



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 29TH DAY OF FEBRUARY, 2012 AT 9:30 A.M.

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

Commissioner Saltzman arrived at 9:33 a.m.

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

Items No. 184 and 187 were pulled for discussion and on a Y-4 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS	Disposition:
182 Request of Andrew Frazier to address Council regarding small business in Portland (Communication)	PLACED ON FILE
TIMES CERTAIN	
183 TIME CERTAIN: 9:30 AM – Accept report on The Asian and Pacific Islander Community in Multnomah County: An Unsettling Profile (Report introduced by Mayor Adams) 30 minutes requested Motion to accept the report: Moved by Commissioner Fish and seconded by Commissioner Saltzman. (Y-5)	ACCEPTED
CONSENT AGENDA – NO DISCUSSION	
184 Extend the terms of 2012 Charter Commission members (Report introduced by Mayor Adams and Commissioner Saltzman)	REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION
Mayor Sam Adams Bureau of Planning & Sustainability	

***185** Amend an Intergovernmental Grant Agreement with the Oregon Department of Energy to accept an individual grant of \$1 million from the State Energy Program to provide funding for Clean Energy Works Oregon (Ordinance)
(Y-5)

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<p>*186 Amend grant agreement with Clean Energy Works Oregon, Inc. to provide an additional \$1 million in State Energy Program funding from the Oregon Department of Energy (Ordinance; amend Contract No. 32000466) (Y-5)</p>	<p>185164</p>
Bureau of Police	
<p>*187 Extend contract with David M. Corey, Ph.D., P.C. to provide psychological examinations for the Portland Police Bureau (Ordinance; amend Contract No. 35139) Motion to extend current contract for 6 months to August 31, 2012: Moved by Mayor Adams and seconded by Commissioner Fish. (Y-5) (Y-5)</p>	<p>185175 AS AMENDED</p>
Bureau of Transportation	
<p>188 Waive requirement for cross collateralization of certain properties assessed in the NE 148th Ave Local Improvement District (Ordinance; C-10008)</p>	<p>PASSED TO SECOND READING MARCH 7, 2012 AT 9:30 AM</p>
Office of City Attorney	
<p>*189 Amend contract with Ball Janik LLP for outside legal counsel (Ordinance; amend Contract No. 30000350) (Y-5)</p>	<p>185165</p>
Office of Management and Finance	
<p>*190 Ratify the implementation of the Bureau of Development Services' Chief Inspector premium pay for Senior Electrical Inspector employees who perform the duties of the Chief Electrical Inspector and for Senior Plumbing Inspector employees who perform the duties of the Chief Plumbing Inspector (Ordinance; amend Ordinance No. 185001) (Y-5)</p>	<p>185166</p>
<p>*191 Amend contract with U.S. Bank National Association ND Voyager Fleet Systems Inc. for fuel for City vehicles for \$4,676,000 (Ordinance; amend Contract No. 31000124) (Y-5)</p>	<p>185167</p>
<p>*192 Authorize a contract to purchase one full sized SUV for \$40,000 funded by TriMet (Ordinance) (Y-5)</p>	<p>185168</p>
<p>193 Create two new nonrepresented classifications of Labor Relations Analyst and Senior Labor Relations Analyst and establish compensation rates for these classifications (Second Reading Agenda 171) (Y-5)</p>	<p>185169</p>
Commissioner Nick Fish Position No. 2 Portland Housing Bureau	

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<p>*194 Authorize subrecipient contracts with Cascade AIDS Project and Worksystems, Inc. totaling \$1,253,400 to provide housing assistance, supportive services and comprehensive planning and coordination of local resources to meet housing and service needs for people living with HIV/AIDS (Ordinance) (Y-5)</p>	<p>185170</p>
<p>Portland Parks & Recreation</p>	
<p>195 Extend Intergovernmental Agreement and Interim Management Agreement between Portland Parks & Recreation and the Portland Development Commission (Ordinance; amend Contract No. 30000179)</p>	<p>PASSED TO SECOND READING MARCH 7, 2012 AT 9:30 AM</p>
<p>Commissioner Dan Saltzman Position No. 3</p>	
<p>Bureau of Environmental Services</p>	
<p>196 Authorize an Intergovernmental Agreement with the Oregon Department of Transportation related to construction of a stormwater inlet lead on US Highway 26 Project No. E10389 (Ordinance)</p>	<p>PASSED TO SECOND READING MARCH 7, 2012 AT 9:30 AM</p>
<p>197 Authorize contracts with Brown and Caldwell and Murray, Smith & Associates, Inc. for professional engineering services for the Sewer System Rehabilitation Final Design 2011 Project No. E10031 (Ordinance)</p>	<p>PASSED TO SECOND READING MARCH 7, 2012 AT 9:30 AM</p>
<p>198 Authorize a contract with lowest responsible bidder for the Columbia Boulevard Wastewater Treatment Plant Support Facility Project No. E09023 (Second Reading Agenda 172) (Y-5)</p>	<p>185171</p>
<p>City Auditor LaVonne Griffin-Valade</p>	
<p>199 Approve Council Minutes for January-June 2011 (Report) (Y-5)</p>	<p>APPROVED</p>
<p>REGULAR AGENDA</p>	
<p>Mayor Sam Adams</p>	
<p>*200 Authorize a Grant Agreement with Janus Youth Programs, Inc. for shelter beds and treatment for juvenile human trafficking victims and two additional victim advocate positions for a 5.5 month period in the amount of \$113,378 (Ordinance) 10 minutes requested (Y-5)</p>	<p>185172</p>

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<p style="text-align: center;">Bureau of Police</p> <p>*201 Authorize an Agreement and Memorandum of Understanding with the Department of the Treasury, Internal Revenue Service, Criminal Investigation to allow for reimbursement of City expenses (Previous Agenda 177) (Y-5)</p>	<p>185173</p>
<p style="text-align: center;">Bureau of Transportation</p> <p>202 Create a local improvement district to construct street and stormwater improvements in the NE 112th Ave and Marx St Local Improvement District (Hearing; Ordinance; C-10043) 10 minutes requested Motion to amend Finding No. 3 to remove extraneous sentence: Moved by Commissioner Fish and seconded by Mayor Adams. (Y-4; Leonard absent)</p>	<p>PASSED TO SECOND READING AS AMENDED MARCH 7, 2012 AT 9:30 AM</p>
<p>203 Vacate a portion of SW 46th Ave and a portion of SW Florida St subject to certain conditions and reservations (Second Reading Agenda 178; Ordinance; VAC-10070) (Y-4; Leonard absent)</p>	<p>185174 AS AMENDED</p>
<p style="text-align: center;">Commissioner Amanda Fritz Position No. 1</p> <p style="text-align: center;">Office of Neighborhood Involvement</p> <p>204 Direct Office of Neighborhood Involvement and Portland Police Bureau to formally notify Oregon Liquor Control Commission of City's opposition to issuing liquor license to food cart area and authorize the City Attorney's Office to participate on behalf of the City of Portland (Resolution) 15 minutes requested (Y-5)</p>	<p>36909</p>

At 11:55 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **29TH DAY OF FEBRUARY, 2012** AT 2:00 P.M.

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

Commissioner Leonard arrived at 2:08 p.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Roland Iparraguirre, Deputy City Attorney; and Keith Moore, Sergeant at Arms.

<p>S-205 TIME CERTAIN: 2:00 PM – Accept Commissioner-in-Charge and Portland Police Bureau annual report regarding the Portland Police Bureau participation with the Federal Bureau of Investigation Joint Terrorism Task Force (Report introduced by Mayor Adams) 1 hour requested</p> <p>Motion to accept the Substitute Report: Moved by Mayor Adams and seconded by Commissioner Saltzman. (Y-5)</p> <p>(Y-4; N-1 Fritz)</p>	<p>Disposition:</p> <p>SUBSTITUTE ACCEPTED</p>
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At 3:26 p.m. Council recessed.

March 1, 2012

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 1ST DAY OF MARCH, 2012 AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Fish, Presiding at 2:00 p.m.; Commissioners Fritz, Leonard and Saltzman, 4. Mayor Adams arrived and presided at 3:30 p.m., 5.

Commissioner Leonard arrived at 2:14 p.m.

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

Council recessed at 2:50 p.m. and reconvened at 3:33 p.m.

	Disposition:
<p>206 TIME CERTAIN: 2:00 PM – 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 (Previous Agenda 47; Hearing; LU 11-125536 CU AD) 90 minutes requested</p> <p>Motion to tentatively approve the appeal with the condition to move location closer to the southeast side of the building or to another location on the site that is further away from residences: Moved by Commissioner Fritz and seconded by Commissioner Saltzman. (Y-3; N-1 Leonard)</p>	<p>TENTATIVELY UPHOLD THE APPEAL WITH CONDITION AND OVERTURN HEARINGS OFFICER'S DECISION; PREPARE FINDINGS FOR APRIL 4, 2012 AT 9:30 AM TIME CERTAIN</p>
<p>207 TIME CERTAIN: 3:30 PM – Appeal of King Neighborhood Association against Hearings Officer's decision to approve with conditions the application of Portland Playhouse for a conditional use for community service uses at 602 NE Prescott Street (Hearing; LU 11-187799 CU) 90 minutes requested</p> <p>Motion to tentatively support the appeal and overturn the Hearings Officer's decision. Staff to develop specific language in the findings that address the specifics of the particular use and why Council determined that the appeal is appropriate: Moved by Commissioner Leonard and seconded by Commissioner Fritz. (Y-5)</p>	<p>TENTATIVELY UPHOLD THE APPEAL AND OVERTURN HEARINGS OFFICER'S DECISION; PREPARE FINDINGS FOR MARCH 14, 2012 AT 10:00 AM TIME CERTAIN</p>

At 4:52 p.m. Council adjourned.

LAVONNE GRIFFIN-VALADE
Auditor of the City of Portland



By Karla Moore-Love
Clerk of the Council

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

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

FEBRUARY 29, 2012 9:30 AM

Adams: Good morning everybody and welcome to the city council chambers, today is Wednesday, February 29th of 2012, it is leap day so those of you that were – that only get to celebrate your birthday's every four years, a special happy birthday to you. It's 9:30 am and city council will come to order. Good morning Karla.

Moore-Love: Good morning.

Adams: Did you see any snow or heavy rain this morning?

Moore-Love: Not much.

Adams: Not much. Did you drive carefully and slowly?

Moore-Love: I did.

Adams: Okay, you are a model for the rest of us, can you please call the roll? [roll taken]

Adams: A quorum is present, we shall proceed, beginning with communications, can you please read the title to item number 182.

Moore-Love: Mr. Andrew frazier called, he will be rescheduling.

Adams: He was snowed in? Was it snowing at your house? Okay. That gets us to the consent agenda items. I'd like to pull item number 184, back to my office. Someone wants to pull 187. Is that right? Okay. So would you read those titles, please?

Adams: So the charter commission decided to cease operation on monday. Unless there is a disagreement, [gavel pounded] send this back to the mayor's office. Can you please read title for 187?

Adams: This will be discussed on the regular agenda. Are there any other items or any other discussion on the consent agenda? If not, can you please call the vote on the consent agenda?

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

Adams: Aye. [gavel pounded] Consent agenda is approved. Can you please read the title for emergency ordinance item number 200?

Moore-Love: Did you want to do the time certain?

Adams: Did we -- I don't have it. Oh, i'm sorry –

Moore-Love: 183?

Adams: -- my apologies, of course. Are we at 9:30 yet? Can you please read the title for the time certain report item number 184?

Moore-Love: 183?

Adams: Hmm? Sorry, 183. I need more coffee.

Item 183.

Adams: Commissioner Fritz.

Fritz: This is the third of the reports following up from the coalition of communities of color and expanding and going into more detail on the asian and pacific islander community, and we very much appreciate everybody being here this morning, and whoever is going to do the presentation, please come on up.

Adams: Welcome to city council. Glad you're here.

Fritz: Good morning.

Adams: Hi, who would like to begin?

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June Arima Schumann: Good morning, members of the council. My name is June Arima Schumann. I am co-chair for the Asian Pacific American Network of Oregon, and represent Apano on the coalition of communities of color. This morning, the members of the coalition are here to present the Asian and Pacific Islander community in Multnomah County, an unsettling profile. This report is one of six ethnic specific reports being published this year. Others in the series are Native American, Latino, African-American, and African and Slavic. In 2010, the coalition published *Counties, Communities of Color in Multnomah County, an Unsettling Profile*, that presented a comprehensive and comparative study of the inequities facing communities of color, immigrants, and refugees. The Asian and Pacific Islander report being presented this morning builds on that earlier report, for the first time, the complexities and the diversity among the 27 different API ethnic groups in Multnomah County, are presented. Contrary to the myth of model minority, specific segments of the API communities are facing incredible difficulties. As members of the coalition, Asian Family Center of IRCO and Apano are proud to have them part of the development of this report. We want to acknowledge the broad and deep participation from Asian and Pacific American community members, over the last three years. Their contributions, alongside the rigorous economic research and analysis have helped to produce a powerful and detailed portrayal of the state of the Asian American, Asian and Pacific Americans in Multnomah County. With me to present the report this morning, are Gerald Deloney co-chair of the coalition. Dr. Ann Curry-Stevens, of PSU, the principal investigator. Dr. Pei-Ru Wang and Lee Po Cha of Asian Family Center at IRCO. I would also like to acknowledge members of the API communities, and the coalition who are here in the audience to be part of this presentation. Thank you.

Gerald Deloney: Good morning. As she mentioned, I am one of the co-chairs of the coalition of communities of color, and it is certainly an honor to sit here with the API community to present their report. Just a little bit about the coalition, itself. We've been in existence for about ten years. And – is the – oh yeah the power point is up good. And you can see that we came together because of our socioeconomic disparities shared by all. I think as we address things like institutional racism, I would like to really thank the city council, Mayor Adams, and Commissioner Fritz for championing after we gave our report, the formation of the office of equity. And I think that the most important part about forming that office of equity was that we talked about racial equity. Because we understand that when we deal with race, and we achieve racial equity, everybody's better, all other protected groups are better. The city, itself, is better, and begins to use the valuable human resources that we have within our community. We think that it is a shame for everybody when your race and your socioeconomic status can determine your outcomes -- your outcomes for success in our society. Long before the report was given, and we formed ourselves ten years ago, the results of the report were part of our internal intuition. We knew that these things were going on, and with the report presented in May of 2010, it just confirmed our intuition that as a group, we're all mutually in the same boat, and if we don't stick together and do that, and I'd like to end by saying that the coalition, itself, by being together and doing this report, and doing other things, together, has demonstrated that people that come from different cultures, can come together, work cooperatively together, for the good of all. Thank you.

Adams: Thank you. Professor.

Ann Curry-Stevens: Good morning.

Adams: Welcome back.

Curry-Stevens: Thank you. Our presentation today is a little different than what we've emphasized in the past with these reports. One of the biggest findings in this report is the way in which the community here differs significantly from the dynamics at the national level. And if you're familiar with that situation, in most measures, the Asian and Pacific Islander community outperforms whites in terms of incomes, in terms of assets, in terms of a wide array of socioeconomic features, including education. And so what we don't -- we don't have that same

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situation here, and so what we're going to spend the first stretch of our time together doing is to explore the, what we've come to understand is the reasons for That. When we came before you in 2010, with the first report, we hypothesized at the time that this was an issue around the composition of the community. That there were more refugees here, more new arrivals here, and what this report does is unpacks these issues, and indicates that this is not the case. And so, what we're going to do is highlight some of those pieces, and as well, highlight a few of the new findings in this report that are quite phenomenal in their reach and their breadth. And so just – we're just going to begin with a reminder around the size of the community. We're looking at closer to 9% when we used conventional counts, when we recognized the culturally verified counts, which we're in the process of moving through the advice of an expert panel on. We're looking at a population of, for the api community, which is just over 10% of Multnomah county's population. The graphic representation of this is, again, just a very quick reminder that we're looking at verging close towards one in three members of Multnomah county being a community of color, and very close to one in two, public school aged children being children of color. So, this is a rapidly -- important to remember the pace of change, in which this community is moving through. The api community, itself, is growing tremendously quickly. Although, rates have slowed considerably, in this recent decade, compared to the prior decade. We're looking at growth rates that are about 10 fold higher than the white community, so this is a community that is going to be becoming a larger percentage of Multnomah county in the years to come. We're looking here at a population with the -- with the community verified counts at just shy of 75,000 members in Multnomah county. So, you have heard this story before, around significant variations with the white community. The magnitude of this illustrated in the chart that follows. And here, we're looking at educational attainment levels, that are significantly lower. At occupations, higher representation in the worse jobs and lower representation in the better jobs. Income levels that are significantly different, and I have a chart for that, a more graphical representation on the following slide, and poverty levels that are in the case of married couple families, three times higher than the white community. And housing being an important feature, home ownership is the place at which most middle class people gather some wealth, build some assets, that allows them to take risks, and embark on things like career changes and moving into, owning one's own business. The asset base of that for this community is significantly lower than for whites. So, here's a slide of very quickly, the annual incomes here, compared to the -- compared to whites, and we're Looking at incomes, though they're not half, in many cases, they are significantly lower, close to a third lower than for whites. There is a bit of a perk in the retirement situation that is mostly because of multi-generational families living together at higher levels than among white communities. So, yet, the myth of parity exists. To the degree to which the community was left off, considerations by Portland public schools and their racial education equity policy, the discourse continues, that this is a community that doesn't need assistance. That is doing quite well, and the national data or understanding of the national data tends to infuse policy responses. So, what's happening at the national level? At the national level, we're seeing that, again, this is just sort of the numbers behind the difference at the national level. Where occupations are, have a better profile than whites. Incomes are better. Higher education presence is higher. Being vulnerable and needing snap, snap supports is lower. And the unemployment level is better. So this is the national story. What is happening here? So, what we're going to take a look is what's happening explicitly now for the api community. And here we see that the local profile of poverty levels is much worse, especially for certain groups where the national data is significantly troubling for the, across the api community here. And you've seen this chart before where we're looking at a comparison of how the api community is doing compared to the national counterparts on incomes. And this is a magnitude we haven't seen the magnitude of difference has not been seen at this levels for any others of our other of the communities. Where we're looking at married couples raising kids, earning about, about \$23,000 a year less than their

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national counterparts. And over on the right-hand side, we've talked about this before, again, where the white community receives this differential perk of having an address in Multnomah county, compared to our national averages. So, again, this is the dynamic of the community here faring very poorly compared to national counterparts, made worse in terms of it being juxtaposed with the perks that exist for the white community. So why doesn't parity exist here? And we looked here at a few different elements around the regional variations, the compositional questions, and we end up with a conclusion that matches other communities of color around pronounced and unfortunately, ongoing issues of institutional racism. So, as you know, we've looked at the comparison with the West -- with Seattle, home to King County. And on every measure we're looking at, and here is a number of those features, we're looking at a significantly worse situation, even within the same region for Multnomah county. So we're looking at worse levels of child poverty, higher rent burdens, lesser access to the management and professional occupations, and significantly less likelihood of being -- of holding a university degree. On the income levels, we compare, we look at what's happening both at Multnomah and King County and compare that with what's happening for the white communities, as well. So, the year-round full-time work is earning, approximately, a quarter less, 25% less than Asians in King County. So, this is not a dynamic that's unique to the West Coast. If it were, it would be equally bad in both regions. We then wondered about composition, which is really where we thought the explanation would land. And so what we're going to look at is -- we would expect that newer arrivals would have a harder chance getting a toehold in this economy and so here's what we're looking at. Our profile here locally is actually, we would expect it to be stronger than the national averages. We have fewer new arrivals, compared to the national level, and we have more native born in the API community. That explanation doesn't hold, therefore. So what -- we would have expected that, if that was a good explanation, a compositional explanation of why the community is struggling. So now, let's look at the composition of refugees. If you look to the totals at the bottom there, on that chart, we see a significantly higher level of refugees in this region compared to the national average. The most variance exists for the Vietnamese community where 27% of the Asian community is from Vietnam, where's only 11% of the national level is from Vietnam. Fortunately, this community has been, is sizable enough to, to then let us get at the next level to see how does the Vietnamese community do here compared to the national profile? And what we have -- here's where we're going to see these, see a more in-depth look for the Vietnamese community. So, here we have some good news, that the Vietnamese community, actually, has lower poverty levels than for Whites, in 2008, and that the poverty level has dropped over that stretch of time. However, while those are poorest Vietnamese are doing fairly well, overall, the community is struggling significantly with annual incomes having dropped. Precipitously between 2000 and 2008, compared to a relative constancy for the white communities, so the Vietnamese situation here locally compared to the U.S. is particularly -- sorry, that last one was not with regards to the U.S. Here is where we compare it with the USA, where we have, excuse me, approximately again a quarter lesser income levels compared to the national level of Vietnamese. So again, something local is happening, even within this relatively vulnerable community compared to its national comparators'. And when we take a look at unemployment rates, we see the same dynamic with almost double the unemployment levels for the Vietnamese compared to their national comparison group in Multnomah county. This really serves as -- it's a very troubling dynamic to be seeing even within a marginalized community that you would expect to not be doing so well that the situation is worse locally than the Vietnamese elsewhere in the nation. Educational attainment, I just draw your attention to the access to higher education. Again, this is the national Vietnamese compared to the local Vietnamese. And the local Vietnamese are significantly facing more challenges in getting into higher education. So, the conclusion being that if the refugee composition were to explain the situation, we would expect, because there are more Vietnamese, we wouldn't expect the differential pattern that we've seen in the last stretch of slides.

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And adding greater concern, is the way that this community is losing a foot hold, economically, in this region, compared to the national Averages. So, by default, we come to the conclusion that there are local dynamics that are happening here for the asian and pacific islander community that is very similar to the dynamics that are happening for other communities of color. And we turn to a focus on institutional races in order to explain what's happening, and to catalyze ideally comprehensive responses to the needs of the api community. The community is significantly challenged by access to decent data. You'll see in the final data chart we get to, there is a, when we break down the experiences of those communities within the overall api designation, when we break down and look at that, we see a ton of data we just cannot get. It is particularly troubling, the diversity of this community is substantial, diversities in language, diversities in refugee status, and you'll see diversities in life experiences, and in ability to navigate most of our systems and institutions. And so, there is a real pressing need to fill in those gaps, to press forward with insuring that we look at a disaggregation of the api community as far as is feasible to take us. We also have a need to push back. We were able to get really good data from the 2000 census. The decision to drop the long form in 2010 has been particularly devastating. The levels of data that we have Will never again be possible. Unless we oversample with that community, and unless in 2020, there is a plan to bring back the long form, but the problem is, when you do a survey, the numbers get too small. We can remedy that in a lot of our local institutions, and you'll see in the next few slides, that we're able to do that by language, within our school board data, but it's of particular concern to this community, we want to be able to track how well high priority communities end up moving over the next few years to ensure that we're seeing positive progress. But our concern about the quality of data really needs to get remedied.

Saltzman: Can I ask a question, professor? Are chinese and koreans included in asian and pacific islands?

Curry-Stevens: Yes, they are. You'll see that there are some communities that are doing better than others, and we'll move to that very quickly. There's quite a variation. So, we do have – we've added a few extra pieces of data here to show the magnitude, but I'll move through those more quickly than others to really emphasize what's new, especially at the disaggregation level. So here we have linguistic isolation. There is an urgent need to bring improved and accessible language training programs to help more immigrant and refugee communities be able, build skills and communicating in english. We have linguistic isolation means that nobody under -- over the age of 14 in ones family speaks english. In a way that one can be -- can communicate outside one's own community. And so, we see the tie in vietnamese, and the tongan and the Indonesian and the chinese being deeply challenged in this area. So, it certainly should give us some -- some direction to strategic investments so that language programs can help people navigate systems, and also, have greater respects in higher education, in education and also in employment.

Fish: Have you -- I was, professor, I was a teacher for a day recently in cully elementary school, and one of the things that struck me was the number of children in the classroom who did not have basic english skills. And we were doing math problems, and people didn't have--and these were kids who were coming in and out of the program. So, you talk about linguistic challenges, or isolation, to me, that could be a primary reason for a lot of things, not just a category, and yet you don't link that up earlier in your causality piece. Why is that?

Curry-Stevens: There isn't a reason to believe that the language attainments of the vietnamese community would be different here than on the national level. We also weren't able to look at that element, numerically, but it would be hard to imagine that, for example, the vietnamese community is more linguistically challenged.

Fish: Is that because we don't have good data one way or another?

Curry: I think the community narrative would be able to confirm that, and it's an interesting question that would bear some looking at.

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Fish: I only state it because watching the, watching the children in the classroom, the kids that, did not have english skills, were not following what was going on. And I can't imagine that gets better unless that's remedied, and so I would think that that's a pretty significant factor, that we can identify. Be interesting to know how we do relate nationally. The other question I just wanted to ask you, and I don't mean to interrupt your stream of thought, but a lot of the events I go to with my wife with members of this community, I'm struck by how many people at the event do not live in Portland but live in tight knit communities in the metropolitan area. Have you compared any of -- is there -- have you done any research to look at metro conditions versus Portland or Multnomah county and also, whether there is any correlation between how developed a community is, and how tight knit, and the sort of settlement patterns to, to impacts because again, Cambodian New Years Eve -- just -- I follow polo to events, frequently, I meet people who are from well established communities in beaverton and tigard and other places in Portland. And i'm struck by -- these are mature, you know, settlement patterns with family members creating community, community in turn supports people, and I wonder to what extent that is a factor?

Curry-Stevens: I would -- We haven't been able to look at that. It would take another significant initiative to understand the metro-wide data and to gain access to it. We haven't looked at that. Certainly, the ability of, especially established communities, to protect community members, to serve, to reinforce resilience, to reinforce a sense of belonging, as a protective factor against stress, and wellbeing, those are all really important pieces to help develop. In terms of how we could generate a stronger community identity, is an important policy matter, especially in land use planning issues and development issues.

Fish: Thank you.

Curry-Stevens: If we look at educational attainment levels, this is one of the places at the aggregate level where the differences are quite pronounced. Especially in the history of one's likelihood to have not completed high school. Our next slide here is the first time we have taken school board data and pulled it apart by language. We don't -- this is the best understanding of what's happening. At our school boards, in terms of how different parts of our community are doing. This is the number of -- this is the measure of the achievement gap, those students that have met or exceeded benchmarks in the Oaks testing scores. And as you can see, there is a huge variation from the high level in the japanese community at 95%, to a disastrous level of 0% in the koran community. What that means is that none of the kids in the Koran community have met or exceeded testing scores, in reading and literature.

Saltzman: Karen community?

Curry-Stevens: Yes.

Saltzman: Not Korean?

Curry-Stevens: No. The Karen community.

Schumann: Burmese, it's a Burmese group.

Saltzman: Burmese? Ok.

Curry-Stevens: So, this certainly gives us some pause, some contemplation around where our investments are most needed, which are the communities that are struggling most deeply, and can give us a sense of priorities for focused attention. We then took an average of the math and reading scores, in the communities, and rank ordered them in terms of how they're performing in our school boards. And we're looking at a significantly large number, are below the white community level, and it gives us a sense, both in the pacific islander communities, which are the ones that are bolded, as well as the asian-based communities in terms of again where our priorities rest. Cohort graduation rates, if you know the current data, we have some -- we have positive signs that the asian and pacific islander community today is performing better than the white community. Of concern is that this is a level that has dropped from 2009 to 2010, and we need to make sure that trend reverses. High school graduation rates, i'm just going to do a very quick time check. Ok. I'm going

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to move very quickly through these slides and get to some additional new data, so just to say what we have here, high school graduation rates are, are better than white, or graduates who are intending to enter higher education, are doing better than the white community, the pattern is a little troubling, that we're seeing a leveling off, and perhaps a dropping while the choral at white community is increasing its hold and intentions to move into higher education. Mount hood community college, the level of asians in that -- in technical degrees, being able to successfully get through, is on the decline, which is troubling, you may know that health insurance is stronger for the api community than for whites, but look at how tight that magnitude of difference is, so this is Oregonians without health insurance, and this gap is narrowing, and in all likelihood may invert again. In the health arena, low birth weight babies is a particular concern and a particularly troubling trend. There is some worsening of health outcomes for infants. Civic engagement is steadily improving for the -- in terms of both voter registration and significantly in 2008, in terms of voter turnout at the statewide level. Civic engagement efforts have been pronounced with some of the member organizations of the coalition. And this is some of the fruits of this, in addition to the communities' greater involvement in political issues over time. The city of Portland, full-time employment levels is, has increased since 2009, but has not increased the levels that the community sees as being an appropriate target. And the reminder there is that we continue to have a dynamic with whites holding more than their -- more than our fair share of city jobs, which tend to be better paid, better working conditions, more security. Access to funding from foundations, this is an area where these funds have been publicly subsidized because they are charitable in their, in their, the way they've been handled through the system, of concern, this is an area where dominant discourse really narrows again, the opportunity for the community to get a sense of fair share of charitable dollars where the community is deeply underrepresented in terms of how much foundation funding is available. We turn to the final piece of data, which is the question that the community asked us to respond to, which communities are struggling the most. And so what we end up, and you will see in this next slide, the details of these, but we end up, we looked at an, a range of items where we had a significant amount of data, and we end up with a priority of four pacific islander communities. Of five new and refugee-based communities, of two older refugee-based communities, and a surprise, three more established immigrant communities, we didn't anticipate this kind of breakdown by the feature. We simply looked at the numbers and said, on the basis of this chart you see here, who is struggling the most. We, actually, in the full report have the full data on each of the communities for whom we had any data at all, and you can see all those white spaces means that no data is available for this community. You'll also see, if you look at greater depth, at some of the report information, some of these figures are now ten years old -- or 12 years old because we had to use the 2000 data because it was the most available, that was accessible to us. You'll see that, the choice of some of these communities was simply based on a single point of data, which was that education gap, the meeting the Oaks testing scores. Simply on the very weak performance, the deeply challenged experience on that basis, some of those communities made it into that high priority list. So, the community is not saying every other community is doing fine. But this is the list of priority, for priority attention that the coalition is seeking. I now turn this to, to dr. Pei-ru Wang for discussion of recommendations.

Dr. Pei-ru Wang: Hi. I'm Pei-ru Wang, and from irco asian family center, thanks again for having us here. You just heard a lot of statistics about asian and pacific islander communities in Multnomah county. Behind those numbers, are heart-breaking stories, and day-to-day struggles. We applaud the city's past efforts in helping communities through programs such as the children's levy that funds organizations of color, increasing the city's focus, and increasing the city's focus on equity through the office equity. But we need to do more, and we can do more. We hope the mayor and commissioners will continue your commitment in this areas. When the coalition of community color released its first report, an unsettling profile, we listed policy recommendations. Now, we are

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highlighting policies that are a priority for the asian and pacific islander communities. The four priorities are poverty reduction, social inclusion, and language training, education equity, and the visibility of the entire api community. In the area of poverty reduction, we're asking that the city recognize culturally specific services as the most effective way to serve community of color. We recommend expanding the availability of cultural specific services, as well as limiting mainstream services that claim to serve community of color but don't have the capacity to do so. In the area of social inclusion we are asking the community of color be invited to the decision-making tables as a standard of best policy and program evaluations. Right now these kind of invitations depend on the existence of allies at various levels of government. Policies should include meaningful and authentic community participation and consultation with the intention to develop civic leadership in the community of color. In the area of education equity, the data shows that in academic achievement, many api communities are struggling. Those communities need comprehensive and intensive supports. We support the city's commitment through the mayor's office to the cradle to career collaborative, that is focused on eliminating racial and ethnic educational disparities. We ask the city continue to be a strong partner in the collaborative. In the area of visibility, of the entire api communities, as you can tell from the data, the api communities are really diverse. Coming from so many different cultures and speaking so many different languages. When there exist no data for our most vulnerable communities, we don't know how the city are serving and how they are being served. We're asking the city to use the -- to use of cultural appropriate data and research practices across the bureaus. Research and data-based reforms are essential to ensure that there is routine and accurate desegregation of the api community. And now i'm turning to you.

Fish: Can I just ask a question on that? You mentioned that the long form is not being used any more, and commissioner kafoury and I were on the complete count committee, working hard on that issue. In the absence of -- and that, we had our own challenges getting people to trust filling out that form and feeling confident that the data would be protected. Do you have a suggestion about how we can collect what the City's role might be in collecting better data?

Curry-Stevens: At one level we need for intake forms to include stronger options for self identification by one specific community. So, the coalition has been working on an alternative proposal for how to support more expansive racial identification. Sometimes we have stronger identification, but then those get aggregated by the administrators of the data bases, so that's an important piece to look at as well. We have, we are inviting somebody to sit on the, the expert panel to review the counts, who is from the census bureau, and we began, we -- were at the very early stages of also asking them if they can oversample in the american community survey, in a way that might give us stronger data at the local level.

Lee Po Cha: Mayors and city council, I just would like to take this opportunity to really thank you for your leaderships and giving us the support to make this crucial research and demographic data study done. I know that way back, we came to you and asked for your support for this great research project, and which now you see the result of all of this data. I know that there are many areas that, you know, we are not so proud of to know, but at least, we know the reality of our, of our regions, and in particular, our citizens of, you know, our cities and our county, and so with that, you know, I just really wanted to let you know that, as city leaders, you have moved in the right directions with community of color. That, you know, at the end, I am hoping, that hopefully three to five years from now, we'll be able to come back and say that we have made progress in certain area. It doesn't matter what communities or what color of our citizens, we as Americans have made great strides and great improvement in our region. And so, again, on behalf of the coalitions of community of color and the api community, I just really would like to take this opportunity to thank you for your leaderships and giving us the opportunity to work with you. So thank you.

Adams: Thank you. Thank you all very much. We appreciate it. How many people have signed up? Or did you have a question?

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Saltzman: Yeah, just one question, I guess. When you presented the table, I guess, it's on page 196 of your report, that had a very thorough listing of all the asian pacific island, islander communities, and problems, and their achievement. I guess, i'm looking for sort of a gang involvement overlay, on that. Which of these communities have gang involvement? And, I am looking at lee, he could probably answer that off the top his head.

Cha: Commissioner Saltzman, I think that's a very good questions, and that is still a very crucial issues of great concern to the asian pacific islander Community. I think, indeed, working very closely with the law enforcement bureau, our police bureau, we know that asian pacific islander gang violence is still an issue, that we continue to battle, and so just a little bit of a perspective, a historical, you know, point on that, is that, if you look at it, in the '80s and maybe the '90s, we are really looking at africa american gangs and asian gangs are the most, you know, dominant gang violence in our town, but today, there's a little bit of a trends. I think you can say that maybe with all the hard work that we have done, even though asian gangs are violence may not have been on top of the list, but it does not mean that we are definitely have addressed this issue 100%. Currently right now, I think our african-americans our latino, you know, youth gang are the more concern today. And even if you look at the, you know, other representation of minority youth in the system, those still are very reflective of the latino, and our african-american and next is asians, and so to say that we have made some progress in the asian community, when it comes to that may we can claim that credit, but at the same time, you know, we're not yet to say that, that issue is not completely gone. So --

Saltzman: And I guess what i'm trying to get at, and I appreciate what you are saying, but which of these communities have the gang involvement? I mean, I would imagine there's issues in the Hmong community, Perhaps, gang involvement in the hmong community, or there has been in the past. But probably not in the nepoli community is what I'm guessing. And I was just wondering if, you know like if there was a little column that said propensity for gang involvement.

Cha: So we can go in that route if you want to identify and call out like that, I can also share with you, I mean certainly the Vietnamese community, the hmong, the Lao, the laotians, the Bien, the cambodian, the chinese, the filipino, and so I think these are some of the well-known gang involvement kids that we know of. One thing that I try to avoid is just to not really call out any communities, so that way they cannot you know look at them with any sort of negative connotation. That's what I am trying to avoid.

Saltzman: Yea, I'm not trying to imply a negative connotation either. I just think it's an important piece of information for us to be cognizant of as we're trying to --

Cha: That's a good point.

Saltzman: -- you know, improve the outcomes for Asian Pacific Islander community. We know that gang involvement can not only lead to horrendous circumstances of, you know, death or prison, but it can also certainly affect educational performance, as well. That's why I was asking. So thank you.

Cha: Indeed, indeed. Yes.

Adams: And I would just underscore the success is always fragile. That there's been significant improvement under your watch, commissioner, and with our community partners, and again, it's always fragile, but it is real. The numbers show real success at addressing the issues. So, thank you to all involved. Thank you.

Cha: Thank you, mayor.

Adams: Thank you all very much. And how many people signed up?

Moore-Love: No one else signed up.

Adams: Ok. Then please call the vote on accepting, or i'll take a motion to accept the report.

Fish: So moved.

Saltzman: Second.

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Adams: It's been moved and seconded. Please call the vote on the motion to accept the report.

Fritz: Well once again, thank you all for being here today, including some of our young folks from apano, and thank you for doing this report. It is, indeed, unsettling, and we need to be unsettled. It was clear to me in 2009 with the state of black oregon report it became even more clear with the communities of color report in 2010, that we collectively in Portland have a problem. And that's why the mayor and I have been working with the community over the past year to figure out what the office of equity and human rights should be and how it's going to start functioning. Which it will by the middle of march, have a new director in place, and we will be able to move forward with the community and the government working together, which is key to solving some of these challenges. I'm so amazed by -- when I go around in the community, people say well, \$525,000, that's a lot of money. Why didn't you fill the potholes with that money? And it's true that \$525,000 is a lot of money, and also that, when we look at the magnitude of some of these inequities, it's going to be very challenging to make meaningful progress in the time frame that's needed because let's remember, we're talking about real people here. The report has bar charts and statistics. And each one of those statistics is made up of individual children, families, communities, and we need to recognize the urgency of this challenge that we all face, and it's a challenge for all of us. No matter what our ethnicity or background or the challenges that each one of us face, we're all in this together, and we have to make changes so that our whole community works together and prospers together. I really appreciate the partnership of folks in the community who are willing to suspended disbelief that government can be part of the problem, it can also be part of the solution. And many of the immigrant and refugee communities come from places where the government was definitely part of the problem, and never a part of the solution. So, we have that challenge to overcome, as well. And that's a feeling sometimes shared by a lot of folks who have lived here for a long time. And so, the challenges are huge, but the will to succeed is also immense, and the partnerships are growing. We will succeed. We cannot fail. Aye.

Fish: Well thank you for another outstanding report. With good data, we can start to put in place new policies to address the challenge. Next wednesday, the parks bureau has set aside with the parks board a two-hour block to talk about its equity agenda. I got a draft report recently from Daniel Ledezma, in charge of equity programs at the housing bureau, we have an equity business plan that we've developed with the community, which again, starts with the data that has been developed, and starts talking about solutions and specific changes in policy. We have to go through this exercise of documenting first. But the rubber hits the road when we start changing our policies to address the solutions, and I appreciate particularly the focus on solutions and proposed ideas for how we move past the problem to begin to welcome more people into the circle of opportunity in our community. So, thank you for your outstanding work. Aye.

Saltzman: Again, thank you for the report. I think that it is puzzling. I think it's puzzling still that asian pacific islanders are doing worse in Portland than they are nation-wide. And i'm not sure -- and I appreciate the analysis that was gone through to try to identify other factors. And then the final factor that seems to emerge is, institutional racism. I'm just not sure, I think there's something else here, and i'm just not sure what it is. And institutional racism to me is just sort of the, you know, the default statement, we cannot figure out anything else, therefore, it's institutional racism. I'm not sure that's what's at work here, although the analysis does certainly provoke a lot more questions and a lot of data to look at, but I think the bottom line is that, is that we, like other communities of color, we need to work more for inclusion, participation, and to make sure that the needs of this community is met through a variety of things, the city, county, are involved in, and I think yeah, including, you know, the composition of our own employees too. I think that was pointed out, as well. So, it's good work. Good information. And thank you. Aye.

Leonard: I, too, appreciate the thoroughness of the report, and I -- for myself, since i've been here, when given the opportunity to hire people of color, sexual minorities or women, all other things

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being equal, I hire them. And I say that to people often. If you want to increase the number of women and minorities and people of sexual orientation then hire more women, minorities, and people of sexual orientation, and in ten years that has served me and I think the community well, and I would offer that simple recommendation to my successors and my colleagues here. I think we do have a lot of work to do. I would disagree with Commissioner Saltzman. I do think that people in the majority have a, almost subconscious reaction to people that don't look and talk like they do. Having grown up in a community of color, I think I was more attuned and sensitive to that than others of my race. And I think that it's an issue that we still struggle with. I don't think people intentionally make conscious decisions to discriminate, but I do think subconsciously, people react in ways that they'd be surprised if they were outside of themselves looking back, that they were behaving in such a manner, so I do think that we have a lot of work to do, and I appreciate this helping us focusing our attention. Aye.

Adams: Well, I want to thank commissioner amanda Fritz for your leadership, on this issue, and I think that the hiring process that you went through, yielded some amazing choices to choose from for leadership. And, that the leader that you've chosen to lead this office is just a great pick. So, I look forward to having him in the community. I found it really useful to sort of take in, for myself and reasonable people can disagree and have other points of view, but I've profoundly come to understand, when I ran for Mayor and wanted to make an impact on this issue, knowing that I'd been part of the institution for a long time, I went through some consultation and talked to others about, you know, what worked and what didn't work. And one of the things that was missing is a basis of fact. And that's been more than being fulfilled with the work -- the peace we saw today and the earlier work from the coalition of the communities of color, we got the native american report, we'll get the other reports, the state of black Oregon. And after sort of spending time and digesting that, I realized that part of my definition of institutional racism was the fact that we had a lot of fact-based accountable comprehensive and coherent strategies for a lot of things in this city, and that when this city takes that approach, kind of geeky, not necessarily sexy, but takes that approach, whether it's recycling or smart transportation, you know, that we get results. And the fact that we didn't have a comprehensive coherent and accountable strategy, or a, organizational focus that was effective in city government, to work with other governments in the private sector and everyone else in the city, the fact that we were missing that was institutional racism. Not out of malice, but by omission. So, that's a lesson that I have learned, and it starts with this sort of basis of fact. And then putting the strategies together, that some things will work and some things won't work, but with the office of equity, the effort will continue, and it'll continuously improve, and we will continuously perfect. We'll make fact-based decisions until we get to where we need to be, which is the city that offers the most equal of opportunities, that a city that shows others what it means to be to be a city of equity. So I really appreciate your work and I want everyone else who hasn't been here before to know how grateful we are for you to be here. And how committed we are to this work. And for those that are running to fill our seats, ask them the tough questions, because we'll need them to be just as enthusiastic about it. Thank you. Aye. [gavel pounded]

That gets us to the regular agenda. You are welcome to get up and leave if you wouldn't mind doing so quietly until you hit the door, and then you can scream as much as you want. Can you please read item, regular agenda emergency ordinance 200?

Item 200.

Adams: Well this has been an effort that I've worked on with commissioner dan Saltzman, and the county, and including county chair jeff cogan and Multnomah county commissioner Diane mckeel. It's been a, a great labor of focusing on a very difficult thing for people to accept. It's either to deny that this is an issue in the city, and then it is to truly accept it and invest in stopping it, so janus youth programs, the sexual assault resource center, the commercial sexual exploitation of children committee, the Portland police bureau, we've been working hard to protect victims of human

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trafficking for those who sexually exploit them for financial gain, by providing shelter, a secured shelter and providing services. The grant, the approval for this grant was provided in the cities last budget cycle, however the grantee had carryover funds from the last grant because you are so frugal. To conduct it's important appreciated work and our office has been working with the grantee to recalculate its needs since then, which has resulted in a grant for \$113,377.71 rather than the 150,000 allocated in the budget. And I want you both to know how much I appreciate your work at leveraging these resources, and working with our partners at Multnomah county to really put together in very short order something that we've needed for a long time. Is there something that you want to say by introduction?

Saltzman: No, that's very impressive that we're, actually, you are actually asking for less money than we originally appropriated. But, you know, I really appreciate the work that Janus youth is doing in providing this very necessary shelter for primarily young women. And the case management that is so important to their ability to get out of the lifestyle of prostitution, and actually stay out of it. And I assume you are going to give us a little update, so --

Dennis Morrow: Great. Yea so, Dennis Morrow, executive director Janis youth programs And Kevin Donegan is our program director for our runaway and homeless youth services who oversees the shelter. We're just here to answer questions you may have. The a quick -- actually do you want to -- we do have some data for you we can leave with you, but I want to first say the council item says Janus youth grant, and it really isn't a Janus youth grant, it really is a Multnomah county city of Portland community grant. Janus was selected in July of 2010 to put together with the community to facilitate the creation of a plan under working with the county. And we remain the agency that is responsible for coordinating the services that are being delivered, but this is a wide array of services that as you mentioned includes the sexual assault resource center but also includes a very close relationship with Life Works Northwest, a very close relationship with the state child welfare, DHS and Multnomah county has set up an identified team just to work with these girls. That's happened nowhere in the country that we know of. The Portland police bureau has an identified team that help -- that has not happened, not in other places. We had a national conference in Portland I believe it was in November, with over 700 representatives from programs like ours that are funded by the federal government around the country. We took the top feds on a tour of the continuum in the shelter and said to them, do you see this anywhere else, and they said no, but we need you to come help start it somewhere else,

Adams: Wow.

Morrow: so we're really excited because this is a piece and it's the city's investment, but it's crucial because the first step to getting girls off of the street is a safe place to take them, and what we can tell you is basically, you look at these numbers, you'll see in the first eight months of this year we've had 64 episodes, that's 41 girls, mostly girls, because as we knew from the beginning, they are multiple episode kids. We're basically averaging about eight to ten per month. I looked at the annual figure for this year, in December, and we had had 78 girls through the system at that point. I think the thing that really jumps out every time I look at these numbers and it's been repeated every single time is over half of those girls are under age 15. And a half to two thirds of those are kids of color. You just heard a report from the communities of color, and this is definitely a disproportionate issue that's affecting these communities, which is why the services are so crucial. So, our job is to get them off of the street, provide the safety, we get them hooked up with SARC, you'll see a number of girls that leave on unplanned exits, that's part of the plan, as we know they are going to do that, but I always look at the second piece of data, which is every girl who was in the program, left with a SARC advocate so if they are there even for a day and we can get that connection made, then that advocate is with them for as many years as it's going to take, and if you look at the data beyond that, you'll see that SARC is making hundreds of contacts and massive amounts of hours that they're spending with these girls every month, based on the advocacy you are

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providing for them. So we're -- I always say this is a place where I am proud to be a part of a group like this, in a Community like this, addressing this and I am really sad and angry at some point that we even have to still do this. But the fact is we're doing it, other places aren't. And the city's investment is crucial. Also, last piece, that your investment, leverages back into the county system because Multnomah county then used money to fund a long-term shelter, which we opened december of this past year, so that when the girls leave this program, or come in from other places and they need a stable living environment, we now have a seven bed residential program, so by the city stepping up and taking the emergency shelter piece on, that allowed the county to come in with this resource and do the long-term. And they actually have about 300 to 350,000 in -- on their match on this as well. So, I think it's an inter -- institutional partnership here that's working really well.

Saltzman: So the long-term shelter started in --

Morrow: December just last year. Yea, three months ago.

Saltzman: And how many, seven beds?

Morrow: Seven beds, right. We don't know --

Saltzman: Is that Janus, are you providing that too?

Morrow: Yes, yeah. And actually we opened that so fast that we had staff hired and we were ready to open before the fingerprints cleared in Salem, so we had to delay the opening until the system caught up with us, but yea, we've got kids coming into that as we speak.

Fritz: Could you talk to me some more about the follow-up, with more than half of the girls leaving unplanned, what is the follow-up?

Kevin Donegan: The deal, that's the, the design of the system with involving sarc in that process because these girls, they a very difficult population to work with. And they end up feeling more comfortable on the street and back with their pimp, and so we make that connection with SARC so that way those individuals have 24-hour access to these children, and they call them on a regular basis, and they work with these kids to get them back in shelter. As Dennis said, we have seen a total of about 41 unduplicated kids this year with duplication being 64, so a high number of those kids have come back through our facility, time and time again.

Fritz: So for the 23 that are left, do we have statistics on how they respond to the follow-up? Do they stay connected with their sarc?

Donegan: They do. They do. They stay strongly connected to their SARC advocate. And their advocate on a regular basis, they are called out 24-7 into areas and other and they routinely, every day, if not every other day, are transporting girls back to us, and they may not enter a shelter. This number is just for young girls that have entered shelter. They may bring them back for some immediate assistance, it might be medical care, counseling, crisis intervention, meeting with a police officer and our agency.

Fritz: It'll take more time to see what the long term outcomes are.

Donegan: It -- yes, yes. This is a, like I said, this is a very difficult population to work with. You probably read the sunday Oregonian there was a large article in there about a pimp being prosecuted. And extensive information in there -- I included the article in this packet of the connection that these young children have with their pitch. And I know a lot of us don't understand that relationship but for a child that's an important relationship at that point in time and it's difficult to break through that.

Fritz: Right. And I appreciate you using the word, child, and I specifically used the word girl rather than young woman as they are 13 years old.

Donegan: Yeah, yeah.

Morrow: Yes. And the sarc philosophy is once they open a case, it's open forever, so they have cases that go back three plus years. So, and this is the way the system was designed in our initial planning to go three years or more. So basically, as long as it takes to stay with the girl, but, also, to

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accommodate multiple episodes because we know they are going to be in the shelter, be safe for a period of time, they're gonna run back to the pimp, they're going to go to las vegas, and disappear for six months, they show back up, sarc networks with other agencies around the country that even help transport the girls safely from here to there or from there to here when that happens, but the basic concept is we're not going to shame or blame you. A traditional program you get into trouble when you leave, this program's the assumption is you're going to be safe when you come back, and our goal is to keep offering more and more safety, and hopefully that stay extends and they finally bite into something that will work with them.

Fritz: And establishing that personal relationship with the particular girl.

Morrow: That is the key thing, and that's why that – and that's also why if you see with the child welfare, almost all of these girls, virtually -- universally, when they cross case loads, child welfare will have a case on all of these kids at some point, well they've established their own unit, again, which is unique nationally, but that means if a girl leaves Oregon, comes back three months, six months, a year later she's going to – the same thing, find the same welfare worker, so she's not going to get a new case worker, a new intake and start the whole system blind all over, so we're trying as much as possible to have them come back to always the same shelter, same sarc worker, same child welfare worker, they see the same police officers on the street. We work really closely with the police on this stuff, and I think that's going to be long-term, the success of the system, because if we can get them building trust with somebody.

Adams: And I have to admit when we first started talking about this particular approach, it sort of -- your heart is in your throat with the notion that you develop a system that isn't based on a -- efforts of the past where you lock girls up. Until they become adults. And then, you know, even if you can, and then expect that somehow magically it's all taken care of. And so you convinced me it is -- that approach doesn't work, and this approach does. Especially given the modest resources we have to devote to it. And especially that last part where they and or their pimp can leave the state. And do all the time, and that there is really, trying to win over the heart and the mind of, of the victim.

Morrow: Yea. One of the things that we see, we're unique in that we operate in Washington also, and we have the only emergency shelters in SW Washington until you hit tacoma, so that entire six county region, and we have seen over the past year, an increase in the number of girls that we're taking in. We have 27 girls in vancouver shelters that were self identified as being sex traffic, but what we're beginning to hear anecdotally is the pimps are now moving their kids over to that side of the river because Portland has such a sophisticated system for identifying and supporting them, so we're trying to get similar. We have no resources in vancouver outside of our shelters at this point. But we're really advocating in that community just like we have to keep the laws equal, we also need to get some resources over there because we don't want to make it easier to be in one place or the other, but it does tell you something is happening because the pimps see this as a business, and it means at least at some level their business is getting interfered with, so we're doing something right on that level. But we need to have a regional approach on this. This is just like the bridge. We've gotta have, if we don't take care of both sides of it they just run back and forth.

Adams: And the police chief and I gathered together with the mayors up and down i-5 and i84, and police chiefs, all -- we had representation all the way to vancouver, british columbia, the mayor of seattle was here, the mayor of vancouver, Washington, was here to put together that sort of big regional approach. We got a ways to go, but it's on our radar screen and we're working on it.

Fish: Mayor, do we have staff here today?

Adams: From --

Fish: staffing this -- Do we have the grant manager here just to ask some questions?

Donegan: I work through ann marie.

Adams: Yes.

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Fish: I had a couple questions about the ordinance. I don't know if it goes to these gentlemen or whoever.

Adams: Let me see if I can answer them or we'll bring in certified smart people, and -- or maybe our friends from the county can, because you also manage this with us.

Fish: There's just some word smithing in the ordinance that I don't understand. It says that, in paragraph 6, an additional \$113,000 in funding is necessary. And it goes on to say, that it's an emergency because they, because to act between budget cycles, because of the, of the problem, and I don't -- i'm just having -- I don't understand why -- why is this an additional allocation if the ordinance also says we've already appropriated this?

Adams: I think that's the boiler plate language that we use when the amount is different than what was budgeted, in this case, less. This was in the last adopted budget for the city so it's not it's not --

Fish: It's not new money. It's less.

Adams: Right.

Fish: And then -- so, what's the total amount we will -- we had a prior resolution, three, six, eight, two, four, where we dedicated \$285,000 to the shelter.

Donegan: Right.

Fish: What's been the total amount we're spending on operations?

Donegan: On a yearly basis it's going to be about \$247,000. The additional amount, that 40,000 plus, was for some facility and structural upgrades for safety reasons around our shelter with surveillance systems and things like that. But the ongoing cost for the sarc advocates, the additional overnight staff at janus, and some transportation and cell phone costs in there along with benefits and stuff like that is about \$247,000, on an annual basis.

Fish: So according to the grant agreement, it looks like that you will likely be making a request for 1213 for continued funding, is that correct?

Donegan: Yes.

Morrow: Correct. Right.

Fish: And so--

Adams: I will be.

Fish: As we do that, what will be, I think important for us is to have a sense of what do you project as the -- what are your goals for the next fiscal year, number of people you're going to serve and outcomes? And then we can compare that with how we've done in year one, and have a sense -- because this is, this has a different project management component than how we do our other shelter services that are administered through the housing bureau. So could we get some data, along those lines, both the sort of clearer sense of how your one is gone and what your targets are for year two so we can have that date as we deliberate?

Donegan: Yes, yea, and we will have the data now. The first time through we were literally shooting in the dark because this had never been done and we don't have any baseline to operate from, but we're creating that baseline, and I think --

Adams: And I think, if you're willing commissioner, to have this appropriated and managed by the housing bureau, or the police bureau, either one, would be great.

Fish: We would be happy to bring and we -- we administer all the other grants I guess for shelter services. Dennis I just -- I mean I can't -- I'd be remiss if I didn't -- we didn't use this opportunity of knowledge that, particularly with mary here, that, you know, as we talk about who does what, county and city, it's discussions like this that that significant -- I mean, that I think, highlight that the old resolution a, division of labor, no longer has currency. I mean in a perfect world we would say okay what does resolution a say we do and what does the county do, and we'd say, okay do just what you are supposed to do. And we don't live in a perfect world, and with the color of money, with the cuts, with the growing need, the only way we're going to address this problem is by city

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and county working together, but then when we do that, we're told by auditors and editorial boards that we've strayed from resolution a, and I guess I know the mayor agrees with this, but I think it – I think this really begs the question, let's go back and take a look at resolution a. There may be some things that the city should take on entirely. And there may be a different allocation of work, but increasingly the reality is that we -- it's both. We jointly fund, and I -- when you look at the, the old bifurcation, it just doesn't make a lot of sense, and why stand on ceremony when the question is what's the need, and how do you Fund it, versus what is an old document tell us should be the allocation of resources?

Morrow: Yes, and I think the intersection, because we sit at the cusp of most of those intersections with city and county, is around these emergency and housing services, and I think – yea, I'm definitely with you that, that the theory and the reality is two different worlds, and if you didn't have both city and county working together, you would not be able to either get the resources or get the planning or get the support because again, this is not just county, this is also police. If the police bureau is not locked into this, as a partner, it's not going to happen so --

Fish: Well and I guess the other piece of it is the people we serve could care less who is funding it, what they care about is that we're making progress towards solving the problem.

Morrow: Yea.

Fish: And I don't – I've never had someone stop me in the street and say why are you funding a county responsibility. They complain about the libraries, and I always – no kidding. [laughter] Whenever they complain about things outside of mine I'm perfectly happy to send them to commissioner Leonard's office, but I think the public expects us to work together to solve these problems, and I -- it just adds -- adds another level of urgency to go back and take a look at those resolution A lines.

Adams: I think you'll be pleased with -- in about 45 days we'll be ready to have that very discussion. Chair Cogan and I have been working on something for our groups to -- the boards and council to consider. The other thing, along those lines, is as the council knows, but to those listening is, we've got joint budgeting going on and public safety, that goes even beyond the county and including tri-met and the port and other public safety folks that do public safety in the 146 square miles of the boundary of Portland. We're doing the same in transportation, and economic development and job creation. So, I think your points are right on, right on point.

Fish: You could add, I think, housing to that. Since effectively what we're doing now on homeless services is tracking a unitary stream of dollars and then figuring out how we allocate them, but it's maybe not as formalized so thank you.

Adams: Commissioner Saltzman.

Saltzman: Yea, and I would just parenthetically add on the children's levy allocation committee, is a standing seat for a county commissioner. So you mentioned most of the women, girls, have child welfare involvement. Does that mean they're in foster care when they arrive, technically, in foster care?

Donegan: They may not be in the state's custody, but the state is aware of the child and the child may have been in custody in previous years, but may not be currently. I would have to go back and look through to see how many are actively in foster care. If I had to make an estimate I would probably say about half are in foster care, where the state has custody of them. The other half, the state knows about them. They've had child abuse reports on them, they've had incident reports taken on them, but they may not be in the custody of the state.

Saltzman: And child welfare workers are integrally involved in services, service planning?

Donegan: They are. Dhs created a division within Multnomah county specific to the see sarc population, and those workers operate on a little bit different of a standard. Those case workers then, a typical dhs case worker where they're called out outside of the 9:00 to 5:00 hours, they make regular visits with these youth, if youth come into our facility. The dhs worker makes it a

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point to come down there and make contact with this young person because they understand that relationship is so important.

Saltzman: Okay, so there is no arms length. You can't – you have to stay outside. I'm literally speaking?

Morrow: No.

Saltzman: I know some of the youth shelters have sort of that relationship with the police. You know, you can't come in the shelter but --

Donegan: Our office is, any given time during the day, there will be sarc advocates in there, dhs workers in there, police officers in there. It's really a, a community combination, and a hub where people can come and meet with these youth when they're in shelter.

Saltzman: And my final question, and you can do this in an email to me too, i'm just curious what kind of stuff you ask upon intake, and maybe you can email me an intake form or something?

Donegan: Sure.

Adams: Sort of why they're there and how they got there.

Saltzman: Yea, I'm just curious what information you ask, you know, medical information, things like that. So I assume you have a form?

Donegan: Oh, yes. I can provide you that information. And I do want to add one –

Adams: Mary, could you come up just a sec?

Donegan: -- one little thing here with the police bureau. I saw on the news last night a meeting that occurred, a community meeting, I cannot say enough wonderful things about the police bureau and how they react with this population. They are committed, concerned, if we need to call, which is not uncommon, for police intervention, there are multiple officers there, and they work closely with our staff and they're truly phenomenal in the work that they do with this population.

Adams: So I – I think it's important -- the larger dialogue outside of this room, has included newspaper stories that question whether this was really a problem at all, in the city. And – so I wanted to – and we didn't have, we had much less -- we weren't as coordinated before. So the verifiable data wasn't there for us to say to the reporter or others, you're wrong. But now that we have some experience with this, I would like to hear your point of view because we have competition for money, a lot of competition for money, and this is a horrible crime. But, there is a lots of horrible things going on out there. Is juvenile sex trafficking commercial exploitation, is it a real problem in the city? Is this a worthy investment for the city council, and the county board?

Mary Li: Mary li, Multnomah county, you know, I can't make a comment on where does this sit in the priority list of everything else. And you know that we work very closely with commissioner Fish's bureau and a number of your bureaus on issues of concern, I think it comes down to frankly, a self reflection on each one of our parts, whether we're in an elected office or within the bureaucracy or in the community about how we would define the common good in this community, and are we a community that says for however many girls who are experiencing this kind of abuse, we say no, we say we will respond, we say we will put the resources forward that is necessary to help protect and heal and serve this population, or are we a community that accepts it as a daily fact of life? And I think there are a number of questions that go to what is our definition of the common good and how do we define ourselves as a community in terms of, you know, who we care for, how we respond and, what we stand for. This issue, I believe, is one of them. And again, as you see, in, you know, come back to your comments earlier, mayor, about verifiable facts, we know on an intuitive level what is happening here. The workers in these organizations and everyone involved in the system know what is happening. At an intuitive level, the more we look, the more we learn, the better data we get. And we will, you know, in the end, come forward with this data, but the lack of data shouldn't prevent our action on this for what we know to be true and what we want to say about ourselves and the common good.

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Adams: So is it, in your professional opinion based on the early data, is this a problem in the city?

Li: Absolutely. Absolutely, 100%, and I will take a personal aside to say what we're doing here is incredible work and it is based on our relationships that we've learned over many years with the homeless youth system, with the anti-poverty system, with our housing system, but there is another side to this issue that none of us has looked at, and we must, which is the demand side. These girls are not prostituting themselves. There are men with money paying for sex with children. These are men in our community. There's money involved. It is an economic issue. It is demand side issue, and until we as a community, again, are ready to face the demand side, of what's going on here, you eliminate the demand, you eliminate the provision of these children. And we must look at that along with looking at the victim side of it.

Adams: And do you concur, is this a real problem for the city that we should be looking at and, all of us, including the media?

Morrow: Absolutely. I think of it this way, I have a 14 and a 15-year-old daughter. And when they were 13 and 14 we started this program, the average age of recruitment is 12-14. We've had 12-year-old girls in the shelter, in Vancouver we have an 11-year-old girl who was being pimped out by her parents from the age of five, to support their drug habits. Now to me, I am with Mary, as a community, isn't one of those too many? But oftentimes what I get into in public presentations and somebody will say, well is Portland the number two hub, I think they are, I think they aren't and you know what, I'm not arguing about whether we're one or two. If we are on the list, to be arguing about it, there is something wrong. And what we know is 100 girls, virtually 100 girls have gone to our emergency shelter in the last year. And we know that the police will tell you they deal with about an average of at least 200 that they see that are victims are vulnerable, some of these are overlapping, so we know somewhere between 100 and 300, young women, children, are victims, and I think that makes it a community issue. And I don't care if we are number one, two, five or seven. I'd a lot rather be known for our bike paths than our sex trafficking.

Adams: Do you agree?

Donegan: Yea, I would agree, the toll it takes on -- and the interesting thing in this article, the pimp pleaded out the case before it went to the jury's decision, and there was a small paragraph in there that talked about when the judge, when the jury came back and then the judge told them that they were dismissed, the jury was traumatized, and they had to sit with the defender and the prosecutor and everybody else to talk about what's going on here? What happened? And the thing I took away from that is that's my staff every day. Because I walk through our center, just the other day a young girl was taken out of a hotel room naked with an adult man, and she was brought into our office and she looked like she was ten clutching a little teddy bear on the couch, and I see that too often. And it's painful to see.

Adams: Thank you both for -- all of you very much and I also want to, before you leave, to thank the police bureau, who gave one of the, I think, one of the best reports on this issue at our regional summit. That really ratcheted up the priority scale for cities up and down I-5, and east on I-84, I also want to thank the seasons of service and the community of faith who came forward and helped us with cash to help furnish the shelters and help pay for things, that was amazing. The Palau organization, and more. So thank you.

Li: Thank you.

Adams: How many people have signed up?

Moore-Love: No one else signed up.

Adams: Does anyone wish to testify? All right. Can you please call the vote?

Fritz: Well, thank you each one, for being here and thank you, Mayor Adams, for putting this on the regular agenda. Often contracts are done on consent but we need to keep talking about this. As painful as it is, and I truly appreciated your comments about the workers. It must be extremely

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painful to be dealing with this day after day. And I want you to take back that the council cares and that we appreciate the work that the staff are doing, and that each child is doing, whether they are there for one day or keep coming back. That is difficult work, escaping from a life of torture, and slavery. And when you're trying to do it when you are 12 years old, it's not something that we want in our community. Thank you for raising the issue of demand. Having sex with children is wrong. And can we, you know, it seems like it has taken us a while to get around to even that. But indeed, it is. So, I am very proud to be on this council, to be allocating this money. The best practices that are being developed because there are stunningly few facilities like this nation-wide. And so, using the personal based approach of we don't give up. We understand that a child may be in and out and that we provide them with those relationships, that's going to help eventually, and hopefully soon for at least one child today. And in the meanwhile, I agree, thank you to the police office, thank you to the community, patrols that, that help keep our neighborhoods safe. There's a lot of work to do. Thank you for being part of it. Aye.

Fish: I'm pleased to support this matter, and I want to thank publicly dennis Morrow and janus Youth for all the work they do for our city. Providing shelter spaces, outreach to young people on the streets, even a community garden or two, and we appreciate al the very different ways that you help make Portland a better place. And I thank the mayor and commissioner Fritz, for their leadership on this –

Adams: Saltzman.

Fish: -- excuse me, Saltzman. Aye.

Adams: Credit where credit's due.

Saltzman: Well, you are doing great work. And I just, when we talk about the demand side of the equation, I can't help but note in that Sunday Oregonian article, the emergency room physician who lives in the pearl district, who used this woman several times. You know, from what I read in the article, it sounds like he's going to skate because you know, A, he's an emergency room doctor, B, he was totally honest about what he did. And you know, c, i'm sure he has a great attorney. So, you know, it's unfortunate that somebody, because of those three factors can simply skate away from this issue. So, it is appallingly real, and I appreciate all the work you do, and I also wanted to, just particularly thank county commissioner diane mckeel, who's been a leader from, on this issue from the day she took office. And is also, I believe, on the verge of getting a bill through the legislature that will expunge prostitution from young women's records. I was dubious about getting something like this through a february session, a one month session but it passed the house unanimously, so i'm assuming it's going to be on its way to the governor hopefully. So, I want to thank her for all her work, too. Aye.

Leonard: Thank you. Aye.

Adams: I forgot to mention [inaudible] also have been great on this issue and a number of other community-based organizations. In addition to the community of faith a big thanks, and in my office, Antoinette Edwards, clay Neal, Amreet Sandhu and others have been key on helping us, so thanks to them, as well. Proud to vote aye. So passed. That gets us to, can you please read the title for item number 201?

Item 201.

Adams: The police bureau, isn't as plentiful in the crowd today because they're kind of busy. But I'm willing to hold this over, or did folks get an opportunity to get their answers -- the answers they sought?

Leonard: Well the police bureau reminded me I couldn't afford any more traffic tickets, so --

Adams: Oh, okay.

Leonard: I'm prepared to vote for this today.

Adams: Alright.

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Fish: One thing I did learn, I think that if we had someone here at the lectern I would put into the record that there was some testimony last time that, that there was a fund that had been created from restitution, or civil forfeiture funds, excuse me, and had about three quarters of a million dollars, and I think there was some testimony that there was some expenditures from that fund outside of our budget process, which I had an occasion to talk to Jack Graham about, and he assured me that, in fact, funds in that account and like accounts are, indeed, subject to our budget process. That they are – that they may be funds that are unexpected and therefore not forecast, but they are otherwise subject to some kind of oversight, I had a little heart burn I think like some of my colleagues on that ambiguity so the funds this is not just a fund that's set up that could be spent for any reason, it's still subject to our oversight, so I was pleased with that clarification from the budget director and I'm prepared to vote Aye.

Fritz: So Commissioner Leonard, I thought you raised some good questions at the last hearing and my chief of staff has been out for two weeks sick so I haven't been following up on this as much, could you tell me what you understand, because your question was why are we only getting \$15,000, why is the whole position not getting funded?

Leonard: So I did in all seriousness, the police chief did meet with me and addressed for me the concerns I had about dedicating officers to a function that may not allow them to be used in other capacities, and he assured me that would not happen, that if in fact we approved this agreement, yes, we could get up to \$15,000 back in overtime but that these are officers that would work on these issues anyway and other issues, and they actually view it was testified last week, as additional resources that they get from the federal government to help them with investigations they would do anyway and that it actually decreases the amount of staffing they have to dedicate to these kinds of cases. So I was assured that we weren't tying up resources at a time we're going to be cutting from fire and police and 911, and Parks and other general fund bureaus, but that in fact this will help supplement the work that we already do with federal resources. So I greatly appreciate him taking the time to explain that to me, notwithstanding my driving record, and -- [laughter]

Adams: Is it that bad?

Leonard: It's pretty bad.

Adams: Okay.

Leonard: These darned lights, photo lights right out here, I mean --

Adams: Yeah we just got new ones. It's not that we have your license number programmed in. Is there anyone that wishes to testify on this matter? Please call the vote.

Leonard: We've got Dan Handelman.

Adams: Oh. Dan Handelman.

Dan Handelman: Good morning, Mayor Adams and commissioners. I'm Dan Handelman with Portland Cop Watch. I did testify about this last week and I appreciate some of the clarification that came here, but I would like to remind the council that the other issue that we raised was the issue of how is this IRS task force going to be held accountable to the terms of the a resolution that says they're going to follow Oregon laws, the 181 law, so-called, that the joint terrorism task force has to follow. I understand the mayor sort of hinted last week that this task force might be used to go after criminal gang activity so in other words it might be used on a pretext as opposed to perhaps suspicion of actual criminal behavior and --

Adams: That's not what I said.

Handelman: I understand. But that was the hint of what you said.

Adams: No that wasn't the hint of what I said.

Handelman: Okay, I'm sorry Mayor. I thought this was my testimony time. What I understood --

Adams: Not when you testify for me.

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Handelman: I see. Well, I'll just tell you how I interpreted it. And -- in any case, a task force like this could be used to go after people for a pretext reason that has nothing to do with criminal activity, it could have to do with their political, social or religious behavior unless it has some kind of oversight to make sure that doesn't happen. That's what the concern is, and I didn't hear anything here today that says that that kind of oversight is going to happen, so that's -- I'm repeating that testimony.

Adams: Thank you, sir. Alright, Karla, can you please call the vote?

Fritz: Well, I appreciate the input from commissioner Fish and commissioner Leonard, it's evidence of why we have five of us up here all working and thinking and looking out for the good of the public. And I appreciate Mayor Adams for bringing this forward. Aye.

Fish: Aye.

Saltzman: Well, I do appreciate the discussion we had last week and the clarifications that both commissioner Fish and commissioner Leonard have sought over the intervening week. And I do think Dan Handelman does raise some interesting issues about pretext issues, and this certainly isn't the, you know the first time the IRS -- or I shouldn't say this isn't the first -- but I mean -- the IRS in the past has been used as a political tool, particularly during the Vietnam War, with President Nixon, and people in our community were targeted, so I think it's a fair point, but I do have a lot of trust in our police to follow Oregon law and to not be overridden by their participation in this task force. Aye.

Leonard: Aye.

Adams: Well hopefully my clarification of the misanalysis of the testifier was accurately contained in the record. Couldn't be further from the truth or the intention of what this is about. This is an important partnership that we have, and I appreciate the councils digging into it so that they feel assured about all aspects of it, and I appreciate their support. Aye. So approved. Can you please read the title for item number 202?

Item 202.

Adams: Mr. Aebi.

Andrew Aebi: Good morning council members, Karla, and Tracy. I'm Andrew Aebi, local improvement district administrator. Happy leap day. This is a continuation of the item that came before you on January 25th. We received no remonstrance's against lid formation. I do have a correction that I would like council to entertain an amendment for. There is an extraneous sentence in finding number 3, so I just wanted to amend the ordinance to remove the third and final sentence in finding number 3 of the ordinance, and we have some property owners here to speak and then the recommendation is to pass it to a second reading and approval next week.

Fish: Mayor, I move the amended.

Adams: Seconded. It's been moved and seconded, the amendment so voiced by Andrew Aebi. Please call the vote on the amendment.

Fritz: Thank you for your attention to detail. Aye.

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

Adams: Aye. Amendment so approved. Alright, how many people have signed up to testify?

Moore-Love: I had a sign-up sheet, but I don't know if anyone signed up --

Adams: Anyone here to testify? Okay, please call -- oh, this moves to a second reading next week and further consideration by the city council. Can you please read the title and call the vote for item 203?

Item 203.

Fritz: Well thank you to everybody who testified at the first reading and to city staff for working out what I am very pleased with is I think it addresses some of the concerns of the pedestrian advisory committee and Southwest Trails PDX. So it's been a long process for the church and for the community and one that I think has come to a really good outcome. I very much appreciate

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everybody's willingness to be community oriented and to look at the best – the common good as was previously referenced. So thanks to staff as well. Aye.

Fish: Aye.

Saltzman: Well, I appreciate all the work everybody did to get to this point. I want to wish st. Luke well in their capital campaign to improve their facility and make it more welcoming and to serve more people, whether it's meals or faith. So congratulations, and good luck. Aye.

Adams: I want to thank the council president for working on this in my absence at the last meeting. Thank you and other stakeholders for helping to make it happen. I would just underscore what commissioner Saltzman said. Thanks for your continuing service to the community. Aye. So approved. Can you please read the title for item number resolution number 204?

Item 204.

Adams: Commissioner Amanda Fritz.

Fritz: Thank you Mayor. A couple of weeks ago, we had a hearing on the issue of issuing liquor licenses to food carts and one in particular. The council passed a resolution which I then presented to the Oregon liquor control commission two days later, and they indicated their intent to delay. They did not at that point indicate that they were going to do rule making, but that was our request. Subsequently representatives from the Oregon Liquor control commission indicated that they are planning to move forward with a license for cartlandia. So although I think the entire council --

Adams: With guidelines right?

Fritz: Theresa will go into what they are proposing although, for me, it's not particularly about that proposal. It's about the general principle which still stands which is that we should have rule making which are enforceable before any liquor licenses are issued for food carts. So this resolution states that even more clearly and also indicates that we are prepared to go to court, if necessary, to make sure that our citizens are kept safe. And every week I hear from citizens about problems with liquor licenses and liquor establishments, and we are challenged with our budget with potentially losing police officers. There are six – no nine olcc inspectors for the six-county area, which is clearly inadequate, and we feel very strongly about this issue. So with that, i'm going to turn it over to theresa marchetti of the office of Neighborhood Involvement.

Theresa Marchetti, Office of Neighborhood Involvement: Thank you very much Mayor Adams and commissioners, I did -- I'm going to start just by outlining -- we did receive the application for cartlandia in late june of 2011. Their -- our process is through collaboration, the licensing specialist, myself, and the licensing investigator evaluate all new licenses that come into the city of Portland. At that point, the licensing evaluator position was vacant and staff entered as the default recommendation a favorable recommendation, which is statutorily the default. Due to the vacancy and also because the application itself, assumes a structure as the statutes assume a structure, so it was quite ambiguous. Since then, we had several communications with the OLCC and it was indicated that no license would be given to a food cart or food pod structure until an a.g. Opinion was received, and we assumed then that the standard guidelines would be adopted by the olcc based on that opinion. It's been made clear at this point that no standard rules will be applied at least before this application is considered by the olcc, and this resolution recognizes now that we have a different environment in licensing than we had in june and, because of that fact, this license sets a precedent for all other food cart and food cart licenses in the city of Portland. We need those clear guidelines as we discussed on february 8th. They just currently don't exist. Therefore this resolution directs oni and the Portland police bureau to inform the olcc of council's concerns about this application through formal opposition.

Fritz: Can you just go into the difference between rules and guidelines and the restrictions that might be proposed for this particular application?

Marchetti: Absolutely. The guidelines that we received from the Oregon liquor control commission are basically their best practices so what they would suggest that any licensee that was

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coming in with this type of model would follow. It is not enforceable. The cartlandia application in particular has two components to it, they're recommending go forward. One is a voluntary control plan, which is voluntary measures that the licensee would abide by in the operation of the cartlandia license that again are not enforceable but would be what the olcc and the licensee together have collaborated to come up with to mitigate some of the concerns. In addition to that there are several license restrictions, and a restriction is a condition that's put on the license, that's put on the specific license, the violation of which is a category 1 violation. It's a high violation. For that reason, it's very hard to sustain those restrictions, and a licensee can ask for at anytime those restrictions to be lifted, typically we see those restrictions lifted within a year of a license being granted. And at that point, they can be lifted without notice to city council, and they are also often lifted if there are not – if there is no evidence of problems associated with the license premise. So in this situation, if we didn't have any problems at cartlandia, which would be what we wanted, those restrictions could be taken away.

Fish: Can I ask a couple questions? Going back to what you said at the beginning of your testimony, what are you doing now differently at oni so there's no default mechanism that results in a letter issuing with an approval?

Marchetti: Well, the city of Portland forms have changed because of this. The licensing forms call out specifically what type of entity the person's applying to be licensed, whether it's a food cart or a food cart entity as part of the operation, so that has changed at the city of Portland's process.

Fish: Who has to formally sign off just administratively on a yay or a nay within oni on a liquor license application?

Marchetti: That would be me.

Fish: And who – does the director, do you consult with the director, or the commissioner or both when you make that determination?

Marchetti: We consult with the director, and then that is – then we consult with the Portland police bureau, and the official recommendation comes from the Portland police bureau.

Fish: Thank you. Now, the last discussion we had on this, council had some dialogue about the guidelines, and the best practices that you referred to are like that two or three-page document that was furnished to us last time that has some general principles, but I wouldn't call it -- it's not like what we're used to seeing around rule making where there's specific things in the code.

Marchetti: Right.

Fish: It appears to be more like suggestions or --

Marchetti: Correct.

Fish: And could you remind me, do the current best practices require that a food cart that sells alcohol have a restroom?

Marchetti: No, they do not. I don't believe so.

Fish: And a -- Mayor, subsequent to our discussion last week, I mean I think I and probably my colleagues have received some e-mails from folks, and they are either e-mails saying positive things about cartlandia or noting that what some people view as the positive impact of cartlandia in its current location, and I think commissioner Leonard said it more eloquently than I could last week, but this issue is not about cartlandia's current operations, and I don't remember anyone here saying anything critical about their current site and the services that they're providing. The question is the introduction of alcohol to that location and doing so in a way without a comprehensive set of rules that could then be applied citywide and whether we would do this on a case-by-case basis using each cart as a guinea pig in effect to see what the impact is or whether we would step back and do some rule making so that there was some clear rules that apply that could be enforceable. And I think the record was clear last week, but to the extent someone still thinks that we're singling out cartlandia, I didn't hear that last week when I was the president and presiding officer. What I heard was people saying, in the absence of rules, we don't know how this is going to play out, and we

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have concerns about adding alcohol to that location. And I continue to have those concerns. And I think the other point I would make is that the attorney general's decision says that, because the olcc is in the business of issuing licenses and because they can set criteria, you have a right to a license if you follow the requisite criteria, if you meet the criteria. There's a little bit of a circular problem here, because right now our position – at least my position is we don't have clear criteria other than the fitness of the applicant, and we have, I think, every reason to be concerned about the impact of this proliferation throughout the city particularly in light of the limited resources to enforce the law.

So I just -- I want to once again on the record note that we're not picking on -- i'm not and none of my colleagues were picking on cartlandia last week. It's not a question of their current operations. It's a question of what happens if you introduce alcohol and then you have best practices and not guidelines -- not clear guidelines and code and what is the potential impact on the community? I think that's the question before us.

Adams: Absolutely. Commissioner Fritz.

Fritz: This is about the regulations, it's about the regulatory structure. Just one comment, though, your eloquence commissioner Fish, we actually haven't seen the attorney general's opinion. What we have is the olcc telling us what's in the a.g.'s opinion, but when I asked the olcc director if I could see it, he said, no, it's attorney/client privilege. So olcc is making decisions based on an opinion which we haven't had the opportunity to look over. I think that's a problem also.

Adams: Commissioner Saltzman.

Saltzman: Well the resolution, first paragraph, says express the city's opposition to issuing liquor license to food cart area, singular. Are we talking cartlandia or is that a typo and should be food cart areas, plural?

Marchetti: Are you talking about the first word as in the resolution?

Saltzman: No. The first paragraph of the resolution.

Adams: It should be plural.

Saltzman: ONI, Police Bureau, notify OLCC to opposition to issuing liquor license to the food cart area. Singular.

Fritz: It should be plural. Thank you for the correction.

Saltzman: Oh so it should be plural? This is not all directed at cartlandia then.

Adams: Unless there are objections, that will be taken as a scrivener's error. So corrected.

Saltzman: And then some – trying to get -- I know some – I know there was a majority support, I guess, last week for banning beer, wine, liquor sales from food carts altogether. You know, I'm not -- I wasn't persuaded that that's necessarily -- there isn't some meeting of the minds between that issue. So what is the – what are we authorizing the city attorney to do?

Marchetti: To represent the city's interests at --

Saltzman: To ask them for issuing formal rules?

Marchetti: To provide guidance to oni and ppb as we request rule making. And to your point, commissioner Saltzman, about the meeting of the minds, there have been some licenses, some areas that are food cart pods that have sold alcohol under a temporary sales license. There is some movement, as part of the whole package of looking at what type of guidelines might be appropriate for these types of entities, as to whether or not that would be the appropriate venue for allowing alcohol service because, if there are problems, it's a much clearer, quicker way to a resolution than through an annual license process.

Saltzman: But so – bottom line, there was a majority that supported the total ban, and I respect that majority vote even though I wasn't part of it. But, so we're going down there – we're authorizing our city attorney to say olcc, we want rules about this?

Adams: We're authorizing more -- the way I interpret it, we're authorizing more than that. We're authorizing the city attorney to determine what the interests are of majority of city council in terms of our charter responsibilities to try to keep the peace. And that -- let me just tell you my personal

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approach to this, and that is that the underlying existing, even separate from the possibility of 695 new liquor licenses, which is, I guess, the estimated number of food carts on top of the 3000 liquor licenses roughly that are in the city right now -- so even before you get to beer and wine and your issues is the underlying existing system even without more liquor license to food carts is a total failure as a system. You cannot have nine people -- how many liquor licenses are there in the three-county area?

Marchetti: I'm not sure about that.

Adams: So you have nine people who run around three counties who alone in the city of Portland are supposed to keep track of 3000 liquor licenses. That's laughable. And so my intent is to allow the city attorney to pursue whatever we need to pursue to fix the existing system and to prevent the problem from getting worse. Other people can have their own interpretation.

Leonard: But to get more to the point of commissioner Saltzman's inquiry, i'm interpreting our action quite different from what he would like to have happen, that being that we oppose licensing not just cartlandia but food carts in general to have a liquor license in the city. Correct?

Marchetti: Yes.

Leonard: And if that means that's not an anonymous vote here, that's what that means, but my intention in voting for this is directing the city attorney's office to work with the olcc to not allow, under any conditions, alcohol to be served from food carts. I shouldn't say without any conditions, 'cause there are instances where we -- the waterfront, where we have I assume what are defined as food carts that are there for festivals and events and those are pre-prescribed. But in what we think of as food cart pods essentially, this one, the one on 50th and division, just south, i'm assuming that this applies to those kinds of food cart pods, and we would be working to make sure that liquor licenses, not just for cartlandia but for any of those sites, will not be approved.

Fritz: Ben Walters from the city attorney's office.

Saltzman: I'd like to hear what ben has to say.

Ben Walters, Chief Deputy City Attorney: Well I -- the --

Adams: For the record.

Walters: For the record, Ben Walters with the city attorney's office. I was monitoring the conversation from upstairs and thought it might be appropriate for me to come down. The -- under the city code, the city attorney's office is restricted from participating in legal proceedings unless the council has given authorization by resolution. And so this addresses the code constraints on our ability to provide legal representation. That's the first intent of the language. So the -- what's pending right now is an application from cartlandia, and this follows -- the resolution follows on the heels of the prior resolution in which the council took a position that, in the context of the olcc proceeding with issuing licenses that we would ask the olcc to hold off and initiate and conclude a rule making before going down the road of issuing licenses to cartlandia or others in sort of an ad hoc approach with the guidelines and the weaknesses of guidelines that has been previously identified in the testimony. So given the fact that in that resolution the council identified that the city should oppose any applications until such rule making has occurred, we had a gap where we had this one application pending but had no formal position that we could identify and forward on to the olcc in this particular instance, and so this manifests both the council's intent as to this particular application -- in other words, asking the olcc to hold off until a rule making proceeding has been undertaken -- and also authorizing the city attorney's office to get involved and help out in terms of representation before the olcc.

Saltzman: So okay, I appreciate that, so I guess if the olcc does do a rule making about this and the outcome is -- provides an avenue for food pods or whatever to obtain a liquor license, are we authorizing you to sue the olcc over those rules because they don't ban it?

Walters: That would be -- could potentially be one of the outcomes of the council's decision today depending on what the expression of the council's intent is in this proceeding.

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Saltzman: So whatever direction we give you today, as opposed to you coming back to us at a point saying, ok, they've issued the rules. There is a path for food pods to obtain a liquor license. Shall we sue?

Walters: That could be another outcome of today's discussion. If that would be the council's preference, then the council could put that in as guidelines to our office.

Saltzman: Well I guess my preference would be that the city attorney's come back to us at that point and seek our permission to formally --

Fritz: Well, i'm in charge of this process, so I would certainly come back to you if -- you know, depending on how things go, I will be continuing to communicate with you as to the next steps. We're not expecting the city attorney's office to, you know, appeal to the supreme court.

Saltzman: No but, you know, this -- the whole point is, our city attorney just pointed out is, this resolution is necessary to permit the city attorney's office to have involvement, and I guess I would want another check-in point when -- if former rules are issued and we're not happy with them. I would like another check-in before we say go forth and sue.

Walters: In the context of this particular resolution the -- as drafted, the intent was that the representation would be as to this application and the outcomes of this application, not the rule making process. It was not intended to extend to the full rule making process. But again, it's up to the council to decide the scope of the authority. It sounds to me like at least one of the commissioners and the commissioner in charge would intend on coming back and checking in prior to going down that road so --

Fritz: Yes, commissioner Saltzman, I'm happy to commit to come back as many times as we need to. We need to highlight the challenges that we're facing and the reasons for taking each step. So yes, I will certainly come back to council.

Saltzman: So you're -- in other words, you would come back to council via resolution if we're going to go the step of saying -- if we're unhappy with the rules with respect to the ban that we're going to --

Fritz: Yes.

Saltzman: -- authorize the city attorney to go forth and sue.

Fritz: I thought we were pretty clear two weeks ago, and olcc has chosen a different route. So the more clear we can be and the number of times it has to come back to council, I'm happy to commit to that, yes.

Leonard: I would hope sooner rather than later that we make a clear statement. I mean I'm not in charge of the office of neighborhood involvement, but I would hope that we make a -- if this is not clear, a clearer statement that, on behalf of neighborhoods, that we object to outdoor drinking where it abuts neighborhoods. I don't know that that requires a lot of process to conclude. If you take this particular spot or you take the one -- the pod that is north of division -- or excuse me South of division on 50th I believe it is, 50th?

Marchetti: There's one on 50th and one at 32nd.

Leonard: And then there's one on 32nd and there's one on 11th and hawthorne, and then there are various other ones. Just walk around the neighborhood, any of you that would like, and knock on people's doors and say, how do you feel about people being able, according to the applicants own testimony, drink outside from 7:00 a.m. to midnight? Do you have any concerns with that? I think you'd get a pretty clear answer from people who live there. And that's great for people who live somewhere else who want to stop downtown and have a nice glass of chardonnay with their sandwich and then go home, but what about the people that are stuck living there with the others that don't go home after they have one glass of chardonnay and they, as I said last time, sit out in an open venue drinking and then the attendant issues that occur with that as the evening progresses, that I'm sure the officer could testify to, that all sounds romantic until you actually happen to live within 1000 feet of that place. So I, you know, I don't think we ought to accommodate one person's

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concern that we can't buy chardonnay at a food cart on this council, and we ought to be very clear that this is – I mean I've been here long enough to know that even venues that have walls and a roof that misbehave cause great distress for neighbors around them, thus the time, place, and manner ordinance that we voted on in 2004 that I brought forward to address that issue. To actually sit here and not directly say just as a matter of public policy -- and i'm happy to nuance it as well, not to just do a flat ban but to say where there are pods within so many feet of a residential neighborhood, we're not going to support alcohol being served, to me is not a difficult thing for this council to wrap its arms around.

Saltzman: And I understand all that, and my only point is that, you know, if there is a rule making and we're not happy with it, I want a chance to assess our odds, and it can be in an executive session, I believe or it could be via resolution to council, you know, to assess our odds of committing our city attorney's office to sue over a rule making under, you know, if it's done legitimately under whatever Oregon's equivalent is of the administrative procedures act and all that, you know, I want to be able to assess, handicap our odds before we say go forth and sue.

Leonard: In my view, the peace and the safety and the livability of neighborhoods is so important, I don't care what the odds are. I mean, if this is a practice that is so dramatic as to allow drinking until midnight across the street from where somebody lives in a parking lot essentially where cheap food is available, you don't have to sit down and be a demographer to figure out who's going to take advantage of that. It's an outrageous intrusion into the livability of the city. So for me it doesn't -- and I'm -- as anybody who knows me knows I'm no prude on this subject, but I do respect the rights of people that live in their homes and be as free and safe from others' activities as possible, this to me -- particularly on this site, as I articulated a couple weeks ago when we talked about this, this is ground zero for one of the most crime ridden, prostitution-plagued, drug-plagued areas of the city, it is an outrageous place for it to be the first place to be tried. If you want to, you know, try it in somebody's neighborhood, try it in southwest Portland and see how they like it, you know. Let's take some pods and stick them on a parking lot next to somebody's neighborhood in Multnomah and see how they like it. If that's cool then we'll look at other places then. But to take the most distressed area in the city and then throw alcohol in the mix is outrageous, and I don't think we ought to be cautious about saying so.

Adams: Commissioner Fish, and then i'm going to see if anyone wants to propose any amendments. If not, we'll take public testimony, and then we'll vote. Commissioner Fish?

Fish: Well I'm prepared to support the resolution as drafted. And I appreciate the concern that commissioner Saltzman has raised, and I think it's been addressed by commissioner in charge, in this instance commissioner Fritz saying that she will consult with him and provide him with information about the decision making. I am reminded, though, that we frequently delegate this kind of authority to the city attorney's office, and I don't remember in recent history -- and we've done this around seeking to collect taxes against online companies that book hotel rooms and a bunch of other things. I don't remember us putting in a condition that the city attorney had to come back at various triggers to get our authority. On the other hand, I think any member of this council has the right to ask for consultations and briefings. And it seems to me that the usual protocol is, if we are sharing that information, and the commissioner in charge has said she will, if at some point commissioner Saltzman or any other member of the council has a question about strategy, they can ask for an executive session or bring a resolution for it. But I think to build it in that there's a requisite of some council action is actually, while well-intentioned, I don't think has been consistent with our practice. And that I think gets us into second guessing in ways I don't actually support, so I also believe that, as commissioner Leonard said, if what we're trying to do is send a stronger signal both to the rate making – I mean the a rule making process and beyond, I don't think we should be equivocal at this point. And I share commissioner Leonard's values on this. I think we

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should put our marker down now and not have this be conditional. So I'm prepared to support the resolution as wrap.

Saltzman: So could I just ask something on that point -- you raise a good point, but it seems to me there have been times when the city attorney's office has checked in with us about further appeals or challenging things. Am I incorrect?

Walters: Yes. I would think it would be -- we would follow the standard protocol of keeping the commissioners' offices, the council offices informed of what progress or set backs we've experienced in the litigation and to get directions from the council offices about how much further to proceed or whether to discontinue and withdraw from the field depending on the council's evaluation.

Saltzman: And you do that by meeting with the commissioners as apposed to a forum like this saying, you know, shall we take something to the court of appeals or to the supreme court.

Adams: Both.

Walters: Well generally to preserve attorney client privilege yes, those communications occur on -- with the individual offices.

Adams: So just -- I mean I -- I am too close to this issue, I admit, in terms of being police commissioner. I know the vast majority of shootings and deaths by gun and violence that involve alcohol and drugs, and there's triple quad diagnosis. So this -- my alarm on this is not about cartlandia. My alarm about this, in addition to what Commissioner Leonard said is that the existing ability, the existing resources devoted to making liquor licenses be successful that existing system is on paper only. And to open up 695 more licenses -- up to 695 more licenses where the police bureau can't even enforce because they're guidelines, not rules, is an additional problem, but those are separable. And I guess because I get so concerned, I go out to shootings and stuff is, I guess I need to understand, in all fairness to you, commissioner Saltzman, what is the public interest in opening up food carts that maybe i'm missing? And I want to give you a chance. What is the --how is the public interest served in opening up food carts and pods to liquor licenses?

Saltzman: Well, I know you weren't here last week when we discussed this but I guess what I was saying last week was --

Adams: I was here for this discussion.

Saltzman: Oh you were ok. Yeah you were here, okay. What I simply said last week is, you know, the extreme of an outright ban versus there perhaps being some middle ground, you know, for a city that, you know, we promote ourselves for our microbreweries, for our -- as a state we promote ourselves for our wines. Our food carts, you know, are iconic as well. And there could be circumstances under which food carts or food pods could serve beer, wine, and a, you know, with appropriate oversight of olcc in Portland. And I don't think -- So I'm just saying there could be a middle ground, and I wasn't prepared to support an outright ban at this point in time.

Adams: So you do in there gives me some comfort is that you agree that we need more effort provided to enforcement. We can't just rely on the cities enforcement.

Saltzman: Yes. And I would like support the olcc formal rule making and -- so that's what I'm simply saying. And I, you know, and I understand that concerns were raised particularly about the downtown, and I probably wouldn't support, you know, liquor licenses for downtown food carts, but i'm not prepared to say that, you know, food pods elsewhere, it might not be, you know, an enhanced amenity for, you know, people who live in other parts of the city.

Adams: Thank you. Does anyone wish to testify on this matter?

Moore-Love: Yes. We have one person signed up to testify.

Adams: Welcome back.

Roger Goldingay: Thank you. I think I'm probably not going to change anybody's mind here, but I did want to mention a couple things regarding the process that we went through in our application from the city. We felt that we had completed that process, and we did not notice any lack of

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investigation by oni or by announcement from the public notice regarding our liquor license application. It was distributed by theresa marchetti to all the property owners, residents within 300 feet of the premises, neighborhood coalitions, neighborhood and business associations as well as the Portland precinct and drug and vice divisions. It was clearly -- our application was clearly filled out and distributed with this notice, and it states quite clearly it's beer and wine service supplemental to food cart pod operation. It also puts the size of the service area and the restaurant seating capacity as zero and the outside seating capacity at 60. I don't know how much more clear you can be than that? We were also investigated by the office of neighborhood involvement, and I spent well over an hour with the crime prevention coordinator, so I don't know who was not -- who was missed out in this process. It seemed to me that we were then issued a letter of approval by the city of Portland bureau of police on July 21st with a favorable recommendation. That was July 21st, which is over seven or eight months ago. If the city wants to do this over, I guess that's not up to me, but I did want to make the point that we did make an effort to go through the city process as we understood it to be at that time, which is what we have always done. Regarding the -- just to make a point in favor of the olcc, the number of nine inspectors with 2800 licenses has been thrown about as though that would be a ridiculous figure. However, if you break that down to 311 per inspector and you put a 48 annual work week, 48 weeks annually, that gives you 240 days of working days per inspector.

Adams: That's based on how many licensees?

Goldingay: 2800.

Adams: And how many are in the tri-county area?

Goldingay: Well, that's Amanda Fritz's notice was reported, I believe, in the paper or in her statements.

Fritz: That's in the city of Portland. We have 2800 in the city of Portland. But the inspectors cover, I think it's more than three counties. Six counties. Right?

Adams: Nine inspectors cover six counties.

Fritz: So we have to add in Beaverton and Gresham.

Goldingay: Ok well -- If you have some numbers on that, I was -- the city of Portland does cover -- isn't in three counties so I don't know the exact number. But 2800 is what was used. I'm not sure where. But if you work that out it's --

Adams: Final thought?

Goldingay: -- 1.3 units per day per inspector. No, I have no other final thoughts.

Adams: Thank you, sir. Appreciate it. Karla, can you please call the vote on the resolution.

Fritz: This is not about cartlandia, as was mentioned by theresa marchetti. We have revised our form now that we know that food carts are coming in to ask for liquor licenses. This resolution says we need rules before that happens and that the city will take the necessary steps, including asking for the licenses not to happen. But as was mentioned in the conversation, some commissioners would not like them downtown. Some would not like them anywhere. Without rules, they can be anywhere, and so the point of this resolution is to be really clear that we need enforceable rules before olcc issues any license and that we will take the necessary steps to make that happen. Aye.

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

Adams: Aye. [gavel pounded] Folks, I have to do a meeting at 12:00 that I cannot get out of, so the one thing that's left is 187, and we've had some folks waiting here from the bureau. I apologize. Who pulled it?

Moore-Love: Dan handleman.

Adams: Is Dan Handleman here? Ok. I need to put it over unless we can do it -- is anyone else signed up to testify?

Moore-Love: I didn't have a sign-up sheet. It was pulled.

Adams: Ok.

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Moore-Love: Do you want me to read the title or --

Adams: Let's take, ok. We've got to make it quick.

Item 187.

Adams: Hi. What are we looking at here?

Sean Murray, Portland Police Bureau: Sean Murray, human resources manager for the Portland police bureau. It's an agenda item before council today to approve psychological testing for the police bureau with dr. Corey. Essentially the contract is for a five-year period with the option for renewal. The bureau has had a contract with dr. Corey since 1999. At the request of the mayor, the bureau did an rfp process for requests for psychological services which include pre-employment psychological examinations, fitness for duty testing, and also 360 performance evaluations for police officers.

Adams: And how many people applied? Who was on the selection committee?

Murray: We had three people – excuse me, the bureau purchases indicated with their website that they had 11 proposals downloaded. We had two proposals that were submitted, and on the evaluation committee it consisted of one person from the police bureau, one member from the public, and one member from the minority evaluator program.

Adams: Ok. Thank you. We'll take testimony, unless there's council? Can you folks please come up doctor, Dan?

Dr. T. Allen Bethel: Dr. T. Allen Bethel, AMA president. My Mayor and to all the council members, I'll make this very quick since you have a 12:00 and I had an 11:30.

Adams: Oh, sorry to keep you waiting.

Bethel: I come because the ama has asked of the city, in particular the police department and you also, mr. Mayor, that we would look at this contract for psychological services that we would have a diverse number of persons who could possibly begin to do these. We've noticed that dr. Corey has had this contract for over 10 years. The consensus is that, within that time, sometimes a person – this is not saying that he has done this, can become kind of comfortable in doing that and not do as thorough a job as should be done in terms of doing the evaluations both doing the 360s and the pre. So we would like to ask that the council would consider going back, being that there was only two proposals received, seems to indicate to me that maybe the possibility is that others felt that they would not be able to compete fairly in this process and also that the selection committee might be expanded and not just have just a person from the evaluation, a person from the police bureau, and one public person but that it would be also given the opportunity to receive further testimony during council so that others may have an opportunity to speak to the possibility of someone else perhaps being hired or a diverse pool of persons being able to do this. So we come in adamantly in opposition to dr. Corey receiving another five-year contract. Thank you.

Adams: Thank you doctor. Mr. handelman?

Handelman: Again I'm Dan Handelman with Portland cop watch, and I am the co-chair of the albina minister alliance coalitions training and policy committee and helped put together the list of community demands based on items that have been asked for many years, and this is on that list of demands. We had discussion with the mayor and the chief, I believe, it was on november 4 last year where this issue came up again. We were told that the bureau was going to work on an rfp and at that point, we didn't hear anything about it again. And this item came up on the agenda sometime in january. I asked for it to be pulled off the consent agenda then. It was pulled back for more work, and now it's just a few weeks later and we're finding out that the rfp had been put together and had already filled. And the ama coalition was never notified that the rfp was even put out. And the january agenda item read, at this time it's desirable to extend the term of the agreement with dr. Corey until the end of march to allow for psychological exams to be completed in early 2012 and allow the police bureau sufficient time to finish a request for proposal for future psychological services. So that agenda item implied, in January, that the rfp hadn't even been written yet. I

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contacted the Mayor's aide, Clay Neal about this and said, oh I well, you know, the AMA through Dr. Haines, the chair of the ama coalition, said that there was no opposition to dr. Corey continuing for a few more months but repeated the community demand that a diverse panel of psychologists should be involved in screening the officers that are out on the streets. And so it came as quite a surprise that this item came up on the agenda that dr. Corey is being awarded this five-year contract. And going online, you can see, yes, 11 people downloaded the paperwork, but it was only just this morning that we were able to find out only two people actually applied for the job. There could have been more people applying for the job had the community been informed that the job was open and we could have contacted people and told them, hey this job is open, would you like to apply for it? So it's a very disconcerting process, and Portland cop watch would join the ama in opposing this going forward without more discussion and research.

Adams: Thank you both. Would you come back up. What's six months from today?

Fritz: August 29th.

Adams: So we're going to extend this -- I propose we amend it to extend it to august 31st, 2012. And that's -- I haven't had enough time to review a five-year extension, so i'm willing to extend it for six months, expiring on August 31st, 2012. In the intervening time, we have some other related issues that we're working on that i'd like to fold into this discussion before we make a five-year extension so that's --

Fish: I'll second the motion.

Adams: It's been moved and seconded. Is there any council discussion on it?

Saltzman: We're extending dr. Corey's current contract for six months?

Adams: Correct. To august 31st, 2012. Can you please call the vote?

Fritz: I appreciate the concerns of the Albina ministerial alliance and cop watch, and thank you for your diligence in staying here to make these points, it's very helpful. And I appreciate the mayor being willing to extend the discussion for six months so that we can all look into some more data and make sure we make a wise decision on this. Aye.

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

Adams: Aye. [gavel pounded] So approved, extended for six months.

Leonard: That was the amendment you need to vote on.

Adams: Right. Any other discussions on the underlying amended ordinance? Karla please call the roll.

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

Adams: Aye. [gavel pounded] Alright, so approved. We are now adjourned -- so we're in recess until 2:00 p.m.

At 11:55 a.m., Council recessed.

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

FEBRUARY 29, 2012 2:00 PM

Adams: [gavel pounded] City council will come back from recess. Today is still wednesday, it is 2:00 p.m., and it is leap day, february 29th, 2012. Hi, Karla.

Moore-Love: Hello.

Adams: How was lunch?

Moore: Oh, very good.

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

Adams: Can you please read time certain, item number -- 2:00 time certain, item number 205?

Item 205.

Adams: Thank you. Chief and ellen, or chief, come on up. Before the city council as required by resolution 36859, before the city council is the annual report on the joint terrorism task force and the city's policy for working with the joint terrorism task force. I'll go through briefly my report and then turn to the chief, then have questions and then testimony. And then further council discussion.

We approached this annual report with a great deal of care, seeking to provide as much information and actually in some cases more information than is strictly called for in the resolution, but doing so because it sets a precedence for the annual report. So we sought to be as clear as possible. We asked folks for comments, some folks in the room provided us comment and that definitely improved the report the initial drafts of the report to the -- of the documents that you have in front of you. And I would note, there is a substitution that we just passed out today. The reports, the chief and I decided to make sure that the reports included an affirmation, so that this wasn't only a conveyance of what we had done, but it also is a higher level in our mind of affirming that in addition to what we're reporting that we are following the resolutions, we are following state law. So that's why they are noted in an affirmative basis. We also sought to provide the information that was -- that would allow folks to get a sense of how we were striking that balance between preventing terrorism, but also to protect people's legal rights and to keep the city an open community open society. So that -- those were what we worked on as part of this, I'm just going through mine very briefly, we consulted the chief did consult with me as required when the opportunity to work with the fbi presented itself. He did provide even though I don't -- I have applied for, but don't yet have secret clearance, he was able to provide to me a level of detail on the kind of issue that pertained to the request. The status that the request was in and he'll talk about that in greater detail. A sense of what it might require in terms of our resources, and I felt that I had the information I needed to provide the kind of oversight of the police bureau required of me in this situation, and all situations. We also had the active dialogue with the city attorney on issues leading up to gathering information about this report, including when the chief asked the city attorney, and in this case it was ellen, and not dave, and that was an intentional request on our part. Dave woboril does the day-to-day sort of legal advice giving for the police bureau, ellen osoinach does work on police bureau issues. She was instrumental in helping the council put together the resolution and because of that sort of one step away, and also her knowledge on putting together the -- and knowing the legislative intent, we asked her to question folks involved working with jtf and to question them independently without us in the room, anyone in the room, and she then reported the results of that inquiry, both directly and independently to the chief and independently and directly

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to me as well. Chief will describe the secret clearance in terms of my application for secret clearance. Those folks that have received the clearance up to this point had some experience with clearance in the past, my clearance is a brand-new file and they have to go back over almost a quarter century of work in public service, and it takes time, as they described it to me. It was important to the chief and I affirmed and I thought it was a good concern to have that we have as many people as have the clearance and as he has assigned to the work on -- work with the jtff that those -- that more than one person that the collection of people attending the meeting helped to ensure communication amongst folks in the Portland police bureau, and it allowed for listening to potential requests or just information from the fbi hearing more than -- having more than one set of ears, and eyes, and thoughts on those requests. The chief thought that was a positive thing in terms of being able to strike that balance, have more than just one person being critically, you know, critically analyzing requests that came in. I know there's been some comments on that. I concurred based on my 18 years, or so, whatever it is, 16 years working with the fbi on related issues. I thought having those dialogues happen with more than one person and hopefully with all folks in the room is actually a positive thing. In terms of the 30 days, within 30 days after any changes in personnel in positions -- my position, the chief's position, special agent in charge of the u.s. attorney general that we would get together. We did that, we missed a 30-day deadline once and it was 60 days, and that was because of -- with the new u.s. Attorney and that's because of the holidays, but we fulfilled that obligation even with one person it was u.s. Attorney 30 days late. And I get regular briefings from the fbi, the requirement is that there be at least, those briefings at least be twice a year. I've had more than two briefings, in the -- since this resolution was passed. I'd be happy to answer any questions from the -- initial questions from the city council on my report before I turn it over to the chief. All right. Chief.

Mike Reese, Chief, Portland Police Bureau: Mayor Adams and commissioners, thank you for this opportunity to come before you today. A little over a year ago, this community embarked on a conversation about how to keep all of us safe from the threats of terrorism, while also protecting the civil liberties of Portlanders. It became clear during the course of that conversation that the communication between the Portland police bureau and the federal bureau of investigation was not as robust as required to meet community expectations regarding the sharing of information on terrorist threats. It was equally as clear that the police bureau was not at the table when discussions took place at the joint terrorism task force regarding investigations in Portland that involved potential threats to our safety. After a careful deliberation and much public input, council directed the police bureau to reengage in the joint terrorism task force so that as these discussions on terrorism took place, we would be aware of potential threats to our community and be a resource when appropriate to assist in these investigations. Today I am pleased to provide our first report to council, detailing our efforts to keep the community safe while protecting the civil liberties of Portlanders. And here are a few highlights from the report. There is improved communication and cooperation between the federal bureau of investigation and the Portland police bureau. I have met regularly with the special agent in charge and have received briefings on threats of terrorism to our community. The mayor and I have met regularly to discuss our involvement in investigations with the jtff. The mayor and I have also met, as the mayor indicated, with the special agent in charge of the fbi, and the u.s. attorney for the state of Oregon to discuss resolution 36859. I have attended the joint terrorism task force executive meetings where I have received additional briefings on global threats from terrorism. I have also directed and he has joined me, assistant chief of investigations eric hendricks and our lieutenant larry baird, who is in charge of the criminal intelligence unit to also attend these briefings. The lieutenant in charge of the criminal intelligence unit meets frequently with his counterparts in the jtff to discuss ongoing investigations. I have identified appropriate personnel resources in the criminal intelligence unit to assist when appropriate on investigations with a criminal nexus involving the jtff. I have implemented strong, multilevel, and

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redundant oversight of the officers who work with the jtff. Our officers have conformed to all Oregon revised statutes and they have received training from the city attorney on these statutes and the requirements in resolution 36859 which allows for our participation in jtff investigations. During the course of our participation with the jtff, I have personally met with the assigned officers and have overseen their investigative work. I have also assigned a lieutenant in charge of the criminal investigations unit, lieutenant baird, to directly supervise these officers and confirm that their work meets all federal, state, and city requirements. In summary, I believe due to this information sharing and collaborative relationship, that we are in a better position to provide safety to the people who live, work, and visit our city than we were a year ago. I hope you will continue to support our participation in the jtff as we provide the very best services to our community. Thank you very much.

Adams: Initial conversation? We'll also have a time available after we have public comment. Alright, let's go to public comment, unless you'd like to add anything? Would you like to add anything?

Reese: No, mayor Adams. Thank you.

Adams: Alright, thank you all very much. If you'd please stand by. How many people have signed up?

Moore-Love: substitute?

Adams: Oh, I move the substitute.

Saltzman: Second.

Adams: It's been moved and seconded. Please call the vote on the substitute.

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

Adams: Aye. [gavel pounded] substitute is the basis of further consideration. Can you please --Oh, we'll have a momentary time for reflection. How many people have signed up?

Moore-Love: Four.

Adams: We can invite all four up, then. So Dave will be the fourth person, and Ashlee we'll get you in the second round. Sorry.

Fritz: Mayor, was the substitute distributed to the public to have in advance?

Adams: It's on the website, it was put on the website last night. Yup, they've seen it I think.

David Fidanque: And there were copies passed out earlier commissioner.

Fritz: Thank you.

Adams: Would you like to begin Mr. Fidanque?

Fidanque: Thank you Mr. Mayor and --

Adams: I've given mr. Fidanque, because of the extensive roll that the aclu has played on this issue of theirs, I've given him 10 minutes as a courtesy.

Fidanque: Thank you. For the record, i'm david fidanque, executive director of the american civil liberties union of Oregon. You'll all recall I believe that we appeared before you last april in support of the council resolution. We supported the resolution despite a high degree of concern because of -- because the fbi operates under very different guidelines and policies than the city of Portland and other law enforcement agencies in Oregon. We considered this resolution a continuation not the end of an ongoing conversation regarding the appropriate boundaries and safeguards for the police bureau's task of protecting the safety of all Portland residents, workers, and visitors while at the same time complying with and respecting the constitutional and statutory rights of individuals and organizations. I'll not repeat the well documented and ongoing abuses by the fbi of the constitutionally protected activity of law abiding american citizens and residents. We will, however, note that we are most appreciative that Portland and Oregon are 3,000 miles away from the city of new york. There it has been the new york city chief of police and mayor who have authorized widespread surveillance and collection of information on the lawful activities of muslim-americans and muslim student organizations not just in new york, but in new jersey and connecticut

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as well. And I will provide council with a copy of a february 22nd associated press article that broke that story. That's this february 22nd. Last year we set out very specific expectations we had for the annual reports on the city's relationship with the jttf and the fbi, and we urged the mayor and police chief to put systems in place that would ensure both that the terms of the resolution would be honored and that Portland would be a model of transparency. We were not only very disappointed by the first set of draft reports that were placed on the city's website february 13th, but alarmed by what those reports did and did not include. Last thursday we circulated a 20-page analysis of those drafts that led to us conclude that several important safeguards of the resolution were not being followed. We therefore at that time urged council to suspend its cooperation with the jttf until our questions could be answered and the city's practices made to conform with the resolution and Oregon law. Since we released that analysis, second draft of the Chief's report was released friday afternoon, that clarified some points. And this week andrea meyer and I had the opportunity to engage in extensive discussions with the mayor regarding our concerns and questions. As you know, additional revisions have now been made to both the mayor and chief's report and they were released last night. The current reports before you are much closer to what we had envisioned, and we very much appreciate the responsiveness of the mayor and chief reese to our concerns. Before I list our remaining concerns, I want to specifically identify the concerns we had last week that have now been addressed in the final reports. While the initial drafts were silent on the city's process for review of the fbi requests, and specifically the role of the mayor in conferring on those requests, the revised reports state clearly that the chief personally reviewed each and every request for assistance, and in direct consultation with the mayor, as commissioner in charge of the police bureau, ensured that each fbi request was consistent with the requirements of the resolution and of Oregon law and city policies prior to authorizing any police bureau involvement. While the initial drafts were silent on the investigative status of the fbi inquiries at the time the requests were made of ppb, the revised reports state that as part of the chief's determination, he reviewed the stage of the investigation and specifically whether the inquiries were fbi assessments, preliminary investigations, or full investigations. Knowing the stage of the fbi inquiry at the time of the request is critical for the chief, the mayor, and the city attorney to analyze whether ppb involvement is permissible under Oregon law and under the resolution. While the initial drafts were silent on the chief's interaction with the city attorney upon receiving and evaluating a request from the fbi, the revised reports state that the chief will proactively consult with the city attorney before accepting any request if he has any doubts whether the request complies with Oregon law and the resolution. While the initial reports noted that neither the chief nor the mayor had yet obtained their required security clearance from the fbi, the revised reports clarified that each has still been able to access all necessary information needed to properly evaluate the requests and maintain the proper chain of command within the police bureau. While the initial reports only noted that the mayor had sought but not yet received secret clearance, the revised reports affirmed that the mayor has been able to confer with both the chief and the city attorney and state the mayor's expectation that all future commissioners in charge of the police bureau will seek such clearance immediately upon appointment. While the initial reports identified that various members of ppb were involved in jttf activity or oversight, they fail to identify what type of fbi clearance they had. The revised reports provide the current level of fbi clearance for all personnel involved, and clarify that the two ciu officers assistant chief of the investigations branch, and the lieutenant of the ciu all have secret security clearance and none hold top secret clearance. Which some of them had had in the past. While the initial reports identified the availability of the city attorney to answer any questions the ciu officers may have, the initial drafts did not indicate whether the city attorney had or ever would be contacted. The revised reports make clear that the city attorney will proactively approach the officers about their work in future, and those officers will also be expected to proactively approach the city attorney with questions. While the initial reports noted that the officers are aware they can report potential or

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actual violations to the chief, the revised reports clarify that the officers have been able to freely share information and seek advice from the city attorney and are expected to reach out in the future.

While the initial reports did not discuss how the city attorney's office staffed its work related to the resolution, the revised reports clarify that the mayor to ensure multiple levels of oversight, assign two separate city attorneys. One for day-to-day advice, and the second for purposes of training and oversight to ensure the terms of the resolution are being followed. In addition, the chief in preparation for this report had that city attorney independently question the officers to verify their activities over the past 10 months, and had the attorney provide that report to himself and the mayor. There are additional improvements to the reports, and I will provide those to you. But in the interest of time, I won't go through all of it now. I do want to spend a few minutes talking about what is still missing from this report that we hope will be included in the future. There is no data in this report indicating either the number of investigations or the types of investigations at what stage the fbi inquiries the bureau was asked to work with the jtjf, and the total number of hours the investigating ciu officers worked on terrorism inquiry. We believe all of this information is important, but we believe the most critical is for the city to disclose the number and types of inquiries in which our officers have participated. We noted in our memo distributed to you last week that the fbi itself has released the number of assessments it initiated related to terrorism investigations between march 2009 and march 2011. Of those 42,000, almost 43,000 assessments, more than 95% were closed without ever reaching even the preliminary investigation stage. And I believe you all may recall from our presentation to you last year that it is only full investigations that require a factual predicate towards a specific individual group or organization that is the target of an fbi inquiry or investigation. We believe that if the fbi request is made at the assessment or preliminary investigation stage, it should automatically trigger heightened inquiry by the chief, the commissioner in charge, and should also trigger active involvement of the city attorney to ensure that the city's involvement violates neither the resolution nor Oregon law. For all we know, that may have occurred. But it isn't in the report. Especially because the criminal nexus standard of the resolution is undefined and fuzzy, it is critical that the public and council know how many inquiries ppb officers have participated in and at what stage. We understand there are what we hope are unique circumstances that led the mayor and chief to conclude that that data should not be included in this year's report. We hope before the council accepts these reports you will ensure that there are systems in place that would require the tracking of that information on a permanent basis, and that would allow for that data to be included in future reports if it would not compromise the security of the investigations. The aclu wants to ensure that no matter how many layers of oversight are implemented internally, the public and other interested parties will be provided enough independent factual information in future reports to leave no doubt that the resolution, Oregon law, and the constitution are not only being adhered to, but also honored. Thank you very much.

Fritz: So the suggestion to require tracking on a permanent basis, are you suggesting that there would be a reporting in five years of what was done in this year?

Fidanque: I'm requesting specifically that a permanent log be kept by the chief of all requests that are made by the fbi related to terrorism. That that log include the stage of the inquiry under -- on the fbi's classifications at the time the request was made. And the determination of whether or not the police bureau would be authorized to participate or not.

Fritz: And would that ever be public record?

Fidanque: We would hope that it would be, that that cumulative log would be disclosed in future reports as soon as there are enough reports that it would not raise the same concerns that the mayor and the chief had this year. We think those concerns were overly conservative, given that the fbi itself is releasing much of this data on a nationwide basis, and we think it should have been included this year. But we want to be sure that it can be included in future years. If there is no log kept, then you might have a situation in any one year that the same judgment would be made. But if

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the cumulative data were kept, then we would hope sooner rather than later that data could be shared with the public.

Fritz: And if that were to be done, would the aclu support acceptance of this report as amended?

Fidanque: I think it would depend on what the data shows.

Fritz: Given we don't --

Fidanque: And one of the things I didn't read from my prepared testimony was that if, for example, 100% of the inquiries were at the full investigation stage, then everyone could be assured very easily that Oregon law and the resolution were complied with, because for full investigations, reasonable suspicion is required by the fbi, and that is the standard for under state law for law enforcement agencies to be involved in surveillance or collection of information about the political religious or social activities of individuals, organizations, or groups.

Fritz: But given that we don't have that in this report, is the aclu recommending acceptance of it?

Fidanque: We're neutral. We're not opposing your acceptance of it.

Fritz: That doesn't help me. I'm not allowed to vote neutral.

Fidanque: But we don't feel confident urging acceptance of these reports without that additional information.

Fritz: Thank you.

Adams: But Mr. Fidanque you would agree that regardless at what level of investigation Oregon law and this resolution still applies, right?

Fidanque: Yes. The point I was just trying to make, mr. Mayor, is that if you flipped my hypothetical and all of -- 100% of the inquiries involved assessments as categorized by the fbi, then we would want to be sure that extra steps were being taken. We very much appreciate the information that is in the reports. We're just pointing out they're not perfect yet.

Fish: Mr. Fidanque I have a question if I could. I appreciate very much your testimony, sort of going point by point as to what has been revised in the new resolution. You began by alluding to press reports about what's happening in new york city, which has been well reported. And I guess it -- I mean I think it's a fair question to therefore ask, since you've alluded to circumstances in another jurisdiction where you believe people's constitutionally and statutorily protected rights have been violated. I think it's fair to ask you, during the time that we have operated under this revised protocol, do you have any actual knowledge of whether anyone has had their statutory constitutional rights violated by the city or its agents?

Fidanque: We do not. And we take very seriously the affirmations that are included in these reports by the mayor and the chief.

Fish: Fair enough. Thank you.

Saltzman: So I guess Dave i'm -- what is your position about the assistant chief for investigations, the lieutenant of ciu, the chief, and the mayor having secret versus top secret? You mentioned that some in the past have had top secret, now they have secret. Is that a good thing from your perspective?

Fidanque: That is a very important fact that is included in these reports, because the reason that the resolution included requirement for the chief to have top secret clearance and for the mayor to have secret clearance, the commissioner in charge, was to ensure the entire chain of command had at least the same level of clearance, at least through the chief as any of the individual officers. As long as it remains the case that no officer has greater than secret clearance, it may not be necessary for the chief to have top secret secure compartmentalized clearance, but is still a good thing for him to have once it's approved. Because if in future a decision is made, that the ciu officers need to be able to have unescorted access to fbi headquarters to fbi offices, they would be required to have that top secret Secure compartmentalized clearance again.

Adams: And if I might also answer, I think I also compare the work Portland police bureau and fbi prior to tom potter becoming mayor, and the top secret clearance where -- which would allow for --

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and the practice at that time would allow for Portland police officers to basically get up in the morning and go to work in the fbi offices, and I think it really wore away at -- with the best of intentions of everyone involved, in the real world it sort of wore away at the chain of command. And so having -- requiring escorted not just they can't just use the keys and walk into the fbi office, I think allows for us to work with them without -- and while at the same time maintaining the chain of command with us. That's just my own opinion of it.

Fidanque: And I agree, mr. Mayor.

Adams: Thank you. Thank you very much. Hi. And thanks for your feedback on all the drafts. We really appreciate that. Hi. Welcome.

Dan Handelman: Hi.

Adams: Oh your next? Okay so Mr. Handelman.

Handelman: Thank you very much, mr. Mayor. I was wondering if I could get five minutes Mr. Mayor?

Adams: Yes.

Handelman: Thank you very much. I am dan handleman with Portland cop watch. And last week we and a number of other groups sent a letter outlining ways in which the jtff reports and the mayor and chief failed to bring clarity around the activity of the Portland Police, working with the fbi. While a few changes were made since then, the reports are still too vague and Portland cop watch continues to oppose the renewed relationship between the bureau and the jtff particularly while the meaningless criminal nexus language guides which cases our local officers work on. For example, the chief asked added to his report that he has examined each case to see whether criminal nexus fit the terms of the resolution. What he doesn't say is whether each case involved reasonable suspicion of criminal activity as defined in ors 181575, or whether any of the cases were assessments or preliminary investigations. The chief also revealed that he the assistant chief of investigations hendricks and lieutenant of criminal intelligence units we know is lieutenant Baird and the two officers all have secret clearance. This gives the community different information from the previous report in which he said he was only applying for top secret clearance, but he did not reveal that he already had secret clearance. The chief also updated the report to state the training includes pointing out the difference between the fbi's guidelines to open new investigations and the resolution and Oregon law. This kind of specificity is what is seriously lacking elsewhere in the reports. For example, they say the city attorney who has not been asked to sign a nondisclosure agreement has received unfettered access to ample information that works to access compliance with Oregon law. It does not say how many consultations occurred or what kinds of issues were raised. The reports say the officers have been assigned on an as needed basis but the chief argues that disclosure of the number of cases or hours worked would be likely to compromise ongoing investigations. It makes no sense that revealing how many cases or hours worked with the jtff will jeopardize specific investigations if the subjects of those investigations are not named. Given the tight budget constraints facing the city that could force as much as 8% cuts, the public has a right to know how many hours our officers are being used to work on this task force. The reports say the city attorney has been briefed but not asked to sign a confidentiality statement. Does that mean the city attorney is assuming client lawyer privilege or can that office tell us more details? The mayor states that he has been provided with the status reports of terrorist threats in the Portland area, leaving only a vague idea of how much contact and influence the FBI's increased focus on terrorism is diverting our officers from solving local crimes. Similarly the mayor and chief each report having received more than two briefings from the FBI, but refuse to be more specific about how many meetings they had. This information is important because the event that re-launched the city's participation in the task force, the holiday tree bomb scare of 2010, was in many community members' minds a set-up orchestrated by the fbi. About a half dozen similar sting operations have been executed in other cities since that time. These cases of entrapment serve to bolster the fbi and

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demonize muslim Americans in the eyes of those who don't know the FBI's history of subterfuge. But do nothing to actually keep our country safe. On that subject we are curious why the chief's report includes a definition of act of war when describing what federal laws are around domestic and international terrorism. The letter also asks whether Portland police were exposed to any bias training about muslims that the fbi was giving as documented in september and updated on February 15th by wired magazine. We would like an answer to that question. The report that all ciu officers receive training around limits of Oregon law is welcome but we all hope that they have been receiving training on an ongoing basis regardless of the city's affiliation with the jtff. In 1996 in the Squirrel versus city of Portland lawsuit, the city was ordered to review all files generated by the ciu for compliance with the Oregon law every two months and again every two years. We ask the council, how is the vague information this awards supposed to make us feel that the Portland police are working on arresting people who are actually involved in self motivated attempts to harm human lives for political ends? How should we, as a group which has been spied on at least twice by the bureaus and criminal intelligence unit whose officers are now working with the JTTF again, be reassured by the fact that the council and chief are allowed to interpret criminal nexus one way when the fbi can interpret it another way? We still feel the entire relationship is very disconcerting and requires too much secrecy in a state and city supposedly devoted to open public records. As indicative of how secretive the entire relationship is that the names of the assistant chief, deputy city attorney, lieutenant and officers are not included in the report even though even though they were spoken aloud in council today, and even though the officers' names were all included in the ordinance on the jtff that was passed in the year 2000. The lieutenant of the ciu's name was given on the cover sheet of that ordinance. Leaving out details only leads to speculation and mistrust in the community. If the cost of working with the FBI it means turning our police force into a closed cloak and dagger operation which flies in the face of the idea of community policing we continue to say, it is not worth the price, and just as a reminder, we're not speaking for these other groups for the other groups that raised a lot of these questions in the letter last week were the Portland JCL, Martine Gonzales from the Portland school board, the lawyers guild, league of women voters, communication workers of America and the Arab Muslim police advisory council and some of those folks are here today.

Adams: Thank you. Hi. Welcome.

Mary McWilliams: Thank you. I'm mary mcwilliams, representing the league of women voters of Portland. The league believes that democratic government depends on informed and active participation and that governmental bodies must protect the public's right to know. Over the years, we have supported transparency and accountability in the city's relationship with the fbi jtff. As an organization that promotes an active and informed public, we value the protections afforded by Oregon law to individuals engaged -- engaging in political and other noncriminal first amendment activities. Federal guidelines do not require reasonable suspicion of criminal activity before the initiation of preliminary investigations or assessments. It is for this reason that community organizations including the league have encouraged the city to work with the jtff on a case-by-case basis. The resolution adopted last april was intended to build in safeguards for the reestablished relationship between the city and the fbi. The annual reports were an important provision and we appreciate the information added last night. But how about standing questions? And these are the questions. Have police bureau members participated in any assessments or preliminary investigations? If so, what portions of the hours devoted to jtff work were spent on these types of cases? How many hours have our officers devoted to their jtff assignments? To what extent is that affecting work on local public safety? How many cases require their involvement and how many are closed? How did the mayor participate effectively in the management and supervision of bureau staff when he does not have security clearance? And thank you for addressing that at the beginning of your remarks today. But it's still a good question. Recent news stories about the detention in

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tunisia of long-time Oregon residents who are u.s. citizens and members of the Portland islamic center bring to light the public's concerns. It appears from reporting in "the Oregonian" that the detentions were intended to pressure these men into spying on members of their religious community. We have no way to know if our local officers were involved in those cases at any level. We ask council to insist that the final reports to these questions and others raised here today be considered. The league also recommends requiring the city attorney and independent police review director to regularly review all jttf files created with police -- Portland police officers' participation. Any files collected in violation of Oregon law should be purged. Periodic review by those independent parties would provide confirmation to the public that the protections built into Oregon law are being honored. Thank you for listening.

Adams: Thank you very much for your testimony. Sir?

Jim Kennedy: I am jim kennedy with the Arab muslim police advisory committee. Thank you for hearing my words today. Last year when the council was -- city council was taking up the idea of rejoining the jttf, we met with you and expressed concerns about effects on the community trust of the Portland police bureau and city government in general, and unfortunately i'm here to report today that that community trust has in fact been impacted. The level of participation in ampac has waned, not due to any particular actions of the Portland police, but just in the more general associations with the fbi, and the recent incidents with mr. Ellerby and Tarhoony have only raised those suspicions, and impacted the community's trust and desire to participate in civic activities. So with regards to the report, I would request that the additional level of information that has been requested for future reports regarding the number of investigations and the types of investigations that the Portland police bureau is participating in would be somewhat helpful to the Arab and Muslim community in terms of understanding the more specific role that the Portland police bureau plays in these activities. But clearly the community is not trustful of the fbi in their activities, and the jttf only stains the reputation of the Portland police bureau with the community at large at this time. So again, with regards to moving forward, I would ask that the information that's been asked here, the additional information be included in future reports. Thank you.

Adams: And is it -- is it your understanding that we've rejoined the jttf?

Kennedy: Um, it is my understanding that we have established a formal relationship with the fbi through the jttf resolution. I would say that the community's understanding is not as refined as mine.

Adams: Thank you. Appreciate all your testimony.

Saltzman: I have a question for ms. McWilliams I guess.

Adams: Sure, thanks.

Saltzman: You know I follow the news pretty closely, so I was surprised to hear the statement you made that it appears that from the reporting that the detentions in tunisia of long-time Oregon residents were intended to pressure these men into spying on members of their religious community. So where did that come from, because I never saw that?

McWilliams: I asked that question too. Debbie Iona prepared the report and I asked her to confirm what newspaper and she said it was in "the Oregonian." may I defer this to debbie?

Saltzman: Well er -- maybe you can just provide me with the date.

McWilliams: With the reference, all right.

Adams: [inaudible] thank you all very much. We'll give debbie an opportunity to come up and say her piece. Thank you all for your testimony and your time and your input into the final report. So anyone else that wishes to testify, if you would please come forward member of the public. Ms. Iona maybe we could start with you and --

Debbie Iona: I think it will take me about two seconds because I certainly don't have the date memorized. What I will do is go home and do my best to use the terrible Oregonian website and

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find that article and i'll send it to you. Okay? And ashlee says she remembers reading the same thing.

Ashlee Albies: And again I don't recall the date, but I recall reading about it and having that same thought go through my head of the questioning was regarding their other members of their religious community and that being of great concern.

Adams: Ok Ashlee.

Albies: So my name is ashlee, i'm cochair of the Portland chapter of the national lawyers guild. You'll have to excuse me, I'm suffering from a little bit of a cold here, i'll do my best to speak clearly and not get anybody else sick. The Portland chapter of the national lawyers guild opposed the prospect of the city reengaging with the fbi's jtff last year for several reasons. Including concerns about the fbi's history both recent and past of trampling civil liberties, engaging in racial and political profiling and the FBI's self given authority to engage in contact that would otherwise violate Oregon law. While we appreciate the information contained in this report, and we appreciate the efforts to clarify the information contained in the report based on community input, and we do appreciate this opportunity to comment on the report, we still do continue to have concerns about the relationship that is ongoing between the Portland police bureau and the fbi. The chief reported that for each inquiry from the fbi he was given notice of the stage of the investigation and the criminal nexus involved and it remains a concern and we echo that -- what you've heard from other people who have testified here today about this definition of criminal nexus or the lack thereof in the resolution or under Oregon law. We continue to urge the council to enshrine in the resolution the legal standard of reasonable suspicion under Oregon law and in addition the report does not specify whether and how often the fbi's request exceeded the scope of what was permissible for engagement under the resolution. In addition, as the aclu has pointed out the mayor has applied for secret clearance but it's not yet been granted, and so we question whether members of the bureau were working with the jtff before the commissioner in charge of the bureau has the necessary authorizations to provide effective oversight. And again, I understand that you addressed that in your opening remarks, but that question still does remain. Can you provide adequate oversight without the level of clearance that those who are engaged have? We just note that the nation is in turmoil due to the current economic crisis and occupy Portland has sought to draw attention to many factors of economic and the growing economic inequality, which are supported by federal, state, and local government through massive nonviolent demonstrations, nonviolent direct action and civil disobedience. It's crucial that people's constitutional rights are protected, and the fbi has well documented history of targeting activists involved in people's movements as a way to squelch dissent and to protect an unjust system. We want to ensure that the jtff cannot circumvent the rights protected under Oregon law and use the Portland police bureau to do so. Finally the resolution calls for appropriate public information. There's been discussion and it is a subjective term as the community and the council has a different opinion on what constitutes appropriate public information. We support the request of the aclu, the league of women voters, cop watch, and others who have requested for the type and the stage of the investigation, the number of hours, and it's our hope that we will continue to engage with the city and to clarify what is appropriate. Thank you for your time.

Adams: Thank you. Thank you both. Does anyone want to bring up the chief or alan or anybody? Ok, both of you, would you mind stepping forward?

Fritz: If the fbi has released the numbers and types of cases, why would we not?

Reese: They're talking about a national release. So a composite of what they've done across the united states. I don't know that they've done that for local jurisdictions, and then for us I think because of the limited involvement, it would be counterproductive to our keeping the investigative processes at a secret level if we're to divulge the exact number of investigations and the exact number of hours.

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Fritz: Could you do it in ballpark, like less than 20, or less than 50, or less than 2,000?

Reese: Yes.

Fritz: Why aren't we doing that?

Fish: Commissioner Fritz, have you had a briefing from the city attorney on this question?

Fritz: No.

Fish: I have. And respectfully I don't think this is a question that we should be probed with the chief in this forum until you've requested a briefing from the city attorney.

Fritz: Well I'm being asked to vote on this today. Let me ask another question. You have an outlook calendar I know, right?

Reese: Yes.

Fritz: So do you document in your calendar when you meet with various -- when you go to these meetings?

Reese: The executive briefings are in my calendar. Sometimes -- I would say my meetings with the special agent in charge are probably all in there.

Adams: Not everything happens in a meeting.

Reese: Yea, not every -- you know some -- my meetings certainly with staff, like the lieutenant and the assistant chief happen frequently and on a more ad hoc basis.

Fritz: Of the formal meetings, the number of formal meetings, is that public record?

Reese: Yes.

Fritz: I guess what I'm looking for, I appreciate the amendments that have been made, but in order for to us have the transparency and the accountability, I share some of the concerns that have been raised today. And I don't feel like I have enough information of the kind that I was expecting when I was voting for the resolution last year and saying that I believed it would increase that transparency. **Reese:** And you're talking about specifically just the number of hours and number of investigations?

Fritz: And the level of the investigations, yes.

Adams: I'm going to -- that's a policy issue set by the city council. And the report did not call for that. And as I said earlier, the report includes a specificity of information that goes above and beyond what's called for in the report, and I think that's appropriate. I do think that what is in the report and reasonable people can disagree, is exactly the right balance. And I would not be comfortable with the release of the number of hours, number of cases, and the level of the cases in which they come in as part of this report. So, I don't think it would have the desired result that I think well-intentioned people might be -- might seek, by asking for that information. You can be working on a very low profile -- you know, people could read into that in terms of hours and types of cases and a whole bunch of other stuff, read into it inferences that might or might not be true.

Fritz: Thank you, and then one of the questions on the earlier assessment by the ACLU wanted to know, were we asked to assign officers outside of Portland? You said the report --

Reese: No, we were not.

Fritz: Thank you.

Leonard: So I think it's important to add, that when I first arrived on council the joint terrorism task force as Dan will recall was a, and Sam certainly recalls, was on a consent agenda. And the very first time I was on council it came up for renewal, I asked it to be pulled from the consent agenda, and discussed, and my recollection is I was the only one not to support that iteration of the joint terrorism task force. So I've had a pretty consistent history on this subject, and only until the arrival of Tom Potter was I able to get traction with some of the issues that I was concerned about, which does not include some of the data that's being referred to here today by Commissioner Fritz and others. My concern was more global and steeped in what I consider to be real life violations of basic rights that were exemplified by a number of notorious cases in the country, and in and around Portland including Brandon Mayfield. I can tell you as somebody who has pushed to get us to this

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place, I never intended nor did the agreement last year require that the number of hours that an officers at the police bureau that are working with the jttf be disclosed. These issues that we deal with, with respect to our city working with federal partners are ones of delicate balance, and certainly it is one of the more serious responsibilities we as a city council have in setting the policy for how we interact. And I appreciate and understand that balance. My concern is just as much for those innocent people who are conducting their lives in a way that we expect them to being exposed to somebody who would harm them without knowing who they are, without having any consideration for their families, for their lives would harm them to make some larger political statement that often times is lost to many. My concern is as much to make sure that does not happen as it is that we don't unnecessarily harass people because they have a particular religious affiliation or because they are a particular race or they are -- they have political certain political points of views. And I do not -- I never intended nor would I even begin to approach disrupting that balance by getting in and trying to lose sight of the forest for the trees, what it is i'm trying to achieve. And that is to make sure we're as safe as we can be while at the same time respecting the rights of citizens of the united states, but in this case particularly, Portland, Oregon, to exercise their constitutional rights, in all its various iterations. And speaking for myself, I think this mayor and this chief have achieved that balance. And I appreciate the work, i've been part of the discussions with at least one member of the aclu in the past few weeks, and I know it's been a lot of work and it's been trying, and there have been some hurt feelings along the way. But I think you've done a good job in finding that balance.

Adams: Do you have another one?

Fritz: I just have another question, following up from that. One of the requests was to do this tracking on a permanent basis so that in five or 10 years' time or sometime in the future we would be able to see how things have been going is that something that you could and would do?

Reese: Yes.

Fritz: Is that something that -- because as was graciously made in the aclu's letter, we're going to have a different mayor next year, and so we want to make sure that we're setting in process so that next year -- .

Adams: We have that.

Fritz: We do?

Adams: You just got it. He just said yes.

Saltzman: What was the yes?

Fritz: The yes was on -- let -- because I thought I was getting a yes last year and apparently I didn't -- so what am I getting a yes on?

Reese: If we were to do composite tracking and report to council every four or five years, I don't think that that would -- I would want to have the city attorney weigh in as well, but I don't think that's going to allow confidential investigating information to be leaked.

Fritz: And you could also track your contacts so that you could see how you're going to overtime.

Reese: Yes.

Fritz: And you would?

Reese: Yes.

Fritz: Thank you. Is that something --

Adams: Well I want to break that down a little bit because you just said yes, and you had a couple of things put in there together. She said contacts. So number of contacts, you're willing to keep track of that and then the number of hours worked --

Reese: Specific to hours and number of investigations that we participated with the fbi on.

Fritz: And then your personal -- or the chief of police's personal interactions on requests?

Reese: I'll try to do a better job tracking my calendar, but again, those are -- you know I --

Adams: I don't think you can do that.

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Reese: Sometimes I meet on an ad hoc basis with the lieutenant and the assistant chief and the special agent. I mean we run into each other at meetings and other functions, and have conversations about investigations, I don't know that I can track --

Adams: Chief if I might, the requests and the hours worked, that's something that we can keep track of, right?

Reese: I'd have to -- the request, i'm not certain -- the number of investigations we actually work on, absolutely.

Adams: Ok. So number of investigations we work on, and the number of hours, approximate hours we work on those investigations.

Reese: Yes.

Fish: Mayor I'm just going to state a standing objection to this discussion.

Adams: Okay.

Fish: And I -- Commissioner Fritz is free to propose anything she wants, but I've spent a considerable amount of time the last week talking to the aclu, the police chief, the city attorney, to people from your office, i've devoted dozens of hours previously on this, when you were -- somehow managed to get a 5-0 vote. And I just respectfully do not think this is where we should be making policy, if this is sufficiently important, I would -- we can come back at some future point and discuss it, but I -- this does not seem to me to be the right forum to start winging it, what records are being kept and how and the like. Because we are setting expectations. And I just don't think it's fruitful.

Leonard: And beyond that I don't -- i'm missing the point. I mean the point that I was trying to make earlier in the comment that I made was I wanted there to be checks and balances in the system as to how our offices were used, vis-a-vis the fbi. The fbi plays by a different set of rules than officers in the state of Oregon, and the entire point of this exercise has been to make sure our officers are used appropriately. How or why it is even relevant, how often they're used understanding that they're working within the context of our relationship is outlined in our agreement with the fbi is lost on me. Okay, I'm not understanding the relevance of that to whether or not officers are abusing the rights of citizens. I mean if they're spending, you know, 20 hours in a quarter, versus 200 hours in a quarter, what relevance does that have as to whether or not they're doing what they're supposed to be doing appropriately? I just missed the point.

Adams: Commissioner Fritz?

Fritz: Thank you. Commissioner Fish, you come from a legal background. I come from a nursing background. In nursing if its not documented it wasn't done. And what we found in my practice was that by documenting near misses, by documenting and tracking the amount of time that we spent on particular issues, we could see trends. And we could see where things were starting to need more attention and more oversight from supervisors and we know that in some of the issues we're dealing with in the police force now, we're working with mental illness because we don't have documentation, we are now trying to backfill the system to figure out how do we then track. So to me the tracking is hugely important. And it was what I was expecting last year and so i'm trying to get some clarity as to what I can expect next year, so that I might be able to vote yes on this report, because right now I can't.

Leonard: But help me understand, because i'm not a lawyer either. So I'm -- help me understand why whether you read they're spending 20 hours or 200 hours makes any difference at all as to whether they have respected the constitutional rights of the people being investigated?

Fritz: We're not asking -- we're asking for the hours, we're also asking for the level of investigation.

Leonard: But to release that publicly? I mean I guess i'm not understanding how that serves the public's best interest, nor have I ever even suggested from my own perspective that I want the public, and to be very more specific, people out there that would do ill to us, to know how many

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resources we devote to the effort to keep us safe and how we're using those resources, why in the world would we publicly disclose that? I don't understand.

Fritz: Well to read from the aclu's letter, if the fbi requested the police bureau is majoring either the assessment or preliminary investigation stage it should automatically trigger heightened inquiry by the chief, the commissioner in charge and the active involvement of the city attorney, to ensure that the city's involvement will not violate either the resolution or Oregon law. Thus it is critical for the public and the council to know how many inquiries the Portland Police bureau officers have participated in and what stage as classified by the fbi. If we knew that few if any of our officers work on either assessments or preliminary investigations, it would go a long way towards public verification that the city is in compliance with the resolution and Oregon law. And why i'm challenged by this, is I understand that there have been very few hours spent on this collaboration.

Adams: We're not discussing that. So I'm not recognizing you further, commissioner Fritz. You're straying into an area that isn't appropriate for this venue. Um I'm going to -- as commissioner in charge i'll take this conversation under advisement. We make no commitments and we also don't rule out anything. We'll talk about it and decide whether or not to reply in this matter. I would say this though, there's -- and I would respectfully submit it, it's assumed in -- with the best of intentions and the concerns about hours worked is, there's a misconception that somehow even at the earliest stages of an assessment or the preliminary inquiries that somehow Oregon law doesn't apply. And it does. It absolutely does. All of Oregon law in every aspect of this resolution, whether it is a simple tip to go find out if there's a cat in a tree, and it has something to do with jttf, our officers have to and everyone in the chain of command has to follow Oregon law, which is different than federal law. So I understand there's concerns that perhaps we could get an assignment from the fbi that somehow in the end turns out to be contrary to Oregon law, we don't take those assignments if there's doubt. And if there is ever as we move along any inkling that it could go in that direction, we don't do it. So thank you both very much. Would you please call the vote?

Fritz: I do appreciate all of the good work that has been done on this issue, the affirmations by the mayor and the chief of police, and the diligent work of the city attorney. It's clear that the intent of the resolution passed last year is being honored. However, I expected more transparency. And what we're facing here is the lack of trust from the community. And that was the problem last year. And I said to trust us, we'll get -- we'll show in a year that this is going to work out. I'm very concerned to hear that the arab american community is not participating as much anymore. That's what we're talking about here; we're talking about trust in our government. And I don't see, as I say i'm not a lawyer, I don't see why providing a little more numerical information would harm the public. That -- I'm sure I will get some tutoring on that in the days to come, but for right now I can't vote to support this. No.

Fish: So I just want to go back a little bit following randy's lead on this, to just how we got to this point. Prior to the resolution that we're now enforcing, this council over a six to nine-month period had a vigorous debate about whether to revisit our participation in the joint terrorist task force and what would be the terms. And it was a unique debate in my service, and it's in fact the only debate that I participated in where I literally spent hours meeting with the mayor and colleagues, council, ellen and I became good friends, the chief, advocates, a because I did not have the benefit of the history that randy alluded to. I was not on the council when this fight first began. Mayor Adams spent an enormous amount of time in his office, in my office and the two of us methodically worked through issues and tried to understand what was at stake, what were the legal rights, how do you balance them? Toward the end until about a week from the vote I stopped having confidence we could get a 5-0 vote of the council. Because I thought there was still a kind of a split. But with some heavy lifting and a very collegial exercise, we got there. And we had the council unify and frankly I don't think anyone thought that this mayor could do that. I think it was going to be a fractured vote. But we did. And I was very proud of that moment. I it was actually one of the

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things i'm proudest of during my service, that we came together and everyone had to give a little bit, but we came to something that we could unite behind, and I think that was important. Because if we were saying to the community that we're going to strengthen our participation, our role in a process people had doubts about, we had to be very clear that we were also focused on people's legal rights and the constitutional statutory issues, and randy I think uses the right word -- what's the balance? You know, what I appreciate about my dealings with the aclu is that they are never satisfied with the balance. But that is actually in their charter. [laughter] it's not a reflection of david's personality, or roger baldwin's quirk. That is the function of the aclu, is never to be satisfied, because they are always going to be advocating for a particular balance. And that's their role. And we respect it. And in this case i'm very appreciative of the 20-odd page memo and the phone calls and the briefings that follow this past week. But we're trying to seek a balance, and we have to balance a number of things. We have to make sure when we go to bed at night that we feel people in Portland are safe, but not at the expense of erosion of fundamental rights enshrined in our state and federal constitution and our laws. And you know, that's a big debate. That debate is about 200 and something years old. And we may, you know -- people probably still think we haven't gotten it right, but we're part of that debate. That's what this council is doing; we're part of that tradition of trying to find the balance. When the original documents came out for council consideration, I had some concerns about them. And I appreciated the input I received from many, including andrea, and the time I spent with the chief, and the mayor's staff, and our esteemed council, and I really appreciate this revised -- this amended resolution that's come before council. And david, I appreciate also the way you walked us through it, because we don't often get that kind that kind of a lawyerly walk-through, you know, the changes and what it means. But I believe those changes have in my view have addressed my concerns. There is now more meat on the bone, clarity. And in fact in fairness, some of the concerns that were raised were, you didn't clearly state something, not that there was some fundamental defect. And I think it's clear. Ultimately, and we can get lost in the weeds here, ultimately this does work on the basis of a certain kind of trust. We have -- we as a council have said that we will accept the certification of the police chief and the mayor on this. There was nothing in our underlying resolution which said each of us were going to go trace their steps, yadda, yadda, yadda. We purposely set up the framework and then we delegated. And I believe this report meets the letter and the spirit of what this council proposed. Now, we will hear over time people say that we can do a better job or there can be more transparency or more accountability and as people should, that's their right. And we'll continue to have this discussion. But this is the first report, and i'm satisfied this report meets the council's intent. Ultimately for me it's a question of, are we safer? Without sacrificing cherished values. And that's the balance. And I believe we are safer today than we were before we adopted this new approach on jttf, but i'm grateful for people who come forward and hold us accountable on the other side of the ledger, about our rights. And a -- this is a work in progress. Mayor, thank you for the work you did, I don't know where you actually get time to sleep, the last few days you had a few other things on your plate, commissioner Leonard thank you for the leadership that you've taken on this, to the chief and ellen, thank you, and to the advocates who weighed in, I thought the submissions were very thoughtful, as always, and helped shape, and I think the product is better because of it. Aye.

Saltzman: I want to thank the mayor and the chief, and ellen. The lieutenant and the assistant chief, I think this is a great report. It really a -- I like how it tracks the resolution. That makes it very simple. And I you know, I want to particularly make a few thank yous to how we got to a 5-0 vote, was in addition to the Mayor's work. I do want to thank former u.s. Attorney dwight holton for the considerable amount of effort -- time and effort he devoted to this. And I also want to a you know make sure I -- apparently I did not in a previous meeting where I did express my concerns about the original aclu request for information that be released in this first report, I thought it was a

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little unrealistic and I think some of this discussion tracks that, but I still want to make sure that I do thank the aclu in particular andrea meyer, in case she's listening, andrea I do thank you for your participation.

Adams: Oh she's listening.

Saltzman: I know she's listening and but also david. And like I said, we don't always agree, but I have a lot of respect for what you do and I know that andrea spent a lot of time on this too, and I want to make sure that she -- I convey my gratitude to her as well. Aye.

Leonard: Well as I said, I think this is an exercise that probably for an elected body is amongst the most important work that we do. And I think it's the one place where we set aside to the extent we can political differences and try for the sake of public safety to find the balance that provides our citizens to be safe and secure in their homes and in our city while at the same time assuring citizens that have different political beliefs or ascribe to religion other than mainstream religions, look different, who may dress different, who may behave different, who may speak Different, that they too have the same rights as everybody else in our city. And achieving that balance is not easy. Nobody's worked over the years in public life closer with the aclu than I have, in the legislature and here. And I think they would tell you that. But like commissioner Fish, I will tell you I recognize what their job is, and that is to advocate. And we have to balance what it is that they argue for with what our responsibility is, and that is ultimately to make sure we give our police bureau the resources it needs to protect us, that we have agreements in place that supplements their resources to make sure they protect us, and by all means, I will just make clear from my perspective, I don't want the chief's calendar to display all his meetings with the fbi relative to these issues. I don't want the officers' names revealed who are assigned to the jttf. I don't want the number of hours the officers are working on cases whether it's a lot or small to be revealed, only because I don't want people who would do us harm to strategize around knowing how much we invest in the effort to protect our self or not. That is very much a strategy on the police bureau's part that I completely understand and support. And defend. But having said that, I think that we have also demonstrated over the course of this history not the greatest track record in protecting the rights of minorities or people who don't look like us. And I only need to point to the executive order signed by president roosevelt as I've alluded to in this debate before that interred japanese americans born in this country, but for being of japanese ancestry they would have been free to roam through the country as anybody else except that they were of japanese ancestry. That lurks in the soul of this country, and we have to have checks and balances to assure ourselves that those kinds of things don't happen. I think we've done that with this agreement that does not have us join the jttf, but establishes a very I think practical relationship with the federal government to work with the jttf on issues that could be of concern to the public safety of Portlanders. So I appreciate too the work of mayor Adams, chief reese has done an exemplary job, and all those that have been involved in this debate in the last few weeks. Aye.

Adams: Well I too want to thank chief reese and his excellent team in striking the balance on a day-to-day basis of preventing any terrorism from occurring, but also upholding and protecting individual legal rights. Thank you as well to ellen and the team at the office of the city attorney, appreciate it very much. To Amreet Sandhu on my peacekeeping team, thank you for all your work on this. To be clear, this isn't -- this is one of the few reports written in the nation on any joint terrorism task force. And it's reporting on one of the very few if not the only protocols for working with a jttf. So the advocacy and the good tough questions that have been asked, and answered I think are key to making sure that we strike that balance, but that on top of the fact that you have before you a document that includes affirmations about compliance, and maybe we'll make this part of the ongoing protocol for all bureau managers, affirmations that there is compliance and the responsibility that comes with that, you know, that's unique as well. So I think we've made great progress in seeking to strike the balance not only locally, but when I read the newspapers and they

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say, well, Portland did this, why can't we, sort of do this, I think that also shows that we've made some progress on the national discussion about striking the balance as well. So thank you all. Aye. We're recessed until tomorrow.

At 3:26 p.m., Council recessed.

March 1, 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.

MARCH 1, 2012 2:00 PM

Fish: [gavel pounded] The council will please come to order. Karla would you please read the item before us?

Moore-Love: Yes.

Item 206.

Fritz: You need to call the roll too.

Fish: Would you please call the roll. [roll call]

Fish: A quorum is present, we shall proceed. Mayor Adams will not join us for this meeting, as the president of the council I will be the presiding officer. This is a continuation of an appeal hearing that was last heard on January 11th, 2012. We have a couple of housekeeping matters to get to and then we're going to invite Sylvia Cate forward. First I want to ask my colleagues, does anyone have any ex-parte contacts they wish to disclose at this point? Does anyone in the council chambers wish to ask any of the commissioners about any ex parte contacts? Hearing none, we will proceed. It is my understanding that we will proceed as follows this afternoon. First we will have a brief summary from staff, Sylvia Cate, then we will allow a representative of the neighborhood and a representative of the applicant up to five minutes each to summarize their arguments to council. And as we discussed last time, we will not be accepting any new evidence or new arguments at this hearing, but you can argue off of anything that you have previously submitted to the council. Please assume that any materials that you have submitted have been read and reviewed. So this is your chance to give us essentially your final argument. With that, and -- any questions or concerns from my colleagues? So we'll proceed. Sylvia, would you like to come forward?

Sylvia Cate, Bureau of Development Services: Good afternoon council. I'm Sylvia Cate with the bureau of development services. I'm the assigned planner for this review, which is a Verizon application to develop a new wireless facility at the Mt. Scott fuel site. I'm going to provide you with a brief summary of the proceedings to date and I will not rerun my power point presentation, but it is loaded and available if during your deliberations you need to take a look at some pictures or an aerial or something to refresh your memory, that resource is available. The first appeal hearing as mentioned was held on January 11th, and at that hearing, city council agreed to reopen the record and accept new evidence and new argument from all parties followed by a rebuttal period for all parties, and a final period for Verizon to submit final rebuttal argument. The record closed on February 15th, and city council also agreed to continue this appeal hearing to today. I know you folks have gotten a lot of technical information, quite a number of pages. I'm going to attempt to boil that down to a few targeted steps that will help guide council in your deliberations. In order -- this appeal has raised a number of issues, as you are aware, and in order for city council to resolve those issues and make a final decision on Verizon's application, I believe that city council needs to do the following. First council needs to determine a code interpretation. That is determine the intent of ERP or effected radiated power within the context of title 33, Portland zoning code. Once you've determined the intent of the RP, you then need to determine what the effected radiated power levels of this particular facility are based on both your code interpretation, and the evidence in the record. Once you determine what the ERP value is, that number will then inform us as to which set of approval criteria apply to this application. And

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then your final step would be to determine if verizon's proposal either meets the applicable approval criteria or can meet them through imposition of a condition of approval, and if so, the proposal should be approved. And alternatively, if council makes findings and determines that the proposal does not satisfy all of the applicable approval criteria, then the application should be denied. That concludes my statement. Does council have any questions for staff at this point?

Fish: Questions? Colleagues, commissioner Fritz.

Fritz: Thank you. So the hearings officer based his denial on two points of reasoning. One was that there was insufficient evidence as far as what the erp levels were, and the second was on whether the certified radio frequency engineer was actually certified? Is that information now in the record? Can you comment on this?

Cate: There is additional information in the record addressing those points, both of those points.

Fritz: And my reading even before was that there was in the previous record a certified, a properly certified engineer, although the first one, perhaps, was not.

Cate: There are, in the initial portion of the record that went to hearing before the hearings officer, there were two signed and stamped engineering reports addressing the effected radiated powers, as well as the emission levels for this facility. The first report staff asked for the engineer to recouch it in terms that the city uses for erp, which i'm sure you've caught the point that we use it somewhat differently than the way the fcc and the engineering world uses it. So, I asked them to resubmit a new rf engineering report that addressed those issues within the structure of the zoning code.

Fritz: And that was done by a certified rf engineer?

Cate: Yes, it was.

Fritz: As far as the level of the erp, we do have evidence in the record that each antenna on the facility is 1,000 erp or less?

Cate: We have evidence in the record that this facility will operate at 1,000 watts or less per channel of one antenna.

Fritz: And I believe I saw from the city attorney the interpretation from the federal code that their intent was per antenna rather than per facility for the thousand.

Cate: I believe mr. Walters memo and I can review it, reread it, but I believe he was trying to make the point that the fcc regulations actually incorporate erp as both a power limit for the transmitters which power each individual channel, and also as a factor that is plugged in to the formula to determine the emission levels, which is a function of power plus a number of other things.

Fritz: And so, putting those two together, the facility under our code, as we have been interpreting it would be 1,000 erp or less?

Cate: Correct.

Fritz: Thank you.

Fish: Thank you. Sylvia, thank you very much. If you'll stick around in case there are anymore questions? At this point we are going to invite representatives of both sides to come up, beginning with a representative of the neighborhood for five minutes. You're now a pro here so all we need is your first and last name and you have five minutes sir.

Chris Hill: Okay. Good afternoon. My first and last name are Chris hill. Thank you for inviting us back here to deal with this. And I guess beginning at the beginning, is it a sub-c case or is it a sub-d case? The language as it has been used, and I think that I made this point fairly thoroughly in the briefing, the language facility operating at 1,000 watts erp or less, the way everybody has used it throughout this process, including Mr. grillo, in the final rebuttal argument is to refer to all of the antennas as opposed to just one. The fcc's definitions, one of the things we discovered is the term station or base station, the fcc uses that term to mean all antennas and all of the accessory equipment. And that comes from the oet bulletin 56, page 20. The analogy that I made in the

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briefing is to a lamp and so refer to, you know, if we had a hypothetical code section that said lamps operating at 100 watts or less, and we have a lamp with three bulbs, each operating at 50 watts, what is the emission from the lamp? Well, it's 150 watts because it is the sum of the emitters. In anticipation of some of the things we may hear from verizon, ERP what is it? Well, it's radiated power. It is by definition an emission. And the Portland city code defines it that very way. It is the power emitted from an antenna. Mr. Gordon, their engineer, also agrees with that when he writes in his January 25 letter that ERP is the full power emitted by an antenna. In terms of statutory construction, the two biggest problems that Verizon has with whether it is a sub-c or sub-d case, is they're trying to insert language that's been omitted here. They want facilities operating at 1,000 watts ERP or less, to mean facilities with antennas operating at 1,000 watts ERP or less, or alternatively grafting it on the end based upon one channel of one antenna. The Portland city code, has a section 33.700.070, which is the interpretive provision for the land use section. That specifies how we go through and deal with interpretations of things under chapter 33. That section does not say anything about consideration of legislative history. What it says at .070g is when we have an ambiguous provision, you look first to the stated intent of the regulation. In other words, the purpose section of the regulation, and then also the relationship to other regulations. What under the PGE template would be referred to as context. So, in terms of legislative history and looking at it under the code, I don't think that you get there. I think that you need to look at the literal meaning of the words that are used. The purpose of the statute, and in this case 33.815.225 and the purpose is allow these things where there are few impacts on nearby properties, and then look at the context, which is the analysis of the word facility, the word tower, the word antenna, the word ERP, you know, all of those things that we've covered in the plain meaning sorts of analysis. If you do eventually consider legislative history, it's not quite as clear as Verizon wants it to be. In the passage that I quoted, there is the statement that facilities can exceed 1,000 watts ERP, which means we're either looking at aggregations or the neatness of the category, 1,000 watts as the max power level just isn't the case. Moving on to one of the factors that you're going to weigh under either a sub-c or sub-d analysis, the benefits of the project and the impacts of the project. I think that you have to look to the benefits of the project itself and not to wireless services generally. If you do otherwise, you are essentially reading that section out of the statute. And finally, as far as Mr. Cully goes, they rely on him in two particular parts of this. Both the project purpose and as the starting point for Mr. Penians analysis you should not rely on unlicensed engineering for either one of those, any more than you would say rely on an unlicensed architect to tell you about how safe the Sellwood bridge is.

Fish: Thank you very much.

Hill: And do you have any questions? Okay?

Fish: All set? Thank you, sir. We will now hear from the applicant. And all we need is your name and you will have five minutes, sir.

Phil Grillo: Thank you council. I'm Phil Grillo I'm here on behalf of Verizon wireless. Really just a few short points and then opening up to questions. As staff mentioned, there are really three basic issues for you to look at here today. The first is the ERP interpretive issue and that of course has got most of the attention in this case. And essentially there are three interpretive choices that you have got. The one that the hearings officer chose, which is essentially the per antenna interpretation, sort of the -- all of the antenna, all of the transmitters in all directions interpretation that the neighborhood is proposing, and then there is the interpretation that staff has used for a number of years, and that we believe is correct. Those are really the three interpretations, that's the per channel, per transmitter interpretation. When I became involved in this case, of course, one of the things that I needed to look at was whether I believed in good faith that what -- the staff's interpretation was accurate. And based upon what I've seen in terms of the legislative history and the federal law standards, I believe that what staff has been doing over the course of

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years and what the city has been doing over the course of years is really consistent with both the legislative history and the federal law. If I felt that it was different, I certainly would have advised the client in going in a different direction. I think that you have every ability to continue to interpret this provision in the same way that you have been interpreting it for the years that you have been doing so consistently. So we believe that is the interpretation, and in terms of the second issue, which is the erp factual issue, again, there are really three choices there. If you believe that the interpretation that staff has been using, the -- which is the one we agree with, which is the per channel interpretation, the erp in that situation is 759, and that is below the thousand watt threshold. There is evidence in the record that shows that if it is, indeed, you believe it's the per antenna interpretation, which is what the hearings officer used, then the erp is 2346. Likewise if you believe the neighbor's interpretation, then it's 20,172. So we want to be clear that there are those facts in the record so you can decide whether it is a sub-c or sub-d case. Beyond that, again, that is all just preliminary. Now you get to the approval criteria themselves. Essentially there are three groups of standards. There is the conditional use permit standards, development standards, and adjustment standards. I think the standards that have probably gotten most of the attention are the conditional use permit standards, and assuming that we're under sub-c, essentially there's three that I think have gotten most of the attention. The one that I think is probably most important here quite frankly are the visual impacts issues. And I think that we pointed out why the visual impacts on this case are really relatively minimal considering what we've got here. It is a 45-foot monopole, it's a permitted use in the zone. 45 feet is within the height limit of the zone. It's beyond the setback in the zone. And there has been a number of things that have been done to try and keep that facility as contained and as sleek and as well designed as we can. In terms of the public benefits. We talked about that at some length in our closing materials. And also talked about why it's the only real feasible way to provide the service in this area. The development standards really in this case talk mostly about rf standards and citing standards, and, again, I think that there's substantial information in the record on that. Again that really -- the city has to defer to federal law in those areas. So we don't think that there should really be that much debate about that here. Because those are things that are going to have to be licensed by the federal government before the facility can go online so we know that those standards will be met. The adjustment standards are whether the adjustment equally or better meets the purpose of the regulation to be amended. Again, all we're doing in this case is asking for an adjustment from the landscaping, not the buffering of the situation. And it just made no sense to essentially plant plants and shrubbery inside of a wall or inside of a fence if there was a place on site that we could do it, we would do it. What we propose to do instead, is to actually do some street trees and some work along the frontage of the site and we believe that that will help the situation as much as we can given the situation there. It will help bring the nonconforming frontage up to code at least in the area there along foster. So that's really -- I think I have covered as much as I can in five minutes and I want to spend some time answering questions if you have it.

Fish: Questions from the council? Mr. Grillo, thank you very much.

Grillo: Thank you.

Fritz: I did have one.

Fish: commissioner Fritz.

Fritz: Thank you. I'm pleased that you brought up the visual impacts, because i'm not convinced that everything has been done that could be done to further reduce those. If the council chooses to move ahead with this application, i'm wondering if your client would be accepting of a condition of approval to relocate the monopole to the other side of the building which would make it further away from the residents? It takes up the same -- you know it still takes up a parking space, but taking up one in the proposed location, shifting it around to more -- further away from the residential zone, would that be acceptable to you?

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Grillo: Commissioner Fritz, we explored that early on and it kind of explored that later on in the process. And the problem is not really from Verizon's standpoint, it's that that really doesn't work for the owner of the site. Some essentially pivoting the location of the mono pole and putting it in the area that I think you are referring to, and we might be able to get that up on the screen so that we can all be sure that we're talking about the same area. But essentially it would be behind a different wall I think of the larger building to the north there I think it is. The problem is that's in an area that the owner uses actively and it's also an area where a lot of maneuvering takes place. So it's just not an area that is available to us to lease. If it was available to lease, we wouldn't have a problem moving it there.

Fritz: Mmm, that's a problem for me because I have a problem where it is in its current location, I don't think it's -- without the landscaping, that it significantly mitigates the visual impact.

Grillo: I guess all I'd say is that all we can do is do what we can do within either the leased area or within the parameters of what the owner would allow. And the owners just would not allow us to do that. It is not an issue that we wouldn't be willing to do that, it is an issue that the owner wouldn't be willing to let us do that.

Fritz: So then if it is denied, what will you do to provide the coverage?

Grillo: Um I don't know the answer to that right now.

Fritz: Presumably the owner might be amenable to an additional conversation, if it's either getting a space leased or no space leased?

Grillo: Well I mean in the interest of not trying to get more evidence into the record, all I can kind of tell you is what based upon essentially the discussions that are already been in the record is that just -- that's sort of the essence of their business there, and the way -- it's not a -- it's not a nice rectangular site, as you know. It's kind of a -- the way the site is laid out has kind of developed over the years, and I can't speculate as to what might happen down the road. All I can say is that looking at the site, from my eye and from looking at it from what I think the owner has said, it makes sense to me why they wouldn't want to lease some space here if it is going to essentially wreck their business on site.

Fritz: Maybe when staff comes back up we could get a site plan -- I would like to see the site plan. Thank you.

Grillo: Thank you.

Fish: Other council questions coming? That's a --

Grillo: I'm happy to help if that --

Fish: If you could just -- so there's the proposed location.

Fritz: I don't understand why they couldn't move one of the loading pieces to next to one of the other loading pieces are, they've already got some piles over by the residential property line, I don't see why they couldn't move one of those piles so that you could move it to the corner, which would be further away from the residents.

Saltzman: Where are you suggesting, commissioner Fritz?

Fritz: The corner over here -- or further in here, anywhere along the -- what would that be the east wall? The east wall of the dollar store building? It seems like there are multiple places there that it could fit where it would be much less intrusive visually which is one of the approval criteria being adjacent to those residential properties.

Grillo: Again, let me just reiterate, I understand what you're saying in terms of it being in essence deeper into the property and therefore less -- potentially less visual impact to the immediate neighbors. To just sort of show it on the overhead here, there is -- if you look down to the -- I'm assuming this is oriented north/south.

Cate: Yes.

Grillo: If you look to the south, you can kind of see where the main sort of entry point is there and you can kind of see a worn path of -- it kind of curves up to the north and then slightly east.

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That is in essence, the main drag, if you will, for moving materials on that site. So, if something was put along that wall area that I think you're talking about, it is really right in the middle of their maneuvering area.

Fritz: Well it looks -- if this is to scale as to the size of the facility? The blue box?

Cate: This is not -- this is not to scale, and the -- the boundaries in the yellow and orange don't match up precisely with the property lines. It's just an indication.

Fritz: If the facility is somewhat similar to that blue rectangle --

Cate: Yes, yes it is.

Fritz: then it could take up two of the parking spots that are already inaccessible to that traffic over on the east side of the building or it could even be over right on foster road where it would be much less intrusive. I understand it's going to be more intrusive to the dollar store and to the business moving it further away from the residences but it seems to me the approval criteria require it to have fewer visual impacts, and to me, especially given the other concerns of the neighbors, some of which we're not allowed to consider, that would be a much better location.

Grillo: Well I guess the only point that I'd make, and again maybe this is -- both practical and legal, which is I think the standard is feasible. And if you don't have an owner who is going to allow you to use the site in that way, I mean it's not feasible. From us, from the standpoint of the applicant, it is not feasible for us to do that.

Fritz: I don't think the owner of the site gets to say what the city's land use approval can be. I mean the site is the site, the whole site. We're not approving --

Leonard: I think, just with all due respect, I mean I appreciate different members of the council may have different reasons for wanting to do what they intend to do on a motion before us, the questions presume that if there was a denial, it would be based on where the location of the antenna is and that is not where i'm coming from, and I have -- I don't agree that the neighbors have raised issues that we cannot consider. I think some of the issues that have been raised are new and unique. That doesn't mean we can't consider them. And I think there are more fundamental problems than the location of the transmitter, in my view.

Cate: Could I just -- a commissioner Fritz, I would like to remind you that again, this is not to scale. But if this facility were actually closer to the residential properties, it would be subject to, assuming you agree with staff's position with erp, this facility would be subject to 33815, 225b, which is a set of criteria specifically for this type of wireless facility that's within 50 feet of the residential zone. The farthest west corner of this facility, that's generally shown by the blue rectangle, which is intended to represent the perimeter fencing, the closest corner of that fence is 53 feet away from the adjacent residential zone, and because that compound is 47 feet in length, the tower itself is give or take around 90 feet away from the residential zone. I just wanted to clarify that for you.

Fritz: There is an applicable approval criteria to -- criterion to minimize the visual impact.

Cate: That's correct.

Fritz: And so I don't see how putting it as close as possible that it doesn't trigger that other review minimizes the visual impact, it would be much less visual impact and to me this is a key factor in deciding whether to vote for this and i'm required to vote for something if the approval criteria are met or can be met with a condition of approval, whether that's been something that you -- your client wants to pursue with the owner of the site is not -- is up to you, in my opinion.

Grillo: So are you suggesting, then, potentially approving it with the condition of approval that it be moved to that location?

Fritz: Uh-hmm.

Saltzman: Could, Sylvia, just the orange colored line, what's that mean again?

Cate: The orange color is operationally and functionally part of the site, but it's actually under a different ownership. So that's why it's a different color, just to break that out.

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Saltzman: Okay.

Fritz: And why was the location not chosen right on foster road in the top right-hand corner?

Cate: When any wireless entity approaches a property owner, the property owner ultimately has a say as to whether or not they are going to enter into the lease and where that exact lease area can or should go on their site, their roof, depending on the circumstances.

Fish: Mr. Grillo why don't we excuse you for a moment, and I think we're going to have some discussion with staff. And I'm going to poll my colleagues in a moment to see where we are. And thank you for your presentation. Let's take this opportunity to ask staff any additional questions about the matter before us. Hearing none, so, I would invite some discussion from my colleagues about where they are at this point.

Leonard: I will help that discussion along by moving to deny the appeal and uphold the hearing officer's decision.

Fish: Is there a second? Hearing none, the motion fails. I will entertain another motion.

Fritz: I move to approve the appeal with the condition of approval to move the location to -- closer to the -- well I don't know how I should word this -- to move it to the southeast side of the building or to another location on the site that is further away from the residents?

Saltzman: I'll second that.

Fish: It has been seconded. Council discussion?

Kathryn Beaumont, Chief Deputy City Attorney: I would just clarify that any vote you take or any decision making you do today would be tentative only and we will need to bring it back for --

Fish: Understood. So depending on the outcome of the vote we'll come back to you and ask for further guidance.

Beaumont: Correct.

Fish: Thank you council.

Leonard: So maybe I could inquire of the city attorney, if there is a tie vote Kathryn -- essentially no motion passes, does that mean that the hearings officer's decision stands?

Beaumont: No, it -- under the code, it would be -- you would need to carry it forward to a date when all five council members are present and you could have a tie-breaking vote. It takes a vote of three to take any affirmative action. A tie vote is no action.

Leonard: I see. It's not in essence a denial.

Beaumont: No.

Fish: Okay. I'd say that's a first during my service in council, that a colloquy, for purposes of these matters, because they're not frequently contested.

Leonard: Well I would -- in that context, I would before we vote, I would say that I think that the neighborhood has done an exemplary job of actually identifying a very specific issue that the hearings officer agreed with, and that is in concluding that the effective radiated power from all the antennas are to be added together in order to determine whether the approval criteria set forth in the planning code applies, and I have listened carefully to their testimony. I've listened carefully to the applicants testimony, and I think that -- that as I alluded to earlier, that though this may be new ground that the neighborhood is pursuing, that was good enough for the hearings officer who, I think, is well positioned to listen to the facts and arrive at his own conclusions that I don't find any reason to overturn his well-reasoned analysis.

Fish: Appreciate that. Procedurally, we have a motion and a second.

Leonard: Right.

Fish: And I think the motion has been stated. And a I'm going to just to observe our rules, unless the maker of the motion wishes to modify her motion, I think we should test it with a vote and then come back.

Fritz: Well I appreciated commissioner Leonard's comments. And so if I might just speak to the motion before we vote?

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Fish: Ok. Without objection I guess since it's somewhat irregular --

Fritz: This is new ground and I do greatly commend the neighborhood for bringing up this particular issue, in fact a set of issues which are important and which we need to deal with. That was why we took the time to go back and look at the fcc, to look at -- not only the legislative intent but that very purpose statement that you raised in terms of allow where there are few impacts on nearby properties. And so the question are what kind of impacts. My motion speaks to our belief that there are visual impacts -- but in terms of allowing these larger towers where there are fewest impacts, this site is probably one of the least detrimental in the city. If we know we're required to allow wireless facilities to operate, and my understanding from both being on the planning commission when these regulations were put into place and from reviewing the code is that the intent is per channel -- that the 1,000 ERP is per antenna and not per facility. I do think that that needs to be clarified. And I know commissioner Saltzman shares my concern that we have a citywide process to look over all cellular facilities -- if this code needs to be tidied up to clarify for the hearings officer and others, then certainly that could be done, although, I would be reluctant to do a quick fix at this point knowing that we have such concern about cellular facilities citywide, I think we need to go back and revisit the choice we made in the early 2000s, of going -- instead of having a lot of this type of facilities with the clustered antennas, to go to the facilities in the right of way on the single antennas on the utility poles which then results in a lot of them all over everywhere. So whether you have a few that are more intrusive or a lot that are less intrusive, but still of concern, you know the thing we can't talk about or rule on is the potential health impacts of these facilities. And we, as you know, passed a unanimous council resolution asking the congress to take another look at that. We're still pursuing that. I appreciate the partnership of many community members, in urging our federal delegation to look at that again, just to look up the studies recently to find out is that something that we should now be considering or be allowed to consider, but those -- all of those things I think are outside of this particular application, and the two pieces that I saw the hearings officer base a denial on were the issue of is it one or is it many? And according to my reading and the city attorney's reading, if the federal rules its -- each one gets to be 1,000. Your analogy of the light bulbs and the light fixture, with the 50 watt bulbs, do they get -- yes collectively they get to be 150, however, I as a homeowner know that I can use three up -- as long as i'm not exceeding 50 on each one, that I'm not gonna probably set fire to my house. I'm getting a brighter brightness for sure and so that then gets into the health issues which is what we're not allowed to look at. So those are my reasons for thinking that the hearings officer was not correct. And even if those two issues were so, I think the hearings officer should have said well, then we're going to evaluate it through D -- just saying I don't know which said to me that the hearings officer was punting it to council to make our interpretation as we are required to and authorized to do under the legislative process. The reason I believe we have to have the amendments, is that in order to both fulfill the purpose statement and to fulfill the conditional use criteria, moving it further away from those residences is necessary. So whether this means that the owner of the site no longer wants to lease to you, that's not something that is an approval criteria, that I have to vote on.

Leonard: Mr. President, under the topic of discussion, I feel compelled to respond. I'm not speculating about what the hearing officer said. I'm reading his decision. He didn't punt to the council as to how erp is defined or determined. He made a quite reasoned argument in his decision beginning on page 9, going to page 10 and 11, in which he made a specific finding that the effective radiated power is from all antennas added together. He went so far as to cite a state supreme court decision, pge versus Boli in which he quotes that -- from that in the planning code that approval criteria allow radiofrequency transmission facilities in locations where there are few impacts on nearby neighbors. He follows that with the citation from the federal code that he concludes -- on page 10 that he concludes supports his determination that the concept of erp is

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the power to a single antenna in the federal code, and goes on further. I -- I am perplexed at the suggestion that somehow we should have some citywide process to make a determination that a qualified, a hearings officer made after listening to reasoned arguments from both sides, and made what I consider to be a very reasoned conclusion on a subject that has, as I alluded to earlier a couple of times, may have been divisive, but he's found a basis to decide what he did and I think that it just benefits the neighborhood and not the cell phone industry shouldn't make the neighborhood's case any weaker. I mean they, as far as i'm concerned, are as qualified as the cell phone industry to read the code, to read decisions and to make reasoned arguments and I give them no less or no more credence than engineers from a cell phone company. And I find that their arguments reflect what it is the hearings officer decided and I think they've made a strong case before the hearings officer, and now in front of us to support what the hearings officer concluded, and I think it's unreasonable to do anything different.

Fish: Commissioner Saltzman.

Saltzman: Yea I just wanted to jump in here. I believe you know, Sylvia cate that has done a great job in her latest memo sort of outlining the whole history of the cellular industry, at least as it arrived in Portland. The first cell tower was in 1985 and things have changed a lot. And so I think the reference commissioner Fritz made to changing our code -- is our code is outdated. It is not speaking to the quality of the hearings officer's finding. I mean I agree the hearings officer made a finding, I happen to disagree with it which is why I just wanted to make that clarification about -- the code does need to be changed, it needs to be updated to reflect modern realities but it's not trying to change this 1,000 erp issue.

Fish: Further discussion? Karla would you please call the roll.

Fritz: Well thanks to both commissioner Saltzman and commissioner Leonard, those were helpful clarifications. I disagree with the officer's decision also, and I am looking forward to an update of the code city wide. I believe that with the condition of approval that this application does meet the approval criteria in section c and therefore I vote aye.

Saltzman: Well I appreciate the solid arguments of the neighbors and of verizon as well, but I do agree with commissioner Fritz. I think this condition of approval does make this proposal meet the criteria for approval. I do disagree based upon subsequent analysis by both our city attorney from our january 11th hearing, I disagree with the hearings officer finding that 1,000 erp applies per antenna. I think it applies per tower. So i, too, vote aye.

Leonard: No.

Fish: We've had a lot of these hearings. At least I've participated in a lot in the three and a half years I've been on the council, and I do not think it is inappropriate at this moment to say that the arguments advanced by mr. Hill and the neighborhood on the neighborhood side are among the most thoughtful and well prepared arguments we've heard. And the reality is there's sometimes a little bit of a David and goliath in these matters and so we deeply appreciate the thought and care you've given to this in your presentation. I've reviewed all the materials, and thought about legislative intent, federal law, guidelines, memos that we've received, and what I think was intended, and i'm going to support the motion because i, too, believe that the hearing officer applied the wrong standard and that the law was intended to allow 1,000 watts per channel per antenna. That said, under our system we may not have the final say on this matter. And there is also some additional work I think we need to do to update our code. But my decision is based on the law that I have been presented and my best judgment, and if i'm wrong, our system has checks and balances built in. But it is in no way a reflection on the quality of the advocacy on either side, which I thought was superb. Aye. [gavel pounded] Motion passes. Let's set a date.

Beaumont: As I understand it, and I have clarified with verizon's counsel, we at the moment the counsel has an extension of time through april 4th to adopt findings and take a final vote. I understand from Karla that we can bring this back the morning of april 4th.

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Moore-Love: Correct.

Fish: Gentlemen, how does that work for each of you?

Beaumont: Under our code, it will be the responsibility of Verizon's counsel to prepare an initial draft of the findings. We need to allow adequate time for them to prepare the draft, submit it to staff in our office for review and approval and final submission to the council.

Saltzman: Is there time for the neighbors to also review that draft, built in to this?

Beaumont: It will be available for review when it's filed with the council, or filed with the auditor.

Fish: Oh, so it would be under that proposal, when would it be filed again?

Beaumont: April 4th it would be brought back to council for final vote and adoption of findings.

Saltzman: And it would be filed the last week of March then for council?

Beaumont: Correct. Yes.

Fish: Mr. Grillo does that timetable work?

*****: [inaudible]

Fish: Mr. Hill?

*****: [inaudible]

Fish: If you're not available and you have some other conflict, would you please let the clerk know?

Hill: Yes.

Fish: Okay. Thank you very much. Do we need to put that --

Beaumont: If there is any likelihood that we will go beyond April 4th then we would need a precautionary extension of both the FCC shot clock and the state 120 day time limit from Verizon -

Fish: I assume Mr. Grillo if for any reason we need to extend a week or two, to accommodate the parties that you would agree to those extensions?

Grillo: Yes.

Fish: On the record, yes, thank you so. Any other matters council to take up?

Beaumont: Can we set a time Karla on April 4th?

Moore-Love: Why don't we go ahead and say 9:30 for now? 9:30, yes, time certain.

Fish: Okay. Council. Thank you all very much. We're going to take a recess until the next time certain at 3:30. [gavel pounded]

At 2:50 p.m., council recessed.

At 3:33 p.m., council reconvened.

Adams: A couple of housekeeping items, the rest rooms are outside, women's is located on that side, men's is located on this side. How many of you have been to a city council hearing before raise your hand? Okay. The hearing before us is a quasi-judicial hearing and so its process is mandated by state law and local codes and practices. Part of that is that if you're here as a lobbyist, you need to disclose who you're authorized to lobby on behalf. Whether that's a for-profit or a non-profit neighborhood association, if you are here to just represent your own point of view, the only thing you need to tell us is your first and last name. We do not want your phone number, we do not want your address, we do not want your email address, all you need to tell us is your first and last name. And again if you're a lobbyist then who you're lobbying on behalf. How many here are in support of the appeal to establish the community arts center raise your hands. How many are opposed? Okay so the room is full of supporters, 25 of you have signed up. There's the old phrase, don't look a gift horse in the mouth or whatever it is, I'm going to limit testimony to, when we get to the point where anyone can testify to one minute. And if you have already heard your point of view made I would encourage you to not repeat for the record you don't have to repeat, the record shows there was not a single hand that went up in opposition to this. Having said that, we will now

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begin, so city council will come back from recess. [gavel pounded] Karla for the record would you please call the roll?

Adams: A quorum is present. We shall proceed. Ms. Beaumont.

Kathryn Beaumont, Chief Deputy City Attorney: I believe karla needs to read the item first.

Adams: Oh, can you read the title, then Ms. Beaumont.

Item 207.

Adams: Ms Beaumont.

Beaumont: Good afternoon. I have several announcements I need to make at the outset of this hearing. They are required by state law and our city code, they will describe the type of hearing we're having today, the order of testimony, and some guidelines for presenting testimony. First, this is an on the record hearing. This means that you must limit your testimony to the material in the 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 that you must limit your testimony to the record. Second, in terms of order of testimony, we'll begin by a staff report by the bureau of development services staff for approximately ten to 15 minutes, following the staff report, the city council will hear from interested persons in the following order. The applicant will go first and will – or the appellate will go first and will have ten minutes to present the appellant's case. Following the appellant persons who support the appeal will go next. Each person will have three minutes to speak to council. Typically, if there was a principal opponent, the principal opponent would have 15 minutes to address the council and supporters of the principal opponent, would have three minutes each, finally the appellant has five minutes to rebut the presentation of the opponents or to make any concluding summary. The 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 day for the adoption of findings and a final vote on the appeal. If the council takes a final vote today that will conclude the matter before the council. Finally, in terms of your testimony, again, since this is an on the record hearing, it means you have to limit your remarks to arguments based on the record compiled by the hearings officer. You can refer to evidence that was previously submitted to the hearings officer. But you can't submit new evidence today. If you're argument includes new evidence or issues, the council will not consider it and it will be rejected in the city council's final decision. If you believe someone who addressed city council today improperly presented new evidence or presented a legal argument that relies on evidence that's not in the record you can object to that argument. And finally, under state law, only issues that were raised before the hearings officer may be raised in this appeal to the city council. If you believe another person has raised issues that were not raised before the hearings officer, you may object to the council's consideration of that issue. Finally, I would note one issue for the council that we will deal with at the conclusion. The 120 state law 120 day time limit for final decision-making expires at the end of march 9, so roughly a week from, a week from today. The council's decision today will most -- maybe a tentative one, which means we'll need to bring this back for the adoption of findings, and we'll need to deal with the timing of that, and obtaining an additional extension of the 120-day clock from the applicant as necessary and appropriate. So I just wanted to give you a heads up on that issue.

Adams: Alright. Does any member of council wish to declare a conflict of interest in the matter before us? Hearing none. Does any member of council have ex parte contacts to declare information gathered outside of this hearing to disclose?

Fish: I would just disclose in the ordinary course communications that people have had with staff members who've then briefed me but not with me directly, Mayor.

Adams: Do any members of council have any other matters that they need to discuss before we begin the hearing? All right. Let's begin. We'll hear first the staff report.

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Mark Walhood, Bureau of Development Services: Good afternoon, mayor Adams, members of the council, i'm mark Walhood, case planner with the bureau of development services. And I am here today representing the hearings officer's decision in lu 11-187799cu for the Portland playhouse. I do have the full case file here with me today. Also here today with me is my supervisor, susan mckinney, and bob hale from Portland transportation in the event transportation questions come up, but that's unlikely. I'm going to move through this pretty quick. I tried to keep it short. So stop me if you have questions, but I'm just going to race through. In summary, the proposal is a conditional use review for community service uses. The approval criteria are in the zoning code at 33.8151085e for institutional and other uses in R zones. The request is to establish a community art center in a former church building in northeast Portland, addressing some code enforcement issues. There are no exterior changes to the site proposed. And the activities as proposed are included in this chart from the applicant, and includes the play performances as a line item, and all their other various activities, ongoing activities and special events. This is in the notice, and the hearings officers' decision, so I won't spend a lot of time on this. Just for our procedural background, how this came to play, the playhouse was cited last may for a violation having a theater in a residential zone, we did a pre-op in august, and since october, we've been processing the conditional use review. And kathryn went over the 120-day issues, I do have the form so that will be a little hustle, perhaps, at the end if we want to have more than a one week continuance. The zoning is straight forward R5 single family residential zone. At the corner of northeast 6th and prescott. Not much to show on the site plan. The church is closer towards the west side of the site. There is no on-site parking. It's really just an open yard area just east of the church building. They are doing an accessible ramp, but that's allowed without conditional use review. I just have a few pictures here. This is the playhouse church building, originally constructed in 1904 as the highland congregational church. It has a storied history. Most notably as the home of the mount sinai community and inter-racial church. Just a view looking from the south up at the building, it shows the two-story annex, just south of the main church building. This is we're there's a, a shining star, waldorf daycare, and part of that annex. And I just have a couple shots, this is looking east of the site on prescott. It shows the character of the surrounding area. It's some older two and three-story homes. Nice homes, and then just looking north again right up 6th avenue from the site. King school is about two blocks to the west, mlk is about two blocks. King school is two blocks to the north and mlk is two blocks to the west. This is just a citation of the hearings officer's decision. The play performances were classified as an entertainment oriented retail sales and service use, so they are prohibited. The conditional use review was approved for all the remainder of their activities subject to a condition of approval that they implement their proposed tbm plan, transportation and band management. The appeal summary is pretty brief. I won't belabor this either. The appellant argues that the use has been misclassified and should be considered a community service use. I will note we have -- I did a quick count, at least 85 letters since the notice of the appeal, all in support of the proposal. I'm going to go through just a few slides here to talk about the use issues in this review. The use issues are really separate from the conditional use criteria. There aren't any approvability issues with the conditional use criteria. Transportation and the other service bureaus reviewed it assuming the play was in -- the plays were included, there is adequate on street parking, no exterior changes, so I just wanted to separate the conditional use issues. If the theater was allowed as a use, it could be approved. So we're really just here talking about the use classification, which is, are the play performances a theater, which is a private retail use or a community center, which is a community service use allowed through the c.u. or conditional use process. Summarizing the use points made by the hearings officer in his decision, the applicant had compared their activity to the characteristics section of the code, making the comparison between community service and retail. They made a very persuasive case on that, with that analysis, but the hearings officer and everything in green on the screen here is, is the

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hearings officer, direct quotations. The hearings officer found that, the analysis under our use chapter begins and ends before that comparison can be made. He cited three different LUBA case laws directly involving the cities use categories and determinations. And stated that the primary task is to determine the nature of the primary use, and his findings were that the evidence in the record show that the primary use of the church is as a theater. Just continuing on, the rationale for calling it a primary use, is that the assembly hall set up to facilitate the viewing of the plays, that meets the definition in the theater, the dictionary definition, and most of the other activities support or feed into those play performances. They had some other large events with large numbers of folks, I think 12 times a year, but when you looked at the number of plays, it was a big proportion, about 84% of the total large events. And then just sort of, well, besides precluding the comparison that they did against the characteristics of the two uses, theaters are listed as an example under retail sales and service. So while the h.o. acknowledged their noble and admirable mission, community involvement and non profit status, he ended up saying, as staff had, that our hands are tied and the theater is classified as a retail use. Just sort of the punch line there, as primary uses are subject to the regulations for that category. Theater, as retail is prohibited. That concludes my representation of the hearings officer's decision. I'm not going to read the slide. It's self-explanatory. I think I'll start by saying, this is irrelevant, but this has been a difficult case for me, I served as mayor Adams knows, in the last couple years working on the arts aspects of the Portland plan, it's a very clear policy on the city's moving towards supporting neighborhood based art centers, liberalizing uses that can happen in institutional sites. But those rules are not in the books yet. But if city council determines in your deliberations today that the play performances should be reviewed with the community service use and therefore be allowed, these are some facts, the top, I guess, it's eight bullets are just some specific facts about the playhouses use that are already in the record. I just wanted to summarize them here, we can leave them up on the screen, or they are in your power point. This issue of calling the use of community center came up before the hearings officer, one of the issues was that the community centers, which is what they were arguing they wanted to be, have an ongoing nature. They have office hours, it's sort of 8:00 to 5:00, you know, at least six days a week. You can come in and hang out. And it's not just for special events. That's really the definition of community service, one of the key distinctions. So, there was a concern that they have that sort of, some office hour, when that came up before, before the hearings officer, the applicant had agreed to a condition of approval that they have sort of public hours 1:00 to 6:00 monday through saturday. That's aligned with their proposal. That condition wasn't imposed because the plays weren't approved. Also, just in closing, this is my last bullet, the content, many of the letters and earlier testimony in this case, focus on the admirable social and community values, held by the playhouse and -- which are reflected in their programming and activities. We can't regulate or enforce the content of the natures of the plays themselves. If the plays or themes explored, if it was approved, and the nature or themes of the plays changed in the future we would have no, you know, teeth to do anything about that. A theater is a theater, basically, content neutral. But it's the state constitution that has free speech provisions. I tried to keep that short, that's all I have, unless you have some questions?

Adams: Commissioner Fish?

Fish: Thank you, mayor. Thank you for a thorough presentation. I guess could you just, for our benefit, walk us through, again, what our options are?

Walhood: A yes. So, the appeal is of a hearings officer's decision. You can support the appeal and modify, make your own findings and conclusion. You can deny the appeal and uphold the hearings officer's decision. So those are the two choices.

Leonard: So if we support the appeal, do we determine that the building is a community center?

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Walhood: Right. So you could support the appeal, and provide, provide direction on, on, you know, your rational for our preparation of findings. We would come back with findings and you guys would adopt those.

Fish: If I may Commissioner Leonard just follow up on that question for a moment. Do we have the same authority in this case as we have in others to fashion any ruling as narrowly as possible so that it, it does not serve as a broader precedent?

Walhood: Absolutely.

Fish: I mean, so to council, I mean is it -- the mayor often leads this discussion so I'll beat him to the punch. If we determine unique facts as part of our decision, does that ensure that whatever decision we make here does not have broader precedential value?

Beaumont: Yes, in this case, as in any quasi judicial case your decision is based on the facts presented to you, so you can phrase that decision as narrowly as related to those facts as you wish.

Leonard: So now I wonder if I could follow up on that as just -- so what is the -- I know you said this, but I want to make sure I understand, what is the distinguishing characteristic of the community center versus retail sales and service?

Walhood: Well, community center is a community service use, so the key, if you have your hearings officer's decision, it's page 11 of the hearings officer decision, describes community service uses. They are public non profit or charitable uses, providing a service. It's provided on an ongoing basis. Open to anyone to join, not a private club, for example. Those are the key characteristics, as opposed to retail which is a --

Leonard: My question wasn't so much what the key characteristics were but what distinguishes a community center from -- I mean what is it that this does that makes it a retail sales outlet versus a community center. How is it that you determine that? I'm trying to figure out the nuance of the distinction is.

Walhood: Our code, for better or worse, lists theaters as an example of a retail. So it's considered -- theaters are considered a service, an entertainment oriented service.

Leonard: So I'm not trying to walk you down a path here, I'm trying to craft language based on the answers that you're giving to me. So, earlier you alluded to what a community center is defined as and you're very general. Is there actually a specific definition in the code?

Walhood: We do not have a definition.

Leonard: So we could actually -- so that's actually good. So we could actually, if we were to seek to overturn the hearings officer's decision and support the appeal direct you, consistent with our tentative decision, to develop a community centered definition that applied to these circumstances.

Walhood: I think in the sense of just addressing this case narrowly that would essentially be saying that a theater is a valid nucleus of a community center, in this situation because of the facts.

Fish: If I could just address that point for a second. Because this reminds me a little bit of the discussion we had about the ice facility. When we look at the definitions, particularly where there is overlap. So, for example, I appreciate that under retail sales and service, entertainment oriented specifically identifies a theater, but under the examples for community services, it identifies things like libraries, museums, and community centers. Which are frequently places that host theatrical events. And there is no, there is no criteria for you know, what percentage of their activities would have to -- I mean you could have for example a museum that has a theater in it and regularly shows theatrical. So, it could be subsume within these definitions, in the same way that it's identified as an example.

Leonard: So we don't need a specific definition?

Fish: Well it seems to me that there is, there is such a natural overlap, potentially, commissioner Leonard, one option, is just to go off the unique facts of this case, and determine that it is parked

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within one of the definitions just as easily under community services, which is a more general description --

Leonard: Right.

Fish: -- than it would be the specific of the other.

Leonard: So we'd site 33.920.420, until we find that the use is consistent with that C?

Fish: 420 C right.

Leonard: Ok.

Fish: C under the unique facts of this case, so that it doesn't create a broader precedent.

Fritz: Are the performers in the plays generally paid?

Walhood: I think there's a small core of paid performers, but a lot of them are -- I'll let Brian or --

Fritz: Perhaps that could be addressed in testimony, the proportion who are performing for fees versus performing --

Walhood: I think it's a small proportion, but I could be wrong. It's really not -- that didn't come up, really, explicitly. We had discussions about profit versus non profit. Mostly just to say that that's not really relevant. It's just the activity, you know.

Fritz: To me whether the performers are paid is part of whether it's a community service or a theatre for profit -- whether it's for profit or for non profit. So I -- it's something I'll be interested to hear in testimony. Thank you.

Walhood: I'm sorry, I know we don't have an easy answer for you.

Adams: Okay, any additional council discussion at this point?

Fish: Alright you say that you've received 80 letters in support of the appeal?

Walhood: I did a quick count and I saw 85.

Fish: Is -- just so we know as the mayor manages time later, is there anyone in this room today who is opposed --

Adams: We already -- we already did that; there is no one in the room opposed. We'll update anyone in the room that's opposed? Ok we have an update. Thank you. We did that before you got here. We'll hear from the appellant. Welcome. Glad you are here, who would like to begin?

Nora Diver: I will begin, my name is Nora Diver, and I am the vice chair of the King Neighborhood Association. And I just want to talk about this site is more than just a dot on the zoning map. It's more than just a structure on the corner. It's a gathering place with deep roots, part of the history of many members of our community. For over a century at this address neighbors have shaped appeals to God, heartfelt interactions and a commitment to compassion and inter-racial justice. Meaning has been created at this place. And the Portland Playhouse has upheld this tradition through community programming, its performance themes, exploring racial experience and social justice. The playhouse cannot exist without the plays, and for this reason, the King Neighborhood Association asks you to allow the playhouse to continue in our neighborhood by approving all components of their conditional use application. As you can see, there are many people who have testified to the integral role the Portland Playhouse plays in our community. It has opened their hearts wide. Or the playhouse has opened our hearts wide enough to create performances that resonate deeply with the people who live here. And open their spaces to other uses that fulfill community needs. I have seen former residents returning to their neighborhood to see plays that have touched and inspire them. I have witnessed the neighborhood kids hold impromptu band practices here and have seen how thrilled they were to be playing up there on the stage. This is the kind of art that stems from a community driven cultural experience from the people who live here, and that's why it's so important that the playhouse be allowed to continue operating we're it has been. Both the King Neighborhood plan and the proposed Portland plan call for the development of neighborhood-based arts and culture programs and facilities. The emphasis in both the plans is on supporting artists promoting cultural programs and creating centers for art and involving and educating youth. In addition, there's a focus in the Portland plan to outreach to under-

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representative communities. And the Portland playhouse fulfills all of these community goals that were produced by lengthy in put processes, and to deny the neighborhood this playhouse would be to disregard all the time and energy and good intentions that the Portland citizens have put in to creating these plans. We, at the king neighborhood association have had a robust discussions with, about the playhouse, and sort of looking at different conflicting needs of the local residents, the playhouse has been really responsive to questions, and we've worked out plans for dealing with potential wrinkles, and at our last meeting, when we were looking at the question of appealing, everyone was unanimously in favor 20-0. We really agreed that Portland playhouse is a very positive organization working for the benefit of our neighborhood. If the zoning laws are intended to preserve the character of a community, then surely issuing a conditional use permit for the Portland playhouse would be the best way to align the rules with this intention. The site has a history of community activity, the residents and nearby neighborhoods feel that programming at the play house fills an important cultural niche. For decades, community organizations have called for the development of this type of facility in our neighborhood. The king neighborhood association is confident in our ability to work with the playhouse. And the city has approved a number of community centers through the conditional use permits and the king neighborhood association urges you to do the same for the Portland playhouse. It's an important part of our Neighborhood, and we want to see it continue to bring thoughtful engaging arts to our community.

Adams: Thank you. Hi.

Brian Weaver: Hi. I'm brian weaver, I'm the artistic director of the Portland playhouse. Thank you council for hearing this. Thank you, king neighborhood association for appealing it, and thank you mark Walhood for all of your help over the last months through this process answering questions and taking care of it in a timely manner. As an artist so often we are asked to make the financial case for art. So I would love to take this opportunity to make a case that is not financial for art.

Adams: This is rare. [laughter]

Weaver: We're always asked to say what earned income can you bring to the table. What is the financial value? How can we quantify, how can we, a number of dollars, how can we put a value on what you are bringing? I understand it's a difficult question, the question of whether theater, it's in the youths category of community service or commercial retail sales. And though there are many private businesses that use art and entertainment to make a profit. Great businesses, some of my favorite in Portland, their business plan is to sell entertainment, food, drinks, and the success of their business plan is measured by their financial gain. That is not the model of Portland playhouse. And I would suggest nor is it the model of all non-profit theater companies in Portland, or artists in Portland. Our vision, our mission is the illumination of the human heart. Must we answer to the financial world? We must, many times art and culture organizations are asked to make the case that art is a financial boon to the community, raising property values, stimulating local business, reducing crime, having a positive impact on the school system, and an increase in the economic resources of the city. We're often asked to justify artistic decisions on a financial basis. But that is not our vision, our focus. Our success is not measured in financial gain but rather in our ability to illuminate the human condition. The fact that art centers and churches often share similar buildings is no accident. They share the same ancient root theater-like religion is a search for meaning, a search for relevance, a search for compassion, empathy, understanding. In ancient athens, all citizens were required by law to attend the theater. This was not a punishment -- [laughter]

Adams: I guess it depends on what theatre. [laughter]

Weaver: -- nor a privilege. But it was considered a part of their civic duty. The belief that gathering people together to share our human story can create civic responsibility. Portland playhouse is a non profit community-based art organization, perform plays, teach classes, lead workshops, host writing groups. Our base for the last four years has been the mount sinai baptist

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church. All activities are subsidized. You asked a question, how many of the plays are free. All, our belief is that art should be accessible for all people, no one is denied on the basis of not being able to afford the price of a ticket. Even the full priced tickets are greatly subsidized. Portland has this great program now that almost all of the art organizations share, which is art for all. So, we are part of that. Because we are a community-based non profit, does that mean that our art is less valuable? It does not. We strive for excellence in everything we do. Our enemy is mediocrity. Though we are not driven by profit, we are driven, driven to confront our own prejudice, driven to illuminate truth, driven to transform our neighborhood into an equitable and just community for all people. People have gathered in this church building for the last 105 years. It was built by german immigrants, and embraced by african-american baptists after the van port floods, it has the historic honor of being one of the first integrated congregations in the state of Oregon. It is possible that this historic building is put to positive use. That it is not turned into condos, that it is not made vacant. As a neighborhood art center it can continue serving king neighborhood as a place to gather, create, study, challenge each other, seek to understand each other, and celebrate our complex humanity. Thank you.

Adams: Thank you very much. [applause]

Fish: Mayor may I – I just have a question.

Adams: There's one more.

William Rasmussen: Go -- please ask your question if you have a question.

Fish: You -- we are going to have to make findings however we proceed, and you ended by referring to the -- describe the place as a neighborhood art center. And so without going through an exhaustive list, could you just give us a couple of examples of ways in which you believe this facility serves the neighborhood?

Weaver: Yeah. Absolutely. A couple of examples of some of the programming over the last year or two. A play, I'll start with a play, a play at radio golf by august wilson, a play about institutional racism, in pittsburgh's hill district, specifically investigating neighborhood development and gentrification. This play had the effect of sparking meaningful dialogue among our white and black audience about similar issues in the king neighborhood that was followed up with discussion panels dealing with what was happening in the moment in the king neighborhood. A free community potluck, and accompanying art installation about food, family and identity in connection with the writer's Group, playwright's west. Hosting the st. Andrews school annual talent show. A series of Oregon humanities conversation projects about race and Oregon history. The play telethon by kristin newbaum, a play about care giving and the economics of persons living with cerebral palsy. Screening of imagining hope, a documentary about new columbia and the history of the Vanport floods. Ongoing classes, acting, yoga, movement, voice, angels at 20, a discussion of hiv and aids from 1980 to today, co-sponsored by our house and boom arts.

Rasmussen: Can I – can I add a few others? In making the use categorization --

Adams: For the record, you are?

Rasmussen: Thank you. I am william rasmussen, I'm an attorney from miller nash. We're representing the playhouse pro bono just because we believe in their mission, and would like to see the playhouse continue here in Portland. [applause]

Rasmussen: In classifying the use we chose community center as the best example because like every community center in Portland, the Playhouse provides a public space for the community to gather to host events, to have classes. It's something that I don't know of any commercial retail theater doing in Portland for free.

Fish: Thank you.

Rasmussen: Also, it's clear that we have a full house, and the council will be busy today, so I won't bore you with legal analysis. Suffice it to say that in the record, there is 20 pages of the best analysis you can buy about why approving this would be legal, the council --

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Adams: Who did that analysis. [laughter]

Rasmussen: Lawyers at Miller nash. [laughter]

Fish: Apparently pro bono since they didn't --

Rasmussen: Pro bono, for free, yes. The council has several options for approving this, in response to commissioner Fish's question. The council can affirm the hearings officer's decision, which would essentially prevent the playhouse from continuing here. It could partially reverse the decision, and approve the appeal as it's been filed, which would just be putting a stamp on approval as it is, or the council could choose to approve this and draft narrow conditions on why this unique situation is very unique and unlike anything else. I think given the nature of the use of the playhouse, that would be very easy. You will not find a lot of organizations in Portland that look like the playhouse. Thank you. [applause]

Adams: Thank you all. So I appreciated the applause, instigator up there. Normally we don't allow applause, I let you have four. You get one more applause, maybe when we're all done, but we've got a lot to run through today, and I have a feeling that you will applaud appropriately at every good point made.

Fritz: I have to declare, my daughter is a theater major, about to graduate from college. So, there's a little potential conflict of interest but I'm certainly very interested in the economic benefits of theater, hoping that some day she'll have a paying job. [laughter] But my question was, actually, not about the ticket sales, but how many of the performers do get paid at the playhouse?

Rasmussen: For your daughter specifically or --?

Fritz: No. [laughter] That's later.

Rasmussen: So, I know that that has been part of the case that we have -- we rely on a core of 150 volunteers, many performers have not been paid or, have been paid less than minimum wage, that's actually not something that I want to advocate for. I advocate for paying artists a living wage, I think that -- I think it's valuable to pay artists. I don't think that that is -- I think that people who work at every -- I think that working at a -- community service use is about the kind of work you do and I don't think that that would -- I don't think it makes it better if people are not paid.

Fritz: That's a really interesting and thoughtful answer. Thank you, I appreciate that.

Rasmussen: Yeah.

Adams: Thank you all very much. Alright we'll now hear from supporters, so you can return to your seat. We'll now hear from the supporters of the appeal. First four.

Moore-Love: We have a total of 32.

Adams: Ok. So, again, if you've already heard something said, in the 10 or so minutes -- 15 minutes that we just discussed this issue, then for the sake of getting the work done today, I'd ask that you defer your testimony, but you still have the right to do so if you want. And if you do have something new to present, then by all means let us know, everyone will get one minute.

Moore-Love: First four please come on up.

Adams: Hi welcome. Glad you are here. Who would like to begin? Go ahead.

Barbara Conable: Thank you, I'm Barbara Conable I'm the secretary of the sabin community association. You have in your packet a letter from us. We unanimously support this, for many reasons. The main one being, it serves our community supremely. I took to see Ma Rainey's Black bottom, a neighbor of mine. I've lived in sabin four years. She's lived there all her life, and she is five days older than I am. When it was finished she grabbed my hand and shook it over and over and said, they got it right. Barbara, they got it right, they got it right. Now, in our neighborhoods there is an it to get right, and this facility, this institution addresses that, and we need it. One more thing, supreme quality in these performances.

Adams: Thank you. Sir.

Luke Groser: Luke groser is my name. I am a member, a board member of the northeast coalition of neighborhoods. And I'm representing that organization today. I have -- with the full support of

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the nacb board of directors by way of our vote, on february 21, 2012, as well as that of the king neighborhood association, and the sabin neighborhood association, I'm delighted to advocate today for Portland playhouse, which has been creating highly inclusive, civic engagement in our neighborhood for the past four years. It would be a terrible shame if Portland playhouse was removed from our community due to a technical glitch in the code. Especially when it serves needs specifically identified in the albina community plan. Policy 9a, arts and culture reads, "encourage private and public organizations to participate in activities and actions that create a sense of identity and community among those living and working in the albina community. Promote the importance of art as a means for community pride, involvement and revitalization," unquote.

Adams: Sir your time is up. Final thought? Do you have a position on the plan?

Groser: Yes. The northeast coalition strongly supports the continuation of the Portland playhouse in this facility.

Adams: Thank you sir. Ms. Collymore welcome back.

Karol Collymore: Thank you. Good afternoon, mayor Adams, commissioners. My name is Karol Collymore, and I am a current board member of the Portland playhouse. I have been on the board of the Portland playhouse since December of 2010 when I was approached by two rabble rousing brothers to join their mission to bring art steeped in racial, physical and emotional diversity. And while at first ambivalent to join yet another organization that claims diversity or inclusion, and then would proceed to point me out as the encapsulation of color, I was happily surprised that they meant what they said. The work at the playhouse continues to reflect their, and now my commitment to this organization. From their broad staging of the works of August Wilson, taking advantage of the swath of African American actors and directors who live and work in Portland, like kevin jones and victor mack, to giving opportunity to local play writes like Eugenia woods to stage her work in the town where she lives, the Portland playhouse is touching more and more people the longer we are around. Our movement into education with our local schools like jefferson high school, shows that as always, access to opportunity equals success. This was proven through our high school shakespeare festivals, access to art through our organization encourages our communities kids to thrive. As we continue to discuss issues of equity and reflective diversity in the arts and in Portland in general, the playhouse has moved far past lip service and it's putting our words into action in the place we call the church. We are a community arts center, and that will continue to reflect our culture through the arts. The Portland playhouse for me and for many other people has become a place where neighbors feel included in the arts. There is always an affordable seat. The actors are always talented and diverse. And the opportunity for learning and creativity exists constantly. To lose our space is to lose the heart of our organization. Thank you.

Adams: Thank you very much. Hi welcome.

Kris Haines: Hi. My name is Kris Haines and it is my pleasure to address the Portland city council today in support of Portland playhouse. Portland playhouse is among the cities best theater companies and in a city with a theater scene as vibrant as Portland, that's saying a lot. Portland playhouse is not only distinguished by it's high caliber productions but also by what those productions most commonly represent, which is often a more culturally diverse selection of shows than those exhibited at Portland's other fine performing arts venues. It should be noted that Portland playhouse is the only Portland area theater to my knowledge to have produced more than one play by Pulitzer prize winner August Wilson, the first african-american play write to have a broadway theater named in his honor. Portland playhouse also produced Kristin Newbom's play telethon, the first play I have seen in all my years of Portland theater going to directly confront disabilities of youth. This commitment to diversity is also borne out in the way that the playhouse treats it's audiences. The playhouse's first production was after --

Adams: No your good, you go right ahead.

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Haines: The playhouse's first production was after Ashley a production for which I was lugged upstairs in my nine year old wheelchair. By the time I saw my second Portland playhouse show they had installed a ramp and continued to improve it as time went on. That fact alone defines Portland playhouse as a community art center to my mind because despite their limited budget, Portland playhouse made being accessible to all members of the community a priority. This is further shown by their participation in the arts for all program in which \$5.00 tickets were given to Oregon Trail card recipients as well as discounted previews. It would seem that if the council's decision were to go against the Portland playhouse, the alternative location would be the world trade center theatre and that would be somewhat ironic given that the world trade center is listed as a theatre in the converted church. [laughter] And it's more akin to a lecture hall, and it is due to its frequent use as a lecture hall, the Third Rail Repertory elected to move to the Winningstad theater. Portland has been home to two separate theaters which were converted fire houses, and Portland's largest theater company, Portland center stage, makes its home in a converted armory. As you can see, it is a Portland tradition to convert buildings built for other purposes into arts venues. It is the spirit of fostering creativity wherever possible that makes our city so wonderful. This body should not attempt to stifle it. It is part of our very identity. I would urge you today to cast a vote in favor of this vital Portland institution, to not bow to the whims of bureaucracy to place a high value on our creativity and diversity. Portland playhouse belongs in the church on Prescott let it come home.

Adams: Thank you, sir. [applause] Hi, welcome. Please begin.

Gretchen Corbett: Thank you. Good afternoon. My name is Gretchen Corbett, I would like to first thank you all for what you do for our community. I am an actor, a theater director. And an artistic activist, and have been so all my adult life. For the past two years, I've been performing and teaching with the Portland playhouse. This is a company that takes their relationship to the community very seriously. One of my favorite things that the playhouse does is its annual Shakespeare program. It puts young people together from the wealthiest and the neediest areas in the community. They play together. Perform for each other. And their understanding is altered. Their lives are changed. I believe that art is essential for the growth of the human spirit. It is art that helps us understand each other, and the world, it is art that nurtures and soothes, art is not commerce. Through art we bring service to our community. I know this to be true. I've spent much of my life touching the most intimate places of the soul. It is not by accident that plays are often performed in churches. Personally, I think that's where they belong. We need such nourishment, and in order to thrive, we need it close to home. Thank you.

Adams: Thank you very much. Hi, welcome.

Anandi Thompson: Hello members of the council, Me and my friend, Vanessa -- oh I'm Anandi Thompson and I go to St. Andrew Nativity I'm an eighth grader.

Vanessa Palma-Aispuro: I'm Vanessa Palma-Aispuro, and I also go to St. Andrew and I am also an eighth grader. Can we give you these cards on behalf of our student body?

Adams: Absolutely. Thank you very much. Oh, wow they're great. [laughter] I'll let you have some. Thank you.

Thompson: Our school St. Andrew Nativity is located in northeast Portland, three blocks from the Portland playhouse. For the past three years, the playhouse has generously hosted our annual talent show. The talent show is an incredible event for our school that allows our students to come and express themselves in lots of creative ways. The talent show brings out lots of people from the community, parents, students, staff, graduates, and also neighbors.

Palma-Aispuro: We also hold fundraisers at the talent show to help provide scholarships to the graduates. We love being able to use the Portland playhouse for these events. They offer this space to our school for free, which is very generous of them. Please allow them to continue making their impact in our community. Thank you.

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Thompson: Just please um -- [laughter] the playhouse is our home, and we don't want it to go, and it's very important to our family at St. Andrew.

Adams: Well thank you and send our thanks back to everyone who sent us these cards as well. We appreciate it. Thank you.

Fritz: They are very well written, neatly written and nice individually.

Adams: Good artists. [laughter] Sir?

Kevin Jones: How do you say no to that? [laughter] My name is Kevin Jones, and I am a resident of Portland. I am a co-owner of plural consulting, which is an organizational development and executive coaching firm, I'm also a founder of the August Wilson red door project, which uses art as a catalyst for changing the racial ecology of Portland. And I'm also a professional actor and director. The big question here is whether or not Portland Playhouse is a community enterprise or a commercial one. And from my perspective, it is -- it represents a new paradigm, and one Portland desperately needs. A commercial theater that is a social and community venture. What I know to be true is as that as a professional actor and director, it is the only venue I've worked in Portland, with a true sense of equity and mixing it up between artists of color and the mainstream white community. It's not about numbers or compliance, but about a model for working together in a way where people are willing to take risks, and produce great art. It's the right model on a human level and has proven to be the right model on a business level. This is a community service, a community project, and a role model for community organizations. As we know too well, young artists of color and young people of color in general looking for opportunities to develop "leave Portland" there just haven't been enough role models and support required for building a successful career and life. In my mind, this is a moral disaster. This is why I personally have created the August Wilson red door project. Our city needs organizations that are willing to take risks, be uncomfortable, and in the process, create a new world together, a world where people of all color, classes and races can live and thrive. So the questions for me, which are most salient and relevant are; Portland has a legacy of about -- around race. Are we willing to contradict that legacy by making hard and controversial decisions? What are the consequences of shutting down efforts that are making progress in the areas of equity and diversity?

Adams: And I need you to wrap up, sir.

Jones: Wrap it up. [laughter] Where does our equity strategy begin if not with organizations that are already making great strides and can be role models for the community? Where does social entrepreneurialism fit in our city's development, and what are our individual and collective commitments to creating a city that is a role model for other cities across the country as we have with other environmental issues. Thank you.

Adams: Thank you. Thank you all. Appreciate it. The next four?

Adams: Hi welcome.

Gabrielle Foulkes: Welcome, I mean hello. [laughter] I'm Gabrielle Foulkes, I'm a neighbor of the playhouse, I've lived across the street for 32 years, and I will slightly disagree with a comment made earlier where they said there was no economic value or change in land -- in property tax value. Because over the years, people have said, oh, you live in king neighborhood? And there's been a negative connotation to that. The theater has brought in hundreds, maybe thousands of people into the neighborhood who have seen what a viable place it is. And from my perspective, it has improved my property value and improved the quality of the neighborhood. Thank you.

Adams: Thank you very much. Hi welcome.

Cristi Miles: Hi, I am Cristi Miles, I'm a professional artist that has been intimately involved with the playhouse since the opening night of their first show. It is because of the uniqueness of this company and the space of the church that I volunteered and sought to remain involved no matter what the personal monetary sacrifices were. In our little church in northeast Portland we have created our own unique artistic community, a community that invites its neighbors to come in and

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encourages them to flaunt their creativity. A specific example being during a director training for the fall festival of shakespeare, we were serenaded by a group of neighborhood kids singing a song they had just learned, we are a community that introduces relevant current pieces of theater to an audience that may not have the opportunity to see it elsewhere. A community that is fostered by not sacrificing our artistic integrity but seeking alternative ways of making great art happen and a community that calls upon those who witness our performances into conversations To discuss the relevance of productions and the themes involved and how they might have impacted them as a viewer. I am -- It is my honor to coordinate the over 150 core volunteers. It is my responsibility to make sure that all volunteers, 60%, of whom are from the northeast Portland neighborhood where we are located, they have -- that they have access to and are involved in creating this essential human and relationship building art.

Adams: And I need you to wrap up.

Miles: You bet. Thornton Wilder once said "I regard the theater as the greatest of all art forms. The most immediate way in which a human being can share with another the sense of what it is to be a human being." With the fall festival and all of the other programs and productions that have been produced at the playhouse, we are accomplishing just that, sharing what it is to be a human being.

Adams: Thank you very much.

Miles: Thanks.

Adams: Mr. Crane, welcome back.

Bill Crane: Thank you, mayor. I think we're all preaching to the choir. I can't imagine that you're -- I think we're preaching to the choir, I do that a lot as a church organist. [laughter] Thank you so much for everything that you do as council to make art flourish here, we have the most astounding artistic community all over the place, the most wonderful thing for me about Portland playhouse is that it's not downtown, it's not in the place where people like me, a late middle aged balding organist can go and play music of dead white european composers in a church behind red doors.

Adams: Well, that's a pitch if I ever heard one. [laughter]

Crane: You know what, I don't know how you do all those little legal turning the tiny dials, but I know you all do it, and thank you ever so much.

Adams: Thank you, sir. The next four? Mr. Margolin would you like to begin?

Phillip Margolin: Sure, my name's Phil Margolin, I don't live in the King neighborhood, but my contact with the Portland playhouse is strictly I went there to watch a few plays. And after watching a few plays, I was so impressed that I just sent them some money because I was afraid because of how poverty stricken they looked, [laughter] that the playhouse might go under. And what really impressed me about it, and it's really interesting because I didn't know anything about their mission statement or anything like that, but what has impressed me is I love August Wilson, he's a preeminent african-american playwright in american history probably, and they have shown three of the plays in his ten-play cycle they've also done the first part of angels in america, which is about the age crisis, a really really difficult undertaking. So, what really touched me about the theater was that they were not just doing entertainment but they were doing things that have tremendous significance to the community. Now I did get a kick out of reading that the playhouse was labeled a commercial retail sales operation. If you go over there, take a look at it you could see no one is getting rich at the place. I enjoy, I love live theater. I enjoy going to the fancy Newmark and Girding theaters, but it is delightful to see a play at a church on prescott where the Portland playhouse is producing wonderful work with a budget that's certainly not evident of retail success. Now, i'm a lawyer and I know that this term, commercial retail sales, is a term of art. Okay, it's a legal term. But I also know because of my history with the law, that definitions and statutes never, can never cover every possible situation accurately, and in the real world, this Portland playhouse is

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an art center. And I can't imagine it being thought of as anything other than a neighborhood art center.

Adams: Thank you sir, your time is up. How is chess for success going?

Margolin: Really good. Really good, thank you.

Adams: Good. Thanks for your support of that, as well. Hi.

KB Mercer: Hi, I'm KB Mercer. I just wanted to say that it has been my honor to be an actor and a designer at the playhouse. Their work is excellent. They have worked very hard to create that space, and make it what it is. And everything else I have to say has been said, thank you.

Adams: Thank you very much. Ma'am.

Isabel Sheridan: Isabel Sheridan, and I'm going to drill down to a moment. I am a former teacher and when our congregation went to see, as a group, the play last year, Ma Rainey's Black Bottom, there were a number of the teens from the community that were there because we had given two for one tickets, and the theater absorbed half of it. I wrote a letter about that. But what I wanted to talk about was the young man in the cast who was a teen from Jefferson High who was extraordinarily good, in a world class performance. And I wanted to talk about what that meant, what the difference was for him. I can only imagine how transforming it was for him to be included in that cast, which would be a privilege to be in for any actor. And then what it was like for his classmates to see him in that performance. And when I saw it the second time, as a volunteer, they had had to cast someone new, who was excellent too, but I missed the teen from Jefferson.

Adams: Thank you very much. Hi.

Madelene Denko: Hi my name is Madelene Denko, and I will keep this short because most of what I would say has already been said. But, I think that -- I was a co-founder of the Northwest Dance Project, and they have found a home in NE Portland, and the Portland Playhouse is one of my favorite theater companies, and theater centers. Whenever I see what they are doing, I always say I have to see that. I've got to go, and that doesn't always happen. And so I hope that you will all say yes, they can keep their home in the church.

Adams: Thank you, thank you all very much.

*****: [inaudible]

Adams: Oh, we're not that formal. That's general admission seating. All right would you like -- while she continues to -- there we go. Anybody else on the list Karla?

Carla Danley: Carla's on this side, Ward's on this side, one minute each.

Adams: This Karla.

Danley: This Karla, ok.

Moore-Love: We've got four here.

Adams: You get one minute total per person.

Danley: Ok.

Adams: Welcome.

Charles Boardman: Thank you, my name is Charles Boardman, I live a couple blocks from the theater, and I am the former chair of the King Neighborhood Association, and vice president on the board of Northeast Coalition of Neighborhoods. And during my time in those bodies, we spent a lot of time trying to engage and activate discussions about gentrification and race. We worked with Judith Maury and the Restorative Listening Project. And I would say that nowhere have I heard more important and powerful discussions on gentrification and race in the King Neighborhood taking place than in the lobby of the Portland Playhouse after the performance of Radio Golf, which I happened to go to because I live two blocks away, and all of our efforts with you know paid city staffers and volunteer boards in the neighborhood level. Nowhere have conversations been this important.

Adams: Thank you sir. Hi.

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Katy Kanfer: Hi I'm Katy Kanfer, I also live a few blocks away. And I would like to second everything that he said, because I'm also active in participating with the neighborhood association, the King Neighborhood Association. But my main point is that, you can't have the Community Offerings that the Playhouse gives without plays. Just that's the whole point. Yeah.

Adams: Thank you. Hi.

Lin Rainer: Hi I'm Lin Rainer, I'm a small-time donor of this company. These young, edgy, challenging, upstarts, these creative's that came to Portland, offer me the best theater experience in town, and I go to many, many theaters. Their parents and all their relatives support it too. It's so not retail. When you see the program it lists every relative they have alive on earth. I live in Goose Hollow, I enjoy going over to the northeast part of Portland, and August Wilson plays have been just so inspiring. They've done three years in a row. I came from Denver where they did one a year for ten years. They did the entire historic cycle of August Wilson, and I'm just so grateful. So please keep them.

Adams: Thank you very much. Appreciate it. Hi. Welcome back. One minute for Carla Danley, followed by one minute for Ward Shortridge.

Carla Danley: For several years our family was not able to live in our neighborhood of choice or for that matter in the city of Portland at all because of inadequate supply of wheelchair accessible housing for families. But we faithfully drove in from Hillsboro repeatedly in order to enjoy Portland Playhouse productions. When we did finally purchase a home in North Portland last year one of our very first acts was to become season ticket holders at Portland Playhouse precisely because of their location, and the character of the building in the former church on Northeast Prescott. The Portland Playhouse provides a vital service to the community. Their selection of plays explores themes that are deeply important to the disability community, the African-American community, and sexual minorities and people who struggle with complex behavioral health concerns and brings these issues to the consciousness of a broader audience. The price point of their individual and season tickets makes quality theater accessible to a population that might not otherwise be able to afford to see high end theater. Most importantly, the venue itself allows for modular seating and with it a superior theater going experience for wheelchair users. I can tell you first hand that the Portland Playhouse has taken full advantage of that characteristic. Most traditional proscenium stage theaters with fixed seating's and raked floors offer an uncomfortable theater-going experience with very poor sight lines for wheelchair users. Because the Portland Playhouse is a gem to North and Northeast Portland I urge the city council to approve their permit and allow them to assume their rightful and well earned place as a community service.

Adams: Thank you very much. Thank you all. You have to be present to testify, sorry. Bless you. [laughter] Welcome.

Beth Thompson: Hi. My name's Beth Thompson, and I would just like to represent the people who since moving to Portland five years ago are, the people who are gentrifying that neighborhood and coming in and renting and living in that same neighborhood for five years, and wanting a place to meet the people that live next to me and wanting to be able to have that conversation and, it's amazing that Portland Playhouse provides that for me as well as for my neighbors. Thank you.

Adams: Thank you. Hi, welcome.

Nannette D Carter Jafri: Hi. I just want to say that, coming from the east coast, here in the Pacific Northwest, it was eye opening, earth shattering to be in a place where the multitude of diversities are welcomed and there is a place where performances are offered for all, regardless of their abilities. I had the opportunity to introduce a friend who lives in downtown Portland, to the theater, who is a quadriplegic, who was able to enter the theater, to be shown around the theater, to be embraced. And have that available, I just cannot say how overwhelming it is to have this in the community and to invite people as far away as Miami and Japan to come and visit me in Portland and say, this is in my backyard. Thank you.

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Adams: Thank you. Thank you very much. All right, I will entertain further conversation from commissioner Leonard.

Leonard: Thank you mayor Adams. I'd move to support the appeal and overturn the hearings officer's decision.

Fritz: Second.

Leonard: And to the motion, It's my intent that – I think commissioner Fish is going to expand on this, that staff develop specific language in the findings when we make our final vote at some near point in the future that addresses the specifics of the particular use, and why we, the counsel determined that the appeal is appropriate.

Adams: Commissioner Fish.

Fish: I believe it is the council's desire to craft this narrowly and based on advice from council, I believe that the one path before us is to treat this as a neighborhood art center, make that analogy, something akin to the Multnomah arts center and to develop specific characteristics and criteria that would fall within 33.920.420a, which is the characteristics section, which I believe will ensure that it has the narrowest application, unique to this location.

Will Rasmussen: [inaudible]

Adams: Yes barrister. Normally I don't take testimony from the seats but since your working for free. [laughter]

Fish: Let me just clarify, it's not my intent to impose new conditions or burdensome conditions, but to shape the findings that, that would fall within the code language based on primarily the characteristic section of community services analogizing it to a neighborhood art center, and I believe that's consistent with commissioner Leonard's motion.

Leonard: And I think that it's not untypical for us or atypical for us to have the prevailing side help write the findings, so if you would want to work with staff in drafting the findings that we'll vote on, I think that would be appropriate.

Rasmussen: We will absolutely do that.

Adams: So the reason for the narrow, the narrow findings is to make sure that we're not precedential and that we don't allow someone to misuse this particular council decision. All right Karla, unless there is additional council discussion, Karla, can you please call the vote on the motion?

Fritz: Thank you all for coming down today. Thank you for being here this afternoon, taking your time out of the day on a thursday afternoon to come down and show the best of what Portland is. And these are really tough times. And we have a lot of challenges ahead of us, and I am so overwhelmed at the testimony we've heard today and of the value of community that this playhouse brings into highlighting. With my daughter having been in theater since she was on-- [laughter] she was on a stage at the Fulton Park community center when she was in preschool, and I -- that's not what I do, I am onstage here and I actually get really buzzed about political stuff, so that's equally foreign to her as her theatrical interests are to me and yet I have learned through her, and I certainly have learned through you this afternoon. I wish I had written down all of the eloquent things that folks said, as to this being a different kind of commercial enterprise, and yes I agree that we certainly want people to be paid for the work that they do. We do know that arts is of value, both in the heart and to our community as a whole. And I appreciate as always Dan Rush and the regional arts and cultural commission being here today. Thank you for your time and thank you for your effort and thank you to the young people who came down today. Just by coming, even though not everybody spoke, you made a huge difference, and you showed that you care. And that matters. So thank you for doing that, and to our city attorney for helping to craft this as a limited exemption but certainly something that -- we want to respect our historic neighborhoods. We do respect our historic neighborhoods. Jeri Sandoval Williams who works in the office of neighborhood involvement and george Brender from Concordia also wrote letters to the record, talking about how

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this playhouse helps correct some of the injustices that we have seen through the albina plan, and each one of you today has spoken to that end either specifically or in context, so I greatly appreciate the fact that you came and made this a truly meaningful afternoon, and that we are getting to the right decision here. Aye.

Fish: I also want to thank everyone for taking time to join us this afternoon, and I thought the testimony was especially poignant in what was for me, I think, particularly powerful, was the idea of a neighborhood arts center, and the analogy to Multnomah arts center, which is within my portfolio, and some of its – and some other organizations like that. And it reminds me of just one piece of my life experience. I was married and my daughter baptized in a small church in the lower east side of new york. That church does not function primarily as a church. It is a space that functions primarily as a distinguished arts center. And it is home to dance space and the poetry project and the ontological hysteric theater and a number of other world class venues. And one could say it's a church, but I think that would miss the point, and one could say it's an arts venue, and I think that would miss the point. One could say I think it's a community treasure that serves the broader lower east side community, and I think you're closer to the point. And that, for me, is the experience which informs trying to reconcile our code. Our code, as it's been said, cannot anticipate every circumstance, and this is the most sympathetic denial I have ever read in a hearing officers report. [laughter] But it is not the role and function of a hearings officer to make new code it is the role of the elected body to reconcile the code. And we do that based on the testimony before us, and you have laid a very strong foundation for a decision which I think we can all support with great pride, so thank you for spending an afternoon with us and enriching this forum, and I am extremely proud and pleased to vote aye.

Saltzman: Well I hope our hearings officer doesn't take it personally, but we've – we just this afternoon we've overturned two of his decisions, but – [laughter] I think this is the one he probably would -- as commissioner Fish said, be most sympathetic to. I want to thank certainly all the enthusiasts, but I want to recognize that, the theater, when it found out its only way to get approval was to get a conditional use approval, which is not an insignificant expense, they really, rolled up their sleeves and said, okay we're going to do it by the rules, and did. Free legal counsel helps, too. So often times we are -- when people are confronting the realities of a frustrations of our zoning code or our land use code, they simply want to sometimes appeal to us to, do it differently or figure out a way to make it work, you know sort of damn the law, but no you've really made the case to do it within the law, so I thank you for that. And I think we all appreciate that. So I really --- I look forward to – you know, I've learned a lot about the theater group, and I look forward to catching your next season, and taking in some of your plays, i'm very impressed with the passion and testimony, I may even have to swap out my -- my white bird season tickets. Just kidding, paul. [laughter] aye.

Leonard: I am pleased to support this, aye.

Adams: Thank you all very much for the great work that you do to improve upon a city that's a great city but has a lot of work to do in terms of racial parity and to deal with issues of gentrification. And so, thank you. Pleased to vote aye. [gavel pounded]

Fritz: Now you can clap.

Adams: Now you can clap. [applause]

Adams: I know, we'll get there. We'll get there. And we will set a date.

Beaumont: We have two items, two remaining pieces. We need to set a future date to bring the findings back and for the council to take a final vote.

Adams: How long do you need?

Beaumont: And we need an extension of time from the applicant beyond march 9.

Adams: So do we have the extension march 9th?

Beaumont: Why don't we have the applicant come forward?

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Adams: How much time do you need?

Walhood: Week after next or three weeks, it would be – well seven days to come back, the 14th or 15th, and 14 days to come back the 21st or 22nd.

Rasmussen: The only real issue here is that, the playhouse is starting back up on the 29th, and there is a building permit use change that needs to happen. And we're glad to, you know, extend our period --

Adams: What date would you want?

Rasmussen: I'd say two weeks from this week, would probably --

Beaumont: So the 14th or 15th?

Rasmussen: A seven day extension.

Beaumont: We've already – really no one has standing to appeals we've already agreed to do a hold harmless --

Adams: Ok, let's find out what's available?

Moore-Love: The 14th would be better, both you and commissioner Saltzman are gone thursday, the 15th.

Adams: Ok.

Moore-Love: So Wednesday at 10:00 a.m.?

Adams: 10:00 a.m. on the 14th Wednesday. All right, and you have agreed to extend?

Rasmussen: Uh, yeah. Just one moment.

Weaver: We removed the wheelchair ramp because it was built without a permit so we need to reconstruct it with a permit. [laughter] The building code permits were holding up on this hearing so it –

Rasmussen: As long as they expedite them we should be fine to make the 29th start date.

Adams: Commissioner, Saltzman has guaranteed delivery, yeah. All right. We are now adjourned. [applause]

At 4:52 p.m., Council adjourned.