a compelling case, but I actually can't remember a hearing like this where it has been so thoughtful on both sides and frankly, enough important issues have been raised which I believe require additional thought. And just to preview, I think this question of whether this is a sub c or a sub d case is -- is really at the heart of this and i'm going to be looking for what federal and city law helps inform that decision. I'm going to be looking at what's the relevant approval criteria? And in particular, looking at what is the meaning of facilities. And under both -- under federal law, how you calculate erp, I mean, that -- I would be surprised after all the history and litigation around cell phone towers, that we're going to find that how you calculate erp is as mysterious as I feel it is now, but i've been reading the materials and I frankly see different rules of how you do it and I can't reconcile them. So again, I can't make a decision today without additional thought. But those - for me, those issues are going to be primary. Is it a sub c or d case and why and what authority under city code or federal law guide that's decision. What's the relevant approval criteria? Because there's an -- an honest disagreement about that. You know, the old joke about, I went to the fights and a hockey game broke out. I think perhaps the most sympathetic way to describe verizon's predicament is, maybe they thought the hearing was going to be governed by one set of rules and it shifted and whether they should have known or not that it would shift but it does seem that that, maybe at the heart of what Commissioner Leonard has identified is, as the -- some confusion and some tension in the hearing officer's decision, the meaning of facilities both under our code and under federal code but I think the federal law ultimately trumps, and how you calculate erp, whether we're concerned about emissions or not. It just seems to me there -- there needs to be some clarity under federal law, under you know federal law or the code of federal regulations or a case law as to how you calculate it, and seems to me this issue of whether it's aggregated or not is not such a subtle or, you know, left field issue, that i'm guessing -- i'm guessing one side or each of you -- each of the parties here can give us some further clarification on that. Again, I say that, even though as i've had a chance to listen very carefully and review the materials, I think both sides have done an excellent job of presenting their case for this hearing and I - since the neighborhoods usually are out-gunned in these kinds of proceedings, I have to say i'm especially admiring of their presentation because i'm left with some really fundamental questions I can't answer and I - what concerns me is, even after we answer it, we may actually have to confront some other pretty fundamental issues about whether we've been doing it the right way and what the consequence is under federal law.



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**Saltzman:** Can I ask a --

**Fish:** I think this would be helpful to me and I'll be advocating for a continuance. Keeping the record open, continuing this proceeding and giving people a chance to put whatever additional argument they want on these points and in addition, since you've described the legislative intent as new evidence, i'm not whether it qualifies as new evidence or not, but I think if legislative intent is now in the record, i'm going to advocate for giving the other side a chance to put their view of legislative intent in, so if there is any disagreement on that.

**Saltzman:** I just raise a couple procedural questions? What is the fcc shot clock?

**Grillo:** The fcc shot clock is conceptually similar to the 120 day rule, in the city. It's a time frame under which a final decision needs to be made or there are, in this case, federal consequences as opposed to state consequences under the 120 day rule. So it's a deadline under which you have to make a decision. In this case, because of the way the extensions have been granted, thus far, they're working -- they expire at the same time. So that's helpful, I suppose, in this case to the extent we're going to --

**Saltzman:** So february 4th, if we didn't make a decision by february 4th, would the fcc make that decision for us? If verizon requested or --

**Grillo:** No, there are -- there are remedies in federal court with regard to the 150 -- the fcc shot clock, just as there are remedies in state court under the 120 day rule in the state.

**Fritz:** It's similar though, to our state rules that you -- the applicant can request the fcc to extend the deadline.

**Grillo:** The applicant can extend the deadline.

**Fritz:** And you're willing to do that?

**Grillo:** We're willing to yes, work with the city to do that, to accommodate additional evidence.

**Fritz:** That would be very helpful. Thank you.

**Saltzman:** My second procedural question is, I don't know if we've ever done this before, is it possible for the city council to remand to the hearings officer to do another hearing?

**Rees:** So your code does not provide for that. It's my understanding that has happened in the past but there's certainly procedural risks with doing something that's not contemplated by a code that is very specific about procedures.

**Saltzman:** Procedural risk meaning -- I mean, interpret that for me?

**Rees:** Meaning someone could challenge that procedure and say that was incorrect to have a hearings officer make a decision.

**Fish:** The reason, commissioner Saltzman, that I would not support a remand at this point, is that i'm not convinced based on what i've heard, that this can't be decided as a matter of law, and the principle reason to go back to the hearing officer I think would be to make it additional factual findings which would be useful to us in our decision. And just based on what i've heard, i'm optimistic that this can be decided on the law without additional fact finding. I may be wrong but that would be my hope.

**Leonard:** So I would say that commissioner Fish, you've identified a number of issues that need further analyses. I think we should have a clearinghouse where those are done and so that those answers are provided to each of us. But I need to point out one that I think needs special attention and I think should be done by the city attorney's office, and that's this definition of erp for the purposes of deciding under section 33 of the zoning code whether one of these facilities falls under sub section c or d. So I know we have --

**Rees:** I can tell you right now in discussions --

**Fish:** Can you move closer to the mic?

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**Rees:** Sure, it's a new mic today so I'm sorry, I don't know how close to be without yelling at you. The city attorney's office agrees with the hearings officer that that code definition is ambiguous and so it's going to be a matter of interpretation and that's a matter for at least the hearings officer initially and then council subsequently.

**Leonard:** If I'm to rely on what I'm looking at, what's been submitted to me then - and I'm asked to, you know, legislative intent is one way to construe statute or ordinances and the other is the clear language of the statute of the ordinance, and -- and my preference is always to have the language be clear and unambiguous so you don't have to go look through minutes and debates and it would appear on its face that the clear definition, at least from what I looked at so far, if you look at least at the - what the neighborhood has provided, FCC's OET Bulletin 65, total power of all channels being used is over 1,000 watts effective radiated power. So you add up all the channels, you probably have a rebuttal to that. But I guess what I'm looking for is, how does in fact the FCC determine ERP? I mean, what is the calculation that they use to determine what that figure is? Because we want to use obviously a standard as close to the federal government as possible.

**Rees:** It seems like a good question. The question is who should be answering that and I'm not entirely certain whether -- how to put this gently, whether a land use attorney is the right one to answer that or whether that's a technical question or whether it's a staff question. I honestly don't - - I - and if you're looking to us, we can do research and we can provide information, but --

**Leonard:** I mean we have people that advise, you know our -- our --

**Rees:** And I'm sure -- staff can work with --

**Leonard:** I mean, David Olson.

**Fritz:** I think his office would be helpful.

**Fish:** But in the staff's submission to us, there is a -- you know, the staff has a view of this, that I think the challenge is you can -- you can make a number of arguments based on what statute or regulation you look to. And we have very thoughtful people making arguments that come out on either side of it. And my guess is that at some point, that just may be for us in a quasi-judicial proceeding to make that call.

**Fritz:** Or to make a call on this particular case and then clarify the policy. Because that's the challenge is that the zoning code is ambiguous in this case. We need to make a decision on the case that's before us, it seems pretty clear to me that there will be ongoing policy choices to be made that are part of an ongoing legislative procedure rather than this quasi-judicial -- and what I'd like to see, I agree, Commissioner Fish, with your call for a continuance of the hearing so that as Mr. Grillo suggested, everybody can come back and give more oral testimony. I will say it's been very helpful to listen to the oral arguments. I got a very different sense and understanding from hearing your verbal testimony compared with reading through the record. Both have been very helpful. I would like the opportunity to read through everything that's been submitted today and in the past week so that I and I would actually like a written response from staff, rather than bringing you back today, so that you can give us your comments about what you've heard and what's in the record. And then --

**Fish:** We're going to start discussing next steps. So you have - is there anything else you would like to put in the record at this point or do you feel like you've had your say?

**Grillo:** I think that there's nothing further that I'd ask to be put in the record. I understand you're going to determine whether or not to reopen the record and then we can perhaps deal with that and offer comments at that point.

**Fish:** So if you can stick around, go back to your seat because we're going to -- I presume, try to work out an agreement on scheduling. So, and Ms. Cate, if you could you come forward. My colleagues may have some final questions. Commissioner Saltzman.

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**Saltzman:** Oh I just wanted to – see I know she wanted to say something, so --

**Cate:** Thank you. If I could provide you orally with staff - some clarifications with the issues you're wrestling with today, I think it would be helpful and I would be delighted to put this in writing too during an open record period.

**Fish:** Sylvia, let me just -- i'm going to cut you off just for a sec to make – to find out how my colleagues feel about this. It's a long day. We've had council since early this morning. I have no doubt you can make a very eloquent oral presentation on those points, but I think the council is also signaling that they want to consider this and my preference would be to get it in writing. So we have a chance to digest it. My colleagues may have a different view.

**Leonard:** Well yes, and a - I would like that as well. But if -- I don't know, if the office of cable could ask ben walters, or you could ask ben Walters but I – you know, if you and Ben could get together and talk, what i'm looking for more is not maybe what we did or did not decide at one time, in title 33 of the zoning code. But, you know, what is it that we need to do to clarify that today to make - so that we're using the standard that the feds use as well and how they calculate erp.

**Saltzman:** Well the office - you mean the office for community technology?

**Leonard:** I was just trying to remember the name, I can't keep track. David olson's office.

**Fish:** I'm old enough to remember what it was called – the office of -

**Saltzman:** They are here and so they could easily a – they've been here the whole time so --

**Fish:** You can get together with your colleagues and –

**Cate:** Okay.

**Fish:** and I -- it's not that we want to cut you off right now, but I think your presentation will be more effective if it's in writing,

**Cate:** Alright.

**Fish:** and we have a chance to reflect on it. So thank you and I want to propose to my colleagues that we continue the hearing, frame the issues that we would invite further presentations on, the issues of concern for each of you. Get an agreement from the appellant to an extension of both time limits, so there's no question there. And see if we can get a tentative date from Karla for when this would come back to council. Does that – does that cover the key issues? Commissioner Leonard, would you like to start with a just reframing your issue?

**Leonard:** I'm just - as I said, I mean, I -- I -- I don't want to so much get into a back and forth about what was intended and what wasn't intended. My interest is -- and I've sat through a number of these hearings and this issue just has not come up before. My intent would be to find out what the feds use as a definition for erp. And then have us discuss that and go from there.

**Fish:** Commissioner Fritz.

**Fritz:** I heard some new issue raised today that, as I said, I haven't heard before particularly on the public exposure. So I want - I need some more information on that and then looking into the facts of this case, because it - we have to decide based on what the goalposts are in this case, on the date that the application was submitted. So that -- and then I do think that when we come back together, we'll want to start framing a legislative process to look at what is our city policy, what are our preferences? Ten years ago, we decided we were going to put--to favor putting things in the right-of-way unless a they could go on-sites like this. I mean to favor them in the right-of-way, rather than sites like this. We're now finding that that's causing some concerns too. I think there is a – there's a case for a citywide discussion of our facilities and how we provide them. This isn't the case. This isn't the venue for that discussion. This one has to be decided based on the merits of this case. Thank you very much to both sides for making those distinctions very clear.

**Fish:** Commissioner Saltzman.

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**Saltzman:** Well I - I don't think I have issues that are different than what commissioner Fritz and commissioner Leonard raised. It was a good presentation by the neighborhood and by Verizon.

**Fish:** Mr. Hill, the four points that I raised with council, were you able to get those?

**Hill:** [inaudible]

**Fish:** Just real quick, just to make sure we --

**Hill:** Yes, I think that I heard the ones you expressed as sub c versus sub d and why it's going to be one or the other under the city code. What are the relevant approval criteria depending on which of those we end up with. Federal law and how they calculate erp, oh and sorry, what is a facility under the city code and also under federal law.

**Fish:** And commissioner Leonard's point about how do you calculate erp under federal law. And may I say that again, you -- each side has put in substantial materials here. If you feel that any of these questions have already been addressed adequately, you can refer us to what you've already done. We don't want you to kill more trees if you think you've adequately done it. We're not looking for new evidence but to the extent you believe new evidence was introduced at this proceeding, you do have the opportunity to rebut it.

**Hill:** Ok.

**Fish:** And I think the only thing left, Karla, is the time -- how long people will have to put their written submissions in, and when we come back --

**Adams:** Mr. President?

**Fish:** Yes, mayor.

**Adams:** [inaudible] - a few items, before you schedule the continuance. If -- if staff could provide for the aspects of this issue that -- regarding the concentration of equipment and the additional supply or service equipment required, and give me just a sense of how the application and the industry in putting in the application by the industry of placing the cell phone towers, how that -- how that has changed since we last did a big update or -- with the ordinance that we do have on the books. In listening to the testimony today, and I appreciate the opportunity to listen in, I heard new issues as commissioner Fritz talked about, and as commissioner Leonard is asking for more clarification. The concentration of more -- more of this equipment, pieces of this equipment, I'm still not clear on and I think it would be useful as we look as well to what is best local regulation for the future. So thanks.

**Fish:** Thank you, mayor.

**Rees:** Commissioner Fish, I need to jump in, because I need to make sure procedurally we're not erring here. When we have a closed record hearing, we - there were people who submitted additional evidence and people who have additional issues, one of the ways to correct that if council is going to -- you can reject any of those, you can say we reject all those or you can say we'll accept them but we're going to give an opportunity for anybody in additional open record period to respond to that new evidence. I want to make sure that's very clear. I also want to be clear, because some of the issues that all of you have raised seem to me like they're inviting additional new evidence. I don't want to - I think you need to be clear with the parties whether you intending for them to only argue these things. For example, commissioner Leonard's request for how does the fcc do this, might require a party in order to explain it, well to bring in additional evidence. But if you're intending for them to argue it only based on what you have right now, they need to be clear on that. So -- I guess two questions, one, what do you want do with the new evidence that was presented today? And two, how do you want the parties to be able to respond in this period before they come back to you.

**Leonard:** So my question is more a question of staff than it is -- what is the standard -- it's the same question the hearings officer was asking and -- and said in his own decision. I couldn't get an

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answer to. And I'm – I'm asking that same question. But I don't want to hear the answer from either of the two parties in this case. I want the staff via Ben Walters or somebody who has the technical expertise to say here is how the fcc defines --

**Rees:** Okay. And it might be possible that in responding to that, ben or Sylvia would need to rely on additional evidence. I don't know, but I mean - as i've made clear, that's not my area of expertise, I don't know. So I – I just need to make sure you're --

**Fish:** Let's cross that bridge on that point. I mean we - I think our intention is to solicit legal arguments mostly.

**Fritz:** No I would disagree. I want to review the new evidence that was submitted by both parties today.

**Fish:** Hear me out for a second. She raised two points. I'm addressing the second point. The first point our – our practice has been if new evidence -- if evidence is - is presented at this hearing, as - as it has been, we open the record and we allow – we allow people to respond to it. And think that's what you were prompting that you think is the better approach.

**Rees:** If your choice is to include that evidence and I had heard a couple of you say that you wanted to have that evidence in – so yes.

**Fish:** I think there's consensus that we would do that. On the the question of whether -- the second question you raised has to do with the legal issues that we've asked people to address in their briefs.

And my preference at least is that people argue what the law is, site to the statutes, the code, and the case law and resist the temptation to bring in new evidence on that part of their analysis. But on the question of any new evidence which has come before us today, it would be fair game for people to put in evidence to rebut it.

**Fritz:** I think we saw last time with the recology hearing that it was really difficult to assess what was new evidence and what was arguments about new evidence. And in this particular case, it seems like both parties have brought new challenges forward and that it's probably in the best interest of both parties to allow new evidence and new arguments so that we can get to -- this is a very complicated case, so I think if we -- to the extent that we can do away with arguments about what's new evidence and what's arguments about new evidence and let people comment on this case and anything that they feel is pertinent to it, that would be helpful to me.

**Fish:** Well, okay. But I mean that potentially means we could have depositions, we could have affidavits submitted, we could have experts, I mean I think I can decide the case on the questions we've presented without opening the record again and I respectfully think that may produce an outcome we don't want. I mean, it's really the council's decision here, but I don't think there was any substantial new evidence put in here, but if someone thinks so, we want to give them a chance to rebut. But if we open the door to new evidence in support of arguments, I just think we're going to turn this into a trial and we're going to get affidavits or other kinds of things and I don't know that we need that. But it is a council decision.

**Leonard:** I mean, frankly, for me, it's the definition -- the federal standard on [inaudible] I mean, I don't actually frankly need any evidence from either of the two parties. I'd like staff to provide -- I mean, and if we had somebody here today that could do that, i'd be prepared to make a decision today.

**Fritz:** And I'd like more comments from citizens who are not skilled in affidavits and depositions and goodness knows what else in figuring out what's new evidence versus new arguments, I'd just like us to be able to continue – since we're continuing the hearing, we're going to be continuing the discussion and i'd rather us not get into what's defined as what.

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**Leonard:** That by definition is new evidence. You can't say what new evidence then we'll take, the other side wants to do what commissioner Fish alluded to, then we're deluged. I mean we've – I think we know what the issues are here.

**Fish:** And also, in fairness to the neighborhood that's done a superb job today, with their presentation, not a single person has suggested that there's new evidence that they want to put in. I understand the general point, but Mr. Hill may correct me, but I don't believe there's new evidence they feel they need to put in at this point. Mr. Hill, would you like to come forward and either agree or disagree with that?

**Hill:** I can't think of any new evidence at this point, but I also have not fully reviewed the new evidence that was submitted by the appellant.

**Fish:** You would have the right to rebut any of the new evidence that was put in by the appellant. But other than that, do you believe there's any other evidence you would need to put into effectively argue your case?

**Hill:** Not that I can think of, no. I've assumed that this is an on-the-record appeal and that we're not really going to go expanding the amounts of facts that we're basing the decision upon. I think that it is a de novo review, you can make your own decision and substitute it for the hearings officer's decision, but as far as the facts that it's based on versus the parties' and other interested parties' characterization of the facts, a you know, it's kind of a blurry line, but -

**Fritz:** You're confident that all of your new evidence, that's all the new evidence you'll want to put in?

**Hill:** Yes, yeah, those are already in the record, mostly in exhibits h26 and 28. New argument, yes, I did raise one of those in the briefing and here today.

**Fritz:** You don't think there might be anything else to pull out of the fcc rules that you might want to add?

**Fish:** Oh but that's law – that's legal argument. I mean if it's in a rule, if it's in a statute, if it's in a case law, that's the law of the case and you'd be free to argue that, because that's the law.

**Hill:** Yes, I think that you can refer to the law as an external source of info that is not a fact. Right, just in terms of adjudication, I think that you can look to the law to figure out what the rules of decision for the case are. You then prove your facts, put them under the various legal hooks, right, are we under sub c or d, for example, and that is not new facts, at least as a understand it.

**Fritz:** As long as you're comfortable. Thank you.

**Hill:** Alright, thank you.

**Fish:** This is the point in the hearing where our esteemed counsel looks at us with – a little cross-eyed and says, we've made a big mess of this. Are we okay?

**Rees:** No, i'm clear. I'm very clear. And so I'd like to restate it for the record. You - I gave you two questions and you answered them. So that's great, the first was whether council intended to accept the new evidence that was submitted and the new issue that was submitted, council does intend to accept those into the record, reopen the record solely for the purpose of allowing new evidence that is responsive to that evidence that was submitted over the last few days, or since the hearings officer's decision was made. The second question is, whether on the issues that council wanted to hear about whether they intend to have new evidence in response and the answer i'm hearing with the – there's been some discussion, but I'm hearing the general consensus is no. That - we're asking for argument on those issues. So the question then would be, we figure out a continuance date and then council needs to figure out the date by which they want to receive written documentation so they have time to prepare two options, one would be you would have a period of time and you just get everybody's facts, you have enough time before your hearing to talk about it at the hearing, you also could alternatively have – you know, I don't know, 7-14 day period

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for first argument and then let people respond to it. I don't know how complicated you want to get.

So you decide, that's up to you, I'm just giving you the options.

**Fish:** I'm going to make a bold - I'm going to go out on the limb here and say let's keep it as simple as possible. So we have an agreement by the appellant to extend the clock. But we want to do this in a reasonable time frame. Mr. Hill, how much time do you think is reasonable to put in a response that addresses the issues we've raised?

**Fritz:** How cool is that, the appellants and the opposition having a conference?

**Fish:** Is that an ex parte communication?

**Leonard:** I don't think so. I think it's a party communication.

**Fish:** When did you start practicing law? [laughter] Wait a second.

**Leonard:** Jailhouse lawyer I think they call it.

**Fritz:** I've never seen this happen before, this is awesome.

**Fish:** What's your pleasure, sir?

**Grillo:** I was just looking for city attorney --

**Saltzman:** Right there.

**Grillo:** The discussion we had was potentially having a 14-day -- an initial 14 day period for rebuttal evidence and/or argument, then an additional 14-day period for rebuttal argument for anyone. No rebuttal evidence at that point. And then an additional seven-day period for the applicant, appellant in this case, to submit final written argument. Because we've reopened it to accept new evidence, then we need that 197763 additional seven-day period at the end, that would then end the document faze of the --

**Fish:** That's 35 days.

**Grillo:** Okay.

**Fish:** That's two weeks, two weeks and seven right? So that's 35 days. And then -- and then we would need some time to be able to review all of this. Could we have, council, how much time would you like to have a chance before we come back to a hearing?

**Leonard:** 20 minutes. [laughter]

**Fish:** 20 minutes on the one end, commissioner Fritz?

**Fritz:** I was thinking a little longer. I was thinking more like two weeks.

**Fish:** How about two weeks?

**Hill:** So plus 14.

**Fish:** Plus 14. Mayor Adams is that acceptable?

**Adams:** Yes, that would be great.

**Fish:** So what I'm hearing is, 14, 14, seven and then two weeks and that would take us to a --

**Rees:** Two weeks after the seven days? Okay, so we might need, it'd be another week out, Karla.

**Moore-Love:** Okay. So we are looking at February 29th. at 2:00 p.m..

**Fish:** What day is that?

**Moore-Love:** It's a wednesday.

**Rees:** So Karla, could we just on the record go, lets do the 14, when the end of that is, the end of the other 14 the end of the seven and the end of the two weeks? So we're just setting it out for everybody. So 14 days from today?

**Moore-Love:** Okay 25th.

**Rees:** Okay, January 25th is the end of the first, at 5:00 p.m. the end of the first submittal period.

**Fish:** And 14 from that?

**Moore-Love:** Is the february 8th.

**Fish:** Ok, and then seven from that?

**Moore-Love:** Is February 15th.

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**Fish:** And then 20 minutes from that? [laughter] excuse me, two weeks from that?

**Moore-Love:** And two weeks from the 15<sup>th</sup> is February 29th.

**Fish:** And Karla what's the – in the - do you think that because sometimes our wednesdays are jammed, do you think there's – do we have something on thursday afternoon?

**Moore-Love:** There isn't, but i'm not sure Linly, which would you prefer to -

**Rees:** It's fine, that would be --

**Fish:** Because these wednesdays are long days. Council, are you ok with a thursday at 2:00 p.m.?

**Fritz:** Is that alright with - -

**Leonard:** And what's the date?

**Moore-Love:** That's March 1st.

**Fish:** Let's try that.

**Moore-Love:** March 1st at 2:00 p.m.

**Fritz:** Thank you to both sides for agreeing to that.

**Fish:** This has been an unusual and actually very stimulating proceeding. Thanks to both sides, thanks to everyone who's stuck around all afternoon and we have one more matter that Linly wants to prompt me on.

**Rees:** We need to specify the date of extension of the 150-day shot clock and 120-day. I would suggest, given that whichever way it goes, there will be a need to adopt findings. After - if you can make -- reach a tentative decision on march 1st. So I think we would ask for staff -- what would you like it to be?

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

**Fish:** Well why don't you take three weeks. Why don't you take a full month to get it right?

**Rees:** Let's say March 30<sup>th</sup>, at least? Ok, march 30th. And the applicant appears to have nodded and said yes?

**Grillo:** So march 30th. Let's see. Um -- is that a day on which council can meet to adopt findings, I mean?

**Moore-Love:** No that's a friday.

**Grillo:** Well right but, what we're trying to do as I understand it, with this last piece, is to move the shot clock --

**Fish:** So you prefer it be the 29th?

**Grillo:** Well It seems to me we want to move this to a time period where not only can you actually sign a decision, but mail it and get it out, because that's the final aspect of your decision.

**Rees:** Probably the following week then.

**Fish:** Why don't we make it the following wednesday and we'll just – that's a pro forma for us, is adopting findings. So –

**Grillo:** Right, so that would be April --

**Moore-Love:** April 4th.

**Fish:** 2014. [laughter] I'm sorry, I --

**Grillo:** As long as we don't have to calculate erp to get here.

**Fish:** Linly thanks for your - thank you for your --

**Rees:** So we are continuing to a time and date certain February 29<sup>th</sup> 2:00 p.m. correct? [NOTE: this date should be MARCH 1 2PM]

**Fish:** Correct. Thank you all, mayor Adams, thanks for joining us. We are adjourned.

At 5:00 p.m., Council recessed.



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

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

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

**JANUARY 12, 2012                      2:00 PM**

[ roll call ]

**Adams:** Quorum is present, we shall proceed. Let me make a note, commissioner Fish had intended to be here today, i've been out sick for the last three days and unfortunately I think he has the bug now. Commissioner Saltzman has a pre-- had a preexisting conflict on this particular day. Can you please read time certain item number, it is a resolution, we will be voting on it today potentially, item number 48.

**Item 48.**

**Adams:** 48 and 49 actually relate directly to item 50. Every year the city council approves an agenda for advocacy and our lobbying to the federal government, that's contained in item 50, so 48 and 49 seek to amend the agenda item number 50. So we'll get to that after these first two. First we will hear testimony on the bring our war dollars home resolution. I want to reiterate, what you see repeated in this resolution and that is our thanks, our sincere thanks to the men and women in uniform who serve on our behalf around the world. They do an incredible job serving our country. I want to applaud the president of the united states for officially ending the war in iraq last month, december 18th, with our troops coming home it is even more important that we continue to make our voices known about ending the war as soon as we possibly can, as soon as it is responsible in afghanistan, and to use any savings, those savings to domestic priorities, including getting people back to work here at home. I pass add very similar resolution that originates with the mayor of eugene, kitty piercy, I pass add similar resolution through the metro's economy committee at last year's u.s. Conference of mayors, the committee that I chair. I want to thank the volunteers at peace and justice works, including dan handelman for their work, and Karla is missing. But as soon as Karla gets back, she will begin calling folks that have signed up to testify on item number 48, which is bring our war dollars home. First four.

**Adams:** Karla will also read the following fourth in case you're in the balcony, you hear your name, please come down and stand over here.

**Dan Handelman:** Hi, i'm dan handelman with peace and justice works iraq affinity group. I'm pleased to be here today to support the resolution calling to bring the troops and contractors home and to spend the money on human needs. The iraq affinity group has been educating people about the effects of u.s. Policy sips 1992. Next monday in addition to being the celebration of martin Luther king's birthday it's the 21st anniversary of the gulf war part one. Today is one day after the 10th anniversary of the opening of the prison camp at Guantanamo bay, cuba, another policy that costs money and tarnishes the image of the u.s. worldwide. Our organization has been working since august to ask council to pass a version of the mayors resolution to bring the war dollars home. Peace activists came before you in october to connect the current financial crisis facing Portland to the money spent on wars and occupations. For those who feel these votes are only symbolic to remind you president obama's decision to start drawing down troops came days after the mayors conference vote. We have with us today a slate of people representing organizations and professions who can speak to the money for human needs, not war. The resolution speaks of job

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creation, rebuilding infrastructure, municipal and state government, sustainable energy and paying down the national debt. We have speakers to address these issues, and specifically the human needs of health care, housing and education. Our group ran a penny pool on tax day, asking them to put 10 pennies into jars. There was a large amount in the jars for human needs and paying off national debt and a low amount in the military jar. We didn't even tell people we were the peace group until after they had taken the poll. The occupy wall street movement has recognized the impact of war on the economy. Occupy Portland gave its support to a march marking 10 years since the invasion of afghanistan, nine days after the inaugural event in october. Last month market watch estimated the iraq war alone will leave a debt of \$4 trillion, and cost the lives of 4474 American military members and 160,000 or more iraqis and will cost americans as the u.s. Embassy in iraq, the largest in the world, with 16,000 personnel including 8,000 contractors will use \$4 billion in taxpayer money annually. The ongoing war in afghanistan has cost the lives of at least 1756 american military personnel and untold afghans at the end the u.s. Nato bombs, drone strikes and night raids. Portland resolution points to an amendment passed by support by jeff merkley requiring the president to speed up the withdrawal from afghanistan. Meanwhile, the budgets continue to be cut for schools, jobs, health care, housing, the environment, and the infrastructure that are badly needed in Portland and around the country while the top 1% of americans continue to accumulate wealth. The iraq affinity group would like to make clear bringing the dollars home is not a call to abandon iraq and afghanistan. America needs to pay for the damage we have done, but it would be costly than continuing the current policy of endless warfare and occupation.

**Ron Williams:** Good afternoon, my name is ron williams, I reside in Portland, and i'm the executive director of Oregon action. Oregon action is a statewide nonpartisan network of individuals and organizations dedicated to racial, social, and economic justice through individual and group empowerment. I'm here to express the Oregon action's support to bring war dollars home for reinvestment in health care and other services. Health care the vital need in america, and here in Portland. Together Oregon health insurance survey done last year there were more than 500,000 Oregonians uninsured during 2011, approximately one in five Oregonians or 14.6% of Oregonians lacked health insurance in 2011. According to estimates. The u.s. Health care sector includes more than 780,000 hospitals, doctors' offices, emergency care units, nursing homes, and social services providers with a come bipartisanned annual revenue of 2.2 trillion dollars. Investing even half of the \$4.4 trillion spent on wars in iraq, afghanistan, and yemen, could easily cover the cost of insuring the 50 million uninsured in the united states, including the 500,000 adults and 52,000 children in Oregon. We support this resolution and urge you to vote in favor of this its package.

**Adams:** Welcome.

**Maxine Fookson:** Thank you for hearing this testimony. My name is maxine, and i'm here to testify in support of the resolution to bring the war dollars home. I come here wearing the following two hats. My daily work is as a nurse practitioner at a school-based health center where we provide care for some of our community's most vulnerable children. I'm also here representing Oregon physicians for social responsibility, which is the local chapter of an international group working for peace by educating about the health consequences of war. I want to tell you the story about sara. She's one of my patients, I changed her name but it's a true story. This story is one of countless that I could tell that illustrates the obscenity of \$1.6 billion -- 1.6 billion of Portland's dollars going to the wars. Sara is 6 years old with severe autism disorder. She's in a special education classroom in Portland public schools. Her father worked several low paying jobs to make ends meet and her mother stays at home though she's shared she would like to find a job but

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due to the lack of training programs and no adequate child care for sara's special needs after school, this hasn't been possible for her. Last school year I heard from her teacher that sara is very bright and that she could reach so much higher potential with additional intensive after-school services such as physical therapy, speech and language therapy, and behavioral counseling. Sara's parents have struggled to understand the nature and the extent of her chronic condition. And the kinds of health and developmental services that would benefit her. They're extremely concerned but they have not received support and assistance from agencies to get her the care she needs. They've told me at times they're at a loss of what to do. The very services that sara needs are exactly the kinds that have been cut back or eliminated due to the budget shortfall. In the health care system where I work, there's no longer funding for community health nurses to case manage families like saras. And in trying to schedule a comprehensive evaluation for her at the autism clinic at ohsu, a publicly funded clinic, I was told that there's a one-year wait list for appointments due to their budget constraints. So i'm here today and I want to join with many individuals and groups such as Oregon physicians for social responsibility, to urge you to add your public voice as our city's leaders to the chorus of Portlanders not wanting our money to buy killing and destruction. Instead we hold on to the vision that our community's dollars are infinitely better spent providing a rich array of social and health services to assist citizens like sara and her family to live healthy lives and reach their fullest potential. Thank you.

**Adams:** Thank you very much. Welcome.

**Deb Mayer:** Hi. My name is deb mayer, I want to thank you for inviting this testimony. I am a founder of -- a founding member of Oregon save our schools, and i'm also the director of great schools for america, and the mother of an afghanistan war veteran. I was also a teacher until my job in indiana, I lost my job in indiana for saying four words -- I honk for peace. Before the war in iraq began. When I challenged the school in court to get my job back, the seventh circuit ruled teachers had no free speech at school. When the supreme court of the united states declined to hear my case in 2007, it cast a chill on free speech across the nation in our schools. While my case was winding its way through court, my son was a naval officer serving as a nuclear engineer on a submarine. Inexplicably he was yanked from that duty and sent to the war in afghanistan. He returned home four years ago, emotionally scarred and to this day will not speak of his military experience. Wars hurt children in lots of different ways. When I tell people that story, they say that that should never have happened in america. And I agree. But I think it's only a foreshadowing for so many cruel and inexplicable things that have happened to americans, especially children over the past several years. Because of the wars, many children have received an inadequate education. That should never have happened in america. If we believe that well-educated people are our best defense, we must do a better job educating our children. And that means spending money on public education. I would ask the council to reduce class sizes and hire more teachers so that kids can have an excellent education. In reallocating the war dollars and this is something that's very important to me, I would ask that the money be spent wisely, not simply transferred from private defense contractors abroad to private education contractors here at home, as has happened in so many other places. Our children deserve excellent public school, and it's high time we invested in them. Thank you.

**Adams:** Thank you all very much. How many more are signed up?

**Moore:** 13 more.

**Adams:** Welcome back. Who is the first person?

**Chani Geigle-Teller:** Good afternoon. Happy new year. Thank you to mayor and commissioners for hearing us today. I'm a community organizer at sisters of the road. And we're here today to lend our support and praise for the resolution to bring the war money home and redistribute it to

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our communities. Every day at sisters we see people and families that are veterans, workers, communities of people of color and women and children who have been pushed out to the streets and the shelters and the cubs and to their cars after more than three decades of our nation's federal housing budgets being slashed. A billion dollar cut here or there may not sound severe when looked at in isolation, but when looked at in the 38-year cycle of draconian cuts to our nation's affordable housing programs and the direct correlation of how this is created and continues to perpetuate homelessness, we can better understand hopefully fight against these continued attacks on the human rights housing, and I have two figures I want to share of cuts that have been made during the time that we've been in Iraq and Afghanistan over the last decade. During this time 290,588 existing units of public housing and 360,000 section 8 units have been lost throughout the country during the time that we've been in war. For the last 10 years. And then there's been another 7,107 approved for demolition just since March of this year. And then also during that time, HUD funding, since 1996, actually, HUD funding for new public housing units has been zero since 1996. So we have heard you say before we need more money for local housing from the feds, and we agree. And that's why we're here to say that we agree with this redistribution of money. It's an obvious solution, and we applaud your leadership to show what real people need every day. And so in the -- we call for this community-based nonviolent solution to these societal problems, we applaud the work you're doing and we wanted to say that Martin Luther King Day is Monday, and we want to invite you and all of the room to attend our march to call for racial and economic justice.

**Adams:** Thank you very much. Can you give a copy of your testimony --

**Adams:** Welcome.

**Barbara Dudley:** Barbara Dudley, thank you for having us here and thank you for considering this resolution. I'm the cochair of the Oregon Working Families Party and I'm here to testify on behalf of the party in favor of this resolution. We're here because the working families of Oregon and of Portland have been asked for nine years now to send their son and daughters, husbands, and wives off to fight in these misguided wars in Iraq and Afghanistan. And to pay for those wars with their lives. And their tax dollars while the wealthiest 1% in this country have paid far less than their fair share in taxes and virtually nothing in personal sacrifice. Not only have these wars cost hundreds of billions of dollars every year, money which has come directly out of our state and the city budgets for schools for health care for police and fire protection, for parks, for roads, for bridges, but far worse than that, these wars have sent us back our wounded, our shell shocked and "war weary" soldiers with no jobs to return to, often no homes, inadequate health care, and colleges where tuition outstrips the G.I. Bill. I teach at Portland State, and I can tell you there are a number of vets there who are going into debt to get a PSU education. And they get the G.I. Bill. It's up to the cities, it has been left up to the cities and the counties and the states of this nation to find the funds to build housing for homeless vets, to provide mental health services, and to provide education and jobs. These wars must end. And they have to end for real. Not the kind of ending that leaves tens of thousands of troops and so-called contractors behind. A war conducted by mercenaries is still a war. We need to bring all of our men and women home, whether they're guard or army or private army. And we need to redirect those funds and those very human resources towards rebuilding our own city and our own country. The working families of Oregon deserve nothing less. Thank you.

**Adams:** Thank you very much. Welcome.

**Chris Lowe:** Hi. Thank you for hearing my testimony. My name is Chris Lowe, and I'm here today to speak in favor of the resolution on behalf of Portland Jobs with Justice, a community labor coalition of about 90 organizations and trade unions that promotes workers' rights, solidarity

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amongst workers and public policies and laws that benefit working people in their communities. As such, we have participated in The peace and justice movement. Our view is war and military lead to antidemocratic and politics that turn against working people and their rights, working people and their families and communities have always disproportionately borne the economic and human costs of war. At the same time we recognize working people have been proud to serve their country militarily, and we advocate especially for robust public support of veterans and their families in dealing with economic and war wound issues in reintegrating in domestic life. More recently in response to the continued economic crisis, we have taken a stance that what is needed for recovery is good jobs, not cuts. The crisis is fundamentally a jobs crisis, a real recovery cannot be achieved until full employment is restored. Without it working people will lack the income that drives economic activity and many will need additional public support. War in military have always been bad economic choices. They are physically destructive and wasteful of lives. They wreck peaceful trade, military industries produce unproductive tents at best and have smaller effects in civilian products and services stimulating further jobs growth. Portland jobs with justice believes the recent and current u.s. Wars and the outsized military budget have been especially bad. If the resources wasted on those wars had been available to respond to the economic crisis, Many jobs would have been saved, the current budget crises that local governments like yours face might not have been as severe as they've been. The vicious cycle is not over yet, which is why the resolution before you today remains important and timely. Portland jobs with justice supports the resolution because we believe that this moment must be seized to redirect war spending and we welcome and applauded mayor Adams's support for the u.s. Conference of mayors' solution and urge to you follow up with further advocacy at the federal level.

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

**Tobias Greene:** My name is tobias greene, a member of local 483 and an organizer coalition of laborers. I come before you today, before city council today to speak in support of this resolution as well. As you know here in the city of Portland, we're looking at the budget issues that have been created by this war economy in a lot of ways. Certainly Portland is not an island unto itself in facing many of these issues. The need we heard repeatedly the need for jobs is great. It is not as though there is not work to be done. Within I believe in the main -- I may be incorrect, but there's almost approximately a half billion dollars in deferred maintenance costs that could put people to work immediately if we had the funds to do so. Bringing home the war dollars immediately and putting those to work in a national jobs program is fundamentally essential. Beyond just labors local 483 our other unions are in private construction, they are facing a depression like circumstance and are desperately needing the work. So again, I want to say that this step forward I want to applaud council, and in particular mayor Adams for taking the step forward. We need more, we need more cities to get on board, we need the congress to get on board, and this type of thing really shows that here at the local level we can actually work to achieve these things. I want to finish my -- we support all the other interests here that need funding, this is a crisis that goes 360 degrees. Thank you.

**Adams:** Thank you for your testimony. Thank you all. Next four?

**Adams:** Welcome back mr. Gonzalez. Glad to see you. Would you like to begin?

**Martin Gonzalez:** Mayor Adams, council members. I'm a board member of Portland public schools, i'm here as an individual elected to the board. I think it's one -- I want to commend you for considering this resolution to bring the military contractors and military personnel in reinvesting those resource at home. I think it's imperative that as elected officials we continue to raise our voices with those of the community that have been calling for years for better investment of resources in our communities. As I sat here listening to the folks i'm reminded of the fact that I

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think wars, I think it was mentioned, hurt children. Hurts young people that in many ways return back and come back home to not find the adequate resources in our communities to support them. At the time that this wars goes on, there's been serious cutbacks to social services that are needed for people coming back home, the war never ends in that way. As a member of the Portland public school board, I am constantly reminded of the fact we continue to have to face budget cuts that will have an impact on the education that many people spoke of here today, and the importance of education for our children. And it is imperative I think that we continue to call on our congress to pay attention to those things and to actually make better use of resources. I am always reminded of the slogan that we used, I think for many years, money for jobs, social services, and education not for war and occupation. Thank you.

**Adams:** Thank you. Hi.

**Joe Keating:** I'm joe keating, i'm the issues coordinator for Oregon wildlife federation. And we'd like to thank you for allowing this proposal to come forward, and are very much in support of it. It's an important step that you take. We recognize small steps these days, all throughout the world, from egypt to occupy, to Everywhere you look, the sense of change is taking place in a way that can't be definable. It's more like a thousand points, pinpoints that are accumulating at any one particular point in time. And changes among us. And proposals like this can happen much quicker than you think. And being out front as a city providing leadership and courage for that to take place is important. And we commend you for that. The proposal essentially is talking to the wisdom of allocation of resources as a country. We cannot do what we have done for years and years and years, and that's the foolishness of continued wars. We look around our country and we see the need for all the things that are being spoken to today. That's now type of metropolitan and needs. Today I speak to the environment and the need for wise allocation of resources, away from the wars to help the environment. The planet that we live on. I shudder every day when I wake up and I know that the planet that i'm on, i'm not leaving it as well as it was when I was born. It's not to be -- what we can do with those monies, we can create a very clear sustainable economy based upon energy independence, and jump-start all the necessary things to get independence not from rhetoric, but into real time. And that can be done. If the proper amount of Resources were allocated to it.

**Adams:** I need to you wrap up. The bell rang.

**Keating:** The answer, let's do it. And we can. Thank you.

**Adams:** Thank you, mr. Keating. Hi, welcome back.

**William Seaman:** Hi. I'm william, I work with the Portland peaceful response coalition in Portland. Members of the council, thank you for considering this resolution calling for a speedy withdrawal of u.s. Military as well as private contractors from afghanistan and iraq. Portland peace coalition supports this resolution and hopes it will pass unanimously to send a clear message to the white house and congress. Our country's priorities must radically shift way from indulging the discredited there decisions of militarism and violence to traditions that today languish, traditions of caring of those least fortunate, of solidarity, traditions of human dignity, without the fear of the substandard education of our children without the fear of being bankrupted by medical bills, without the fear of not being able to find the means to support ourselves and our families. Here today I do wish to take issue only with the accuracy of the resolution's crediting the obama administration with ending the u.s. War in iraq. That war is not yet over, and the decision to withdraw u.s. Troops is best understood not as a result of the administration Efforts to bring the conflict to an end, but rather as a result of the iraq government's refusal to grant continued immunity from prosecution to u.s. soldiers remaining there. And that refusal itself is best understood as a direct consequence of the release of document and videos by way of the whistle

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blowing website wikileaks. There is a young man accused of being responsible for releasing those documents. His name is Bradley Manning, and he faces a very long prison term from a military trial that has been grossly unfair. We hope today if we are able to celebrate the passing of this resolution, that we will be thinking of this very courageous young man when we consider who we should be grateful to for this long overdue and modest achievement. Thank you.

**Adams:** Thank you for your testimony. Thank you all. Oh, sorry, our fourth.

**Joe Walsh:** My name is Joe Walsh, I represent individuals for justice and also represent the Oregon progressive party. I'm here today to speak for myself. I came here to speak to those two organizations, however, this resolution troubles me. And I can't endorse it. Because you start off with the premise that the war in Iraq is over. It is not over. All the legitimacies that brought us into Iraq are still in operations. The president of the United States can at any time move the troops back. He doesn't have to ask anybody. The troops that were in Iraq, many of them were moved to Kuwait. The troops that are coming home are being reassigned to Afghanistan. It is my understanding that with the signaling in Iraq, the biggest embassy in the world the size of its -- it's compared to the Vatican City, we have 20,000, 20,000 people still in Iraq. And the only reason we don't have 20,000 troops in uniform is the Iraqi government said no. We wanted to do it. And we still have the authority to do it. Otherwise Obama would have been impeached, Bush would have been impeached. And you seem to believe the war is over. Let me remind you of another president that told us the war was over. May 1st, 2003, President Bush landed on a carrier, stood under a banner that said "mission accomplished" and bragged that the war was over. And yet you believe another president who says the war is over. It is not. And I pray I'm wrong. I want to be wrong so much. This resolution has a lot of good points, and people in this room are really looking forward to the money coming back to schools and stuff. But the next five years we will not see any money saved by what's happening in Iraq. Thank you.

**Adams:** Thank you, Mr. Walsh. No clapping, remember for those of you that arrived late, you're welcome to do thumbs up, thumbs down, wiggling of the hands, jazz hands, those of you who are late, there's no noise.

**Dr. Ginny Feldman:** I'm Dr. Virginia Feldman. I urge you to support this resolution. I speak with two hats also, one is a retired pediatrician who worked in North Portland among disadvantaged people for 30 years. I now am retired and work almost full-time in both places like Essential Clinic and Wallace, where the particularly the working poor come to see us because they have zero medical care and I personally took care of a person who worked with me who recently passed away because he had no medical care and did not get his cancer taken care of. So there's a great need out there. The other great need as a pediatrician I urge you to remember literacy is a health issue. If we can bring some of those war dollars home we can maybe keep our libraries going. And the other part of my hat that I wear is a member of an organization called Lutherans for Justice in the Holy Land. I'm not a lobbyist for them, we don't have any money, but as a member of that. And as others have talked to you, I urge you to think of war as more than how many soldiers are in Iraq. For instance, in the last 10 years we have spent -- Oregon has spent \$289 million sending Military aid to Israel. No matter how you think of those positions, that also is war. Military aid is war. So I'd urge you to expand our thought of, it is only Iraq or Afghanistan, but to think of war as war, and the military come mention is the way if we can get rid of that, that's how we get our dollars home. Thank you.

**Adams:** Welcome.

**Richard Wood:** Richard Wood, I am an ex-Marine. I was in the service right after Vietnam and I watched what we called wars go on since that war. And we haven't had a war. This is semantics that's being played, and the war is not over because it's not a war to begin with. Congress never

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officially declared war. So we have a game of semantics going on. We've got a war on drugs. Let's include that money back into the conversation and get it back into the citizenship where it belongs. These things are -- drugs are a symptom of something else going on. We're not dealing with war, the homeless people are a symptom of something else going on. This is all very important but I have to agree this, war is not over. They are not done witness. It is still going on. We aren't going to save any money in the near future. I would argue the wars were illegal and we had a criminal for a president, that's my feelings, but I hate this word War and the way we're using it. There's no war on drugs. There's no war out -- the world is not at war. We're fighting people over their wealth, their -- we want to extract their minerals. We want to extract the money from those nations. And that seems to be the intent. I ask that this word "war" be partially removed. It's about the money. It is the money, and it's who wants and it that's what's guiding us. I thank you for the time and I thank the previous speakers.

**Adams:** Thank you, sir.

**Georgia Pinkel:** I'm, georgia pinkel, on behalf of women's international league for peace. I'm the local convener and I sit on the national board. I would just like to remind all of us of the 97-year tradition of trying to get people to understand war builds nothing, and it destroys or corrupts everything and everybody involved. It also falls unfairly on women and children, whether in the field of battle, or the originating army, so to speak. We need to be aware that the militarization of a community is damaging. It institutionalizes violence, and oppression, and fear. I will commend to you this book war is not over when it's over by anne jones. And she has gone through various areas of conflict and dealing with gender violence. And how to overcome it. I also recommend that you bone up on the u.n. Resolutions starting with 1325, and going all the way through 1880. I believe. Around women's role both before wars and negotiating the peace after wars. If we don't sit at the table, our needs are not met, and we suffer the violence that becomes institutionalized. So remember that women and chirp both here and at home, they're dealing with the warriors coming home wounded. We need to support those families. We need to support the women whose lives we've destroyed in the other countries. Thank you.

**Adams:** Thank you very much for your testimony. Hi, welcome. I like your sweatshirt.

**Richard Gill:** Thank you. Mayor Adams, ms. Fritz, mr. Leonard, thank you for allowing me to come here. The shirt is jefferson high school. There's a woman who is named francis widener, who has passed on, her husband was named leo, he was the assistant chief of the fire department here. They raised four sons on 3526 southeast franklin street. One of those sons when you speak of war, helped to create something in 1978 called automatic parsing. Without automatic parsing, the very computers that we use today wouldn't work the way they do, they allowed back then the ability of a computer to speak to know the commands of the human brain. And that allowed bill gates said in one of his books when that was taken from mr. Widener at the time, the internet really took off. He's the creator of the local area network which microsoft are right now interlock in addition a major battle of a lawsuit over. This man was responsible for helping to prevent war. He was responsible through his mother francis widener and his mother's guidance to raise another four sons here. One of them is roger, but he means wealth, his mother also raised him as an attorney. Now, i'm here today because I want to share with you, in 2001 I had signed a transaction, financial transaction with a place called classic trolley. War dollars versus technology dollars are what we're talking about today. Oregon has the ability to have technology, we have solar technology, we have intel, president obama has come here a couple different times, I was able to meet him when he came to the convention center. We have export technology, we have language inventors, created the fastest way to create a -- learn a new language. Automatic parsing is one of the things that will help education. Double that education to put into Oregon's education system would allow children



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to learn spanish part of the day, english the other half of the day. This is where the mormons have excelled. It's not the religion, and i'm not one, but it not religion, it was the educational process. We mimic that educational process like the chancellor for Oregon schools. University stated. Oregon will realize some of the most and the best economic and educational opportunities ever realized. We owe that to the young people our posterity. We owe that to make sure that Oregon is not just a place of political incorrectness. I was told three months prior to the stadium deal being announced that we were not going to get that. I tell you I was told we were politically incorrect. I was questioned by the same people that approved that \$10 million transaction.

**Adams:** I need you to wrap up.

**Gill:** Let me wrap up. We have an opportunity here to be an example for the future. Let's do this by redirecting the war dollars to technology so our young people are not shooting each other in the streets or involving themselves in math and science in Oregon, that's the future that I see for Oregon.

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

**Fritz:** Can you give me your name again please?

**Gill:** Richard gill.

**Adams:** Does that cover everyone?

**Moore:** One more person, richard, on southeast franklin.

**Adams:** Mr. Richard.

**Roger Weidner:** Thank you, mayor. I have spoken before you, to you before, my name is roger widener, attorney, public prosecutor, director of the consumer fraud department years ago. But i'm -- and I was in the 101st airborne division a long time ago, I didn't have to go off to war. But I studied history and i've studied for the last 100 years since the spanish-american war this, country has been constantly involved in these wars. And they're not publicized, they're not talked about, but this is what people have to understand. The george Washington, our president, warned us against these entangling alliances and what's happened is they've been able to keep the citizens dumbed down and uninformed about this. Thank god now for the internet, the people are awake and are speaking out like this group is here today. And so I just -- i've spoken to you before on these corruption issues, but on this war issue, and the devastating impact that is having is just something that has to stop. And the one thing that you commissioners can focus on that i've been focusing on is that the people have remedied, that when they're injured, that they have remedy, that they going into a courtroom and get remedy. That's what i've been fighting for all these years, commissioners, is so that the public officials, you are public officials. You have duties of your -- we the citizens, we have rights. And when those rights are being run over and people are not being -- rights are not being observed, you have all of this commotion that we are -- that is going on the occupy movement. So i'm encouraging you to keep this kind of openness and this kind of dialogue with the public So that we can have a safe environment where people who are injured, who have had something wrongfully taken can have remedy. And I thank you again for having this event. Thank you so much.

**Adams:** Thank you very much. That gets us to our last testifier. Karla, please --

**Moore:** That was the last.

**Adams:** Please call the vote.

**Moore:** Can we move on the substitute?

**Adams:** I'm sorry. I move the substitute for item 48. Move the substitute.

**Fritz:** Second.

**Adams:** Moved and seconded. The change in the substitute is --

**Leonard:** Are you sure that's not the next one?

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**Moore:** I have one for both.

**Adams:** It's a scrivener's error. Item number 48. It makes mention of both Iraq and Afghanistan in the ninth whereas. And the addition of language in the second be it further resolved that the city council has to continue to remove military contractors and reduce the United States' footprint in Iraq, these suggested clarifications were offered by Mr. Handelman. That's the substitution.

**Leonard:** I'd move the substitution.

**Adams:** It's been moved and seconded. Karla, please call the vote on the motion to substitute.

**Fritz:** I believe this does. Address some of the concerns we had in testimony in adding the language that it was -- the -- to continue to remove military contracts and reduce the United States footprint in Iraq. In addition to the other improvements. Aye.

**Leonard:** Aye.

**Adams:** Aye. [gavel pounded] execution is approved. Please call the vote on the execute resolution.

**Fritz:** Thanks to Mayor Adams and to everybody in the community who asked us to consider this resolution and to everybody who came and gave such eloquent testimony. Thank you to our military veterans and to the family of military veterans who are here today. Without your service and your ongoing commitment to peace, we would not be the country that we are, and I greatly appreciate it. Martin Luther King Jr. said we must concentrate not nearly on the negative expulsion of war, but on the positive affirmation of peace. And that's what we're doing today, positively affirming peace, and recognizing that if our federal tax dollars were not being spent on the violence that we would have funding for education and housing and health care, and many of the other things that are sorely lacking in our society today. So thank you very much for supporting this resolution. Aye.

**Leonard:** I believe it was John Quincy Adams, the son of our second president, who himself was a president of the United States that said words to the effect, I'm sure people will Google and find out the exact quote, but it was words to the effect that the best way for the United States to influence other nations is to set a good example. And those are words that I think accurately reflect my own sense of what our foreign policy should be dictated by. That is, setting examples and not going to -- not only other countries, but to other cultures to somehow try to get them to repair our form of government. As we witnessed over the centuries, it doesn't work. I try to balance that also with knowing that citizens in this country also have the right to traverse this country, to travel to other countries unmolested. And have the right to not fear being indiscriminately murdered simply because they're Americans. I'm not going to sit here and tell you what that balance is, because people a lot smarter than myself have attempted to find that. But certainly the example of the ongoing war in Afghanistan and certainly the invasion of Iraq are not the balance that I would think we would try to achieve to provide us the security while staying out of other countries' affairs and posing our form of government on them. So I work the work that's gone into this, I appreciate greatly, I think the work that our president does to try to balance. All of these various concerns and issues particularly being handed two wars that not only were started by a predecessor but compounded by his predecessor, cutting taxes for the wealthiest in this country, at the same time we're leading two major fronts is just beyond appalling to me, which I think also this resolution gets to as well. We hear those who talk about balancing the budget somehow thinking it's OK to support egregious military activities while at the same time fighting any attempt to get the wealthiest in this country to pay their fair share of those costs. So with that, I will include my thanks as well to everybody who has worked on this and particularly Senator Merkley. Aye.

**Adams:** I want to thank my colleagues for other consideration and support of this resolution. I want to thank Eugene Mayor Kitty Piercy and all the groups that have been involved with this. We

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were the first city council in a very long time that passed a resolution soon after I think I was a commissioner still, thanking the men and women who serve us who are in the service around the world and also for their families that we seek to support. This combined and reiterated here in this resolution was passed by the u.s. Conference of mayors, and I think it had a palpable impact on the national discussion. I think it helped my own personal intuition, I think it helped move the administration to move faster on the reduction and withdrawal in iraq, and I hope that the announced withdrawal in afghanistan happens as early as possible as responsibly as possible. So I want to thank jennifer yocom in my office, I want to thank peace and justice works for bringing this to us and i'm pleased to vote aye. [gavel pounded] resolution is approved. We're going to take a four-minute compassion recess. We'll get back at on the hour at 3:00. [recess]

**Adams:** We'll come back to order and Karla, can you -- we have a 3:00 time certain. What i'd like to do, if you could read both 49 and 50, so that if people need to get going if they signed up and they want to speak to any item on the agenda, but we'll be working from the list for the sign-ups on 49.

**Items 49 and 50.**

**Adams:** There is a --

**Moore:** And 50.

**Adams:** I move to substitute, which is based on the january 12th amendment.

**Fritz:** Second.

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

**Adams:** Aye. [gavel pounded] last -- our discussion just a moment ago repeats an experience that I often have sitting in this chair serving as a member of the city council, and as your mayor and -- it's an experience of being impressed by the thoughtfulness, constantly impressed by the thoughtfulness in which people discuss issues whether they're in their neighborhoods, citywide, national, or global issues. It's especially -- i'm especially grateful for that, and I think it's a very Portland like trait, but i'm especially grateful for that because the dialogue and the nature of discussion and the bigger shall -- in the bigger media, however you want to describe it, social media, in my humble opinion has gotten even often times more superficial, and more inartful and less humane, and further away from the complexity that is often the reality. And I wanted to say a few things up front, at least some of my legislative intent, and i'll try to be very quick about this resolution. The city of Portland, in the city of Portland, about 76%, so almost eight in 10 businesses in the city of Portland employ less than 10 people. It means that in the city of Portland, corporations, small corporations, are huge part of our economy, bigger -- a bigger part of our economy than the small microentrepreneurs, a bigger part of our community than a lot of other metropolitan areas. But they are businesses, they are corporations. And so no city is perfect, no neighborhood, no business, no person is perfect. That's not what the discussion is in front of us. The discussion in front of us is not about a big sort of, you know, big sort of rhetorical discussion about whether corporations are good or bad, it depends on the corporation. And I will tell you that a lot of what we look to here in the city of Portland as our breakthrough innovations, whether that's sustainability, whether that's transit, whether that's -- we had someone from sisters of the road testify, look on their website of who gives to their auctions and who gives to support them and others. We've got big corporations medium sized corporations in the city as well that do amazing things. And frankly, if the world's corporation were more Portland like, I think the world would be a much better place. So this isn't about inherently corporations. Just like you can't say, people, you know, named sam are one way or another. And I want us to send a message if this gets any national play, back out to the national coverage of the national media, this is inherently about something else. The behavior and intention and actions matter. And that this is about what kind of

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electoral system we want to devise for ourselves. Citizens united, the 2010 decision, and a subsequent decision out of Washington, dc, opened up corporate general treasuries to unlimited giving to super pacs. Now, these super pacs are supposed to be independent expenditure committees. Like that as it was reported, I don't know either individual, but it was reported a very good friend of a presidential candidate recently gave a multimillion dollar contribution to an independent pac so that that presidential candidate could mount attack ads in south carolina republican primary. It was probably more than one, but let's just say, I think that's wrong. And whether that person gave through their general corporate treasury or gave it individually, is, I don't even know the detail of that, but the fact that a corporation, whether nonprofit or for-profit, whether that corporation is a nonprofit union, for me it's all part of the same thing. Unlimited corporate contributions from their general treasuries, whether for profit or nonprofit, I believe is corrosive. Corrosive on our electoral system. Today this says that we support, and there has been work done by our -- by members of our federal delegation and others, and it's a work in progress. There's other legislation like the disclose act that also would help. But today it's really about sending the message that corporations should have rights and responsibilities. It isn't that they shouldn't in my opinion have any, because part of the rights and responsibilities is the ability to sue a corporation. But this is about the focus of this is about the impact of since united on our electoral system. And that's my legislative intent. Reasonable people can disagree, but that's why I thought it was important to put this forward as part of our federal legislative agenda. Karla, please call the roll. Please call the first four folks to testify.

**Moore:** I had that there were amendments to the substitute.

**Adams:** Where is jennifer? I move the amendments to the substitute. I think they're scrivener's --

**Jim Van Dyke, Chief Deputy City Attorney:** I believe jennifer just handed up a clean copy that already included the amendments.

**Adams:** So we're ok.

**Van Dyke:** That was reflected in your january 12 memo that the council just voted on and agreed to.

**Adams:** Thank you attorney van dyke. Takes a whole village sometimes. First for folks to testify.

**Moore:** We have 24 for corporate personhood and four for federal legislative agenda.

**Adams:** Let's try to keep it to less than two minutes. We'll start with two minutes. If the change back and forth gets going too long, I might have to cut it even more.

**Adams:** I guess I would just give one more, I think he said it really well, when john mccain said that the supreme court ruling that led to the formation of today's super pacs was one of the worst decisions i've ever seen, closed quote.

**David Delk:** Hi. My name is david delk, and i'm here speaking on behalf of both the alliance for democracy and move to amend Portland. Both are grass-roots organizations formed due to the overriding power corporations have obtained over all aspects of american life. Called into being 15 years ago following nation magazine article, calling for real populous to please stand up by identifying the real danger which is corporate power, the alliance for democracy is one of the only national organizations with the mission of ending corporate domination. Move to amend came into being immediately following the february 2010 u.s. Supreme court citizens united, while this decision overturned almost a century of judicial decision usa firming the right to control money in politics, move to amend strives to expand the scope of this discussion to include the issue of corporate personhood. Move to amend and the alliance for democracy have been clear from the beginning that overturning citizens united while a worthy goal, was not sufficient to gain corporate control, excuse me, citizen control over corporations. For 125 years corporations have gone to the

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u.s. Supreme court to argue corporations have constitutional rights the same as you and i. An absurd idea, you say, but the u.s. Supreme court has ruled repeatedly that they do. The 13th, 14th amendments ensured the former slaves would never again be enslaved. The 14th amendment guaranteed that neither the federal government nor the states could, quote, deprive any person of life, liberty to my recollection or property without due process of law. Nor deny to any person within the jurisdiction the equal protection. Yet for 100 years the supreme court ignored the 14th amendment instead affirming such concepts as separate but equal, and turning their heads the other way regarding jim crow laws. While not finding in the constitution and the 14th amendment the justification to ensure the former slaves' rights, they had no problem using that same constitution to find rights for corporations. Following the civil war, the courts found for the courts found that corporation first fourth, fifth, sixth, seventh, and 17th amendment rights. We usually speak to the first and 14th amendments, but let's look at one other amendment, the fourth amendment. The privacy amendment. It protects people against government search and seizure. The supreme court gave this right to corporations in several cases. In 1986, the epa was denied the ability to use a professional photographer to fly over a plant with a camera after the corporation turned down the request by the epa for an on-site inspection. The court said the corporation had a right to privacy, which was violated. Ignoring the epa argument they could not enforce our environmental law and regulations without being able to do random inspections. Now is the time for movement of Democracy movement. We the people must be sovereign in our own nation. We must be the deciders. Decisions are now made in corporate board rooms, in the halls of congress and the state legislatures where cash flows in the form of campaign contributions and the corporations are not successful in either those two arenas, they go to the court system especially the supreme court. Our democracy movement starts here today. Thank you mayor Adams for bringing us this resolution affirming the need to amend the constitution to make clear two important conditions for a successful democracy. Corporations are not people, and money is not speech. Thank you.

**Adams:** Thank you, sir. Welcome.

**John Springer:** My name is john springer, i've been retired for a few years from -- I work for big electronics companies and small businesses. And I was retired until occupy Portland happened, and now i'm not in retirement anymore. I'm a member of the solutions committee of occupy Portland, and we're developing legislative and political solutions that occupy Portland can act on. I'm grateful for opportunity to address the council and I want to thank you, mayor Adams, for proposing this resolution. Portland can now join the city councils of los angeles, new york, and seattle by supporting a constitutional amendment to correct two bad ideas vetted by the courts that the Constitutional rights are founders fought to guarantee us can now can claimed by corporations, and spending money is constitutionally protected free speech and can't be limited. Most americans would beg to differ. We certainly do. In october of last year, the general assembly of occupy Portland called for an end to so-called corporate personhood. We evaluated a number of proposed solutions with our friends at the Portland chapter of move to amend, we've gathered nearly 600 postcards and generated 1100 emails to the city council supporting the mayor's draft resolution while asking that it be made stronger. We were especially concerned that the drafts that corporations are not entitled to the same constitutional rights as natural persons. Constitutional rights were written by and for real human beings. The powers of the corporations need to operate are given to them by the legislature, they do not arise from the constitution. They have whatever privileges the legislature granted -- grants them. Asserting corporations have any constitutional rights has caused courts to overturn the very laws passed by our elected representatives that were intended to protect human and democracy from corporate activities. That's what happened in citizens united. We worked with city staff to make the Portland resolution and Strong and clear as

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can be and the resolution before this council today meets our goals. We are specially pleased that it sets in motion a process that we hope will let the people of Portland vote on it as did the residents of boulder and madison. On behalf of the solutions committee of occupy Portland, I urge you to pass this resolution, you are affirming our democracy is of, by, and for real people, and not a tool of artificial entities created for investors. Corporations are not people, money, is not speech.

Thank you.

**Fritz:** I'd like to read the whereas you crafted. Whereas state and federal governments may provide certain privileges to corporations these privileges do not equate to the rights of natural persons protected by the united states constitution. I appreciate the addition of that language.

**Susan Rankin:** My name is susan, i'm a member of the occupy Portland solutions committee.

**Adams:** Can you move a little closer to the mike?

**Rankin:** I too with the other occupy Portlanders are very grateful for this resolution that you have brought to us and for the changes that you have agreed to. I just want to clarify that the first paragraph that was just read used the language same in it. And I want to make sure that in the final copy that I have seen, as of the 11th of january, you had dropped that word same. And I want to make sure when you Do vote on it, that dropped. Because it's very clear that we don't want corporations to have any rights in the constitution. They have privileges by state charter. So it's been thrilling to watch the process unfold in city government where you actually seek input, listen to our advice, and then actually take the advice, listen to our arguments and in being responsive to the will of the people is how government is supposed to work. And it is a breath of fresh air, though i'm new to political activism it feels like a miracle to me you are not bought off. [laughter] at least I hope you're not. And the way it appears that state and federal officials are across the country a lot bought off. So it's a very good sign we have a healthy government here in Portland in order to reclaim our democracy you yourselves have been very active in politics obviously, and -- but it probably comes as a breath of fresh air for you to see so coming out for the vote today. Maybe you're used to this, but i'm not. It seems like a good crowd. And also to be a breath of fresh air, how much activity you have been seeing around the city from occupy Portland and just a big huge burgeoning presence of people come to the city. And the nation. It appears that the sleeping body of politics has awakened, and like the sleeping bear in the spring we are hungry, and we are -- there's much to do to Restore our democracy. The american revolution ended corporate rule when we broke with england. Now it is a decidedly peaceful revolution, but again we're tasked to overthrow corporate tyranny. So I look forward to more actions like this one in the city, more resolutions, I look forward to creating new ordinances that affirm our rights and answer our needs in the city, in the locale. Along a wide range of issues percolating up in this wakened atmosphere, especially listening to the previous resolution, it's fantastic to hear -- i'm grateful for that resolution as well. So who knows, we may see a 28th amendment to the u.s. Constitution to end corporate personhood sooner than we think. The 99% has come to life and it looks likes the city of Portland is as much a part of this new energy as I could hope. Thank you.

**Adams:** Thanks for your testimony. Ms. Thompson, welcome back.

**Janice Thompson:** Janice thompson, common cause Oregon, pleased to be here. Thanks for everyone who worked on the resolution and we do urge a yes vote. Though one effect of citizens united was to equate corporation was people and groups, did it so on the basis of the first amendment. This means in addressing corporate personhood alone isn't enough, but citizens united joins this long list of court decisions that inappropriately give corporations undue Constitutional protection. So that's why I really appreciate the aspects of this resolution that address corporate personhood as well as citizens united and concerns about money not being speech and the regulation of independent expenditures. I want to zero in a little bit more on what citizens united is

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and isn't. To recognize another important element of the resolution about broadening the basis for campaign funds for former regulations to better enable addressing independent expenditures. Mayor Adams in your introduction you referred to some questions sometimes about the independence, you referred to independent expenditures from the candidate. You also referred to independent expenditures that are coming from individuals. Citizens united focuses just on independent expenditures, which are those payments for electioneering for or against a candidate that are to be independent of that candidate. Now, they're treated differently from direct contributions to candidate to link back to the old -- whereas buckley said it was ok to put limits on direct contributions to candidates, because free speech concerns were outweighed by a concern for corruption or per sense of the corruption -- or perception of corruption. In the buckley litigation, buckley also overturned some independent expenditures that were in that -- the law that it addressed from individuals and Political action committees. On the basis that there could be no corruption. They were independent. How could there -- how could they be correcting? So that whole notion that independent expenditures were dealt with differently dates back to then unfortunately buckley also rejected as a reason for regulating independent expenditures ideas like fairness and equity. So on one hand as you implied, from -- this is an example where the legal rationale behind independent expenditures even before citizens united from individuals and pacs being ok, in unlimited amounts, is really kind of totally to use a highly technical term, totally counter wompus. It totally doesn't make sense to -- from a common sense perspective and candidates typically really don't like independent expenditures as well because they do lose control of their message. So what this means is that even before citizens united, there were independent expenditures in federal campaigns just none paid for with corporate treasury dollars. And that wasn't even part of the buckley litigation, because there had been this history of regulation on corporate political spending that had dated back to the 1907 tillman act. And mayor Adams, you mentioned that phrase corrosive. That language comes from 1990 case that kind of capsulized this whole idea that corporate regulation of corporate spending Was a compelling state interest because of the corrosive and distorting effects. Immense aggregation of wealth. So that's what citizens united has overturned. And that meant that corporate entities could begin using corporate treasury dollars for independent expenditures. Corporate entities does include businesses and unions in the case of unions, that means the treasury dollars comes from the thousands of members of that group. In the case of corporations, corporate treasury dollars means profit. But since independent expenditures before since united could be legally paid for by individual pacs, the presence of independent expenditures in those 2010 election cycle, and now what we're seeing in 2012, wasn't new, but volume increased because of the new availability of this source of corporate money. But what that means is that overturning citizens united alone doesn't really enable regulation of all independent expenditures. Which is why I appreciate the elements of the resolution that recognizes the need to consider other reasons besides this narrow focus on corruption as the basis for regulation of independent expenditures and campaign financial reform in general. We should be thinking about fairness, equity, and -- thank you.

**Leonard:** Can I ask you a question, janice? Citizens united allows these Independent expenditures donated to by corporations, but at some point during a cycle, don't they have to report the super pacs have to report who has contributed to them?

**Thompson:** Yes. Super pacs, they're a political committee.

**Leonard:** They have to report. I was listening to a discussion on a show recently, i'm more and more getting my political news from steven colbert. [laughter]

**Thompson:** Very good source on this topic.

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**Leonard:** He had a fascinating discussion one night because his attorney that is representing him and created his own super pac who is a former member of the federal elections commission said that one of the ways that corporations have figured out how to even hide that they're giving any money at all is to set up a separate, I don't think it was a 501c 3, but an entity like that that they would donate to and that entity, those contributions are private. And that entity transfers money to the super pac so you can never find out who gives money. Do you know what that is that he was describe something.

**Thompson:** Yes. It's again it's a situation that could occur, have occurred before citizens united. Just without the -- some of the money coming from corporate treasury dollars. The reason this has taken off is that prior to citizens united, when pacs wanted to make contributions, they operated under certain set of limits. There may not have been a limit on the size of how much they could spend on an independent expenditure, but there were some breaks in terms of how much money could go in. That's ended after citizens united and let to the creation of super pacs where not only can they write checks as big as they want, but the checks can come in as big as they want.

**Leonard:** Right, but I'm asking before that.

**Thompson:** Right, so 501c4's, c 6's, the us chamber is a 501c6. They're allowed and those designations are irs code. They're allowed to do political activity under certain limits. Those -- again, even before citizens united was not -- were not disclosed, the history on that comes from the civil rights area when the southern states were -- somebody else here could probably have this history better, i'll stand corrected if somebody -- if I mess up here. But basically several southern states were demanding the disclosure of contributions to the civil rights groups and that was very, very dangerous and why is the irs not requiring disclosure, there's history there. That's a corporate entity. Who is freed up because of citizens united, can give to a c4 or like the chamber of commerce, c6, or other trade associations. That support will never be disclosed. But that entity.

**Leonard:** The right to write a check to the super pac, so not only through citizens united to give unlimited amounts of dollars, but to do it in a way of washing them clean of disclosing whatever amount.

**Adams:** Even a -- 501(c)(3) organizations --

**Thompson:** C3s can't do any candidates.

**Adams:** Thank you. C4 and c6 aren't disclosed, the bigger the organization, the more opportunities they have and the numbers that -- from the center for responsive politics to give you a sense of the volume increase, 2006, independent groups spent \$69 million. In 2010, midterms, they spent \$305 million. And it's estimated in the 2012 presidential cycle they'll spend \$450 million in the independent super-pacs.

**Leonard:** The point i'm trying to make, there are those who don't like Oregon's campaign finance laws but universally recognized, they're transparent and almost instantly. So the supreme court decision created the opportunity for corporations to donate money heretofore of which they were prohibited and figured out how to use mechanisms that might have been established for a good purpose to launder money so that they don't have to suffer the bad publicity of knowing they're funding horrible causes.

**Thompson:** Some of those disclosure issues existed before citizens united, but citizens united is --

**Leonard:** Exacerbated it.

**Htompson:** Highlighted it.

**Adams:** Good discussion, appreciate it very much.

**Moore-Love:** We'll stay with the corporate personhood testifiers.

**Adams:** Welcome to the city council. Glad you're here. Would you like to begin?



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**Jeff Stookey:** Sure. I'm jeff stookey, working with move to amend Portland. I'm speaking in support of both the resolutions we're talking about today. The pentagon budget continues to grow, the defense corporations continue to make huge campaign contributions and spend enormous amounts of money on lobbying, which pay off handsomely with billions in defense contracts and subsidies, and concentrates unprecedented corporate power and influence over defense spending. How much more control we the people might have over directing the federal budget for domestic -- if they were banned by influence in the u.s. Congress and I must ask, have homeland security and american cities been sold a bill of goods by defense corporations, eager to militarize and arm local police forces with tons of toys and gadgets? Paramilitary equipment and supplies for police have been brought out to confront non-violent citizen protestors. I encourage you to remember fdr's dictum -- the only thing we have to fear is fear itself. And ask yourself: Who is the real opponent here? Let me -- let us remember the words of general and president dwight eisenhower over 50 years ago. Quote, in the counsels of government, we must guard against the acquisition and unwarranted influence whether sought or unsought by the military industrial complex, the potential for the disastrous rise of misplaced power exists in and will persist. We -- persist, and we must not let it endanger our liberties and democratic practices and impel the meshing of the machinery of defense with our peace of the methods and goal so that security and liberty may prosper together. End quote. The defense industry uses its court-given corporate personhood rights to promote wars all over the globe. Peace is not profitable for them. The two resolutions before us today are deeply interconnected. I urge you to adopt them both.

**Adams:** Thank you, sir. Hi, welcome.

**Karen Coulter:** I'm karen coulter, representing the program on corporations law and democracy. Corporations are creations of the state. They couldn't exist in any force without the legal sanctioning of government. Since citizens -- legitimate power in a representative democracy, the people have the right to define corporation any way we see fit because corporations are a creation of the government, they have duties accountable to the people. In minority ruled by property who is going to be accomplished through corporations they had to cross the line and become -- to rights instead and did this through judicial fiat. We believe all corporate constitutional rights should be abolished. Corporate personhood allowed an artificial entity to have the rights of people. What would change if corporate personhood was abolished and no longer with the first amendment right of speech we -- no more corporate contributions to candidates or parties or corporate lobbying. Without protections under the fifth and 14th amendments, corporations would be prevented from merging and owning stock in corporations and we could organize openly at our workplaces. The threat -- the democratic self-government comes from the fact that corporations have been defined as legal persons. Corporate personhood is the legal fiction that property is a person. We hold defining property as people, corporate personhood, is fundamentally immoral and a threat to real people and the planet. Let's set out to amend the constitution in a way that abolished all rights given to corporate form and critical to achieving social and economic justice and protecting ecological integrity and biodiversity by leading the way to a constitutional amendment. Thanks very much.

**Adams:** Thanks for your testimony.

**Joe Walsh:** I'm joe walsh. I'm representing individuals for justice and Oregon progressive party and I can represent them on this one. You have no idea how proud we are of you on this issue. There's some funny incidents that just happened. The republicans who are running their primary now are feeling the very effect of the floodgates of huge amounts of money coming in on their primaries. The montana supreme court has just announced in the last few days, that the citizens of montana will not be covered by this decision by the supreme court. I'm not a great historian, but I

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don't know of that ever happening where a state supreme court, knowing the wishes of the federal supreme court, said no, not going to cover our citizens. Which is exciting and funny at the same time. So what happened now, legally, i'm not a lawyer, but I think the only way that that can be appealed is to go to the supreme court. Forced to look at it again. It's absolutely -- it's really good to be wrong, when you know you're on the right side. Or to change that around a little bit, to be here and read this resolution and be wrong that you guys would never do this. So i'm really happy to be wrong.

**Adams:** That's high praise and an incredibly low standard. [laughter] thanks mr. Walsh. Hi, welcome back.

**Joan Horton:** I'm joan horton, the co-chair of the alliance for democracy in Portland. I support the abolition of corporate personhood. It's insulting. It's insulting to breathing and flesh and blood real people and not insulting in the name-calling way that children have but in the deep damaging demoralizing way of oppression. The authors of the constitution thought so highly of real people that they gifted us with unalienable rights. Many, not just the right of free speech. These were intended to protect us from the power of government and the wealthy and hinge on a legal definition of person. Corporations saw the value of being a person quite clearly. They worked for 200-plus years to worm, wiggle and weasel their way into that definition and didn't settle for being declared like a person or equal to a personal. They wanted to be defined as a person. They got this through a series of court cases, mostly using the 14th amendment. It's particularly insulting that the 14th amendment has been hijacked for this. It's intending to give legal argument that real people of african descent are real persons, not fractions thereof. It was meant to heal the cultural damage done by slavery, not to further it. Corporations are not living creatures, no soul or beliefs or morals. Their only value is self-enrichment. Our society accepted this that values money over everything else. We accepted obscene levels of money and other resources used up in war, while failing to meet our human needs and failing to protect the environment. And accepted powerlessness, the complete opposite of what the constitution grants us. And lost our self-respect as real people and losing our humanity. To save ourselves and the planet, we need to stand up and take back our personhood. Corporations are tools of society. Not persons. And we need to return them to the toolbox. That's what move to amend and similar groups have been working toward. Each community must contribute and this is what Portland is doing. This resolution is our contribution. Thank you.

**Adams:** For those of you that might have joined us from the very beginning, in order to foster a full dialogue of all the discussions, while people are testifying, there's no noise. If you like something, thumbs up. Thumbs down. Jazz hands. Twinkle fingers. But no noise. Mr. Parker, would you like to begin?

**Terry Parker:** Thank you, my name is terry parker. A Portland resident. Is this resolution a biased form of censorship? The anti-business resolution appears to outlaw one side of the conversation while being in favor of allowing the endorsed side to continue as the only conversation. Such a track record already exists at the city. Opposing a debate or not making a place at the table for the pbob advisory committee. Free speech that incorporates a difference of opinion is part of the official process and suppressed by the city through the vetting of commissions and committees. Just like organizations are comprised of a group of people, corporations have employees that are people. Stockholders that are people and some are people that include retirees on fixed income and stockholders include people both representative public and private sector pension plans. If corporations are stripped of political activity, then too must high profile organizations like the sierra club and thousand friends of organizations. Money from those organizations should not be viewed as free speech either. Equity is to apply equally across

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the board. The wording needs to be amended to include corporations and other defined organizations. Moreover, if there's a need for a constitutional amendment, it would be to stop the federal government or the city of Portland from handing out taxpayer dollars to special interest groups like the surface transportation policy project which the epa funds or the bta here in Portland which receives money from the city and have these groups come back with paid lobbyists and as if they had become part of a taxpayer funded political machine. The behavior is a stench from the past when both backfield politics were used to manipulate and control the process. And a corrupt assault on what a democracy should be. Thank you.

**Adams:** And mr. Parker, you're consistent in your comment. I want to give you a chance to respond to the fact that the aclu was supportive of the supreme court decision on citizens united. And I don't think that group is necessarily, at least known for being a staunch conservative group. And senator mccain, who is their presidential republican, presidential flag-bearer, is very critical of the citizens united decision. What are your thoughts -- given your testimony, what are your thoughts this -- this issue is less partisan, at least in my mind, than it is about, you know, fairness, transparency, openness in our electoral process.

**Parker:** I'm viewing it as a fairness issue and I hope that's what my testimony tried to convey. If you have restrictions on one side of an issue, and oftentimes the corporations are opposite as a couple of the groups I mentioned and that's why I mentioned those two specific groups. Then the fairness is that the same restrictions apply to both sides of the conversation. And I totally agree that executive pay and some of that is way out of control.

**Adams:** At least my legislative intent, people can interpret it the way they want and the way I define corporations and irs, are for a nonprofit.

**Parker:** I was looking for fairness. I haven't seen the resolution.

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

**Richard Wood:** There's a difference between a smaller corporation and a larger, but it is apparent they're trying to gain equal footing and try to basically make the country run the way they would prefer it to run. I spent the last 30-something years of my life working for the fortune 500 companies and supervised 40 skilled tradesmen out on the shop floor in an assembly plant. I've supervised 40 people writing software code for the state of Oregon in the healthcare industry. I've been around industry in Washington. I left it for personal reasons. I left the chemical industry because of deep water injection, deep well injection and waste hazards and no life cycle for the industry. And I was a valued member of the community and from there, I went into some other lines but bottom line, I worked for general motors, dds and state government and I have never found that corporate person behind all of this. I've escorted people inside of general motors that were teaching g.m. how to make people into commodities and to me, software programmers, there's no commodities out there. I know these folks. I've watched this and I don't know who this person is that has this voice. I don't understand how that came about. In the constitution, I don't see that thing having that many rights so I don't know how it got this far. There are bigger things at play and people wanting power and money and organizations like alec are usurping our constitution. I have never found this corporate person, never seen them. I've seen that corporate person ask me to hire h1b individuals for cheaper salary for state projects, that didn't get them any less revenue, but they were paying their employees less with h1b visas. I've been given a choice between a software developer or someone out of college that happened to go buy software. I'm the person who had to pick that person up that didn't know anything, train him in his job and bring him and carry him along and a staff of 20 out of 40 that the company is charging senior rates for to the government and I guarantee they're not getting senior rates. I was asked not to hire Americans because of the salary discrepancy. We want money, we want to get paid for what we do, i'm just testifying i've

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never found this corporate person, I don't know who he is. He does exist out there. Thank you for your time.

**Adams:** Thank you very much for your testimony. Hi, welcome.

**Andrew Stone:** I'm Andrew Stone, lobbying for myself. I appreciate the time and attention and I understand that dedication it takes to the process. I have two short paragraph quotes. Somebody else's words and while I'm bound to follow the Citizens United decision, I do not have to agree with the Supreme Court decision and to be clear, I do not. For starters the notion that corporations are disadvantaged in the political realm is unbelievable. The truth is that corporations wield power in Congress and state legislatures. It's hard to tell where they end and America begins. In my view, Citizens United has turned the First Amendment open house of ideas -- freedom of speech is synonymous with freedom to spend, speech equals money and money democracy, this was not the view of the constitutional founders who favored the preeminence of individual interests over big business. It goes on. I'm compelled to say something about corporate personhood. I recognize this doctrine is firmly entrenched in the law, I find it offensive. They should enjoy only those powers, not constitutional rights, but legislatively conferred powers that are concomitant with their legitimate functions. They're not person. Human beings are persons and it's an affront to our species that courts have created a legal fiction that forces people to share rights with the oldest -- the creations of government. And clearly not bound equally to the same codes of good conduct and decency and morality and not held accountable for their sins. It's ironic that the death penalty and hell are reserved only to natural persons. [laughter] Who is this radical activist? Who is this? This is Montana State Supreme Court Justice James Nelson, 2011, wrote a dissent upholding the Citizens United decision and so embarrassed that he felt compelled to write this to clarify what his position was. The upshot, the Supreme Court of the State of Montana, as of December 30th, 2011, supports you, and says in effect, a vote to support personhood is a vote for factually corporate personhood for factually confirmed corruption. I've got no big finish. That's it. [laughter]

**Adams:** You did well. Thanks. Sir?

**Devon Pack:** My name is Devon Pack, with the Solutions Committee of Occupy Portland. We thank the city council for considering this resolution and urge the city council to adopt the original language of the resolution without amendment. We feel it's important that the resolution be presented to the people of Portland to ensure it has the maximum popular mandate and it's expressed to the Oregon judicial how much Portland favors an opposition to this doctrine of corporate personhood. A doctrine which exists without legislative or executive precedent. I do not believe there's anything in the history of the Portland city council that has supported the development of this principle. The principle of corporate personhood constitutes a fundamental assault upon the democratic theory of our government. Already, by the application of corporate personhood to the First Amendment, we see a period of paralysis and inactivity on the federal government that's unprecedented. Allow me to show you how it is the Pandora's box through the application to other amendments by leveraging the 14th Amendment to apply the Fourth Amendment to corporate personhood and corporations. Fire marshals would have to get a warrant from a judge before being able to conduct a routine fire safety inspection. Through the doctrine of corporate personhood, private mercenary companies could stockpile weapons unregulated. Through the applying of the Sixth Amendment, the city of Portland would not be able to engage in regulatory practices without having a jury trial. The Sixth Amendment requirement. The doctrine of corporate personhood shifts it away from a democratic theory of the government and into a plutocratic theory. And would not allow Portland to be as wonderful of a city as it has been. 160 years ago, the Supreme Court made the error of recognizing too few people and oppression and injustice resulted from that. Now the Supreme Court recognizes scraps of paper as persons. This

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misperception creates just as much oppression to the people. And so, we need to end this doctrine and challenge it firmly. Thank you.

**Adams:** I don't know what you do for a living but you've got to talk more. That was really well said. Thank you very much. Well presented. Thank you all for your testimony. Great testimony. How many more people do we have?

**Moore-Love:** Nine -- 12 more.

**Adams:** All right. It's 4:00 and i'd like you to try and distill your testimony if you can to a minute. If you need more, let me know upfront. We find between 4:00 and on, people start getting sleepy and we don't like that.

**Adams:** Ms. Strauss, would you like to begin?

**Becky Straus:** I'm here with the aclu of Oregon. Thank you for the opportunity again this afternoon. You received written testimony from me yesterday and we may have handed out today, unnecessary, so i'll be brief and summarize the main points. Aclu of Oregon is in opposition to the resolution. We agree protecting the process of the electoral process is essential to the maintenance of a free society and to protect free expression. What we believe is that meaningful reform of campaign finance is going to come from strong public finance and strong disclosure laws. The constitutional amendments that the resolution is urging our Oregon delegation to adopt and send out for ratification to the states -- I should correct an error in my written testimony. I think I referred to both amendments as affecting Oregon's constitution. I believe only one addresses the state. But would mark the first occasion in our nation's history. There are issues and I think that undue influence on campaigns is a real issue but amending the constitution and weakening the first amendment is not the right approach.

**Adams:** Thank you. I assume your written statement is on your website?

**Straus:** No, it's not. I'd be happy to make it public.

**Adams:** Why don't you post it.

**Straus:** Ok.

**Leonard:** Sorry, didn't read your letter. I'm curious why you don't distinguish between the issue here of corporations not being able for first amendment protections but with individuals, you seem to be treating them both the same. Is there a short rationale you could help me better understanding your position?

**Straus:** I think the aclu took the opportunity to overreach on issues that -- the court overreached. This isn't the first time that a court decision -- that's the primary concern today, not that there aren't issues with campaign finance or the appearance of undue influence in elections by corporations or individuals, but that amending the constitution, weakening our first amendment free expression rights is a very dangerous.

**Leonard:** That's why i'm asking. How does saying corporations aren't individuals weaken the first amendment for individuals? If you have a short answer, great.

**Straus:** The short answer is I think there are issues of freedom of association and the gentleman who earlier discussed and mayor Adams, there are all forms of corporation and we get into limiting corporations as opposed to addressing full and fair disclosure of those contributions, we're going through a dangerous road eroding free expression.

**Adams:** Didn't you support the supreme court's decision?

**Straus:** We filed a brief in the case supporting -- urging -- but we do think when the opinion came out, it went beyond what we were asking for or what any party was asking for.

**Adams:** And because you're a lobbyist, I have a little more dialogue with you than I would a citizen. But is your position -- the aclu's position to support possibly sometimes, but in reality, unlimited anonymous general treasury super pac contributions?

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**Straus:** I think timely disclosure of contributions is an important approach. From the aclu of Oregon's perspective.

**Adams:** Is that consistent with the national aclu?

**Straus:** There's national dialogue --

**Adams:** Keep dialoguing. [laughter]

**Leonard:** If nothing else, you've demonstrated you don't belong to one political end of the spectrum or the other. That's good.

**Adams:** Thank you for engaging us in this discussion.

**Candace Morgan:** I'm candace morgan and in the interest of disclosure, i'm on the board of the aclu of Oregon but not speaking for the aclu of Oregon, but they're a separate corporation under Oregon law and, therefore, we don't have to go along with every bit. We have a dialogue, as becky said. And I want to thank you, the city council, for addressing this issue. It's a very important issue. But I think you're not addressing it in the most effective way. I feel that everybody -- that everybody has said today. But -- but corporations are egregious on many things, the environment, workers and outsourcing things and what we can, looking at history and how it's developing, no matter how many times we attempt to limit them, they find a way to get around it. And I believe what's proposed with these resolutions would not change that in one bit. If we seriously want to address the issues of the integrity of our election system, we have to have strict continuously enforced rules that bring about transparency. We need to know what's going on and the only way we're going to know what's going on is not focus on limitation, but on transparency. And that is a very important part to me. On the issue of the amending the first amendment or amending the first amendment in a way that weakens Oregon article one, section eight, free expression. One of the strengths of both the first amendment and article one, section eight, it's never been amended and that creates an integrity that discourages further amendment and once we open it up, once we open it up, we'll be facing possibly some very dire unintended consequences.

**Adams:** I let you go over. But your final thought?

**Morgan:** To paraphrase, since we're doing quoting here. The words of justice louis b. Brandeis, the remedies for bad speech is -- is more speech, not enforced silence and when we --

**Adams:** A final thought was not a final speech.

**Morgan:** No, no, i'm --

**Adams:** Commissioner Fritz has a question.

**Fritz:** I have a question. How does the transparency help if only the candidate with the boatload of money has the money? How do you then get out the other person's point of view?

**Morgan:** Because I believe this country was founded on believing in the intelligence of the general public and if we know -- we don't know what's going on and if we know what's going on, I believe that the -- that things will get better, I do. And our history shows that.

**Fritz:** We have transparency in the Oregon reporting system, I hope you're right --

**Morgan:** In Oregon, yeah. It's not as complete as it should be. But, yes, Oregon is a star in that but the rest of the country need that's too. The city council of Portland should be focusing on forwarding the Oregon model, thinking about ways that might be strengthened, perhaps even finding out a better way to do the public financing that I supported. And -- but it didn't work. But that doesn't mean we throw it away and don't think it's something.

**Adams:** Fair enough. Spend your efforts on that. Fair enough, I have a respectful disagreement with you that spending money is free speech. Hi, welcome.

**Heidi Sackos:** Hi: My name is heidi, i'm also with the occupy solutions committee and outside of doing that, I also have a long history of working in community mental health. And I will be brief. I just want to say i'm in full support of this resolution. I do think there's another aspect here besides

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just money. And politics and that's something I would call -- the very fabric of our social culture, which is also so for the future and the term persons, human beings, is something to me that's sacred to us and at no time should we confuse them with anything else. Not just ourselves but grandchildren and generations going forward. Those things mean something. They distinguish us. And what we are. What we strive to be. Not anything else. That's all I wanted to say.

**Adams:** Thank you for your testimony. Appreciate it. Sir?

**Stephen Quirke:** Hi. So my name is stephen quirke. I am not really representing anyone but myself but I work for a nonprofit that's a watchdog in the forest service called bark and I work for the green party for a long time too. So that's sort of my perspective that I bring to this. So first of all, i'm going to go over a minute, that's going to happen. But do let me know --

**Adams:** Guess what, I get to decide how far over. How far do you want?

**Quirke:** Roughly double. I mean, if i'm really boring --

**Adams:** We'll give you a full two minutes starting now.

**Quirke:** First, I support the resolution and I especially support referring it to voters. People need to know about this, it shouldn't just be another decision that city hall makes and no one knows it exists. So corporations aren't people. The view that they're artificial entities that can be sued or sue. There's a long history of that you want them to be accountable and the progression that occurred they started saying we're also natural person so we can seize upon the bill of rights and use the legal argument as a shield to empower ourselves and this is just a legal argument. Corporations are not -- do not exist tangibly. They're a group of people using this as a shield to empower themselves over other people. That's the first thing to understand and that progression is nonsensical. One way to look at it, if the u.s. Government as a person, an entity in a court, that can sue and be sued and hold property, if they began a natural person with the right to property, we're in a fascist government. We would not be allowed in this room to speak. And that's wrong. In -- and corporations are governing institutions. The decisions of about production and how they go to work. They're empowered to make decisions that affect us and that makes them an institution that's accountable and created for the single purpose of making money. That's fine, they're good at it, but if you let them absorb other things, it's problematic, you end up with an ecosystem that's really destroyed and converted into profit, ruthlessly. And people might vote to say we want more regulations. Well, they're preempted by corporate right. The corporations don't have rights, they have privileges. Money is not speech, the right to buy an election is not in the first amendment, the word corporation does not exist in the constitution and that idea that the first amendment commands us to let our electoral system be purchased is a conversion of the democratic principle. It's a total toppling and I don't think anyone is fooled by that. It's a -- it's sophistry. It's not compatible with corporate personhood. I think we can all probably acknowledge that the preeminent challenge of our times. How do we make jobs work with sustainable environment that continues to provide us with food and energy and the things we need to survive.

**Adams:** I need you to wrap up.

**Quirke:** Ok, wrapping up. Essentially, corporations want to take advantage of these rights to create monopolies and break down competition and absorb them by access to substance subsidies and maintain a comprehensive advantage. Farming -- not wrapping up enough?

**Adams:** No. [laughter] it's interesting but --

**Quirke:** We have giant hog farm, 700,000 hogs on a farm, instead of having fertilizer, you have industrial waste and the rural community are out of work, and if we want to change that, we would be -- fundamentally, this is about being able to localize an economy and our ability to self-government and this is in the tenth amendment and we need to take advantage of that.

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**Adams:** Thanks for your testimony. Your assigned homework is to spend time with her. [laughter] thank you all for your testimony. You go off to the corner, you both -- all four of you, great testimony and we appreciate it. The next four.

**Adams:** Hi, welcome to the city council. Appreciate your perseverance. Would you like to begin?

**Anna Joy Gillis:** Can you hear me?

**Adams:** Yeah.

**Gillis:** I'm not going to be under a minute. Can I have more time?

**Adams:** You can have two minutes.

**Gillis:** Two and a half?

**Adams:** Yes.

**Gillis:** Ok. I'm Anna Joy, a student. And you may perhaps be troubled by whether or not a local city council has the authority to pass a resolution dismissing a federal supreme court case. So I'm here to testify the reason that this is justified and imperative. In Citizens United versus the Federal Election Commission, a five-justice majority issued a sweeping ruling on a narrow case ignoring -- drowning our democracy in corporate money. The original question whether a nonprofit could air a TV movie less than 30 days before an election was answered by allowing for-profits and nonprofits and labor unions no limit to political spending. The Supreme Court overstepped their bounds. They were the ones, as the ACLU woman previously mentioned -- they amended the first amendment and their unconstitutional judicial activism and ignorance of the law means it's our duty to step up. The basic premise of Citizens United is the proposition that the first amendment bars regulatory distinctions based on a speaker's identity as a corporation. This is false. First amendment rights can be regulated when the government has a compelling reason to do so as seen with the prisoners and schoolchildren in Bethel School District Number 403 versus Frazier, the court, quote, differential treatment is suspect unless judged by some characteristics of a regulated class of speakers and the constitutional rights of certain speakers are not automatically coextensive with the rights normally given to those in our society. Limited -- perpetual right and vast assets that can be foreign controlled. When a corporation speaks by contributing millions to a super PAC, who are they speaking for? Why give this profit-driven entity the power to influence political decisions? Imagine trying to fit General Electric into a voting booth. You can't, corporations cannot vote. They're not people. Personhood is a fiction that disenfranchises us. I'm going to quote Justice Stevens in Citizens United. When citizens turn on their televisions and radios before an election and hear only corporation electioneering, they may lose faith in their capacity as citizens to influence public policy and may come to believe neither responsive to their needs or willing to give their views a fair hearing.

**Adams:** Where are you a student at?

**Gillis:** I just graduated from Franklin High School.

**Adams:** Well, yay. For this time only, you get to clap for her. [applause] All recent high school graduates is the exception. Very, very well done. Which law school are you going to?

**Gillis:** Undecided.

**Adams:** Hi, welcome back.

**Nicholas Caleb:** Hi, everybody has been talking so much that I'll try to keep it under a minute. I agree largely what's been said. I'm Nicholas, a professor of government at Concordia and seething about corporate personhood for a long time and I'm happy to see that my local government is going to repudiate this at a local level. My students are introduced to this and immediately see how absurd it is, I'm happy that that's happening here. The other thing I want to point out quickly, although this will be a positive state in reclaiming elections, we should look forward to the much needed reforms in government. My pet issue, I guess, would be the revolving door in government.



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We have to take away the conflict of interest that allow basically only bribery of elected officials with jobs in the private sector. They go in and go out and make a bunch of money, deregulate and go back to private industry. I'll end with that and say let's keep pushing forward. Thank you very much for this.

**Adams:** Thank you. I think I speak for everyone, we're fans of everything concordia university does.

**Caleb:** I'll report back to them.

**Pam Allee:** I'm pam allee and speaking for myself, I do work at a very minor way with the move to amend folks. Thank you for passing the last resolution and i'll cut to the chase. The lower half of my paper. I'm here today to recommend that you act like you mean it, by referring the issue of corporate personhood and money, which is not speech, to Portland voters this november in an already scheduled election. We, the people, will decide, can decide and should decide whether or not to rein in or bow before the corporate powers that have hijacked our nation's well-being. This is at least over 30 years' worth. Blah, blah. This movement has become a tidal wave across the nation. We the people are fed up and missed off. A majority of us, and rising to stand for liberty and justice. We, the people, will occupy our lives and our nation and I hope that you will help today by referring this issue to the voters. Thank you very much.

**Adams:** Thank you for your testimony. Thank you all, really appreciate it. Can you make sure you send us your testimony.

**Gillis:** Is it ok if I email it?

**Adams:** That would be great. Karla will give you the email address. How many more?

**Moore-Love:** Five more.

**Adams:** Hi, welcome, thanks for persevering.

**Zachary Brugman:** Thank you, i'm zachary, here to speak about fundamental principles. James madison in federalist papers declared that majority rule is the first fundamental principle of free government. Ok? So that really comes back to what is democracy. Democracy is control by a majority. Louis brandeis, supreme court justice, declared we can have democracy or great concentrated wealth in the hands of a few, but not both. When we allow concentrations of wealth to completely dominate the elective process, lobbying of our government officials, that's allowing the minority will to control government. Clearly, in a democracy that can't happen. Unfortunately, our supreme court hasn't seen it that way, but the people do. Our very independence was founded on this issue. We separated from a king and an aristocratic house of lords. And minority rule was not really going good for the colonists and that why we declared our independence. A motto on the back of our great seal, the new order of the ages and this is a majority rule. So we need to overturn citizens united and give our country back -- get our country back.

**Adams:** Thanks for your testimony.

**Cyd Manro:** Hi, i'm happy to be here. I'm noticing your discriminating against tall people. I can't get very close.

**Fritz:** You can pull it close.

**Adams:** Sorry, that desk is a little --

**Fritz:** We actually have had the whole council chambers looked at for folks with disables, my son is tall and -- it's challenging, so thank you for bearing with us.

**Manro:** Thank you very much. And mr. Mayor and also commissioner Fritz and commissioner Leonard, members of city council, occupy Portland, specifically the solutions committee responsible citizens who are here and couldn't be here today, i'm cyd manro and representing the citizens' rights action group here in Portland and I want to thank you for your considerable efforts on behalf of living, breathing persons. And i'm so thankful to have a mayor who is championing

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the constitutional rights of natural persons and calling attention to the fact that those rights are potentially being usurped by corporations. This non-binding resolution before you today is an important first step to call attention to corporations, potentially having more rights than natural persons. This resolution builds awareness and supports and -- builds support for what I view is the next step. That is to draft a city ordinance that enshrines the rights of natural persons and ensures that living breathing humans have a say in their government as sovereign people and come from the work of selds.org. They have created a template from similar ordinances they've helped to get passed across the country and one of which is happening in Bellingham, Washington, whether they want coal trucked through the railways there they have a say over. I urge the city council to adopt this resolution as written and I further urge the city council to refer that to the voters and finally, a binding city ordinance that protects the rights of natural person and ensures that the natural power flows through we the sovereign people.

**Adams:** Thank you. Sir, welcome back.

**Roger Weidner:** Thank you, mayor and commissioners. I would like -- I'm an authority on the law, studied or practiced law for nearly 50 years, 35 years ago, I was the director of the consumer fraud department in the district attorney's office when I speak in the supreme court, court of appeals or any other court, no attorney, no judge questions the truthfulness of a single statement I make about who the citizens in this country are and the rights that they have. And that -- the cornerstone principle in this country is the equality of the citizens. And those that are working are divided into two groups, public employees and private employees and if that public employee wants to take something from a private citizen, that citizen has to be given equal protection and due process of law. That's written in stone. In our constitution. It's written in our federal courthouse, justice before the law, and that's what's been stripped out of the system. I've had -- I was instructed by some of the best instructors, Harlow Lennon, Bill Dale, all instructors of mine when I went to law school and it's this principle of remedy. This is what has been stripped out of the system. That we've become an administrative government and that the people's rights to equal protection, due process of law have been in the past ignored. Now, this is what all of this Occupy movement is about, it's remedy. If some bureaucrat wants to -- and I was, as I said, 35 years ago, I was. I ran the consumer fraud department. If I wanted to take something from someone, I gave notice and that person has the right to challenge the facts on which I'm relying and the law and if I can't prove it, they win. That's -- that's how our system was set up and that's what I'm working for, to restore to the citizens. Thank you so much for this opportunity.

**Adams:** Thank you. Hi, welcome.

**Brian Setzler:** Thank you, I have been persevering. Thank you for having us. I'm Brian, a CPA in town and own a business called Trilibrium and do business advising and on the faculty and teach MBA students and I love business and I'm urging you support these measures and refer them to the voters and I want to clear up that I don't believe in any way, these are anti-business resolutions. And earlier I was here when you talked about Portland small business. I advise small businesses and I can't think of one that I advise that this would impact at all. The issue is about corporations are an innovative business structure and have a function and certain tax profile that makes sense for business owners. And when corporations were first -- the idea came up and again, it was an innovation that made a lot of -- an innovation, but they were on the obligation side of the ledger, not the right side so corporations had duties and obligations, not rights and privileges. The rights and privileges were unlimited immunity, lifetime perpetuity and those things. So we're getting near the end of the day, I want to say, support -- and a couple things if you've never seen the movie "The Corporation" I'd remember that and David Corcoran's book, "When Corporations Ruled the World."

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they decide lots of decisions and we need to have the people as sovereign. Portions are not people. Money is not speech.

**Adams:** Thanks for your testimony. Thank you all. Last person. Richard Gill, welcome back.

**Richard Gill:** Thank you. It's the end of the day and you guys are tired. Mr. Leonard and ms. Fritz and mr. Mayor. Thank you for allowing me to come forward. A comment for the day, i'll be brief. When you're discussing corporations as something that's been discussed in history a long time ago, african american people, indian people, especially african americans were considered two-thirds of a person. Ok? Now we have the chickens who have come home to roost in 2011 and '12 and we have a discussion of corporations having the same rights endowed by our creator. This is what our forefathers talked about. The fact that you have had the bold and courageous spirits as commissioners to take this on is credit not to our state, but to our city. And there's a statement that says, keep Oregon weird, but I think that we should keep Oregon progressive. And you're taking some bold steps and I think that as an african american man and part indian as well, I think that history will judge you based upon your boldness. Your courage, by getting this to the people. Because if you go down your posterity will look and say why when we had the opportunity did we not strike the corporate mentality down? Why did we allow in 2012, our city to be moved by the corporate movement of money only and capital. I've been in the banking world for many, many years, more people in this town in homes when they said they couldn't be gotten in them and know now we keep them in them in this marketplace. It's a recent supreme court decision, the last few days, that allowed the 501c3 -- the churches, that enjoy a tax-exempt status, their employees cannot sue the church when it comes to a separation of their religious duties versus being a person. Now that goes to what we were talking about today. The rights of a corporation and the rights of a human being endowed with unalienable rights, where does that begin? So I appreciate the bold steps that you've taken, and I know that you're ready to go home.

**Adams:** No, we have another item after this.

**Gill:** But i'll tell you this, thank you for taking the forward steps that you are. Continue to take bold steps that create an Oregon that is a place for the youth, for the middle generations and old. This is a coming together for solutions, we're aware of the problems. Don't let this time go by without you passing these resolutions that would create an equality for all human beings, not like it was back prior to civil rights when we were struggling to be equal to you as a caucasian american. We as african americans now see that corporate america is trying to do what jim crow laws and things from the south, what we've fought for for generations and still fight for today, even our senate and congress, trying to pass things that are good for americans, not republicans or democrats. Good for americans, it doesn't matter if we have a black president or white president. I appreciate you allowing me to share that with you at the end of your day.

**Adams:** Thank you for your testimony, sir. Karla, call the vote.

**Fritz:** Mr. Walsh said you have no idea how proud we are of you today. You have no idea how proud I am to be sitting up here today. And as the only member of the council elected by the people of Portland giving me \$5, i've never accepted corporate contributions and never will and when I was elected with 1,000 Portland voters giving me \$5 to allow me to win public campaign financing that allowed a former registered nurse to have the money to run a campaign. And money in politics is -- it's not participatory democracy, it's money. I respectfully disagree with the american civil liberties union that transparency substitutes for restrictions on that money. It was transparent who funded the campaign to defeat public campaign financing and yet it went down. I believe we need to get that back, the folks who advertised against it, said it was a drain on the general fund. The reality is that the cost is much higher when the people are taken out of the discussion and money becomes the only or the main means to get elected. The small amount of

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investment in public campaign financing fosters genuine public discourse when those running for office don't have to overwhelm by the sheer amount of advertising that can be purchased. The problem existed before citizens united but the ruling has taken it to a new level. With the super pacs and millions of dollars is funneled especially at the national level. We're in Portland and somebody else commented how it's surprising you can come into city council chambers and have this discussion and have genuine input. We changed the resolution based on the input we heard and I want to thank david delk, jeff stookey and donna noonan who came in to council testifying under citizen communications. Anyone can come into the city of Portland council chambers and sign up the thursday before and make sure you get your turn. We have five slots each week. First come first served and those three folks came in and talked about the resolution and asked us to do it and the mayor acted on it and when ms. Noonan came in and said it needs to be stronger, the mayor and I had a conversation after and said, yes, it does. I'm looking forward to the next discussion, this resolution directs the city attorney to look into how we would do the referral. I hope we have as robust support for that. And I also need to note there are many corporations that provide great family wage jobs and that's an important component of our community. There are many corporations that are sustainable and do great things in our community. Corporations are guided by the people who run them. And those people can change and do change because as mentioned, corporations can live forever and people do not. So those running corporations can learn as well and be good students and good citizens. So we're not saying that corporations are bad. We're just saying they're not people. At least my that's my intent. This resolution sends a message we're serious about defending our democracy and protecting our rights. If you look in the window of my office, the southwest corner of fifth avenue, I like to say it's the most grounded because it's closest to the ground on fifth avenue. I have a poster from wisconsin, this is what democracy looks like and also my Oregon nurses association picket sign, because this is what democracy looks like. In Portland we do have a democratic and city commissioners although they weren't elected with five dollars do care and are upstanding citizens who are very aware of the need to make decisions based on the the good of everyone rather than corporate donors. That's clear to me also, having served on city council for three years, every member of this council, no matter how they were financed has the good of the people of Portland at heart and evidenced by our support for this resolution, that we'll move forward on progressive statements and we will work with you, the citizenry, that's what we do here. We don't always agree on everything. It's healthy and makes us continue the discussions. Thank you for being here today. Thank you to the occupy Portland folks who are here participating in the discussion. And working on issues that people have been working on for many, many years, so I thank those in the community who are seeing these reinforcements coming in, fresh people and voices and people willing to take time on a wednesday -- thursday afternoon? Thursday afternoon, to come into city hall to be part of democracy. This is what democracy looks like in Portland. Aye. **Leonard:** Thank you all for your work on this. Pleased to vote aye.

**Adams:** Well, I want to thank everyone. There's some incredibly passionate thoughtful testimony today. I appreciate that. I realize we had a conversation here and the resolution before the city council gets into the details. And -- but Portland strives to be a thinking person's city and I know we're going to improve this resolution and gets put into the hopper of less than thoughtful dialogue on this issue on the national basis but I think the time and attention we've all taken on this issue will hopefully elevate the conversation nationally in addition to locally. Thank you everyone involved. Jennifer yocom on my staff. Aye. Approved. [gavel pounded] you can clap now. [applause] we'll take a two-minute break. If you're here for the next agenda item, great, otherwise feel free to congregate outside in the large foyer and we'll make our last council -- [recess]

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**Adams:** I encourage you to spend some time. We have bull run water in the water fountains and we have two restrooms on each floor. For a total -- gee how many restrooms would that be? Eight -- eight restrooms.

[gavel pounded]

**Item 50.**

**Adams:** Council will come back from recess. If it's ok with city council, because we're running late, we'll hear testimony and then get an overview after from our staff. So if you're ok with that, council, Karla, you've already read the item -- read the item. And if you could please begin calling on people. How many do we have?

**Moore-Love:** Four, still. Come on up. Roger may have left.

**Adams:** Yes.

**Adams:** I, welcome back. Happy new year.

**Adams:** Happy new year. You know the rule, if you're a lobbyist, you need to disclose you're a lobbyist on who you're a lobbyist for. Otherwise just your name and you have three minutes. Who was first?

**Dr. Theodora Tsongas:** I'm dr. Theadora tsongas on behalf of the Oregonians for social responsibilities. We support the proposed federal legislative agenda because we believe that the effort to pursue relief from the source water treatment and storage requirements of It2 should be the city's top priority for the agenda. We have the opportunity to stop the waste of half a billion ratepayer dollars and we have critical needs and the It2 rules does not protect public health. We request you make two changes to the text of the agenda. One, modify the first statement to read, the city will work diligently with the congressional delegation and the epa. And second, add and to improve the methodology of the rule which requires out of date methods that do not protect public health. This is a reference to method 623. And for more information, you seek the comments at the proposed bull run variance sent to earlier. The proposed text reads, the city works diligently with the congressional delegation and the epa to pursue relief from the raw water storage -- It2 for Portland's drinking water system and add in and to improve the methodology of the rule which requires out of date methods that do not protect public health. The city seeks assistance from the delegation in obtaining the same consideration from the federal environment protection agency as new york city to evaluate alternative compliance options for the uncovered finished drinking water reservoir requirements of the rule. On a related matter, we request that the city council now commit to a timely transparent public process for setting the strategy and timeline for relief for It2. Thank you.

**Kent Crayford:** Good afternoon, my name is kent crayford, representing the Portland water users coalition, a group of large industrial and commercial water customers. I'm also here to support the city's priorities for 2012 and the placement of relief from the It2 rule at the top of the agenda. This is wonderful to see, we very much encourage our -- are encouraged by the city's efforts to continue to follow through and seek hopefully permanent relief from this illogical mandate which as was said, costing Portland ratepayers a half billion dollars, in -- in unnecessary spending. Two things to follow that up. First, when the epa indicated to new york city earlier last year, that it would work with them, to avoid new york having to treat or cover their open reservoir, that was a huge breakthrough in this five-year battle. Obviously, it's great news for Portland and any other municipal water system in a similar situation. Accordingly, we'd like to see the city enter into a formal partnership with the city of new york and we're encouraged by mayor bloomberg's effort and the water utility efforts to not just push back in a temporary fashion on It2, seeking an extension or delay, or variance, but in seeking permanent revision of the It2 rule itself. We don't just want a short-term solution, we need a long-term permanent fix that recognizes the pristine nature of the

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bull run watershed, that our historic open-drinking water reservoirs are well functioning and we don't have a cryptosporidium problem in there. And, therefore, that Portland shouldn't have do this. We shouldn't have to build half a billion in unnecessary infrastructure. Secondly, we'd like to see the city engage directly with the obama administration in seeking that long-term rewrite of It2. It's one thing to work with the epa, but we think it's time to go a step above and when the president comes here, which inevitably he will in the next 11 months, we'd like to see, you know, if there is any attention to local issues that this be put at the top of the list. It's important that this is at the top of the list for our federal priorities and it's important when the city council is talking with the president's staff when he comes to Portland that these issues be addressed. Thank you.

**Adams:** Having talked to the president's staff, you know, over my term as mayor, this has been a topic i've talked to him about. His white house staff. So, yes, we need to continue at all levels, which we've sought to do. U.s. Conference of mayors, it's been a issue, i've talked to other mayors about as well. So we try to take every opportunity and we'll continue to do so with your help. Great.

**Floy Jones:** Floy jones, i'm with friends of the reservoirs and we've been working on this issue for a full decade and we're here to support relief from It2 as being a city priority. And we support the comments made by citizens for social responsibility and Portland water users coalition but I think we should take it a step further and include language that says you're going to work to reform the rule. You know that the basis for this regulation is to reduce the -- the goal, rather, of this rule, is to reduce the level of disease in the community from drinking water and cryptosporidium. There's no evidence that there's any level of disease in this community or others from drinking water from cryptosporidium and the underlying flaw is that the sampling does not distinguish between harmless which most varieties are. Harmless and harmful. So there's a public meeting held in Washington d.c. In december, our Portland water bureau did attend but haven't received directive from the city council that says you're going to go there and work to get this -- get reform of this regulation and address the sampling methodology problem. The american water works association has been working on that for many, many years, the -- they published a summary of that meeting in which they indicate that epa is going to redact data from their first round of sampling and why is that? Because the data doesn't tell you anything about public health. So we need to modify our focus here to go beyond, obviously, you know, our organization started to address issues related to the reservoirs and we fully support alternative compliance to the cover requirement but would like to see reform of the entire rule. And then addressing the reservoir piece specifically, the water bureau has put together a proposal for pushing out compliance with for five years, we've asked it be pushed out to 2034 and like to see a open and transparent public process to address that schedule before it's submit to the state of Oregon.

**Adams:** Are you saying that theadora and kent are soft on the issue? [laughter]

**Jones:** No.

**Adams:** You said the testimony was fine but needed to go beyond that.

**Jones:** I think if we talked about language beforehand, I think we'd agree that the reform of the epa rule is what's necessary.

**Adams:** [inaudible] permanent revision?

**Crayford:** Floy's descending to the right of us. [laughter]

**Jones:** Depending on what the permanent --

**Adams:** Is it not as strong as reform.

**Jones:** Well, I guess they're both equally strong.

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**Adams:** Well, there you go. You brought the whole community together. Thank you for your testimony. Can we have staff come up? If you could, give us a quick overview of the issues in our federal agenda as revised today by the two resolutions.

**Martha Pellegrino, Director, Government Relations:** Sure, for the record, I'm Martha Pellegrino, director of government relations with Nils Tillstrom, our federal assistant, and not here but sending good thoughts is Vicki Cram from D.C. Both Nils and Vicki, I wanted to acknowledge their work in putting this together, along with you and your staff and the staff from the bureau. We really appreciate everyone's input. Before I touch on the priorities in the legislative agenda, I do want to say that the process for the agenda began in October and really has involved a great deal of input with Mayor and Commissioner Fritz and your leadership, we worked with the office of neighborhood involvement to hold a community engagement forum where we solicited thoughts what should be in the agenda and both state and federal agendas and many items identified you'll see in the report before you. Two quick things in terms of context. Two notable changes in the way we structured the agenda this year. First is given the federal cuts to domestic spending, there are a number we asked for the first time, which are these programs are most critical to the city's mission and the delivery of services to the citizens? And what came back, you'll see in the agenda, we need to protect and preserve cuts to housing programs and community development block grants and transportation programs to make sure we're not losing ground on a federal level. And secondly, as you know, since Congress placed a moratorium on earmarking, the priorities -- the areas in this agenda are not a list of projects, they're a list of key regulatory administrative policy and in some cases programmatic funding programs. I wanted to make that distinction. At this point, I'm happy to answer questions, the first part of the agenda, there are nine top city priorities and the second part is structure based on theme and the issues coming up but happy to answer questions from council.

**Adams:** The final final will include the issues we added today?

**Pellegrino:** Happy to.

**Adams:** The resolution -- I haven't seen the final final. Does it include the war resolution and the citizens united issue?

**Pellegrino:** On the last page of the agenda, there's page 10, a section on campaign finance. That we believe addresses both of those issues. If you're comfortable with the language, we drafted it with input from staff. Understanding it's coming before council, but if there's changes we're happy to make those.

**Adams:** The resolutions speak for themselves. You can refer folks to the resolutions. So if you can put in, therefore, be it resolved, it would be a -- as a substitute for these issues, it would be clear.

**Pellegrino:** Happy to.

**Adams:** All right. Any discussion from council? As you know, this is something that is been in gestation a long time. So thank you. Any discussion?

**Leonard:** Yeah. I would move to amend the first priority. Under from -- relief from the long-term 2 enhanced treatment, under that. Where the word continues after city exists strike continues substitute "will" for continues. After the word work and before the word with insert the word "diligently". And at the end of the paragraph, after the word rule, remove the period and add the words and "to improve the methodology of the rule which requires out of date methods that do not protect public health."

**Fritz:** Second.

**Adams:** Moved and seconded. Karla, please call the -- unless there's discussion among council, please --

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**Fritz:** Do we also want to add something on seeking long-term --

**Adams:** If we just added the word to permanently improve the methodology of the rule, I think that would cover it. Could you take that as a friendly amendment?

**Leonard:** I just added the words -- I took from the physicians for social responsibility. So --

**Adams:** So I would offer a friendly amendment to "permanently improve". That also speaks to the permanence. There's some debate in the testifiers, some critical debate, the difference between reform and permanently revise, so we'll just say permanently improve. No, you can't talk now. You had your chance, doctor. [laughter] if that's accepted, it is, please call the vote on the proposed amendment. Seconded by commissioner Fritz.

**Fritz:** I think the intent is to do what we were just asked to do and that we agreed we want to permanently revise the rule for seek other remedies, and think there's agreement on that. Thank you very much for the testimony. And the amendment, aye.

**Leonard:** Aye.

**Adams:** I think it does permanently improve the methodology, absolutely covers the issue of crypto that's generically stated vs. crypto that's actually a human health factor, so that's the legislative intent here and I think it's contained in the amendment. So aye. [gavel pounded] approved. Unless there's additional council discussion --

**Fritz:** And as you mentioned, already working with the city of new york and the mayor on the second suggestion to seek a partnership on that revision?

**Adams:** That's a way to permanently improve the methodology.

**Fritz:** Yes, you will just do that?

**Adams:** Correct.

**Fritz:** Thank you.

**Adams:** Please call the vote on the federal agenda as amended.

**Fritz:** Well, thanks again to mayor Adams and the office of government relations and office of neighborhood involvement for involving the community in this as well. It's one of our permanent legacies over the last three years, we've reformed how citizens are invited in and again at the very last minute, last opportunity for public testimony, eloquent intelligent folks came in and made suggestions and which elected officials heard and responded to. Again, this is what democracy looks like. This is very amazing and I also want to thank our government relations team, including vickie cram in Washington. I have been very impressed how you communicate with me and let me know what's going on in Washington d.c., even though I've never been there. And you are also very diligent about communicating with each member of our congressional delegation. So it makes it work and as I said, when we adopted the state agenda yesterday, you are very highly respected and that makes it he had to further the city's agenda. Thank you so much. Aye.

**Leonard:** Thank you. Aye.

**Adams:** I thanked you yesterday, via speaker phone, and thank you again and add to that specifically, nils who comes from a long-time work on capitol hill and an opportunity to publicly thank vicki cram who does a fantastic job for us. Thank you for the amendment, commissioner Leonard, and commissioner Fritz, the community outreach that you envisioned when you ran for the city council, I think it's really paid huge dividends and I want to thank you as well. Aye. So approved [gavel pounded] we're adjourned.

At 5:03 p.m. Council adjourned.