



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF JULY, 2012 AT 9:30 A.M.

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

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

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

COMMUNICATIONS	Disposition:
821 Request of Sarah Hobbs to address Council regarding on-going and increasing fines against Right to Dream Too shelter (Communication)	PLACED ON FILE
822 Request of Charles B. Ormsby to address Council regarding Bureau of Environmental Services projects that impact area of the Birdhill CPO/NA (Communication)	PLACED ON FILE
TIMES CERTAIN	
823 TIME CERTAIN: 9:30 AM – Accept Report from Illegal Gun Ordinance Oversight Committee (Report introduced by Mayor Adams) 30 minutes requested Motion to accept substitute report and exhibit A: Moved by Commissioner Fish and seconded by Commissioner Fritz. (Y-5) Motion to accept the report: Moved by Mayor Adams and seconded by Commissioner Fritz. (Y-5)	ACCEPTED AS AMENDED
CONSENT AGENDA – NO DISCUSSION	
Mayor Sam Adams	
824 Authorize a grant agreement with CASH Oregon for \$75,000 to provide financial education and counseling and free tax preparation services to low-income families and individuals in Portland (Ordinance)	PASSED TO SECOND READING JULY 25, 2012 AT 9:30 AM
Office of Management and Finance	

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<p>*825 Authorize on-call service contracts for Professional, Technical and Expert services for information technology (Ordinance) (Y-5)</p>	<p>185499</p>
<p>Commissioner Dan Saltzman</p>	
<p>Position No. 3</p>	
<p>Bureau of Environmental Services</p>	
<p>826 Amend contract with Moore Excavation, Inc. for additional work and compensation for the Fanno Basin Pump Station Force Main: Multnomah Section Project No. E08294 (Ordinance; amend Contract No. 30001048)</p>	<p>PASSED TO SECOND READING JULY 25, 2012 AT 9:30 AM</p>
<p>827 Amend contract with Skylab Architecture LLC for additional work and compensation for the Columbia Boulevard Wastewater Treatment Plant Support Facility Project No. E09023 (Second Reading Agenda 810; amend Contract No. 30001585) (Y-5)</p>	<p>185500</p>
<p>Commissioner Randy Leonard</p>	
<p>Position No. 4</p>	
<p>Water Bureau</p>	
<p>828 Clarify Billing Responsibility for water service issues (Ordinance; amend Code Section 21.16.030)</p>	<p>PASSED TO SECOND READING JULY 25, 2012 AT 9:30 AM</p>
<p>REGULAR AGENDA</p>	
<p>Mayor Sam Adams</p>	
<p>Bureau of Police</p>	
<p>*829 Authorize an Intergovernmental Agreement with Multnomah County to provide outpatient treatment and supportive housing to chronic offenders identified by the Services Coordination Team (Ordinance) (Y-5)</p>	<p>185501</p>
<p>*830 Authorize a grant to Central City Concern for treatment readiness services, transitional housing and follow-up retention support services to chemically-dependent, homeless adult chronic arrestees (Ordinance) (Y-5)</p>	<p>185502</p>
<p>831 Provide for civil forfeiture of property that is instrumentality or proceeds of money laundering (Second Reading Agenda 815; amend Code Chapter 14B.50) (Y-5)</p>	<p>185503</p>
<p>Bureau of Transportation</p>	

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832 Vacate a portion of NW Vaughn St west of NW 33rd Ave subject to certain conditions and reservations (Hearing; Ordinance; VAC-10076)	PASSED TO SECOND READING JULY 25, 2012 AT 9:30 AM
833 Enact Item #11 of the Public Sidewalk Management Plan by creating a pilot program to test a way to better manage the concentration and placement of publication boxes located on public sidewalks (Second Reading Agenda 796) (Y-5)	185504 AS AMENDED
Office of Management and Finance	
*834 Authorize acceptance of Sergeant First Class Jerome Sears United States Army Reserve Center from the U.S. Army for use as a west side emergency operations center for the City (Ordinance) 10 minutes requested (Y-5)	185505
FOUR-FIFTHS AGENDA Mayor Sam Adams Bureau of Police	
*834-1 Authorize a grant agreement with Central City Concern from July 1, 2012 through June 30, 2013 in an amount not to exceed \$742,754 to support outreach services and sobering programs (Ordinance) (Y-5)	185506
*834-2 Extend contract with Cascadia Behavioral Healthcare, Inc. through June 30, 2013 in an amount not to exceed \$105,894 to provide on-scene mental health assessment and evaluation (Ordinance; amend Contract No. 30002518) (Y-5)	185507

At 10:54 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF JULY, 2012 AT 2:00 P.M.

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

Mayor Adams arrived at 2:07 p.m.
Commissioner Leonard arrived at 2:18 p.m.
Commissioner Fritz left at 2:46 p.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Kathryn Beaumont, Chief Deputy City Attorney; Steve Peterson, Sergeant at Arms; and Harry Jackson, Sergeant at Arms, at 4:00 p.m.

The meeting recessed at 3:18 p.m. and reconvened at 3:22 p.m.

	Disposition:
<p>835 TIME CERTAIN: 2:00 PM – Appeal of Northwest District Association against the Historic Landmarks Commission's decision to approve the application of Johnson Street Investors II LLC and Mill Creek Residential Trust LLC for Historic Design Review for two new, five story apartment buildings as a single project at the intersection of NW 19th Ave and NW Johnson St (Hearing; LU 12-106944 HDZM) 1.5 hours requested</p> <p>Motion to deny the appeal and uphold Historic Landmarks Commission decision; prepare findings for July 25, 2012 at 9:30 am Time Certain: Moved by Commissioner Leonard and Seconded by Commissioner Fish. (Y-3; N-1 Saltzman; Fritz absent)</p>	<p>TENTATIVELY DENY THE APPEAL AND UPHOLD HISTORIC LANDMARKS COMMISSION DECISION; PREPARE FINDINGS FOR JULY 25, 2012 AT 9:30 AM TIME CERTAIN</p>

At 4:12 p.m., Council recessed.

July 19, 2012
 A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,
 OREGON WAS HELD THIS 19TH DAY OF JULY, 2012 AT 2:00 P.M.

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

Commissioner Leonard arrived at 2:05 p.m.

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

The meeting recessed at 3:00 p.m. and reconvened at 3:08 p.m.

		Disposition:
836	<p>TIME CERTAIN: 2:00 PM – Adopt the work plan for the Office of Equity and Human Rights and the Human Rights Commission’s Annual Report (Resolution introduced by Commissioner Fritz) 1 hour requested for items 836 and 837</p> <p>Motion to accept exhibit A replacement pages 21-26: Moved by Commissioner Fritz and seconded by Mayor Adams. (Y-5)</p> <p>(Y-5)</p>	<p>36943 AS AMENDED</p>
837	<p>Accept Initial Equity Inventory report and recommendations on use of data and metrics to advance equity in City government policies, procedures and practices (Resolution introduced by Mayor Adams)</p> <p>(Y-5)</p>	<p>36942</p>
838	<p>TIME CERTAIN: 3:00 PM – Accept recommendations for a social equity contracting strategy to increase minority-owned, women-owned and emerging small business utilization in City contracting (Resolution introduced by Mayor Adams) 1 hour requested</p> <p>(Y-5)</p>	<p>36944</p>

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

LAVONNE GRIFFIN-VALADE
 Auditor of the City of Portland



By Karla Moore-Love
 Clerk of the Council

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

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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.

JULY 18, 2012 9:30 AM

Adams: Good morning everybody. Welcome to the portland city council. Before we gavel in and begin working through our agenda. I'm very pleased to read the following proclamation. Please come forward. Hi.

*******:** Hi.

Adams: How are you?

*******:** Wonderful.

Adams: Good. I would like Portlanders to meet -- please sit down. Meet shelley sorensen. [cheers and applause] i'm very pleased to read the following official proclamation from the mayor. Whereas, shelley sorensen is a native Portlander and attended Portland public schools beginning at chief joseph elementary, yeah, and graduated with honors from woodrow wilson high school in 1981. Whereas as a member of the columbia river girl scouts for ten years shelley learned the value of setting goals and serving others and whereas shelley designed and created a business plan for her first vending cart at age 10. Whereas in 1992, with the help of her mother and father, shelley combined her passion for nutrition, customer service and community building, created shelley's garden, a mobile food unit specializing in salads, and whereas in 1993 after expanding the menu shelley's garden featuring honkin' huge burritos -- [cheers and applause] found its current home at pioneer courthouse square. Whereas shelley's garden featuring honkin' huge burritos -- I have always wanted to say that at city council. Serves all Portlanders and visitors from all walks of life and has built relationships lasting for two decades. Whereas the local food cart industry has grown in recent years and today comprises more than 450 individual businesses but you were amongst the first. And whereas it is with great pride that we congratulate one of our original food carts, which have transformed the food scene in Portland and now is celebrating its 20th year. Therefore i, sam Adams, mayor of the city of Portland, Oregon, the city of roses, do hereby proclaim july 18, 2012 to be honkin' huge burrito day in Portland and encourage all residents to observe this day at their local food carts. [cheers and applause] thank you. You really are and remain -- you were and remain a pioneer in improving Portland's food both in terms of its nutritional value, its taste, accessibility and you helped create and entire new industry that started in large part with your cart and rippled out now through the entire nation. Thank you.

Shelly Sorenson: Thank you so much. I have appreciated it so much. I love, love being able to serve Portland. Thank you sam.

Adams: You betcha.

Sorenson: Thank you.

Fritz: I just want to say, I had not had the pleasure of eating at honkin' huge burrito until I got into city hall. It's one of the unexpected pleasures. To enjoy not only your food but also your graciousness. I don't think I have ever seen you in a grumpy mood even when it's raining. Thank you for all you do for Portland.

Sorenson: Thank you, I'm honored.

Adams: Here, here.

Sorenson: Thank you so much.

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Adams: You are welcome to stay and see how local democracy happens. [laughter] and can we get a picture with you? Everybody? [applause]

Adams: Would you please call the roll. [roll call taken]

Adams: We shall proceed. Can you please read the title for communications item number 821.

Item 821.

Adams: Welcome. You just need to give your first and last name and that clock will help you count down your three minutes.

Sarah Hobbs: Thank you. My name is Sarah Hobbs. I'm here to address the issue of the ongoing fines against right to dream too. Mayor Adams, I sat here in chambers last week and heard you say the 211 referral line often has to turn away unsheltered people for lack of resources. To me -- as I heard that, I wondered why it was when there is not the resource to meet the needs there was the ongoing -- I learned the city has an ongoing dispute with Michael Wright, who is the owner of the property, the right to dream too is on. I, this morning Commissioner Fritz heard you say that the city is not considering forgiving the fines which is why I'm bringing it up for clarification. I would like to hear that.

Fritz: That was misquoted in the Oregonian.

Hobbs: My concern is as, again, Commissioner Saltzman, the Bureau of Development of Service if the city does not have the resource to meet the needs, is there -- if there cannot be compromise between you and Mr. Wright. My concern and the concern of others is that this is caused by an ongoing dispute and people are getting caught in the middle. That's my concern as well. I would ask that as Mayor, as head of Bureau of Environmental Services, as City Commissioners you please take the moral high road in addressing this issue. Thank you.

Adams: Can you please read the title for number 822. [applause]

Item 822.

Moore: Mr. Ormsby has canceled.

Adams: We will consider the consent agenda. Are there any items to focus on in a consent agenda? Hearing none, anyone wish to pull any items from the consent agenda? Please call the vote on the consent agenda.

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

Adams: Aye. Consent agenda is approved. Can you please read the title for item 823.

Item 823.

Adams: All right. In late 2010 I proposed a collection of new gun laws, and two changes to the existing code to help curb the increase in gun violence that has swamped our community and swamped cities across the United States. City Council unanimously approved these laws through the illegal gun ordinance on December 1, 2010. A year and a half later I'm pleased to have the illegal gun ordinance oversight committee here at City Council to deliver a report on implementation of that ordinance. I would ask committee members and staff, welcome. I welcome you here, and we have before us Mike Verbout, Dave Smith, Elena Esterly and Clay Neal. Together today they will give us their report. Who do I turn to first?

Clay Neal: I'm going to start.

Adams: Mr. Neal.

Neal: I just submitted a substitute report and exhibit A, just a clerical change but you'll have that in your packets.

Fish: So moved

Adams: Moved and seconded to move the substitution. Any discussion? Can you please call a vote on the substitution that fixes clerical errors.

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

Adams: Aye. Substitute approved.

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Neal: So we're here to present on the illegal gun ordinance oversight committee report to city council on the implementation of the illegal gun ordinance as the mayor mentioned which was adopted unanimously by city council december 1, 2010. I'm clay neal, I work in the mayor's office on public safety. Three of the committee members, dave smith, mike verbout and galena asterly there are two folks who are not present who are Alvarado and roseann lee. We also have a number of staff who have been serving on the committee as experts and advisory members who are in the audience and will be available after the presentation to answer any questions specific to their line of work. So the illegal use of firearms is a long-standing community problem as the mayor mentioned both in the united states and in Portland. Each year more than 30,000 people in the u.s. are killed by guns and over 66,000 are injured by guns. That's according to the center for disease control. In 2011 alone in Portland there were 18 deaths involving guns. To combat gun violence and deaths, the mayor and city council pursued local policies in 2010 to limit the ability for individuals to use guns criminally. These were unanimously approved on december 1, 2010. With the adoption of that ordinance city council established the illegal gun ordinance oversight committee to track implementation and enforcement. Illegal use firearm hot spots, endangering a child by allowing access to a firearm, failure to report loss or theft, possession of a loaded firearm in a public place and amendments to the curfew section of city code. Oversight includes determination whether data supports the continuation of the hot spots, the illegal firearm use hot spots, assessing the use and need for the ordinance all together and making certain that there's no disparity of treatment as a result of the ordinance. Specifically city council asked committee to collect and analyze data to determine whether management of the ordinance serves the safety needs of the community is fair and equitable and has generated improper disparate treatment. The first of these reports from the committee was delivered to city council on august 10, 2011. Since then the committee has continued to track and analyze stage one implementation, which is what we call the new legislation, through the gun task force and the partnership with the district attorney's and mayor's offices. Since its passage it's been implemented by a small division within the police bureau that works on the most egregious and frequent gun crimes. The gang enforcement team and the gun task force. Before implementing these code changes bureau-wide the police bureau determined it was important to phase in the new protocols and policies so implementation could be finessed based on on the ground experience and recommendations from the committee. This is what we call stage one implementation. Stage one limited implementation to specific group of officers whose work with specific offenders, gang members and affiliates who commit the most egregious gun crimes in our city. The committee found those to be a pretty important contest when assessing whether or not the ordinance had been successful in keeping Portlanders safe while being implemented without disparity. It's also important to note this is a continual process. The committee will report on these ordinances so long as there's community interest in tracking the implementation of the ordinance. The report is not a final decision by the committee on the effectiveness or fairness of the policies but captures the committee's assessment at this stage. The committee did not examine one piece of the ordinance which is the implementation of the amended curfew section of city code. The committee plans to review that portion in its next report to council. So now for the actual report i'll turn it over to mike, the chair of the committee.

Michael Verbout: Good morning. I'm Michael verbout, i'm chair of the consensus-based illegal gun ordinance oversight committee. I would like to first talk about the general consensus that committee came to in assessing implementation of the ordinance and then speak more specifically about individual portions of that ordinance. In the over all assessment, over all the committee feels that the illegal gun ordinance is helping to make Portland a safer city. We recognize that the new laws enacted through this ordinance are simply additional tools in a heavy tool belt available to law enforcement. However, through statistical and anecdotal evidence these laws have proved useful and needed. Additionally, we have not found any evidence of disparate treatment by Portland

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police in the implementation of this ordinance. This is a complicated assessment because based simply on the numbers it would be easy to assume the Portland police officers were targeting minority communities with the enforcement of these new laws. The committee not, however -- did not allow ourselves an easy assessment. Instead we took a hard look at the entire context and asked very tough questions about who was impacted most by gun crimes and what the legislation intends to do. Ultimately, it's clear to the committee that Portland's african-american community is disparately impacted by gun violence. Therefore, we see these new laws as potential preventive measures that help to reduce gun violence that injures or kills so many in our african-american community. I will now ask committee member dave smith to go into detail about three portions of the ordinance. I will then end the committee's presentation by discussion of the implementation of the illegal fireworks use hot spots. -- illegal firearms use hot spots.

Dave Smith: I would like to talk first about endangering a child by allowing access to a firearm. This change to city code was enacted with the intention to prevent accidental shootings of youth including suicides and negligent gun storage. Thankfully the committee is not aware of any cases of accidental shootings of a minor in Portland since the ordinance came to pass, however, from 2000 to 2007, there were 47 suicides with a firearm and seven accidental gun deaths of youth from birth to age 17 in Oregon. That is far too many. It's clear to the committee that national and local statistics about the project, consequences of gun negligence continue to validate the need for this legislation in Portland's city code. The failure to report theft or loss of a firearm, it's hard to track guns in Oregon because we do not have mandatory registration laws or background checks after the first purchase of a gun, which can become a problem when police are trying to track guns that are stolen or lost and used in crimes. This portion of the ordinance attempts to help resolve this issue. The failure to report theft or loss of a firearm portion requires that a gun owner report to the police bureau when a gun has been lost or has been -- one has been a victim of a theft. In the report the owner is required to supply the serial number of each stolen or lost firearm. There are fines associated with the failure to report a loss or theft as well as the failure to report the serial numbers. To date, this legislation has yielded the following results. 112 guns were reported stolen or lost. 29 serial numbers were provided to the city for stolen or lost firearms. 41 individuals have failed to provide the serial number on a total of 83 guns, and have been fined for each associated firearm. The committee agrees with the intention of this portion of the ordinance. For successful implementation it must be made more explicitly clear to the public that there are fines that result from failing to comply with this new requirement. City council should, therefore, engage in a more comprehensive educational campaign regarding the new requirements and the associated fines. We have an additional recommendation that we believe will help with the tracking of lost or stolen firearms that can be found on page 16 of the report. Possession of a loaded firearm in a public place. The implementation of this additional charge in city code is most helpful when the police cannot establish other charges for an individual based on the evidence at hand but suspect him of a greater crime. The misdemeanor charge helped build up a criminal history, demonstrating a person's course of conduct. This misdemeanor charge has also been used as leverage to ensure a plea deal on more serious charges including felonies. In the end, multiple misdemeanor convictions can demonstrate a pattern of criminal behavior that supports convictions of more serious crimes when committed. Based on this anecdotal evidence, the committee assessed that this portion of the ordinance appears to be working as intended and helps to ensure that those intent upon committing gun crimes are effectively criminalized for their behavior. I would like to turn it back over to mike to discuss the hot spots.

Verbout: Thanks, david. The major issue that this committee looked at that was the implementation of the illegal firearms use hot spot, three original hot spots were designated in 2010 based on the historic rates of gun crimes within those boundaries. Current hot spots are downtown, the martin luther king, jr. boulevard corridor, and southeast 160th and stark. You can find maps of

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these hot spots in exhibit d in your report packet. The hot spots are preventive tool. The intention of hot spots is to allow for police to help prevent crimes by removing individuals convicted of gun crimes from locations where these gun crimes traditionally happen. A committee examined current gun crime data as well as anecdotal evidence to determine whether the designation of these hot spots continues to be warranted and whether new hot spots should be designated. You can find our analysis on pages 6 through 9 of the report. Regarding the current hot spots, the committee recommends that the current designations be maintained. Additionally, Portland city council should work with Gresham city council to expand the southeast 160th and Stark hot spot past the Gresham-Portland boundary to southeast 181st. Gun crimes know no municipal boundary, and the trends of gun violence in that area is clearly cross jurisdictional. The committee explored the potential for other areas to be designated hot spots based on current gun crime data. While a few areas of town piqued the committee's interest based on rising rates of gun crimes we recommend continued observation of these areas to determine whether the increase in crime is an anomaly or whether it is a longer trend that would warrant hot spots designation. So stay tuned. In disparity when 2010 illegal gun ordinance passed, there was significant community concern about the potential for disparate impacts of these new laws on communities of color in Portland. Specifically our African-American community. This is the major reason this committee was formed, to track the implementation of the hot spot exclusion and determine whether they were being implemented fairly. Based on the committee's analysis, we have concluded that there are not signs of disparity evident in the current implementation of hot spot exclusions. As mentioned above, hot spot exclusions serve the safety needs of our city by providing a preventive tool for our police. You'll note pages 9 through 13 of the report go into depth about this analysis. I'll give a brief overview of our reasoning. First and foremost, gun violence disproportionately impacts African-Americans in our community and nationwide. In the first four months of 2012, 30.3% of the victims in gun crimes in Portland were African-American. 54% of known offenders in these crimes were also African-American. This in the context of African-Americans making up 6% of Portland's population. It is true that the exclusions have predominantly been issued to African-Americans 36 of the 42, however, during this first stage of implementation, the only division of the police force that enforces and issues exclusions is the gang enforcement team, which works specifically to curb gang violence through targeted enforcement. Therefore, the committee realized that demographics of the city's population as a whole may be less relevant to compare it to the exclusion issued than the population demographics of violent gangs in Portland. Portland like many other cities is afflicted by violence related to a diverse set of gangs including Black style gangs, Latino gangs, white supremacist gangs and Asian gangs. However, the committee received anecdotal evidence from the police bureau and street level gang outreach workers about the weapons of choice for specific gangs in our city. In Portland Latino gangs predominantly use knives. White gangs predominantly use baseball bats and fists. And Black style gangs predominantly use firearms. While violence is not tolerable in any form, the 2010 ordinance is legislation that specifically targets gun violence and therefore will have a stronger impact on the violent activities of Black style gangs. Additionally, our documented gang population in Portland is 46% African-American. There are many reasons for this over-representation including institutionalized racism. Lack of opportunity for minority communities and other factors as outlined in many local, regional and national reports including the Portland Urban League's State of Black Oregon report. This committee did not analyze these factors but recognizes that long term change in the disparity impact of gun crimes on African-American Portlanders will result from addressing the root cause of the disparity that keeps Black Oregonians at or near the bottom of every meaningful social and economic measure. In summary, the committee reflected upon the following information to conclude we do not find disparate evidence of enforcement by Portland police in implementation of the hot spot exclusions. We have a limited number of exclusions. 42 compared with the amount of gun crimes city-wide. These exclusions

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result from the work in the gang enforcement team which works exclusively on gang crime. African-americans make up 46% of documented gang members and affiliates and black style gangs use firearms much more frequently than other gangs. African-americans also represent a disproportionate number of offenders. 50%. Victims 33% of gun crimes in our city. These statistics leave the committee to state that in the current phase of implementation, we do not see disparate impacts stemming from the enforcement of this new legislation. A committee will continue to oversee the bureau-wide implementation of this ordinance. As exclusions start to result from every gun crime offender in the city, not just gang related gun crimes, we expect to see higher diversity in individuals receiving exclusion. To ensure that this is the case, the committee worked closely with the gun task force sergeant jami resch and deputy district attorney eric zimmerman to explore the option of a gun and gang eviction package. The committee learned that there are automatic probation packages issued to individuals convicted of crimes associated with prostitution or drugs. These packages provide our public safety system with consistent implementation of conditions of probation to avoid human error over oversight. The committee will work with the district attorney's office to implement a new gang and gun conviction package with hot spot exclusions as a part of the conditions of probation. I think in conclusion all in all, the committee feels that continued implementation over the illegal gun ordinance is warranted. The new laws are making Portland a safer city and the potential for greater impact is imminent with implementation of the ordinance bureau-wide. To assess data in a consistent way with previous reports and to gather information for a fully updated report we also request that city council allow for the committee to make annual reports to council instead of reports every six months. This should not preclude additional actions by the committee in the interim including direct reporting to members of city council for implementation of agreed upon recommendations. The previous and current sergeants from the gun task force are here to talk a bit about recovered firearms through their unit and the importance of these new laws to the Portland police bureau. Thank you.

Adams: Before we hear from some of the staff that you mentioned and their partners I want council to know the seriousness and the commitment to being thorough and fair and very thorough that this committee has taken its charge and I want you to know just how much I appreciate that. We want to pursue illegal guns, illegal use of guns but we want to do so in a fair manner. Having your outside continuous review helps ensure that we will do exactly that. So thank you very much.

Verbout: Thank you.

Neal: Lt Jami resch is the former sergeant of the gun task force, served as staff to the committee during the last year. Sergeant kathy kent is the new gun task force sergeant who will be serving for the committee with me on a continual basis as well as lieutenant nakamura, who has recently joined the gang enforcement team and the gun task force as well. Specific recommendations relating to -- what was that? Yes. Sorry. Specific recommendation related to trimet that you can find on the list of recommendations. We didn't cover it from the committee, but it's an interesting analysis that the committee did and the sergeant resch was a part of that conversation. So she is available to talk about it.

Sgt. Jami Resch, Portland Police Bureau: Thank you. One of the ideas of the committee came up with and asked my opinion on was implementation of trimet exclusions in addition to hot spot zone exclusions. Their initial opinion was if you were issued a hot spot zone exclusion you would also be issued a trimet exclusion. One of the problems we had is if you commit a gun crime not on trimet property, do we have the authority to then ban you from riding trimet. That was pretty quickly decided that we do not. So the idea that we came up with and what we're going to explore is twofold initially if you are convicted or charged with a gun crime on trimet property you would be given a trimet exclusion right away. As you know, the hot spot zone exclusions are contingent upon conviction so there's a time delay. So you are issued a hot spot zone exclusion at the time of the crime but doesn't take effect until conviction. If you're issued a trimet exclusion also at the time

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of your exclusion it would take effect immediately, banning that person from riding trimet for the length of time that that exclusion is for. In addition to when they were talking about the package, the gun enhancement package on convictions the committee is asking that a longer trimet exclusion be issued as well upon conviction. Its kind of twofold and these are only for crimes that occur on trimet property. So if you are charged with a gun crime at 162 and stark not on trimet property this is not going to take effect. This is only the committee's recommendation for gun crimes that occur on trimet property just because of the additional safety recommendation it poses to people riding trimet if we have violent offenders on there with guns.

Adams: would the exceptions like to and from work that are currently in the hot spots also part of the trimet exclusions?

Resch: that would probably have to be included in there it would be very difficult to not allow someone to ride public transportation to and from work. They would have to just like they do now prove that they are going to and from work.

Leonard: People that are excluded from hot spots zones are only those convicted of gun related crimes?

Resch: there are different hot spots but these that were talking about --

Leonard: I'm talking about these.

Resch: on hot spot zone exclusions, yes.

Fritz: why would we make a difference with trimet to do it when charged rather than when convicted?

Resch: There too I can issue a trimet exclusion at the time the offense occurred if your on trimet property that would exclude you from the property. That exclusion varies in length depending on the crime so the committee is asking right now a hot spot zone exclusion is issued but a trimet may not be. What their asking is they are issued together at the time of the offense and also that we look at an additional trimet exclusion upon conviction as well.

Fritz: but the hot spot is based on conviction rather than on arrest.

Adams: yeah let me clarify we would not, you currently have the power to exclude people based on an offense not on a conviction. Only when it happens on trimet property which is defined by law. What the committee has raised as a question is whether or not if you are convicted of a gun crime whether that conviction means you're automatically excluded from trimet.

Resch: Correct.

Adams: We would not change our policy, which is different than trimet's policy. Our policy is post conviction. Trimet policy is post offense. We would never go backwards. I wouldn't support that.

Saltzman: What is the gist of the recommendation?

Resch: They want two -- they want an exclusion issued at the time of the offense for trimet, which is not what we're currently doing. That's what the committee would like to see happen.

Fritz: It means more discussion, right?

Adams: These are just recommendations. Today were not acting on those. And is it trimet that makes that decision, not city council?

Resch: Right, these are just recommendations.

Adams: Its trimet that makes that decision no the city council.

Resch: For the trimet exclusion? Yes.

Adams: We're not the decision make there.

Neal: It would be whether or not you would want to encourage police officers that work with trimet to issue the exclusion on offense.

Adams: That will come back to city council before any changes are taken.

Resch: Yes. It was their recommendation.

Adams: Got it.

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Neal: We also have the sergeant and lieutenant from the gun task force here with updated numbers about guns recovered this week specifically and on the current can give an update on the work of that current team.

Sgt. Cathe Kent, Portland Police Bureau: Good morning. I was appointed to take jamie's spot july 5th, so you'll have to excuse me, I have only been there for about a week, but we have hit the ground running. Since monday our unit, gun task force along with the gang enforcement team, recovered to date six weapons since monday morning. One of those weapons was an after market mechanism which may makes a glock fully automatic. This is a federal crime. Of course yesterday was the result of the gun task force surveillance mission on a federal affidavit to take a gang member and charge him with federal offense. During the course of that surveillance we came upon a young gentleman who possessed a weapon. From that case we recovered another two revolvers. As you can see, our work at the gun task force we feel is very vital to combating violent crime in the city. Beyond that i'm just reading the ordinance, getting accustomed to what our mission is going to be along with lieutenant Nakamura, who also serves the unit. I fully endorse all these recommendations from the committee. I think they are very important. The last two days have shown how important they are, especially juveniles with guns.

Adams: Part of the work of the task force has included not only trying to apprehend those that have the guns but also to further up the food chain of where they got the guns, especially youth. So that we're not just -- we're trying to -- we don't just exclusively deal with real life and death symptoms in this case but also to try to find out where these illegal guns are coming from. You talked to me about that in the past. Can you share a little bit about your efforts? Painstaking, I know, and frankly expensive, but there's a lot of surveillance, you have to be very patient, make sure you have a real case. Want to talk a little bit about that work?

Kent: I know we use atf to track when we get the guns. I know when we do recover guns the forms are very detailed, manufacturer, where the gun came from. I have not been involved in tracking the guns like I believe atf has been involved in that, so I don't know if jamie or the lieutenant have more information on that.

Resch: Correct. When we recovered on our first mission to track it back as far as we can. Not only can you charge someone with the offense of the gun but if you can prove it's stolen that's an additional charge that we can prove as well. Another thing we have looked into as far as trying to make additional charges is dna testing on guns that we recover. It's very difficult to prove ownership of a gun if it's for the found on the person, so we have looked into funding for dna testing that will help us link guns to people as well. That's in the process.

Saltzman: What kind of dna? Is it from holding the gun?

Resch: Touch dna.

Fritz: Do we have information on over all gun crimes in the city, whether we're merely moving the crimes around out of the hot spot areas or how this ordinance has impacted over all gun crimes in the city?

Resch: What you'll see when you look at the hot spots is it does seem some are moving, so enforcement may be moving to other areas. That's where the committee looked do we need to move hot spots around. I don't know the numbers off the top of my head how many gun crimes last year versus this year. I don't know if that's in the packet or not.

Neal: Yes. You'll see comparative maps in the end of your packet. I would say that gun crimes are generally moving out from any hot spot as a general trend as gang crime. That's been covered heavily in the press. It's not clear whether or not that's because of the hot spot because hot spots continue to maintain significant amount of percentage of gun crimes in the city.

Fritz: I appreciate the committee's thoughtful assessment of whether there are racial disparities ongoing. One thing I would be interested in is more detailed analysis of if this is helping over all or are we just moving the crimes to different neighborhoods. Thank you. Thank you for your work.

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Kent: The three guns that were recovered on Monday were all stolen weapons.

Adams: It's a great question, a really difficult question to answer since the uptick in violence is continuing in the city of Portland. Chicago, record number of gun related violent crimes. I think Seattle is nearing a record. Good question that's really given the nature of the crime really hard to answer, but the reason because we knew that going in and passing these ordinances that's why we wanted to have an oversight committee that cared about these details, that recommends changes working with the D.A. who decides hot spots can recommend quickly changes to boundaries of hot spots so the goal is to follow, if it does move, to follow it.

Resch: I would like to say that the bureau is looking at implementing it bureau-wide hopefully soon. We should have larger numbers, maybe show the effect in greater detail.

Saltzman: Just to focus on the three guns you recovered this week that were stolen, were those guns reported as stolen under --

Kent: Yes. Serial numbers were recorded. One from Lane County, the others were local, stolen on a burglary. I'm sorry, four stolen guns.

Adams: Want to add anything?

Lt. Art Nakamura: Yes. Just with the safe summer program that the mayor was nice enough to help gang enforcement and gun task force, this is a result of the safe streets program, summer program, additional resources we can actually do more follow-up, more surveillance. It's very time-consuming, long hours. With additional resources we see additional successes in the future. So gang enforcement, gun task force thank you.

Adams: Thank you very much. How many folks have signed up to testify?

Moore: Two. Please come on up.

Adams: Who would like to begin?

Dan Handelman, Portland Copwatch: I will. Good morning, Mayor Adams, city council. I'm Dan Handelman with Portland Copwatch. My comments are based on the report posted on the website, we haven't seen the substitute so forgive any disparities. It's a little disconcerting and disappointing after the great presentation the police relations committee a week and a half ago gave regarding the racial profiling data where there was a lot of talk perhaps institutional racism and racism unknown racism might be the cause for the disparate numbers that there seems to be a lot of twisting around turning by this committee to explain why 86% of the exclusions are for African-Americans. It was 77% in the first report and albeit that there's a disparate number of people of color or African-Americans specifically being arrested for gun crimes, that number is 52% city-wide. 86% of the exclusions are African-American not explained away by anecdotal notices given to the committee. I'm glad somebody brought up the incident that happened with gunfire. I think that it should be a little bit more explicit. This is the first time we have heard the young man who was shot at produced a gun. We didn't know that from the news reports yesterday or the police's own release. We want to learn more about what happened with that. How much these situations escalate because the police themselves use guns to enforce the laws to say that using guns is wrong. This reminds me of the book a lot of people are studying about how laws are pushing more people of color into jails. I'm glad the committee mentioned the Urban League's report. I didn't see anything about that in this report they put out, but people are driven to gangs for lack of opportunity. That people in disenfranchised communities join gangs. That things might be getting worse because of certain laws and the targeting of certain communities. Also in terms of the disparate numbers, 86% exclusions and only 46% of people who are gang affiliated in Portland are African-American. There's a term used in the report called black style gangs. I don't know if you're trying to talk about African-Americans or black gangs that's one thing but black style, I don't even know what that means. It seems borderline offensive to me. In terms of the discretion about giving out the exclusions, it should be with the judges, not the police. Certainly with 36% of gun crimes people who commit gun crimes being white in the city it's surprising there are fewer exclusive

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given out for white people. The committee itself apparently is also majority white. We're talking about maybe diversifying the gang enforcement team and the gun task force to make them more represent the people being targeted by the law. Let's think about that with the committee as well.

Adams: Hi welcome.

Becky Straus, ACLU: Good morning. Becky Straus here on behalf of the ACLU of Oregon. Thank you for the opportunity to share a few comments about the report. I wanted to just focus on the section related to the exclusion zone scheme for illegal firearm use hot spots. Our primary concern as we raised in 2010 when the ordinance was being considered is the discretion in the hands of the law enforcement officers to issue the exclusion order as opposed to a judge. We feel when these determinations are being made we're talking about a fundamental freedom to travel and associate freely in our society and those should implicate our fundamental due process rights and that role belongs with a judge. That said, that's not the ordinance passed, that's not the ordinance we have. I'm very appreciative of the committee that's done a lot of work to keep an eye on this process and evaluate whether it's keeping us safer and how it's being implemented, how it's affecting our civil liberties and what is the demographic of the people being affected. I really do appreciate that work. I just want to pull out one recommendation from the 2012 report. It has raised some interesting questions about the demographic of the individuals being affected by the exclusion orders. Without more data I'm having a difficult time and it seems like the committee was also having a difficult time drawing any solid conclusions about really the cause and effect of some of this data and really taking a comprehensive view of what it all means. So we have some data. I don't think we have enough. Specifically I'm not seeing enough information about how the officer discretion is being implemented in terms of comparisons between the people charged with gun crimes and, correct me if I misstate, people being charged with gun crimes versus those who receive exclusion orders, the recommendation about the new package through the district attorney's office raised the risk of racial bias in officers issuing the exclusion orders. I'm concerned about implementing that recommendation based on that risk when we really don't have enough information to see whether there is racial bias being used, how is that discretion being exercised by the officers. So again, we would like to see that in the hands of a judge. It provides more safeguards but absent evidence of racial bias that law enforcement officers are being discriminatory in the issuance of the exclusion orders we're wary to implement a recommendation that would increase the use and implementation of the exclusion orders more on an automatic basis than one that allows for individualized determination of what variances might apply.

Adams: Thank you. Karla, can you please -- call the vote -- move to accept the report.

Fritz: Second.

Adams: Please call the vote on the motion to accept the report.

Saltzman: I appreciate the work of our police, district attorney's, ATF, citizen oversight committee and the mayor for his leadership in this. These are not easy issues but I think what under scores all this is that people are shooting at each other and people are being killed. It's because of guns. We need to do more to get guns out of the hands of young people and older people as well. It's not easy given the strong pro gun lobbies that exist in this congress and this state. It's very hard to get anything done. I know one of the recommendations is a voluntary registration by gun owners. I would rate that as having zero chance of success. So we have to weave a delicate path and be respectful of people's civil liberties. I think this council has been diligent about modifying our drug zone exclusions in light of the need to have convictions before an exclusion takes effect. I'm pleased with this report and I hope our people and our police officers and everybody will be more successful in getting guns out of the hands of criminals. Aye.

Leonard: Aye.

Fritz: Thank you to the committee for your diligent work on this. Galena, Mike Verbout, Roseanne Lee, who is now retired but still volunteering on this committee. Alvarado and Dave Smith obviously

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a lot of work went into preparing this report and a very thoughtful analysis. I appreciated it. It give us more fodder for discussion and that's helpful to the public process and to teasing out the issues and values in this complicated challenge that we face together as a community. I am interested in the next report to have a look at is this helping city-wide and i'm confident the committee is well up to that task. Thank you, mayor Adams, for looking into this and proposing solutions and coming back with reports. I think that's really important. Thanks to the police officers for your diligence on this. I agree that it needs to be continued based on convictions rather than on arrests. Thank you for your work. Aye.

Fish: I want to associate with the remarks of my colleagues already and just add one other dimension to this problem. In the last six months we have had a number of shootings at recreation facilities and in parks. There are steps we can take to try to enhance the safety of families and children in our parks, but we can not have a police officer or ranger in every recreational facility and every park. Reckless behavior that we're seeing is going to lead to more deaths of completely innocent people who are caught in the crossfire. That ought to just outrage people. Commissioner Saltzman and I and others have already been to too many funerals of children in that circumstance, but when people engage in this kind of reckless, illegal behavior in a public setting like at a rec center, where a consequence could be a child dying in the crossfire, it's just outrageous. I agree with what my colleagues have said about the difficult balancing and I appreciate the testimony today. We have to get that right, but we also have an obligation to protect people's safety. And I am very fearful given the recklessness we're seeing this summer despite the mayor's great efforts with operation safe summer, bringing all the parties together, that someone, an innocent life will be taken and we have to do all we can to prevent that from happening. Thanks to the committee for their work and the presentation. Aye.

Adams: I want to restate my thanks to the committee who has -- this is the first I think one of the I should say one of the best examples of the kind of rigorous oversight of the law enforcement and prosecution functions and specifically looking at any intentional, unintentional, overt or systemic racism. I really appreciate that. That in this city where among some it still remains difficult to talk about race, that you've taken that on. That you've looked at as well you should not only the rights of those that have been accused, but those have been through the criminal justice process, but also the victims, and the profile of the community that is being -- communities that are being disproportionately impacted. My thanks to the police bureau and the illegal gun task force and the gang violence task force. My thanks to the district attorney, our federal partners. This is an awful scourge on the city, but you're making headway. We have a lot more work to do. So thank you. Aye. Report approved. Can -- what is left? Please read item 829.

Item 829.

Adams: Who is here to testify on this matter? I mean staff. Staff. Does any staff -- are you here to testify?

Bob Del Gizzi, Business Operations Manager, Portland Police Bureau: My names bob del Gizzi, business operations manager of the portland police bureau. I thought -- I can answer any questions regarding this item. It's an element of the service coordination team. This particular item, 829, relates to subcontractor services through Multnomah county that are associated with supporting outpatient treatment and supportive housing.

Fish: One question, mayor? Just one point of clarification. On the notes that we have on disposition, it says that the funding is adequate for eight months of programming. I guess originally, mayor, in the budget I thought we were fully funding for six months, so i'm delighted there's eight. Is that because of carry-over money or has' been scaled back? Why the extra two months?

Adams: There are some savings from last year we can carry over.

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Fish: So if we have eight months of programming it means in the winter bump, if new council chooses to address this, we're looking at just four months of funding for the full fiscal year?

Del Gizzi: The instructions are for us to report back in the fall bump and to investigate the opportunity for additional funding.

Adams: My commitment is in the fall bump we'll figure out the rest for chiers and service coordination team.

Fish: Thank you.

Adams: By then we'll have the entire budget. Unless there are additional questions, anyone wish to testify on this matter?

Dan Handelman: Hello again, council. I'm still dan handelman, Portland copwatch. We testified about the service coordination team repeatedly over the years. While it's great to help people out who are in need of treatment, we have always wondered why you have to be arrested to get treatment under this program. Why the money that's coming for resources to treat people is coming from the police bureau instead of from some other agency that's actually designed to help people instead of arrest and incarcerate them, and why even though the list that used to be secret is no longer secret why it's still difficult to get a copy of it. So this is \$1.2 million between this ordinance and number 830. We understand that some people's lives have been turned around but there are a lot of people who can't get into the programs because they are not getting arrested enough. That's not the way to help people who need help. Thank you.

Fritz: My understanding is arrest is no longer a necessary part of the program nor is overnight incarceration, that the service coordination team is looking at who is ready to be part of this program. I agree that there's not enough treatment available for particularly people with dual diagnosis however, I think this program has been extremely successful in helping the people who most need it get into treatment and into recovery.

Adams: Thank you. Please call the vote.

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

Adams: This has been a phenomenally successful program. The needs far outstrip our meager ability to provide the service coordination team, but it is something that we can do. It's commissioner Leonard's idea along with chief reese's idea. So were prioritizing people for services that we come into contact with, we know there are a lot more people we don't come into contact with but enforcement alone I don't think as commissioner Leonard has so eloquently said in the past, enforcement alone, especially for drug related convictions, is really unethical. So we're trying to make a dent. The results, the comparative results are very strong. Aye. Please read the title for 830.

Item 830.

Adams: This is also related to the service coordination team.

Del Gizzi: Also an element of the service coordinating team. Anyone wish to testify in this matter? Please call the vote.

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

Adams: Aye. Please read the title for 831 and call the vote.

Item 831.

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

Adams: Aye. So approved. Please read number 832.

Item 832.

Adams: Do we have staff here to speak on this issue? Does anyone have any questions? This is by state law street vacation has to be on the regular agenda. My understanding is that there is no opposition to the street vacation. Will staff be available for individual briefings if needed? Does anyone wish to testify on item 832? Move on to further consideration next week. Can you please read item number 833 and call the vote.

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Item 833.

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

Fritz: This is a really great item. I had a discussion with the advisory committee on Monday, there was unanimous support, at least nobody objected. We all think it's a great pilot project. Aye.

Fish: Aye.

Adams: Aye. Can you please read the title for emergency ordinance item 843 -- 834.

Item 834.

Adams: This authorizes the city to take ownership of the sergeant Jerome Sears Army Reserve property on Multnomah Boulevard for use as a West Side Emergency Operations Center. The city's first Council approved use of the site for an emergency operations center by resolution in May 2011. The city currently does not have a location on the west side of the Willamette to conduct emergency operations, stage essential equipment and site another fueling station. By passing this and taking ownership of the property the city can begin work to prepare the site for use by PBEM, water, PBOT, city fleet among others. The adopted budget includes initial one-time funding and operating expenses related for the center. We have with us Director Carmen Merlo and OMF facilities manager Bob Kieta here to talk more about this. Bob, congratulations again on the lead gold certification for the already historically designated Portland building and the two together are not like peanut butter and chocolate. They don't often go together. Congratulations. Big deal.

Carmen Merlo, Director, Portland Office of Emergency Management: Thank you, Mayor.

Good morning. The ordinance before you today brings us one step closer to acquiring the sergeant first class Jerome Sears Army Reserve center for use as a West Side Emergency Operations Center. The acceptance does allow for the property as is and I'll have Bob talk more about the due diligence we have done to address any environmental concerns. As you know FEMA has awarded the city public letter of conveyance which transfers the property over to us at no cost. That is, however, assumed that property will be used in perpetuity for use as an emergency operations center. The final disposition of the property may take another five to six months. We do anticipate transfer about January 2013, and we will begin the process of doing a site master plan for the use of the property. Bob will talk more about the due diligence done on the property.

Bob Kieta: Good morning. First the Army has done extensive environmental studies on the property, so OMF received those studies and reviewed them with BES, and with city attorneys to verify the findings, did site inspections as well as we have BES go in and do sampling and drilling so we can verify the studies' findings. We found that while there had been underground storage tank leakage the Army had conducted mitigation to clean that up to the point that DEQ did issue no further action letters on the site. So our sampling verified all levels were below any kind of action requirement. While there is some asbestos inside the building, it's a 1959 building, that's not unusual. It has been identified, which is what the requirement is. We are aware of where the areas are, most asbestos has been mitigated, removed from the site consisting of floor tiles, adhesives and pipe insulation and things like that so they are not in the general area where they can be damaged or abused. The other issue was asbestos would be roofing materials. The building was reroofed in 2003, so that was mitigated at that point. We feel confident that it is relatively a clean site as you would expect for a 1959 building and anything that we discovered we would be able to handle as we are doing renovations through the building. Let's see. I think that covers most of the environmental issues. We have done property title reports. There's no issues as far as the title of the property and we see no -- even though the city use to own part of the property it is being turned back over to us. The site is slightly over four acres. It has one large building support area that's over 26,000 square feet then two other buildings, one just another warehouse, the other a storage maintenance area. If you have any questions I would be happy to answer.

Fritz: How did you arrive at the figure of \$220,000 a year for operations and maintenance?

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Keita: We went through what the water bills would cost if the building was fully functional. Utility bills fully functional, heating, gas, utilities. We included certain number of maintenance hours to go in and do the maintenance in the building, landscaping, custodial, then there was also a portion set aside for major maintenance collection so that we can start having the reserve to be able to support the building in the future.

Fritz: You looked individually at the site rather than using a formula?

Kieta: Absolutely.

Fritz: Will any new positions be necessary as a result of this acquisition?

Kieta: For maintenance, no.

Fritz: How about for other -- do you anticipate any more staff?

Merlo: No, if anything this is our backup to our primary emergency coordination center. If our primary site became unusable we would transfer operations to this facility.

Fritz: There won't be a resident caretaker or anything?

Merlo: No.

Adams: It does serve as a great depot. So it will have lots of activity.

Saltzman: I know you talked to each of us individually, but why don't you just explain briefly who the initial tenants will be.

Merlo: Thank you, commissioner.

Saltzman: Ongoing for that matter.

Merlo: One of the main drivers for the site that been the fact that we currently have no public works assets on the west side of the river. Most vehicles, supplies are on the east side. Particularly for pdot most de-icing operations are on the west side, primarily north and southwest hills. So the intended use of the site is to house and store a diverse array of vehicles and equipment both for de-icing operations, debris removal, repair water and sewer lines. We need the site for another west side fueling station. Of the city's eight fueling stations there is only one on the west side, in the basement garage at 1st and jefferson. We also wanted another site to conduct our emergency operations in the event our primary facility is unavailable and right now we're under construction of a new emergency coordination center trying to access the 911 facility is difficult because of all the traffic there from the vehicles. We were hoping to use this backup site as our primary venue. In the meantime until the building is constructed.

Saltzman: Discussion of police being occupants?

Kieta: One of the issues we're looking at in the master plan, we're going to discuss what needs may be available. We have two limiting things, one is the quit claim deed which the army restricts us to, which is primarily emergency response, and two, what the zoning will allow us to use. We're going to develop a master plan which supports the original master plan as well as others so we can utilize the facility to its fullest as well as the community involvement to make sure this is something that really fits the community.

Merlo: If I could, commissioner Saltzman, I also wanted to say we intend to use it for classroom training. It's a wonderful building with plenty of classroom space as well as use the gym for sheltering operations in the event we needed to either for winter warming center or just emergency shelter.

Saltzman: This is a new thought. It is a big building. It has lots of -- it's kinds of a school.

Merlo: Right.

Saltzman: I know pcc was interested in that property as well. Would there be a prohibition against pcc offering class there's?

Merlo: I don't see why not.

Saltzman: That would be inconsistent with our quit claim deed.

Kieta: Quit claim deed dealing with emergency response.

Adams: They have to deal with emergency response.

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Saltzman: Okay.

Adams: But there might be the possibility of, for example, many precincts like we have around the city where police can stop and do paperwork. We are going to come back to council with what's possible and you'll have an opportunity to consider that further.

Fritz: Whets the plan for community involvement in the master plan process?

Kieta: We're setting out to meet with all the bureaus to develop the scope of this process and then as we have developed applicable to the community that we will involve the community to make sure that we have involved the community in this process also. So we will be having involvement with the planning.

Fritz: You might want to check with the neighborhood association so they are in at the beginning also. Thank you.

Adams: Anyone wish to testify in this matter? All right. Then can you please call the vote.

Saltzman: Well, i'm really pleased that this is finally happening. Been a long process starting with pdc, other uses, so it takes a while to get things through the department of defense, this process, and the army. This is a great asset for the city to have a west side location that can really be available for so many critical operations that are currently not available on the west side. In a dire situation, the east side could be cut off from the west side. This is great and I look forward to the evolving definition of how we're going to use this building more for emergency operations, but this is a great first step. Thank you. Aye.

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

Fish: Aye. Just want to observe I received an email from rick nitty from neighborhood house expressing his disappointment that we weren't doing affordable homes on this site. I just would acknowledge my colleagues a number of years ago agreed to give the housing bureau the first crack at seeing whether we could put the financing together for a proposal that ultimately enjoyed a lot of community support but we didn't have the resources to move forward. In spite of that, the city has moved forward to invest in what's now called stevens creek crossing, and gray's landing, which will substantially add to the inventory of affordable housing in that part of the city, but this was an opportunity that we were regret we were not able to move forward on. Once it became clear we didn't have the money for housing this seemed the logical alternative. I appreciate Carmen and bob the way you brought the council along on this and the briefings on this proposal. I also appreciate your receptivity putting a garden on one of the corners. I think you'll find apropos of what commissioner Fritz said when you engage the community there might be some things on the edges that can engage the community that doesn't interfere with the operation of the site. Thank you. Aye.

Adams: There have been three facility related projects I have worked on as a commissioner and as mayor, and with the help of folks up here at the dias and our great facilities and emergency preparedness teams and a lot of others, neighborhood associations, we have been able to -- are moving forward on training center for the police bureau, the new emergency operations center in east Portland for among others the bureau of emergency management and now the jerome sears providing a depot and staging area on the west side, which has been long sought after all these years as a city it's finally -- it's incredibly reassuring that we will have a staging area on the west side for the first time in memory. Thank you for your leadership. Thank you for making this happen. Just accepting something from the federal government is not easy. Surprisingly so. But we did it. I thank you. Also want to thank my staff for their contribution. Aye. So approved. Please read -- is that it?

Fish: You have two four fifths.

Adams: We have a four fifths? I didn't know that. Where is my four fifths? Item number -- please read the item number.

Item 834-1.

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Adams: This is a continuation of existing efforts. We talked about it before in the fall bump. We'll figure out a way to have these funded year round. Any discussion from council? Anyone wish to testify on this matter? Please call the vote. Item 834-1.

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

Fritz: I specified in the budget note that the measures referred to this isn't the full year's funding and we're committed to funding it fully. Aye.

Fish: Aye.

Adams: Aye. It's approved. Please read the title for item 834-2.

Item 834-2.

Adams: This continues the qualified mental health professional to ride along with uniform police officers and patrol car to provide on scene mental health assessment evaluation as part of the crisis unit started by commissioner Saltzman. Any discussion from council? Anyone wish to testify on this? Please call the vote on this emergency ordinance.

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

Fish: Aye.

Adams: Thanks commissioner Saltzman glad to see this continue. Aye. So approved. We're in recess until tomorrow at -- no, 2:00 today.

At 10:54 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.

JULY 18, 2012 2:00 PM

Saltzman: Let's go ahead and convene our 2 o'clock session. Call the roll karla.

* * * [roll call]

Saltzman: Go ahead and read the title for our 2:00 item.

Item 835.

Saltzman: Ok. Thank you. We'll start with kathryn, you can walk us through our disclosure requirements and everything else we need to know.

Kathryn Beaumont, Senior Deputy City Attorney, Office of the City Attorney: Will do. Good afternoon. Before we begin the hearing today, I have several announcements that i'm required to make by city code and state law. These concern the kind of hearing we're having today, guidelines for presenting testimony, as well as the order of testimony. Today's hearing is an evidentiary hearing. Which means you may submit new evidence to the council in support of any arguments you make. In terms of guidelines for presenting testimony today, any letters or documents that you wish to become part of the record and that you present as part of your testimony should be given to the council clerk who we'll make sure they become part of the record. Similarly, the original or a copy of any slides, photographs, drawings, maps, videos, or other items you show to the council during your testimony, including power point Presentations, should be given to the council clerk. Second, any testimony, arguments, and evidence you present today must be directed toward the applicable approval criteria for this land use review or other criteria in the comprehensive plan or zoning code you believe applied to the decision. Bds staff will identify the applicable approval criteria as part of their staff report to the city council. Third, you must raise any issue clearly enough to give the council and the parties an opportunity to respond to the issue. If you don't, you'll be precluded from appealing to the land use board of appeals based on that issue. Fourth, the applicant, if the applicant fails to raise constitutional or other issues relating to proposed conditions of approval, with enough specificity to allow the council to respond, the applicant will be precluded from bringing an action for damages in circuit court to challenge the conditions of approval. In terms of order of testimony, we'll begin with the staff report by bureau of development services, staff for approximately 10 minutes. Following the staff report, the city council will hear from interested persons in the following order -- the appellant will go first and will have 10 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 the city council. The principle opponent, the applicant, will have 15 minutes to address the city council and rebut the appellant's presentation. After the appellant, the council will hear from persons who oppose the appeal. Again, each person will have three minutes. Finally, the appellant will have five minutes to rebut the presentation of the opponents of the appeal. The council may then close the hearing, deliberate, and take a vote. If the vote is a tentative vote, the council will set a future date 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. That concludes the opening announcements I need to read.

Adams: All right. Does anyone on the city council have any ex parte contacts that they need to declare?

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Saltzman: I do. I had an ex parte contact on Monday, July 16th, I met with both neighborhood association representatives and the developer in the meeting to listen to their issues and compromised solution they develop together. I merely listened and made it clear I could not make any decisions until this hearing was concluded.

Fish: In my office any contact would have been through staff, and I would be subsequently briefed but not directly with the commissioner.

Adams: Are there any other reasons why any member of the city council can't hear this issue in an impartial manner? Is there anyone that would like to challenge the impartiality of the city council sitting in the room today? All right. We will begin the process starting with the staff report. And it will be for 10 minutes. Hi. How are you?

Tim Heron, Bureau of Development Services: Good. Good afternoon. Commissioners, Mayor Adams, President Commissioner Saltzman, Commissioner Fish, Commissioner Fritz, pleasure to be with you today. I am Tim Heron with the Bureau of Development Services and I will take less than 10 minutes to walk through my presentation. This is a staff presentation of city council for land use review 12-106944, historic design review with modification requests. This is an appeal of a new project at 19th -- Northwest 19th and Johnson, in the Alphabet Historic District. The zoning code and approval criteria are listed here as well as the zoning map. The red hash marks indicate the site is actually two parcels. The zoning is RH, Residential High Density, as well as EX, Central Employment. And the entire area of that site is covered by within the Alphabet Historic District. The community design guidelines and the Alphabet Historic District Addendum apply and we did consider modifications through historic design review. I believe you're all familiar with the Alphabet Historic District. This is the boundary as it's applied over the aerial map. The site is shown here in the two red post shade areas. Again, it's one site, it's two development proposals. Just quickly, the project land use history, this began as a preapplication conference on August 9th, 2011. Subsequently there were two design advisory request meetings, one in October and one in November. Design advice request meetings, if you weren't aware of voluntary meetings by development proposals before the review body to go over basic aspects of a proposal. As a result of that, the project went through some changes, the formal proposal was submitted in January 2012, following which in April and May 14th it was heard before the Historic Landmarks Commission. As mentioned, there were substantial changes to the project. Notably it was reduced from six floors to five floors, and -- in dealing with its bulk and mass in the historic district, as well as other facade changes and detail changes. Ultimately the proposal was approved on May 14th, 2012, mailed on May 24th, and we're here today because it was appealed by the Northwest District Association on June 7th, 2012. The proposal as approved, the applicant will have a little more detail, but basically, there are two buildings involved. Building A and Building B for lack of a better term. Building A is the larger project on the lower left, five floors, 86 dwelling units, and 66 below-grade parking stalls. Building B does not have below-grade parking, but it does have five floors and 48 dwelling units. Appeal summary, which will obviously be followed up by the appellant, was appealed by the Northwest District Association and essentially stated the Landmarks Commission acting in consideration by the city staff, construed staff's interpretation of 33.445, our historic district chapter, and other code sections as it excludes consideration of certain street trees, specifically four mature elms. Additionally, they failed to consider the contribution made by street trees and the fabric and context of the district as characterized by the community design guidelines, and the Alphabet Historic District community design guidelines addendum. Moving along, the aerial of the site here again in this case north is oriented down. The two sites are dotted, the larger site which was Building A, and the arrows indicate the four large mature elm trees. These are additional views of the site, if you haven't had an opportunity to go, they are significant trees in the district, and on the site the existing building that's noted next to these trees, 1950s noncontributing structure would be demolished for the new development to occur. So relative to staff's response to the appeal, we

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looked at the zoning code very specifically, and in our first section, 33.10, it has a clarification as to when the zoning code applies to the right of way. Typically land within public right of way is regulated by title 17, public improvements. Not by title 33, except in the following situations. All five of these situations do not apply to the site. I neglected to mention, the memo you also have before you is -- articulates essentially this power point as well. Moving further into the code, where 33.445 are development and alteration section for historic districts, we have triggers as to when historic design review is triggered in an historic district. And several items are triggered of course, we have a building of a new structure, that is why we're building the new development, it's item a2.

4 was an item in terms of our reference as to the street trees and their removal are considered standards to allow the new development. Are considered standards in the right of way. Along with street lights, furniture, planters, public art, the sidewalk itself, the asphalt of the street, the applicant was proposing to replace all the trees in kind. New trees within new development proposal.

Relative to the community design guidelines in the historic alphabet district addendum, the approval criteria was not triggered as a result of the two aforementioned code Sections. And this was demonstrated and is further outlined in this memo, and it is also why we're including it as part of the record today. We neglected to be as thorough in the original staff decision. This can perhaps be clarified further by noting that the application that cut down trees submitted independently of this development proposal will be processed under the jurisdiction of urban forestry commission, the city forester, and the bureau of transportation. Not by the historic landmarks commission. To that effect I would mention that kurt krueger from bureau of transportation is here, as well as jenn cairo, from parks, and can speak to that effect as well. So essentially options for development of this site, staff thought were three fold, a,b and c. A, required that the street trees be preserved, deny demolition of the noncommercial building on the site because the work would impact the roots and kill the trees. we heard testimony at the landmarks commission hearing from an arborist report as well as the city forester, that development on this site would be catastrophic for the survival of these trees, by nature of their root zone and their canopy being -- a large portion of their canopy being removed. B, require the street trees to be preserved, but allow the lot to be redeveloped. This would result in the trees becoming hazardous due to extensive loss of roots and crown and would also cause them to die. C, allow removal of the street trees and the redevelopment of the site and require the appropriate mitigation from the developer. This seems to be the only practical solution for this site, and it mirrors the considered decision of this historic landmarks commission. So conclusions before you today, effectively would be to one, deny the appeal and uphold the Portland historic landmarks commission approval. The project would be approved as is. Please note however per recommendation of city attorney, council should also make a tentative decision if this was their choice, to allow inclusion of additional interpretational language as i've read to you and submitted to you via the memo today, before a final decision is adopted. Secondly, uphold the appeal and require additional findings to be included in the portland historic landmarks commission approval, this would require also require return for adoption of a second hearing. I know we'll hear from the northwest district association on this matter. And lastly, potentially request design changes and/or additional conditions of approval. This could also require a return. So that is the end of my presentation. I would be more than happy to answer any questions.

Fritz: I received a memo from the council clerk with a proposed settlement. Do you know anything about that?

Heron: I haven't laid my eyes thoroughly on that document.

Fritz: We'll hear more about that later?

Heron: I anxiously await more myself.

Fish: I have a question. With respect to the argument that 33.445.320, somehow includes trees within the scope of the historic design commission review, there's no precedent for that, is that correct?

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Heron: Not that i'm aware of. I think it's been our policy to handle the street trees like sidewalks, like curb edges, like other standards that occur within the right of way are in fact part of the standard set of improvements.

Fish: As I understand one of the appellants, their argument is the ambiguity, but as you read the statute, is there an ambiguity that you believe exists in the statute with respect to street trees in the right of way?

Heron: Commissioner, that's a good question. It's funny when things like this put a spotlight on code language and you read it a different way because someone asked the question a different way.

As policy, we've never thought that the omission of the word "city forester," or "city engineer" in this case or that "street tree" wasn't specifically included meant that they weren't part of those standards. So therefore we go back into other areas of the code where there are triggers. One area that I didn't illuminate on in my presentation was, we did have very specific tree design review triggers in the south auditorium plan district. And we have recently cleaned that up for lack of a better term, as part of the tree code project for title 11, and that is something where trees are very specifically mentioned as triggering review. Not necessarily in this historic district. So when we went back to the original section of 33.010, and look the at what trigger -- when does 33 go into the right of way, it reads very clearly, and it is the first post shade area on the face page of your memo, where it talks about rights of way in the greenway, environmental, or scenic overlay. The act of dedicating public rights of way through a land division, this is not a land division but a part of land division we create streets and that's when 33 could apply. Development within design district specified in 33.420, this is not a design district, this is an historic district. And then furthermore, structures that project from private property over right of way, such as overhead windows, and proposals for park and ride. So from a structural context of this code, we felt like did it not apply. Nevertheless, at the landmarks commission hearing they were discussed, an arborist report was submitted and commission did hear from the city forester relative to the impacts of what these trees were and what would happen or what the city forester's position was.

Fish: Is it fair to say the position of the bureau of development services that for this appeal to be successful council would first have to make a legislative change and change the law to provide for Jurisdiction by this body?

Heron: Correct. And I would go one further and say as we are in the beginning of a process that did not necessarily target street trees, and that's historic resource code improvement project. Which is a streamlining effort taken on the part of my commissioner Saltzman as well as the mayor to work with the bureau of planning and sustainability and bds to craft sharper, faster, code language for historic reviews. And a lot of that had to do with the irvington historic district.

Fish: One last question, council and particularly commissioner Saltzman and my bureau, parks bureau just completed an exhaustive process of updating the tree code. And is there anything that you're aware of in that -- I know the answer to this, but I want to give you a chance to testify, is there anything that we did through the tree code update that specifically -- that the appellant could site to as indicating council intent for historic review of a decision like this?

Heron: If I understand that question correctly --

Fish: If you changed the law in the tree code that would be relevant to this appeal?

Heron: No, it didn't, and i'll go on further, one of the issues that came up in the discussion of title 11 and the tree code was ladds addition trees and the norway maples relative to them being a nuisance species. If there is one historic district in the city of Portland that talks about street trees, It's ladds addition. It has a street tree plan, it has specific trees designed for specific boulevards, and unfortunately for the invasive norway maple, it was one of them. We went so far as to correct the record relative to eliminating those as a required tree, and that power and authority was given as again, we read the code today, to the city forester to implement.

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Fish: I think it's worth noting, we've looked at the tree code and i'll ask the appellant, but we don't see anything in that exhaustive work product that would shed a light on that. I'm done, but since you mentioned norway maples, which are a nuisance tree. I just want to point out we have learned that the state street maple is virtually indistinguishable from the norway maple and as the city forester will tell you, even mother nature can't tell the difference.

Heron: If I might follow up --

Adams: Were going to have a battle of the tree types?

Heron: No.

Fish: This is good news it's the state street maple that is virtually indistinguishable from the Norway maple and is not on our nuisance list so.

Heron: Booyah.

Adams: Booyah, I like that the choice of the word booyah.

Heron: my highlight the highlight and my final point, thanks for your time, the issue of working through street trees in ladds addition, faced with the reality of an invasive species, we work very closely with the city forester, meaning the landmarks commission and bds staff to come up with alternates. So that the integrity of that very distinct and repetitive canopy that occurs off that boulevard of norway maples could be maintained. Effectively as they'll -- it's the look and appearance that mattered. What I would offer potentially As a solution, it might be only a friendly amendment is to commissioner fish to encouraging the city forester to work closely with landmarks commission, maybe on an advisory capacity when another development of this type occurs. And I think it will probably occur again in alphabet historic district, because it is one of our historic districts that has the higher density zoning which will more than likely impact the older trees. Some of our smaller or even larger residential districts, irvington, for instance, has single family zoning. Very rarely will we hit a development proposal that will impact street trees. Not that it doesn't occur. Thank you.

Fish: Thank you.

Saltzman: Just to follow up, so how is it that the street trees in ladds addition are included in historic review? Is that something council did or the federal government?

Heron: They're not. They're not included in the review. But they were included as a part of the street plan as a part of the ladds addition historic design guidelines. And for reference, it's a document used by the city forester to replant and maintain those trees.

Saltzman: So is there anything that prevents the alphabet district from getting a similar plan for street trees?

Heron: Not necessarily. I -- bds is open to this. Obviously street trees matter, and they particularly matter in historic districts. And when they're elder trees, their removal will be noticed. However, we do have a conflict with the higher density zoning and what's buildable, particularly on this type of lot. Were anything built to the development capacity of the site will be detrimental to these older trees and their root zone and canopies.

Saltzman: How it is that design review districts, I guess the design review commission does have jurisdiction over street trees.

Heron: In certain instances. In that reference we did have, and we've since corrected the south auditorium district.

Saltzman: Only in south auditorium?

Heron: I'd have to double-check. Don't quote me, but i'm pretty sure. In that process, when we were dealing with that, we faced a conundrum of not being foresters ourselves, the commission, the design commission not being made of anyone on the forestry commission, with that dilemma of advising on something that was not our expertise, and title 11 dealt with that.

Saltzman: In gateway, which -- the newer design review district, the commission does not have jurisdiction issues around street trees.

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Heron: Correct, because street trees -- we've read them to be standard improvements in the right of way. If someone wanted to take down street trees and not replace any of them, that would be a nonstandard. That would be not in normal spacing type and potentially would trigger a review. We just haven't had that instance.

Saltzman: You said at the landmarks for this project, was it the urban forester or another arborist also?

Heron: The applicant hired an arborist to evaluate what would happen to these trees with this new development. And that was presented at the request of the landmarks commission because they did want to talk about these trees. We did talk about these trees, and then as far as the city forester came and presented their concerns relative to what this development would do to the street tree canopy itself, because they do hang over the site. And also to the root zone. Because they have grown in and around a structure that's set back farther and shorter in height.

Saltzman: So was the city forester in more or less agreement with the arborist that --

Heron: As a result of the development, correct. And that --

Saltzman: The development would destroy the trees.

Heron: Right. And part of why I walked through the history of this site back to -- the original pre application conference on august 2011, we advised this applicant that these street trees could be removed provided they were replaced. And i'm sure they'll discuss the substantial replacement trees above and beyond the minimum required that will go in those places.

Saltzman: Thanks.

Adams: Others? Thanks. We'll now hear from the appellant. You will have 10 minutes.

John Bradley: Good afternoon mayor Adams and commissioners, john bradley, I reside at 2350 northwest johnson. I'm here today on behalf of the nwda and its planning committee. The appeal before you today is unusual in that it is not adversarial. We would like to thank sam rodriguez for his patience and willingness to work with us on this matter. This appeal is also not about the building per se, which is below the allowable base zone height, but rather it is about four historically significant gracious hundred-year-old elms located in an historic district. Whether the instructions given by staff to the historic landmarks commission ignore these -- whether the instructions given by staff to the historic landmarks commission to ignore in their deliberation these historic trees is policy or a misinterpretation caused by the complexity of the code. We hope you will support our settlement with sam and give us guidance as to how important old trees are in establishing the character of the built environment, especially in historic districts.

Tavo Cruz: Good afternoon. I'm tavo cruz, a member of the planning committee of the northwest district association. There's a great deal of neighborhood interest in the elm trees subject property. These trees add to the fabric of our historic district and they represent living links to an important era in our neighborhood. For me personally they provided shade and a unique canopy for decades as I have walked home from downtown Portland. The nwda appealed the historic landmarks decision to approve the project based on what we consider to be an incorrect reading of the Portland zoning code. We provided the memo to city council which outlines our legal analysis and I would summarize it as follows. First, the jurisdictional statute for considering the development in an historic district was incorrectly construed. The staff's interpretation allowed landmarks to pick and choose among aspects of a project that should be considered in its entirety. Second, various terms in the code are undefined or ambiguous, such as improvement and landscaping. Thirdly, the staff's alternative argument which was raised after the fact does not apply. Fourth, the community design guidelines in historic alphabet district community design guideline support consideration of street trees. And finally, there's precedent for landmarks to consider street trees and we have documentation that has done so as recently as 2008. While pursuing this appeal we have continued to work with the developer mill creek residential trust to reach a settlement of this matter. As the neighborhood association, we have different interests from mill creek and they may not support

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every aspect of our legal analysis, but we both support the proposed settlement and we share a common goal to obtain greater clarity and certainty in the zoning code regarding street trees in the historic district. We want to emphasize even though this could have been a very adversarial situation, sam rodriguez has been an excellent partner with the neighborhood during this process. We're pleased we're able to work with mill creek to develop a settlement in the form of the proposed findings and approval conditions you have before you now. The proposed findings take a narrow and practical approach to this problem. Namely, existing street trees should be considered by landmarks when reviewing applications for new structures in an historic district. And this interpretation should be incorporated in the city's new title 11 regarding trees in Portland. Also, we ask that you adopt the proposed conditions of approval which were designed to mitigate the effects of construction on the elm trees. Mill creek and their council can address these items in more detail, but we want to emphasize these conditions have been tailored specifically for this project with input from arborist and construction experts. We ask that they be approved without alteration by city council. Thank you for your time and Consideration of this matter.

Frank Dixon: Good afternoon mayor and council, my name is frank dixon, i'm here solely as a part of the neighborhood association today. First taking the ambiguity issue, we would hope council would consider clarifying the ambiguity today and working on a legislative or other kind of correction down the road as we heard was possible from mr. Heron. The exception that we see that staff is relying on here that references the design overlay chapter, not specifically design review, and when you get back into the chapter on design overlay zones, which is the exception that allows to you consider both chapter 33 and chapter 17, you come up with a specific reference to historic design review in 33.420.045. And that is a list of exemptions from ordinary design review, but the only exemption there that deals with a broad category is section a, which deals with historic design review, which instructs the reader to substitute historic design review for the design overlay review chapter. Lawyers might call that incorporating by reference the historic design review and once more when you think about the logic of treating design review and historic design review differently, it really makes no sense. The historic design review is a more stringent review, and if anything there is a clumsy attempt in terms of the writing of chapter 33.420 to include this instruction to substitute under a subsection that talks about exemptions, which also include specific repairs and maintenance to materials, or skylights, very specific items that need to be accepted. So from a statutory or code interpretation standpoint, there definitely is ambiguity and there's definitely room for council to say, yes, that historic design review is within the type of review that you consider both chapter 17 and chapter 33. Now, going back to the piece of -- that really was before the landmarks commission when the staff pointed out that nonstandard improvements in the public right of way of way are within their purview, that piece which is also consistent with the fact that the historic design -- historic land mark commission didn't have a good opportunity to balance these existing street trees with a design of the building as they were doing their historic design review, the word "improvements" is a word that is defined in the charter, and I only have one copy and i'll give it to the clerk. But in section 9.401, it actually defines improve or improvement. And it includes construction, reconstruction, grading, regrading, paving, repaving, surfacing, a number of items. When you talk about improvements even in the blacks law dictionary citation, that is cited in your memo or in the charter definition, we're talking about a park bench, or a sewer line, and we're not talking about standing existing 125-year-old or hundred-year-old Elm tree. So that is consistent, and you'll hear testimony about this, and I think there's something cited in the memo too, about decisions where the historic landmarks commission years back considered street trees within their purview in terms of balancing how you're going to build and site in the historic alphabet district or in any historic district in the city. As it relates to the standing street trees. If you follow the interpretation of staff to its logical conclusion, every historic street tree in an historic zone in the city except for heritage trees that are specifically treated differently, have no bearing in terms of the

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construction on a particular site in an historic district. What that does is put every one of these street trees at risk. And that's essentially why we're here today. So we have fashioned a reasonable outcome in terms with the developer so i'm not tie up his particular project here, but we're going to be back again and again in the same situation unless this is clarified. Thank you.

Adams: Commissioner Fish.

Fish: First of all, let me just say that I want to compliment all three of you and nwda for the quality of your presentation and the submission. And the thoughtfulness of it. We have to grapple with this issue. I have a few questions, I went a little deeper and you only have 10 minutes, this is a chance to elaborate -- i'm going to start with mr. Bradley. You said that in your remarks that you wanted us to in effect bless a settlement you'd reach with the developer.

Bradley: Yes.

Fish: So let's just assume for a moment that the council disagrees with your interpretation of the code. One of the questions we're going to have to discuss. Let's say we disagree with your interpretation of the code. Conclude that it's not ambiguous and the appeal should be denied. What would prevent new that instance from negotiating with the developer independent of some finding by this body?

Bradley: Nothing. But part of the reason for our appeal as voted on by the board was that not only was this specific -- not only was this to deal with the specifics of this project, but to look more generally at streetwide historic trees. We would hopefully continue on with the private settlement in development.

Fish: I want to be clear about that. I understand the proposed settlement deals with the building, protection of the trees and you've incorporated some clarification about the code and how we might deal with these issues in the future, but if we disagree with your interpretation, it would not prevent from you negotiating with developers.

Bradley: That is correct.

Fritz: Wouldn't it then, if I may follow up on that question, the proposed settlement has a change in the building, so you are asking us to approve that as part of the decision.

Bradley: yes, we are. But it's not the building per se. You're not doing anything to the decision of the historic commission. Because all they're doing is they have very graciously said that they will pull back the garage underground and lose some parking places to give the trees a bigger root zone and prevent --

Fritz: That wasn't part of the specified in the land use review?

Bradley: The land use review is silent concerning trees.

Fritz: Regarding the number of underground parking spaces, the --

Bradley: No, none are required by code in this area.

Fritz: I'd like clarification from staff on that, not now, but later. Just to make sure if the line of questioning that commissioner Fish is pursuing is what council adopts, you could in fact negotiate with developer without changing the land use decision.

Bradley: I understand.

Fritz: Is that correct?

Bradley: Yes.

Fritz: Thank you.

Adams: You have to go?

Fritz: Unfortunately I have a previous engagement for this on-city business which I have to leave for. I do apologize to the community and everybody here that I can't stay. I will of course review the tape of the proceedings and weigh in when the matter comes back to council. I apologize.

Bradley: Thank you.

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Fritz: And I would like to say by the report i'm intrigued by the settlement and I appreciate the good work that all sides put in to coming up with that document. I'm frustrated that I can't discuss it, but it is city business i'm leaving on. Thank you.

Fish: Following up Mr. Bradley, if I understand your argument, the code is ambiguous and you would ask to us interpret it a certain way and at a future date apply greater clarity, does that mean in effect that we're going to have the final say on this? In other words, are you going to live and die on whatever the council does? Or is it your intention if you get an adverse ruling to take this to another authority.

Bradley: I think in this specific case, are you asking me -- first of all we haven't discussed that. I would say that we're kind of living and dying here. If you're asking, are we going to be --

Fish: I'm just trying to understand -- .

Bradley: Are we appealing this to luba, is that what you're asking? I can't answer that right now. I would probably say no. I don't think we are. But I really think this is an important matter that has to be dealt with here. Because if you say -- if you just sign off on the findings concerning our specific private agreement, and remain silent about the policy of the trees, what are we to do as a neighborhood association? And my suggestion is that when people come in with a similar project, I have to sit back and say, look, we went through this project, we went through a very similar project before, where trees were specifically not considered, I don't know how we want to react to that.

Fish: I understand. I think you raise some intriguing issues and probably have to hire two or three more urban foresters to adapt to the new procedure that you're proposing because it would -- it's not a modest change in how we deal with this. If trees are covered and you argue they are, it does pretty fundamentally change the way we look at trees and make these decisions. That's the consequence of your argument. Frank, you focus this on the language of nonstandard improvement.

And you focused a lot on improvements. When tim testified before us, he drew a distinction between standard and nonstandard. He felt that was the key extinction. And he felt, I don't want to mischaracterize his argument, but I think what he was saying was, this is a standard, this is not a nonstandard improvement here, this is something that the code covers about replacing an older tree and mitigating and putting in a new tree, and therefore it would be exempt from this all together because it's a standard. Not a nonstandard improvement. That's how he reads it. That would seem to be would take that issue out of the case. You focused on the question of improvement, why do you disagree With bds's interpretation? What's the basis much your disagreement with bds?

Dixon: You're -- I think commissioner what you're asking is if b does not apply, then what happens? In other words, if b doesn't exempt --

Fish: The following are subject to design review, it says nonstandard improvement. And tim's presentation to us is, in any event this is a standard improvement. This wouldn't even qualify as a nonstandard, you don't have to read further and ask what's included or excluded. He takes it out all together by saying this is a standard improvement and historically it's been treated, trees have been - - issues have been treated as standard improvement so it doesn't apply. I'm just giving a chance to respond, because if we agree with him, then this statute doesn't apply.

Dixon: Ok. I am -- what i'm looking at is section b, which exempts from historic design review, nonstandard improvements.

Fish: It says the following proposals are subject to and it goes on to say, nonstandard improvements. So standard improvements would be exempt.

Dixon: If it's ok with commissioner, would you give me a chance to think about that, and i'll respond to it in rebuttal.

Fish: I wanted to give a chance, it seems a fundamental disagreement, and if tim is right and this is otherwise a standard improvement, then by the terms of the statute it would not be subject to design review. And we wouldn't have to ask why weren't trees included or why were they excluded from the description that follows. I'm interested in having --

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Dixon: That's fair. Thank you.

Fish: One last question just from me, with the exception of the tree issue, are there any other land use issues which are currently on appeal or that you contemplate on appealing relative to this development, or is in the last issue in dispute?

Bradley: This is the last issue in dispute for the nwda right now. --

Fish: It doesn't preclude a private citizen or some other person from filing a claim, but in terms of the three of you, this is the remaining issue?

Bradley: This is the remaining issue. And we really did look for a way to come to some sort of understanding concerning the street trees from a policy perspective. But barring this appeal, there was no other way to get this before council.

Fish: Thank you.

Saltzman: I guess a couple questions. So the first condition, your first part of the compromise talks about incorporating this interpretation for the alphabet district. Only? Or is it saying the city council will then also incorporate this interpretation into citywide tree policy reviews? Are you asking for an interpretation that landmarks can protect -- speak to street trees only in the alphabet district?

Bradley: I really think we were looking for some interpretation for all historic districts. Because there are large -- as has been brought up already, there are a large number of historic districts that have really significant street trees, and it really do establish the fabric of those historic districts.

Cruz: In our proposed finding we actually do say we're looking to incorporate this interpretation of the citywide tree policy.

Saltzman: I saw that, I wasn't sure whether it meant fall bet district tree policy. Ok. And -- we spent a lot of time on adopting a new tree code, is this in any way, maybe you're not the one to answer this question, I can ask staff or whomever, is this trying to get a bite at the apple something council chose not to do in adopting tree code?

Bradley: If you're asking if title 11 were --

Saltzman: Is this an issue that was fought and lost in our adoption of the tree code?

Bradley: I don't believe so. And when I read title -- when I read title 11, and I'm not a lawyer, I'm not sure that this issue is covered in there. To be quite honest. But then I defer to lawyers on that.

Cruz: I'm a lawyer, I haven't read it. [laughter] from what I understand, this issue is not covered, and the two -- we weren't looking to fix any holes.

Adams: All right. We'll now hear from the supporters of the appeal.

Moore: We have eight people signed up.

Adams: Who would like to begin? Mr. Parker?

Terry Parker: Terry Parker, I live in northeast Portland. It is important for people from various Portland neighborhoods to support the quality of life outside their own neighborhood. When planning something that would negatively affect that quality of life for existing residents. I was asked by somebody from the northwest district association to be here today in support, which I am. There is a total lack of concern for existing conditions. Ripping out four century old elm trees will tear at the fabric of this historical neighborhood. It is my understanding these trees were likely planted by one of Portland's iconic historical families. It is also my understanding the historical landmarks commission acting on possible misguided advice from city staff construed codes in such a manner to exclude these trees from consideration as it applies to community design guidelines in the alphabet district. In doing so, there was a failure to consider the contribution these trees make to the historical composition of the district. Moreover, it is my understanding this scenario will arise again and again in the future because the Portland plan is deficient as it applies to historical significance and preservation of historical structures and resources. An improvement to replace a historical canopy with a tree that will take years to replace the dimensions of that existing canopy is that an actual improvement? In closing, as a fourth generation Portlander, I am here for a dual

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purpose. First and primarily to support the northwest district association in their appeal. And secondly, for the purpose of alerting the council there is an unmet need to include a greater emphasis on historical preservation not only in the Portland plan, but also in an essential highly important need to add strong historical protections within the comprehensive plan. And this includes trees. World class cities have protected their historical heritage through centuries. Portland is a relatively young city compared to cities worldwide. There's an immense need to do a better job of protecting the historical heritage starting right now with this appeal. Thank you.

Adams: So you support the appeal.

Parker: That's why i'm here, yes.

Saltzman: Let the record note.

Adams: People shouldn't be able to just do what they want with trees.

Parker: Well, they shouldn't be allowed to cut down these great big huge trees that add benefit to the neighborhood. That's what we're talking about today. They add benefit to the neighborhood, it will be years before the -- before any replacement trees --

Adams: The common good, the collective and common good outweighs the individual right to property owners.

Parker: We're not asking them to -- how do I say this? We're not asking them to tear something out. We're asking them to leave something there. There's a difference.

Adams: I look forward to an email explaining more detail the difference, mr. Parker. Hi, welcome.

Bill Harris: I'm bill harris, I live at 2803 northwest cumberland road for the last 40 years. And I speak not from an especially technical point of view with regard to this specific regulations and laws and customs, but to do two things. I think in this circumstance if it is required of the council that you do something that doesn't absolutely fit the details of the regulations and customs, that you do so on the basis of the fact you're elected officials and therefore empowered with discretion as long as you have visible accountability. The agreement that was presented in the appeal seems to be a practical way to approach this circumstance in which we've made the mistake of getting here without regulations that apply well. Regulations that apply well seem to me would involve the fact that there is no taking, rather when one own as piece of property, you own it when you plant a tree, you own it if it has a tree on it when you arrive, and you recognize your obligation as the owner of that plot and therefore the residents of the tree to be responsibility for its contribution to the common good as trees change.

Fish: May I clarify something, sir? We get hit on this all the time. I want to reassure you the tree actually belongs to you. Property owner does not own the tree. It is in a right of way and you are the owner. The tree, however, is the property owner's responsibility to maintain. And that gets lost when we get dinged for having regulations on the books and we get told by property rights people we're infringing on people's rights. The tree is in the public right of way. It belongs to you. Title 11 regulates when you can and can't replace trees and the regulation of trees, but it does not belong to the property owner unless it's on a property owner's footprint.

Harris: Well, in this case it's planted on the right of way and its roots enter a much larger area than that.

Fish: I understand, but you as the public own that tree. Not the property owner.

Harris: I recognize that. When I tried to replant the street strip in front of my house, that I had to comply with community standards and community -- to continue, there is then an accountability of an owner for being a vigorous part or responsible part of the community of which -- within which they exist. And I do hope that the council will proceed with the frustrating effort of making this -- making regulations that make this kind of situation highly unlikely of happening again. Thank you.

Dan Volkmer: I'm dan volkmer, and I brought a copy of -- that the clerk is going to give to you, what you have before you now is a panorama of the alphabet district and how it looked in 1888. Before I talk about that, I want to say as a former landmarks commissioner for eight years during

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mayor katz's term, we discussed these trees a number of times, and when I heard this particular application, the landmarks commission was told not -- it wasn't in their purview, I was surprised and even a current board member harris mazarotso asked that that edict of not to discuss trees be put in the record. And I called some of my former colleagues on the commission and said didn't we discuss street trees, and they all said yes and came up with examples. So the precedent is set for landmarks commission to discuss and evaluate street trees and how they contribute.

Saltzman: You're saying the landmarks commission in the past did consider street trees?

Volkmer: Yes, we did.

Saltzman: Basically nobody challenged that. Ok.

Fish: There's examples of where it was -- a specific ruling about what you could and couldn't do with trees?

Volkmer: The street trees were evaluated by landmarks Commissioners in terms of how they contributed to the historic character of a neighborhood. Which is what I asked that this current landmarks commission be allowed to discuss. And that was not discussed. When the city talks about these trees being discussed, they were discussed in terms of an arborist saying yes, if you build a building here, these trees will die. There was no discussion about how they contribute or evaluating their measure in terms of contributing to a district. So in that panorama of 1888, as you can see, commissioners, the vast network of street trees that once lined all these streets that these four surviving elms represent, grounds the alphabetic district to its very beginnings. An architect published 19th street, a photograph display of what this neighborhood looked like in 1888, which was around time the four elm were the planted. The panorama, reprinted from west shore magazine in the early photos shows street trees up and down every street. This was the alphabet neighborhood so named and platted by captain john couch. Tree-lined, it had an aura of respectability and permanence. Going back in time, i'll just mention two of the human neighbors of these specific survivors. These elm were shading winslow heir's brick mansion across johnson when he gave the money to build the Portland art museum. Dr. Rodney glisan just back from his european lecture circuit as an early authority on obstetrics, put Portland on the european world map medically. He would have passed under these trees one block from his mansion on 19th and irving perhaps pushing a baby stroller. My point is that successful and good citizens who shaped our city planted these street trees and lots of them. Those survivors are an integral part of our historic district's identity. Honoring them is what historic districts and design guidelines and landmarks commissions are supposed to do.

Saltzman: I think we're dying to know what that tall building is.

Volkmer: It's the old school. The old school. The old high school.

Adams: That's where the freeway is now.

Volkmer: Right. These surviving elm and all their other surviving street trees and all the historic neighborhoods contribute to the fabric and context and deserve historic consideration that they didn't receive in this particular case. So I urge to you support nwda and the agreement that nwda and mill creek have reached to allow this applicant to go forward fearfully with the elm trees and also document a clearer language in the code that gives historic protection and consideration to the street trees and all the historic neighborhoods. Thanks.

*****: Good afternoon. I feel under the third degree. I feel under the third degree --

Adams: Welcome to our life. [laughter]

Myriam Alaux: Good afternoon. My name is myriam alaux, I live at 1921 northwest hoyt street, Portland, Oregon, and about a block and a half from the four majestic elms. And i'm here to urge you to support the appeal of the northwest district association to change the codes and the language of the historic landmarks guidelines that currently do not provide consideration of protection for street trees. And everybody has been already talking about this, but to me this mission is so contrary to the spirit of the northwest historic district neighborhood and to the spirit of the city of

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Portland. We are a neighborhood known for our trees, we are a city known for our trees, people come here because of the trees. These four majestic elms are inseparable from the four adjacent architectural structures that are protected, and in fact as you mentioned already, they were planted at the same time by the same builders and architects, they were meant to harmonize and they do harmonize. We see these trees as a sort of reference point in our neighborhood. We see them from our windows, we see them on the street, they are for us a living architecture. They represent a spirit of place, they represent the spirit of our neighborhood. And they have done so for a hundred years and they have many, many more decades ahead of them. To cut them is to do irrevocable harm. To be oblivious to their value is to be oblivious to the character of the neighborhood. To require cutting them is proof that the scale and the design of buildings a and b are inappropriate for our neighborhood. And I will not go into the scale and the design other than saying these proposed buildings are so massive, monolithic particularly the southwest facade of building a, that to me it is -- it evokes a sort of penal institution out of a Charles Dickens' novel. It is a punishment. But I urge you to approve the neighborhood's appeal to change the code, to change the language so that we can consider all -- these four elms as well as the other glorious trees in our city. Thank you for your consideration.

Adams: Thank you all very much. Next?

Adams: Welcome. Would you like to begin, sir?

Joe Keller: Yes. I'll try not to be redundant. Much of what I have to say has been touched upon by others. Street trees, we love them, particularly mature, tall ones. They're not sidewalks nor benches, they're essential to the identity and livability of neighborhoods, they supply canopy scale, movement, aesthetic pleasure, a touch stone to the path a continuation of the context of historic architecture, as well as a measure of natural time. So I urge you to support this appeal, and to assert -- insert appropriate language into city codes on city policy on trees so that we do boards may consider existing trees as one factor in the approval process. I ran across this -- looking for a quantitative expression of the virtues of street trees, I ran across this USDA Forest Service report of March 2008 called the value of street trees in Portland, Oregon. And it says, quote -- the benefit of street trees in Portland far outweigh the costs estimated benefits are 45 million annually compared to an annual maintenance cost of \$4.6 million and my own comments, certainly the street trees referred to therein are not new spindly plants but mature street trees which characterize the streets of Portland at this time. Thank you.

Adams: Thank you very much. Sir?

Bill Welch: Hello. My name is Bill Welch, I live at 2705 Northwest Pettygrove Street, Portland, Oregon, 97210. As you know I'm supporting of the appeal at this time. This issue for me concerns the historic context and texture of our Alphabet Historic District. Historic districts are designed to protect the entire historic character and texture of our district, not just the historic buildings these -- and these trees are needed to -- as part of that context. I do not see how they should be treated separately from the important buildings in the district. If we do not protect the trees at this time, then why would we have a district designation just because the houses are pretty? Because each -- the houses need to be protected if -- and they can be by their owners. But the entire thing in the context of the historic district needs to be protected and that needs to include the trees as well. I'm not suggesting that the development that will be occurring in our neighborhood which is extensive as a result of our RH zoning which happened in the '70s because both on the west side, east side and the north side, our neighborhood was being attacked by tilt-up warehouses, because it was the cheapest land close to the city and close to the railroad yards. So our neighborhood chose to move to -- in keeping with the environmental attitude of hoping to keep center and populations in the city, we moved to increase the land use capacity by zoning this area RH. Well, RH quickly turned the land away from \$5,000 lots to \$500,000 lots and now they're willing to build large houses -- apartments. I think we got caught because we moved for a design -- historic design review, district, but we

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were not able to finish the writing of -- extensive writing of the specifics for the guidelines. If you look at our guidelines, we only have three specific guidelines in our alphabet Historic district. But it does make reference to the fact that this is a temporary and needs to be expanded. My guess is the city didn't have the funds allocated at that time to provide that staff time to do that, and so it was commented that it would be needed to be fluffed out and filled out later. So they made reference to using the community design guidelines for further references when we do historic design review. If you look at the community design guidelines, for this town, there are --

Adams: Your time is up.

Welch: -- that have trees protected.

Adams: Thank you very much.

Sharon Genasci: Thank you very much for giving us a chance to testify. I'm here obviously strongly in favor of the nwda appeal, and I hope that you'll really exert yourself to help us with this. Because there's so much at stake here. I'm here to testify about our wonderful 125-year-old trees. My name is Sharon genasci, I live on johnson street, not too far from the elms. I have been noticing a number of elms about that age around the northwest neighborhood. These elms, the equally beautiful and historical lindens in front of our house, and other historic trees throughout Portland, form a magnificent testimony to Portland's past. To the care and thoughtfulness of our Portland predecessors. Now that we have discussed -- discovered these trees vital to our health and imagination are not protected by the landmarks commission's language concerning their responsibility to protect historic Portland landmarks, please make it clear to the landmark commission and staff that the city council places great value on both historic trees and buildings. Please insist on code language that protects our trees. Thank you.

Adams: Thank you.

Jerry Powell: Mr. Mayor, commissioners, i'm jerry powell, i'm from goose hollow, as you no doubt know. Goose hollow hosts another historic district, kings hill historic district. Kings hill specifically speaks to street trees. Quote page 12 of the district guidelines, street trees form a visual border between sidewalk and street, they help maintain the district's character, page 72 in the guidelines, large street trees were planted to provide shade continued and -- and continues to define the areas landscaped, historic planting street trees that respond to districts past should be considered in new development in the district. Pretty specific. And specific to new development. In the case of the alphabet district, bill was quite correct -- the final guideline were never written for the alphabet district. Instead they incorporated by reference the community design guidelines which by the way very definitely didn't include street trees. I'm under the impression specific references and district plans supersede general language In the construction of Portland codes. That's something that needs to be considered here. Kings hill quotes make clear the value of the street tree canopies, we've been talking about that all afternoon. That's not really an issue. There's a clear value there. I think the issue is whether or not the city codes provide a protection for those -- for that canopy and whether the kings hill historic -- rather whether the landmarks commission is empowered perhaps required to consider those things when it considers an historic district. I would say yes, it does. I would encouraging you to agree with that. And I don't really see an ambiguity that was referred to earlier. I see a conflict between parts of the statute. Thank you.

Adams: Thank you. Thank you all very much for your testimony. Anybody else?

Moore: That's all who signed up.

Adams: Please come forward.

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

Adams: Anybody else wish to speak?

Cass Humphrey: My name is cass humphrey, I live at 19th and hoyt. Hello mr. Mayor. And in our collective parallel universe, [inaudible] the two commissioners that are left.

Adams: One will be back. He needed a compassion break.

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Humphrey: Shall I wait?

Adams: No; no. Do you think we should wait? We'll wait. We'll have a five-minute recess.
[recess]

Adams: Your favorite commissioner has rejoined us.

Humphrey: As a woman I appreciate the issue.

Adams: If you wouldn't mind for the record state your name again.

Humphrey: Cass humphrey, I live at 19th and hoyt. I kind of think things in a simple way. I think we all agree the first thing about problem solving is to define the problem, and I think you guys have a bunch of people that want the trees and some i'm that don't want the trees. And I think the reason we want the trees is because they're trees. And I think what we're not addressing is the developer will save a lot of money if he can take out the trees, and he has an expert that says they're going to die. Do I believe that? I do, because I think that's the way the building was designed. So I would think we could redesign the building, but I do think that's going to happen? No. I don't think you guys want to do it, I don't think anybody else wants to do it. So I don't think it's the job of the staff to save money for developers. That's just sort of the way I look at it. And the second issue is this process of, what's department, what commission -- it's the corporate salute, shouldn't maybe the issues be decided even before they submit the design for review? If anything has to be done to a lot that isn't just a flat dirt lot, I think that should be resolved before it even gets to this point. Because nobody wants to make them go back and redesign it.

Adams: Just a process point. They were decided by staff and then anyone has the right --

Humphrey: Not by the community.

Adams: I'm trying to answer your question.

Humphrey: Ok.

Adams: Staff, we write the rules and the policy and we're governed by state law. But we write the fine grain policy here as best we can. Staff takes that and makes the decisions based on council approved policy. If there are disagreements with staff over how they have interpreted that policy, anyone has the right to appeal it, certain kinds of land use issues to the city council.

Humphrey: So they deal with this footprint, and the construction site, before they deal with the building is what you're saying.

Adams: It depends on the -- i'm not speaking to this specific issue, i'm speaking more generally. But the idea of appealing staff decisions both providing staff to make the decisions and a lot of people, they make the decisions and projects move from there, some people choose to appeal which is their right.

Humphrey: I guess what i'm saying, I see this as a one process, where right now we're dealing with the footprint, the construction site, and the building. What I think the solution to this problem rather than have you make up a whole bunch of new law and rules, nobody gets up in the morning and says, let's have more bureaucracy, because you guys can do all these laws for trees and somebody else is going to come in and say, I have this creek --

Adams: Let me clarify there. We're going to use existing rules.

Humphrey: I know that.

Adams: We have to do that.

Humphrey: That's part of the problem.

Adams: We're going to use existing rules.

Humphrey: Which we have no --

Adams: To determine the answer to this question.

Humphrey: Ok.

Adams: I appreciate your testimony. I understand your remarks, and just when we think we've thought of every possible variation on every possible issue a new one comes up.

Humphrey: Good luck.

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Adams: Thank you very much. All right. So we'll now have the opponents to the appeal.

Beaumont: Correct.

Adams: And you will get 15 minutes.

Sam Rodriguez: Good afternoon, commissioners, mayor. My name is sam rodriguez, I am the developer for the project. My title is managing director for mill creek residential trust. We are an apartment developers, essentially. We worked really hard with the neighborhood to come up with some agreements. We've worked very hard with them through the design process to come up with a design that we feel is consistent with both the zoning, the historic character of the neighborhood, which is one of the reasons why we're in this neighborhood, with the density goals of the city, with basically with leed, this is going to be a leed project with sustainability goals the city has and we have as a firm also and we share. We feel like the neighborhood that clarity and codes is a great policy. Great policy for developers to know exactly what they're up to, what their options, what are the issues that are going to be in front of us as we move forward with development and make sizable investments in these projects. So we -- through this whole process we've worked hand in hand with the neighborhood, we have presented these drawings and these perspectives and the plans and the project through the planning committee of the nwda, we have gone through dar, we have gone through the design review process as prescribed, we have followed the rules as we were told they were. And we would like to have the -- and love to have clear rules, that we know what awaits us as we move through this process. We have a hired arborist to make sure -- we recognize the trees as obviously important trees. They are 120, 125-year-old trees, and we recognize that from the beginning, at the onset of this project, and feel that we did all the research necessary to sort of come up with the right options and the right design. What i'm going to present to you is a real quick overview of the project. But first of all there was a lot of talk about language, code language and code language changes. This is actually in the agreement, this is language straight out of the agreement. The agreement settlement agreement has two pieces, the one -- first piece is about the interpretation of code, and whether landmark review -- landmarks has or not purview over street trees, and we've come to an agreement with the neighborhood that we require clarity also and this is one way to clarify this process. We have also agreed with the neighborhood preservation process. These are old trees and we have come together with an arborist with a plan that will save the trees but again we can't guarantee that. the trees are a living thing that will be submitted to a certain degree of stress. The essential bullet points of this agreement is we will be pulling the base back from in front of the trees to the property line which we were under the property line without parking. We will not change the building as it is so we move forward just by making that change doesn't physically affect the building itself. We will inoculate the trees against dutch elm disease. It's in existence in the city. We will inoculate them ahead of time to help protect them. Dutch elm disease is transmitted through a beetle. We will spray if needed, spray the trees with an insecticide to avoid the beetle attaching itself to the tree and infecting it with dutch elm disease. We will create protections around the trees during construction. One thing will be the compaction of the root ball around the trees, so as we do sidewalks and work for the building in general we'll avoid the johnson's creek facade of our building to try and protect as much as possible the metal plate around the tree so that if there is circulation of workers and construction equipment which we'll try to avoid as much as possible that would happen along there. Obviously we have to demolish the existing building. We will be building a basement to provide parking for the building. The process will be done as carefully as possible, many bullet points -- sub-bullet points here that describe that. In essence there will be machinery that will destroy the buildings and will get all that debris out of 19th. We will do very careful demolition along a trench. We'll cut along the property line with our spades and hand digging and so forth, then the basement will be dug. Pruning will be required. We don't know how far the root system goes underneath the building if at all. We hope it's not as

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pervasive that we can actually cut some of those roots, but roots will have to be cut and the canopy to improve the property. All this done under the supervision of a certified arborist.

Fish: Can I just ask, maybe it's a dumb question. You are listed as an opponent of the appeal yet are spending your time telling us about an agreement that you may or may not enter into with the neighborhood. I'm curious. Maybe you or your counsel can tell us, why is that before us?

Rodriguez: We want to move forward. We want not to get appealed any more. We would like to move forward with our building. We are willing to make compromises to try to do that. The neighborhood association felt necessary to bring this subject here to discuss item 1 of our settlement, which is the broad legislation, broader rules about street trees in the city. In particular historic neighborhoods. So we don't see -- we are trying to work with the neighborhood to satisfy them and satisfy the fact that we need to get moving on a project that we have had significant investments in.

Fish: Are you asking us to deny the appeal and give you the chance to enter into this agreement with the neighborhood or are you asking us to incorporate this language in some order that we propose?

Rodriguez: We would ask you to -- we could live with denial of the appeal and we'll come into a private agreement with the neighborhood, which is most possibly this one.

Fish: This portion?

Rodriguez: This portion. Part 2 of our settlement. You could as tim said you have several options. One is a mixed option where you approve one part, not the other. And you could just approve this and the language and we move forward. Either way what I am looking for is an opportunity --

Fish: You don't want an appeal. But you're listed as an opponent. We're still interested in your view as to whether title 33 requires mandates that there be consideration of impact on the trees. You may either maybe -- if you have an opinion I would be interested in knowing.

Dana Craftcheck: Commissioner, this is dana craftcheck, counsel for mill creek. Why we're listed as the opponent to the appeal is a label that we have been given as the applicant for a project that's been appealed. While we reached agreement with nwda, the opponent, the appellant, we knew there would be other people speaking on behalf of the appeal and raising issue outside the interpretation. We heard that about massing in bulk. We needed to preserve the right to respond to those issues and be a proponent of the project. I think that if you'll lend us the latitude of not getting hung up on the labels, we're proponents of the project. In one way we are a proponent of the project as we reach this negotiated settlement agreement with the neighbors that includes two parts, the interpretation and the tree preservation measures.

Fish: Thank you.

Rodriguez: I lost my --

Adams: We'll bring it back.

Rodriguez: Thank you. So i'll go back to what we're doing implementation of pruning as needed, stabilizing wires as needed again to make sure the streets are safe during construction. Focus -- that at the end of the day we will have an arborist that will be in essence creating a report, a monthly report, as to what is the status of the trees through the process because we obviously are interested in public safety. We're interested in our building safety and everybody else around us. That's a little bit -- I have a few more images which I wanted to quickly show. This is basically what the footprint of our two buildings. I wanted to point out there's building b, a beech tree on private property in the back that again was near and dear to the neighborhood and that one actually from the very beginning we had a read that it was salvageable, so we worked to save that one too. We're actually working to save the beech tree behind building b in the corner close to the 28 northwest 19th. This is a quick summary of what those trees are, existing trees, in terms of site plan that shows where those are and the current building profile is. This is what the basement looks like in

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our original -- when the original interpretation was that the trees would come down and this is pulling that basement wall back to give room for the trees. Really quickly so you get a sense of the scale of the buildings, this is before, this is without showing the trees, obviously. This is the prospective of building a presented to landmark review. It's a five-story building. Six stories was what is allowed by zoning in the site. This is the view along 19th avenue next to the olympic building, olympic apartments. This would be the view where the four trees would basically be -- if we -- preserve the trees they will be right here in front. Initially we had some more smaller trees, obviously, planted newer trees. This is just quickly building b, which is just a quarter block building. No parking, no basement. The tree that we're preserving is in the back. This is the front view. Again, this is just a general view. We ask for clarity. We ask so that we can continue to work through this project and hopefully start construction towards the ends of the year. We believe the buildings are in scale and with the neighborhood and actually fit very well in there. If saving the trees, to answer your question, makes us move forward, this is what we want to do.

Craftcheck: If I may respond to my opinion on commissioner Fritz's question about how do we move the basement back if its different than what landmarks have been approved, and i'm interested in scott's and the attorney's opinion on this. Landmark regulates above grade which is not changed by the settlement proposal. All of the changing of the basement is below grade so the slide that we showed you is how we would move the basement back to accommodate more of the tree roots. We feel like that's something that can be done even under landmark's approval.

Leonard: I have a question. I heard you say your settlement agreed on the interpretation and tree preservation, i'm assuming interpretation of code?

Craftcheck: The settlement has two parts, the first part being the interpretation of the code which I think has particular importance to the neighborhood because they are looking at not only this but future projects in their neighborhood and city-wide. The second part of the agreement is the measures we'll take to try to preserve the trees. That's what is particularly important to the developer because that's our road map for how we build this project.

Leonard: I think you answered one of my two questions if we were agreed as a council to the settlement you've worked out and we have in fact amended how we approach these kinds of developments city-wide not just on your particular project, I hope you can appreciate that raises concerns for at least me but secondly, if you have agreed, I don't understand why you're here.

Craftcheck: We weren't the appellant. We didn't have the control to withdraw the appeal.

Leonard: I guess -- I still don't understand why you're taking a position -- if you have an agreement and you had both sides that said this is what we would live with, did nobody foresee council would be put in this awkward position of being asked to ratify a change in the code that our staff doesn't currently interpret and that we probably wouldn't go along conjecturing with whatever neighborhoods and developers agree to that could end up with a hodgepodge of development rules throughout the city that don't have a process by which they are vetted and applied uniformly. Did that not occur to anybody?

Craftcheck: Again, we're not the appellant. We didn't have control of withdrawing the appeal. I imagine on rebuttal the appellants will want to respond to your question. I assume it will be notwithstanding the fact this developer was able to come together with this neighborhood, they didn't have that level of confidence for future projects within their neighborhood or elsewhere. So I was at the nwda board meeting where they decided to appeal this project. The message I heard was we need to bring this issue to city council for them to decide if staff has been interpreting this properly or not, and nwda strongly believes it's the right interpretations and it would be adopted by council.

Fish: Following up on my colleague's question, if we deny the appeal, is it your client's intention to still enter into some portion of the agreement with the neighborhood?

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Rodriguez: Our intention from the beginning of any project in the city is to work with the neighborhoods to get to a solution that is good for everybody, and yes.

Fish: If we were to deny the appeal, though, the only portion of the settlement that is still enforceable would be that portion that deals specifically with the trees, not with any prospective changes in the code. Am I right?

Craftcheck: Yes.

Rodriguez: The answer is yes, we would work with the neighborhood to come up with something because the reality is that they still have the possibility to continue to appeal this.

Fish: Is it fair to say in light of commissioner Leonard's cogent questions the difference between us adopting your finding and us not adopting your finding is really limited to the question of whether we're prepared to amend the code and apply it retroactively in this case or whether -- if that's the only distinction.

Craftcheck: I think that it's an interpretation, not an amendment of the code.

Fish: But we have had lots of testimony today from people passionately, eloquently speaking for these trees. Notwithstanding the fact as I understand the arborist says they are at the end of their life, notwithstanding the fact that there's evidence in the record that no matter what steps you take they may die, and notwithstanding that, you have agreed to take these steps regardless of how we rule today you've agreed to take the steps you've outlined to try to protect the trees. Is that correct?

Rodriguez: Essentially, yes.

Fish: Thank you.

Craftcheck: If I can expand on, that during the negotiations with the neighborhood during landmark's review after landmark's decision we provided an alternative mitigation approach, and the effort to preserve the trees was preferred at that time to the alternate mitigation, which was a significant tree fund that could be used to plant new trees. The neighborhoods elected the preservation efforts, so we're trying to fulfill their wishes.

Saltzman: Question, maybe it's not you I should direct this to. There was a lot of discussion to preserve these trees -- we're all familiar with the risk to the roots, but I can't remember who stated this, maybe tim or forester in her memo. That the canopy has to be reduced. Is that a tree preservation or an aesthetic for your new development?

Rodriguez: It's a combination of things. Again i'm not an arborist. What I have learned you do have to balance out -- couple of reasons. You have to balance out the canopy with your root system. Second, yes, the building is five stories tall. Some of the branches are in the way of those six stories. There is a pruning process that has to happen and it just can't happen anywhere. It has to happen at a certain point in the tree.

Fish: I'll assure my colleague this issue came up in the pearl not long ago when someone came and topped off some trees without permission. Title 11, which this council has substantially revised and updated recently, does govern the pruning of trees. You as the developer are not allowed to start changing the canopy. You have to go through our distinguished tree team to get permission to do that. That's heavily regulated by title 11. In fact we are often criticized for the scope of those regulations, but that is the protection for the tree canopy.

Saltzman: Part arbor science --

Fish: City code.

Rodriguez: Development for what were proposing, yes.

Adams: Other discussion of council? Thank you very much. Does anyone wish to testify in opposition to the appeal?

Moore: No one else signed up.

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Adams: That means the appellant has a right to a reply. Can you summarize for me, sounds like you have an agreement on the specific project and what issues are left? Or do you not and or what other issues are left undone?

Dixon: Well, at this point the issue that is I think before council is really how we are going to move forward in terms of the next development and clarify for us what the code means. I don't think this is a matter of creating respectfully commissioner a hodgepodge. It's asking the council to interpret the code consistent with both the historic design review chapter, title 33, and the community design guidelines and the alphabet historic guidelines incorporated within and they are very specific. Commissioner, if you'll give me a chance I can get back to the question on the newest argument of staff that originally we asked they said they relied on a b-5 exemption and now they have raised 17.33 difference and now we're talking about, I think -- whether design review applies to street trees because it doesn't fall within 4 or because the intention is to plant new trees that are already approved, i'm not sure which, but the section that you're asking the question about is one that gives guidance on when historic design review is triggered. In this case historic design review is triggered because they are building a new building. That's under 2. So once we get under 2, then as in the findings of the final findings and decision that was prepared by staff, you know, the criteria are the title 33, community design guidelines and historic alphabet district community design guideline addendum and by statute or by code all of those criteria must be met. Interestingly enough, one of the criteria staff mentions is the pedestrian network, which is in the public right of way. So to be able to follow the code, whether you're a developer or a neighborhood association, it's got to make sense both chapter by chapter and read together. I mean, if we're just picking parts of it out and trying to interpret the specific situation and like it was in this case where we're just -- we're ignoring the significant feature of the alphabet historic district in terms of how this building is going to be built -- I wonder how much integrity the code has, how much we can rely on it. I mean, I did code interpretation for 15 years in the u.s. District court 9th circuit. I have read this for three weeks. I'm taken back by this new argument. I would ask that the council seriously look at the issue. I don't think that this requires -- it would help to do a legislative action and clean it up. Certainly we would ask you to do that if you decide not to agree with us today, but --

Fish: I can't speak for my colleagues, but if council determines that they disagree with your interpretation of the code, and we're not ultimately the final say on this, if you disagree with us, as you know, then the appeal would be denied. You would still have an agreement with the developer.

Dixon: Yes.

Fish: So as to this development you would still have successfully protected to the best of your ability these trees and then is there anything that prevents you from coming back and asking for a legislative change in the future to address interplay between title 33 and title 11?

Dixon: No, there isn't, commissioner, but as we know, trying to move those kinds of policy issues forward with the city take a lot of time and a lot --

Fish: In fairness you're often on the other side of that argument. The reason they take a lot of time is we actually open it up to a broad range of stakeholders and create a record and do it thoughtfully and frankly to the credit of the nwda, you are often in the position of telling us not to rush into something. You are frequently reminding us that public process should precede any change legislatively, particularly that has city-wide impact or district-wide impact, so in fairness that's usually what you are advocating. I take very seriously when you tell us that we should go through a public process to make sure we get it right. Here it does feel off of commissioner Leonard's point that you're attempting to bootstrap through this proceeding in the guise of a clarification a change in our code that could have wide ranging implications. You and I may agree or disagree on that point, but what strikes me as usual about this is you've already negotiated a successful outcome with respect to these trees.

Dixon: Can I respond?

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Fish: Yeah.

Dixon: First of all we don't question the need to do a thoughtful legislative process, certainly were in favor of that. The issue is right now we have clear -- I think we have a reasoned way that clearly gives the council the authority to agree with us and to instruct staff to consider street trees in historic landmark commission hearings. I disagree with the fact that we have -- the agreement we were able to fashion at this point is -- trying to do this from the neighborhood side are a lot of people have expressed their severe disappointment in the results here because we're not giving these trees the full chance of surviving that they might have had had the landmarks commission been able to balance their importance with the construction of the building. We have a very imperfect situation, yes. We don't feel that -- we believe this developer got caught in the middle, and the intention is to move forward and try to -- follow this agreement as it relates to his particular development because quite frankly he is a good developer. He's worked with us in good faith. You know, as a neighborhood and a developer bring you a situation like this, I would hope that you would give due consideration to the fact that we worked hard to try to clarify this and encourage us in this situation rather than discourage us and send us home basically saying, we wasted the council's time trying to do something in terms of a clarification for staff.

Leonard: I agree with everything you said, but you're sophisticated with this stuff. The point that you won you would declare victory and say we don't want to go to council now. You have put us in the position of asking us to ratify an agreement that is site specific but has implications city-wide. That's my only concern. That I applaud your ability to strike an agreement. And support it. This is not the way however to ratify that, in my opinion, to ratify that.

Dixon: Thank you, commissioner. Where we would respectfully disagree is I don't think we're asking council to do as much as you are stating. I think what we're asking council to do is to interpret the existing code correctly under the circumstances even though it tends to be somewhat ambiguous and to later go back as we have heard from Mr. Heron and make it even clearer. But we are not -- I don't think we're asking -- I don't think we dream of coming to council to ask for a change in policy. We're asking you to do -- the staff and historic landmarks commission setting four years ago and before agreed with the way we're reading the code. So there was somewhere along the line there was another change that has cascaded down throughout the city in terms of this issue. So you know, I think it is with great respect that you -- we're simply not -- we may be assign you to disagree with staff, yes, but we're not asking you to change the code. We're asking you to read it correctly as it's meant to be read together.

Cruz: I would just add to that that this is really a question of interpretation, not a statutory change. The memo that we provided, which albeit you probably received this morning or maybe yesterday late, the memo in which we went through the legal arguments made by staff includes the analysis of these points and also includes prior precedent by the historic landmarks commission and a site specific that you might care to look at. So it's clear this is an interpretation and it's something that apparently has changed over the last few years. So all we're asking is that we go back to an interpretation that would allow landmarks commission to consider street trees in an historic district.

Saltzman: This is speculation, you don't have to speculate if you don't choose to. If you weren't dealing with a developer you felt was a good developer, and you were trying to get simply the first part, change the interpretation so landmark has decision making over street trees, and you prevailed. And would you just be then -- there are people, obviously, in your neighborhood who want to see such a building redesigned, redone. Is that where you would be going if you prevailed, say first part of your agreement was that?

Dixon: I'm sure, commissioner, you would find us advocating before the historic landmarks commission for a building that was more protective of the trees. There's no doubt about that. But what we would have would be a fair chance at getting that issue considered in the proper, what we believe is the proper venue. The neighborhood, believe me has so much to do that it's not in the

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business of appealing these decisions frequently. I think as demonstrated throughout the years, we're very careful and so we're not contemplating appealing every decision of the historic landmarks commission over tree issues but we would like a fair chance for it to be considered. I mean, one last point is that if commissioner Fish mentioned that the life span of these trees, I believe in the arborist's report the elm trees can live 175 to 200 years. I think that's mentioned in the applicant's arborist report, under an urban environment somewhat less, but unknown how much less. These trees are estimated between 100 and 125, so there's a potential life span here that's going to out live both -- all of us here.

Fish: I don't want there to be any confusion on the record, frank. I was one of the authors of the title 11 code changes that came to council which you read the newspaper have been mocked and ridiculed on its foundation stone, which is one for one replacement, mitigation, charging developers to take down trees, protecting the existing canopy. We go as far as to say keep a nuisance tree in place because of the canopy. You and I don't have a philosophical disagreement about trees, the role of trees, and the like. There is a legal issue that we have been asked to resolve about whether title -- how title 11 and title 33 interplay. You have made your case very thoughtfully. We have other arguments we have to decide that question. But there no philosophical disagreement about the virtue and value of trees.

Dixon: That's understood commissioner. Please, council, don't interpret my passion here as reflecting any judgment on your competence and good will and exceptional public service.

Adams: Thank you all very much. Appreciate it. Anyone else? In support of the appeal. That gets us to council decision making. You have questions?

Saltzman: Of tim and Kathryn.

Fish: Mayor Adams, I have a prior engagement I'll have to leave shortly, but I want to be here for the initial deliberations if I could.

Adams: I'm sure commissioner Saltzman has that in mind in asking the questions.

Saltzman: Tim at some point you mentioned the historic code review process that bureau of planning and sustainability and bureau of development services has embarked on. You weren't suggesting this is an issue that could be addressed in that way, were you?

Heron: No. I was illustrating a point that there are a lot of areas of the code we would like to fix and make better. This would be bigger than that. Arguably we talked about it at great length during the tree code.

Saltzman: For kathryn, there's a lot of talk about are we legislating by this if we were to up uphold the appellant's agreement? Isn't that what we are in terms as a quasi-judicial body if we choose to support an interpretation that interpretation then gets interpreted by staff? We're not necessarily changing code, we're interpreting code, which is kind of our job in these types of cases.

Beaumont: Sometimes there's a fuzzy line between the two. Where there is ambiguity in the code you do have latitude to interpret it. However, in interpreting it, you have to take the words that are written in the code and figure out a way to connect the dots. You can't read things into the code that aren't there, you can't take things out of the code that are clearly stated. Our code directs you in interpreting the code to apply the plain language of the code and give words their literal meaning. There may be multiple ways to interpret the code here. Some are better than others. I think definitely the stronger interpretation is the one that has been proffered by staff. That more clearly connects the dots in the code as it's written. That's not to say you couldn't adopt the other interpretation. I think it would be -- I think it's much more difficult to connect the dots in the code in the way that the appellants have proposed. I think a much clearer solution would be to address this issue in a legislative context rather than in quasi-judicial context.

Saltzman: Second question is there's nothing that prevents us I assume from denying the appeal but attaching the conditions specific to this project on tree preservation.

Beaumont: Yes, you could do that if you wished.

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Leonard: Doesn't that in and of itself establish some precedent?

Beaumont: Not in the sense that I believe the parties and the applicant has offered up and has indicated their willingness to voluntarily agree to these conditions.

Leonard: But that's voluntarily. If they want to do that voluntarily i'm comfortable with that.

Saltzman: Isn't this like a good neighbor agreement?

Fish: No. We find the historic design review exemption in applicable code does not apply when a new structure may impact existing street trees. That's not --

Saltzman: You're reading from number one.

Fish: I'm reading from number one.

Saltzman: I was thinking about number 2, not the pros in front of us but simply the specific conditions of the four elms.

Fish: If the council were to deny the appeal but adopt the conditions negotiated, what is the impact of that? Does that require the city then to oversee the implementation of those conditions? Does it give one of the parties a different enforcement right? What is the effect of that?

Beaumont: Yes, it might put the city in the middle of enforcing those conditions of approval if there is a complaint that they have been violated or are not being adhered to. That's correct.

Adams: How would that come back to us?

Beaumont: Through code enforcement complaint.

Leonard: I'm ready to make a motion.

Adams: Commissioner Leonard?

Leonard: I move to deny the appeal and uphold the portland historic landmarks conditions of approval.

Fish: Second.

Adams: Moved and seconded. Any additional discussion?

Beaumont: My only comment would be this is a tentative decision. We have to address the code interpretation issue raised in final findings.

Adams: Right.

Saltzman: I guess I will speak against the motion. This is a tentative decision. I think I agree with the first part of the arguments here that we shouldn't on this matter be legislating in this manner. But I do as I was questioning, I would like to put specific conditions with respect to the four elms and the changes in development into the record of decision as conditions. Speaking for the code enforcement agency and the city, we're certainly happy to make sure that all sides come to happy conclusion on this. I guess the other thing I would add, we hear a lot about how trees won't survive, they age and die, and I can only go back to experiences I have had in my own backyard where I have had arborists tell me a retaining wall is going to destroy the rhododendrons, you're going to have to replant them. Your going to have to get another arborist --

Leonard: did you get a permit for that retaining wall?

Saltzman: Yes, it was done through Neil Kelly a very reputable -- but you know another arborist came in and said, we can do holes here, shave back the roots and I should knock on wood but to this day those rhododendrons are thriving. I'm just saying that I think these are conditions that can be met. Trees may not survive but I think we need to give them a good faith effort and codify them in a decision.

Fish: My only comment to what you said, dan, the city arborist jenn cairo is here, is that if we took that position what we would be doing inadvertently or intentionally is opening up every single street tree removal issue within any historic district to a matter of city council concern that will allow people to go beyond the arborist and the urban forestry commission to get in effect a second administrative bite at the apple. That may or may not be a good idea. I would like to hear the argument in some detail, but if that was such a great idea i'm just guessing after a two-year process updating title 11 someone would have said, put that protection in. The fact that it wasn't addressed I

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think was a reflection in the public confidence in having the urban forestry commission address title 11. Respectfully what you're suggesting is taking all of our good work and incorporating into title 33 and I would say be careful what you ask for in terms of both the work that the urban forestry commission and forester would have to do and the work this council would have to do.

Saltzman: Again, i'm not arguing in support of the ambiguous interpretation line of reasoning but I guess i'm saying, this has been a contentious issue. There's conditions everyone has agreed on to try to save these trees. Why not memorialize them even though it's a title 33 related decision.

Adams: We've had the discussion and now we will now have the vote. Karla please call the vote.

Saltzman: No.

Leonard: Aye.

Fish: Aye.

Adams: I want to thank both parties for coming to agreement on this specific site. I think that is a very good sign. I think that this discussion and the concerns raised by frank and others in the neighborhood association need to go on to the work plan list for staff to further clarify and I think we can do that. Aye. So approved.

Fish: We have to schedule a time for a public hearing on proposed findings.

Beaumont: Not a public hearing, just a vote to adopt.

Adams: When would that be?

Moore: How much time do we need?

Heron: Two weeks.

Adams: Two weeks? What do you got?

Moore: You're gone in two weeks.

Saltzman: Trees are involved.

Adams: Right. I forgot about that. Three weeks?

Moore: No. Then Fish and Leonard are gone. The next week everybody is here is the 22nd of August.

Beaumont: What about next week?

Moore: The 25th? Before 9:30, yes. Or by 9:30, rather.

Adams: 9:30 time certain next week. Thanks. We're in recess until tomorrow.

At 4:12 p.m., Council recessed.

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Closed Caption File of Portland City Council Meeting

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

Key: *** means unidentified speaker.**

JULY 19, 2012 2:00 PM

[roll taken]

Adams: Here. A quorum is present. Please read the title for item number --

Adams: -- 837. We're doing 837.

Moore: Both at the same time?

Adams: No. We're doing them separately. Second one first.

Item 837.

Fritz: Thank you mayor adams. We are evidencing how flexible we are in implementing our equity agenda, reacting and proactively changing the way the city does business. When the community demanded that we establish the office of equity starting with the portland plan throughout that we heard over and over again that equity is one of our challenges and ones that we need to address systemically and systematically. In February of 2011 the mayor announced in his state of the city address that we would be creating an office of equity. We worked with the community, and the community demanded that we establish this office and that we start by looking internally, that we put the city's house in order. That is what we have been working to do since september of 2011 when the office was officially created by the city council. This afternoon, we have a series of reports on the work that has been done since then and how we intend to move forward. We're moving 837 to the top of the agenda because that's the logical order in talking about what we have done with an inventory of all the city bureaus to find out what work has been done already then provide the baseline and the information for knowing how -- what we need to do so that contracts and jobs and services for the city are provided in a way that allows everybody to have access and opportunity. So that's the general framework for this afternoon, and then mayor Adams will introduce his work with the office of management and finance on the initial inventory and then Dante James is here to talk about the matrix and the way that we'll work on moving forward after this.

Adams: Thank you. About the paralleling in terms of timeframe, it paralleled the recruitment for the eventual selection of director james to direct the office of equity and human rights. Along that same timeline, we did inventory of current practices in the city among the bureaus and in the departments and operations for what was out there that city staff thought related to the emerging mission of the office of equity and the equity goals and strategies of the Portland plan. With your initial introduction, i'll turn it over to celia heron from the office of management and finance.

Celia Heron: Thank you for the flexibility to rearrange the order of events, and I think you've covered all of my talking points. My name is celia heron. I'm with the chief administrator's office in the office of management and finance. As sam said, back when we were proceeding the creation and establishment of the office of equity and human rights, commissioner Fritz and the mayor asked omf to lead the effort to develop an inventory, as they called it, an equity inventory of the city bureaus. The goal was to develop a baseline set of data about city bureaus, policies, practices, and programs as it relates to equity. The survey looked both externally at our customers and citizens as well as internally on our workforce. It was an inventory rather than an assessment, the effectiveness of these programs. The goal was really a preliminary gathering of data that would

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give council and city bureaus a look at the landscape and a basis upon which to build a strong foundation for city efforts going forward. In the summer leading into fall of last year we did the inventory, all city bureaus participated and in February of 2012, OMF sent out the summary report, which is before you for acceptance, also the data tables behind that. That is the bureau's actual responses and then the survey document itself. In the summary report which you have in front of you, I believe its exhibit a or b, there are a few recommended that really point to the fact that this is a starting of conversation and urges council and the city to commit the resources for training and support for ongoing dialogue, technical assistance, et cetera. And obviously that's what you've done with the establishment of the office of equity and human rights. I encourage council to accept this report and am open to any questions you have.

Adams: Any questions for celia? Would anyone like to testify on this matter? So we're memorializing for the record of city government what the inventory is. Not necessarily a performance but an underscore of what bureaus thought of represented practices, policies, procedures. Great. It's a resolution. Please call the vote.

Saltzman: Good work. Aye.

Leonard: Thank you. Aye.

Fritz: We're going to talk much more about this, but i'm going to make a particular comment on this work, because I appreciate the amount of effort that went into it and indeed quantifying what we do is one of the ways that we are accountable to ourselves and to the community. When we have equity in government it will be the most cost-effective, stabilizing, collaborative means of supporting our community, providing us good services and creating jobs. This inventory is a start and helps us as we move forward. The numbers are important. What's also important is changing hearts and minds, and that's what we'll be discussing for much of the rest of the afternoon in terms of the equity embedded into the natural way of how we do things in the city. So its not either or it both and I'm much appreciative of your work and collaboration with the mayor and omf on this one. Aye.

Fish: Aye.

Adams: Thank you, celia, for your good work on this, jack graham, your boss, as well who's been incredibly supportive of the overall effort but specifically taking the opportunity, as things started up, to just get the basics of the basics in terms of inventory. I want to thank my team kali ladd, lisa libby and others for their work on this as well. Aye. So accepted. Please read the title for item number 836?

Item 836.

Adams: Commissioner Amanda Fritz.

Fritz: That was a remarkably short hearing for a remarkably large body of work. I want to just recognize that fact and also that we're going to be continuing to work on what are more metrics that we'll be using as we're moving forward. This next item also represents a huge body of work by the community as well as by the staff of the office of equity and human rights and our advisory committees. I thank you very much for that. Lots of questions back in september of what exactly would the office be doing and how would it be doing it. I resisted, urging to provide that detailed work plan, because i'm not the expert at that. We have now experts in the office of equity and human rights and in the community who participated in formulating this work plan, and we'll continue to do that way also. Now we have a 25-page detailed work plan, which is still just an outline of what we're going to do and how we'll do it. It's a one year work plan it may well change in the course of the year as we pilot different projects and see how they work and then take feedback from our bureau advisory committee which we're in the process of forming. We expect that things will continue to grow and change, and we are going to be moving full speed ahead with that. I hope the community continues to stay engaged. I appreciate everybody being here today to

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discuss this work plan and to figure out how we move forward on this hugely important work. I'll pass it to director Dante James.

Dante James, Director, Office of Equity and Human Rights: Good afternoon, mr. Mayor, city council. Feels like i've been here a lot lately. I truly appreciate the opportunity to come and present this work plan to you. I'm truly here on behalf of the office of equity and human rights and also on behalf of the communities that have worked so hard to bring this office to fruition. To share our work plan and our vision for the city of Portland. I began this job march 15th. For me, it's just been 120 days, but it's been even longer since mayor Adams and commissioner Fritz embarked on this road toward equity. It's been much, much longer since the communities most affected by the lack of access and equity, most effected by lingering institutional racism, institutional barriers to disability, began asking for change, asking for the work of this office. Many members of these community are here today to show their continued support and continued belief in the importance of this work. There are also many city employees who are here today in support of this work, and they recognize their need for assistance to do this work well. The charge of this office was clear from the beginning, to change the culture of the city and to remove institutional and instructional barriers that exist internally in the city of Portland. Barriers based on one's race or ethnicity, barriers based on one's disability. Barriers to equal access, opportunity, equitable distribution of resources and city services. The work of this office is uncomfortable for many. It requires having hard conversations about race, about those who appear different. Unless and until we can have those difficult conversations, unless and until we can accept that institutionalized racism can exist and does exist in an environment consisting of employers who are not racist, unless and until we can accept that the hard part comes after we acknowledge that we want to do better, we will as a city fail ourselves and those whom we serve. Just a few weeks ago, I came before you to present a list of 90-day accomplishments of the office. I'll remind you of a few of those. The office provided assistance to the portland commission on disability for the passing of model employer for people with disability resolution. the office worked with the human rights commission to ensure completion of its strategic plan for the fiscal year. And the office is working in partnership with members of the police bureau to implement a training program for its officers. Just two weeks ago, I was here again assisting with the Portland commission on disability with the passing of the open captioning for media resolution. The work plan continued to provide for short-term and long-term goals in many areas, and it was completed with the input of the staff of the office of equity, the staff of commissioner Fritz's office, and in partnership with the steering committee that is the interim committee advisory group as we complete the process of formulating the bureau advisory committee. I'm not here this afternoon to present the entire 27 pages to you. You do have a copy of that. It's my intention to present a snapshot of the goals and outcomes as well as the methodology for achieving success. So the slide before you is the vision and the mission. Adopting much of the language of the Portland plan, the vision and mission articulate the picture of an equitable Portland in our office's approach to achieving that picture. What is equity? This definition comes from the Portland plan. Equity is whenever everyone has access to the opportunities necessary to satisfy their essential needs, advance their well-being, and achieve their full potential. Skipping down, equity is both the means to help the communities and an end that benefits us all. The three-year goals for the office are goals for the implementation of the citywide equity initiative lay out in more detail the components of our work. Four major components of what will be the citywide equity initiative. We've already begun this work. The office has already partnered with city bureaus for technical assistance and strategies. We are partnered with procurement in the area of contracting. We have designed equity-specific training and are in the process of partnering with the human resources training department. We have partnered with the bureau of planning and sustainability to offer technical equity expertise and assistance to the policy expert groups, and we have partnered with the bureau of parks and recreation to assist with summer youth employment. We have recently

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hired Joe Wahl as our assistant director. He will be our lead staff responsible for data collection and assessment. Community engagement is ongoing. As we formalize our bureau advisory committee, engaging the newly formed Portland advisory committee and the human rights commission and commission on disability who continue their good work. To best implement the overall citywide equity initiative, the office will incorporate what is before you now. What will be the reconfigured citywide diversity committee. Lots of boxes. Lots of lines. Let me help and explain this. Currently what exists on the bottom right of the screen is what's called the citywide diversity committee. In conjunction with and partnership with the human resources department where that committee currently resides, this committee will come under the auspices of my office and be renamed and remorphed into the citywide equity committee. It is currently the only internal process that really has an ability to touch every bureau. Every bureau has to have a representative on the citywide diversity committee currently by a city resolution that was passed in 2005, I believe. And so it has the ability to touch and be responsive and responsible to every bureau. It will become the citywide equity committee. We will be inviting nominations within bureaus for those who wish to participate on the citywide equity committee. Some of the action plans for this committee are to monitor and report on the citywide equity affirmative action and diversity achievements and goals. Each bureau is required to submit currently a citywide diversity plan for its bureau, strategic diversity plan. It will be asked to submit a strategic equity plan by each bureau. This committee will provide assistance in expertise and liaison capacity to assist the bureaus in writing that plan. We can't ask you to write what you're not aware of what to do, and so this committee will be responsible for assisting in those plans. In reviewing those plans with an equity lens, it will determine if the goals are -- are achievable and if they make sense. And how to move forward in the best interest of the city in the equity process. This body will make recommendations of policy and program to bureau directors, to city council. If you move up at 11:00 from the citywide equity committee, what's listed here is the executive equity team, for lack of a better term at this point. My request of you -- I have two requests. Last time you saw me, I said I was going to make some requests. Here's number 1. The executive equity team. If we are really going to do this, we need to be able to do this with senior-level support in making this happen. My first ask is that there will be an executive equity team which represents either the bureau directors or their proxy. Senior members from the bureau and senior members from your staff who, on a quarterly basis, will meet and receive and review recommendations of policy, programs from the citywide equity committee and discuss best practices across bureaus and how things are working. New concept, I know. But I truly believe that the best way to move this is bottom down in some sense and bottom up and top down. The citywide equity committee would be many people of the line staff, maybe some managers working up and the executive equity team would be those who can absolutely implement policy and make change in the bureaus or from your staff, working down and infusing equity to all the bureaus. So that's my first ask is that you would be allowing your staff and expecting the bureau directors to participate in this executive equity team. Each bureau currently has a bureau of diversity committee, all the way bottom left, that would be morphed into the equity committee. And those are made up of members of the bureaus who are working on diversity, slash, equity currently. That would stay the same. That exists now, it would stay the same. They would just have a greater connection with the equity committee in order to do what they do and have support in doing what they do. In order to do this and for the members of the citywide equity committee, they currently are allowed four hours per month to work on equity. Two of those hours are made up or taken up by a meeting once a month. And so if we truly expect that they will be reviewing, assisting, liaising with bureaus on their strategic equity plans on technically advising how to review, how to look at with an equity lens what the bureaus are doing, four hours is not enough. It's just not. My request number 2 -- and final one -- is these employees be allowed 10 hours per month to actively engage in doing equity work. If we are going to make this happen and are serious about

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making this happen, that's not a lot of time in my not so humble opinion, and I will truly ask that they be allowed this time. These are the essential outcomes of how we know to judge ourselves in our work, and i'm not going to go through each of these. There's a couple slides. I want to give some examples of what I think our specific outcomes are that we can measure. Number 1, increased understanding of barriers based on race and disability building a change in the culture of the city. How do you measure that? This would be accomplished by education and training to increase understanding of the barriers based on race and disability that exist within the city policies and procedures. Still, how do you measure that? Our goal is the training of at least 300 employees or more in the first year. In partnership with human resources or directly to partner bureaus who have already specifically asked us and invited us to come and do new training for their bureaus. I truly believe 300 city employees is a very small number and we will exceed that number. In the whole of 5000-some employees, it doesn't seem like a lot. I truly believe we will exceed that number just based on the number of responses that my office has received in requesting our assistance in doing training for the bureaus. This training will include skill-building sessions to understand how to view the city's delivery of services through an equity lens. These are not just conversations about race or disability. The expectation is you will walk away -- the staff will walk away -- with a skill, an ability to look at a policy, a program, a practice, a procedure with an equity lens and determine whether there is an adverse impact to the communities that we represent. Number three, establishing baseline metrics for bureaus. All the bureaus will know what metrics they are going to be measured against and articulate achievable goals for their work and for their services. We will be providing that expertise. Just as there are tools to access how public involvement is considered, there are tools to assess how budget is impacted. There will be tools to assess how equity is considered. Was equity being considered in the decision making of service delivery, in dollars spent, in who is hired. Number 6, an increase in the number of persons with disabilities as employees in the city of Portland. Portland is now a model employer of persons with disability, and we will partner with human resources to ensure that the resolution turns into action. This work requires support and guidance from the senior staff of this city. As i've said, we cannot ask our juniors to do what we will not do ourselves. I want to clearly and specifically say "thank you" to the mayor and each member of council, to each of you for recognizing a need and supporting this office and this work. The need for the office and its work did not happen overnight, and the efforts at dismantling the barriers to access for all will not happen overnight. I realize I have condensed significantly 27 pages. I was not intending to make everyone read 27 pages. hopefully, I've been able to outline in summary some of the work that were going to do to achieve these goals. I believe they are specific, I believe they are measurable. And some are not. Some are not use to measuring the way we are use to measuring. But, they will make a difference. And so, as I close, I love quotes, so i'll end with this quote by reverend dr. Martin luther king jr., and i'm going to read a paraphrased version in honor of commissioner Fritz who has worked so tirelessly for this office and the issue so I'm going to read a slightly paraphrased gender neutral version. There comes a time when one must take a position that is neither safe nor politic nor popular, but it must be taken because conscience says it is right. I thank you for all following your conscience. Thank you very much.

Adams: Initial questions?

Saltzman: So your second request -- I had no problem with the first request.

James: That's good.

Saltzman: I make that commitment in my bureaus to be part of the equity team and my office, but the four hours to 10 hours a month?

James: For one employee in the bureau.

Saltzman: Beyond the citywide equity committee.

James: Correct.

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Saltzman: And that meets every month.

James: Correct. And so there would be opportunity really for having subcommittees that would be reviewing the strategic equity plans that the bureaus provide. Initially there will be a need of training of the members of this committee so they know what they're evaluating, how they can give the best level of technical expertise to the bureau and being able to liaise with their bureau on policies, programs, and procedures of the bureaus.

Saltzman: And so the 10 hours a month is an ongoing request, not for the first year, something like that.

James: Correct.

Saltzman: That's a lot of hours, and I guess my first instinct would be to say how about the committee meeting every other month as sort of one way of having a smaller number of hours. I'd ask you to think about that maybe.

Adams: Other initial discussion? All right. How many people have signed up?

Moore: We have one person signed up, katie Sawicki.

Adams: Welcome.

Katie Sawicki, Policy Associate, Urban League of Portland: Hello. Mr. Mayor, commissioners, my name is Katie sawicki I am the policy associate at the urban league in Portland. The urban league of Portland is here today to commend the office of equity and human rights in its release after one-year work plan. So much has happened over the past year to advance equity and racial equity in Portland. The plan was finalized and released outlining the first steps of an equity agenda. The office of equity and human rights was advocated for and established partnership for racial equity, a group of community and city government equity advocates, is in its final stages of releasing a racial equity strategy guide. We all started the work and appreciate that dante james and the office are taking the same first steps with energy and collaborative spirit. On both a large and small scale, the city of Portland is beginning to ask the question how do we improve employment, education, housing, and health outcomes for the entire community. This leads to more questions about how we develop strategies to change daily practices in city operations to achieve those outcomes. The urban league believes that the mammoth task of organizing, refining, and replicating existing equity work in the city and building new and effective models is the central challenge ahead. It's an exciting challenge worthy of Portland's innovative spirit and necessary to reach the Portland plan's racial and equity goals. We need a way to ensure progress on all fronts and begin developing a culture of equitable practice and outcomes, including training and technical assistance as well as equity in hiring, contracting, and budget expenditures. When the community came together to advocate for the creation of the office, we did so with the desire to see an equity framework formed that would help lead the the city's work and ultimately unite all of us around a common vision of how we remove systemic barriers that lead to an equitable services and operations. Everyone from the bureau and city council leadership to individual city staff has a role inputting equity into practice, but the office is ultimately shepherding this process. The work plan outlines many first important steps. Specifically we are pleased with the focus on building staff capacity and engagement of both bureau leadership as well as community partners in the early stages of the office's work. We encourage the office to use its resources in the community as it moves forward with the plan. We hope to see some additional definition and communication for all city staff as to what our cities equity and strategy entails. In this first year, the urban league hopes to see the office define the many areas of work both internal and external in which equity belongs and use this plan as a roadmap to get there. Thank you for your time.

Adams: Thank you for your testimony.

Fritz: Thank you very much for the urban league's leadership in this work and for your partnership with us. I need to mention that community leaders of the urban league and others who helped in the

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definition of the work plan and with many of the action items in it. I greatly appreciate your participation.

Adams: Thank you very much. Anyone else wish to testify on this matter?

Fritz: Mayor, the other half of this report is the human rights commission's annual report.

James: Allan Lazo will be presenting on behalf of the human rights commission.

Adams: Welcome back. Good afternoon.

Allan Lazo, Chair, Portland Human Rights Commission: I need my glasses first. I think i'm all right. Good afternoon. I'm allan lazo, the current chair of the Portland human rights commission. Portland rights commission and I'll stop here to say that there are several of our members here. I'd want to recognize them by having them stand in the audience. We're pleased to be here this afternoon to provide the community and the city council with our annual report. As members of the human rights commission worked this past fall with the creation committee to bring forward this new office, we often endeavored to define the relationship between equity and human rights. For me one of my colleagues best conveyed that relationship by noting that equity often is about those who have been excluded or denied opportunity or have not and are working to obtain equity. From a human rights perspective, we view each person, whether have or have not, as being endowed with certain rights as a human being, rights that we believe the members of this community feel are important to protect. In other terms, equity often has an economic imperative related to allocating resources and creating opportunity. Civil rights often have a legal imperative, protections under the law. Human rights are grounded in a moral imperative, often rooted in the desire to do what is right and just for all human beings. And so the work of the Portland human rights commission with its mission to eliminate discrimination and bigotry, to strengthen intergroup relationships and to foster greater understanding, inclusion, and justice for those who live, work, study, worship, travel and play in the city of Portland is grounded most firmly in these rights endowed upon all human beings.

Our work is very much in concert with the internally focused work of creating greater equity in the way the city does business, watching over the civil rights protection for the citizens of our community. Anytime you're asked to provide something like an annual report, you're afforded the opportunity to look back at where you've been as well as look forward to where you're going. The Portland human rights commission has embraced this role to watch over human rights in the city and to work toward achieving greater equity and inclusion. You'll hear from others about the work our commission is doing with portland police bureau to address impact to institutional racism in the bureau and about community partnerships we've formed to create space for dialogues and race and racism and to provide education about discrimination. Our work over the past year also has reached out to lift up the needs of some of our community's most vulnerable members, including foreign born victims of human trafficking. And we'll also leave you with copies of our latest work in that area. As you know, after this past year of negotiating this transition of offices and really understanding the need for all of us on this side and on that side of the dais, to acknowledge the different space being created for the incarnation of the human rights commission, one of the highlights for me was the commission's recently completed strategic plan. The encouraging aspect of this plan for me was how the aspirations of our current human rights commissioners match with the hopes and desires expressed in the 2008 framework for action report that helped reform this commission. We continue to use words like independence and autonomy as well as outline the afore named strategy, discovery, visibility, education and advocacy for our work to come. We'll apply these core strategies to continuing work in areas of human trafficking and housing discrimination. Reaching out to a broader community to describe how we can best create a city that is equitable, inclusive, just and free of discrimination. So to provide you with some additional information two of our subcommittees, I'd like to first introduce Emily gottfried who is the chair of our group community of understanding.

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Emily Gottfried, Chair, Community for Intergroup Understanding: Good afternoon, everybody. I am emily gottfried, chair of the committee for intergroup understanding. Cigu for short. Since we last made a formal presentation to all of you, our committee has held several exciting programs and have a few more great programs in the works. Last summer cigu presented a special program touchstones of hope, truth, healing, and reconciliation as a way to address historical drama. With keynote speaker, terry cross, founder and executive director of the national indian child welfare association. About 100 people attended the program, which also included roundtable discussions afterward. This year the human rights commission began a partnership with the race talks program. The race talks -- all of the programs were started by cigu members and human rights commissioner, donna maxi. The race talks events are held monthly at mcmenamin's kennedy school. If you haven't attended, you should. They're incredible, and hundreds of people come. Cigu and the hrc co-sponsored the april race talks program entitled occupy Oregon: A coalition of color. Just a few days ago, in conjunction with race talks, we organized and hosted two fasten your seat belt it's been a bumpy ride bus tours led by staff from the fair housing council of oregon. I know a couple of you have already been on those tours. Those tours were led by staff from the fair housing council of Oregon. The tours took participants through the city, highlighting locations which were historically connected to discrimination. Race talks followed up just last tuesday with a regular program on housing discrimination featuring a talk by human rights commission malai good. The HRC as allan mentioned a minute ago has now also formed a task force to work on housing discrimination issues. For the future, cgu has scheduled a mayoral and city council candidate forum for the evening of september 24th, and this event will be a conversation with the candidates regarding human rights issues. I want you to all mark your calendars for monday, december 10th, at noon, which is international human rights day. Cigu and the HRC will hold our first annual human rights day recognition event. This program will be a lunchtime event where we will recognize selected individuals and groups within our city who should be honored for their work on human rights issues. Through the committee for intergroup understanding, the hrc has support and been a presence at events sponsored by the urban league of minority voters, the center for intercultural organizing, the portland pride parade, and much more. Finally I want to -- in case you really want to be part of everybody else wearing a yellow button in the audience today, we created these buttons that say every human has rights. We hope they will be a symbol throughout our city to spread the word that Portland really cares about human rights. Is it okay for me to come up and hand those buttons to you guys?

Adams: If you would give them to karla.

Sawicki: Will you ware these? I hope.

Adams: Yes.

Lazo: Thank you Emily. I'd also like now to introduce commissioner hector lopez. He is the chair of our community and police relations committee. And he'll introduce assistant chief larry o'dea.

Hector Lopez, Chair, Community and Police Relations: Good afternoon, mayor, commissioners. It is good to be here. The community and police relations committee of the human rights commission of the city of Portland was formed in the year 2009 to assist the Portland police bureau in implementing the bureau's plan to address racial profiling. At that time, we were mandated by the mayor and city council to form a partnership and commit ourselves to work together to address the critical issues of racial profiling. In case you wonder why we were mandated to do so, other attempts at bringing together the bureau and community resulted in dysfunctional gatherings which did not lead to growth and development even though a lot of incredibly good issues were surfaced by that attempt. As we were mandated, we worked together to address the critic issues of racial profiling, and so we have and continue to do so, assuring that all the product that we produce is a creative amalgam of community and police bureau best work. The lessons learned from past efforts help us design the new committee by recruiting and selecting a

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balanced mix of members from the community, police bureau, and the human rights commission, five members from each of those groups. The members are appointed by the human rights commission and the committee work on behalf of Portland with the guidance of the human rights commission. All of our meetings of the community and police relations committee take place in various sites throughout the city of Portland. The leadership of the committee has been very intentional in modeling respect, learning, understanding, and dignity for one another. Although our first six meetings, seven meetings were fraught with tension, suspicion, and a lot of angst as people sat across from one another wondering what in the world are we doing here with those folks? We have come to build a unique committee where officers and community have come together to be informed, research issues, engage in deep discussions where differences are honored and have developed in the process policy, recommendations for improved services to the people of Portland. Paraphrasing Patricia Ford, member of the board of the Miracles Club, last night she said, by taking a risk of being open to new relationships -- and she was addressing the people around the table of the committee -- I now have a table of friends called the CPRC. The committee's mission is to bring together members of Portland's diverse community and its police officers to improve community police relations further an authentic community and police culture and to promote dignity, understanding, and respect in police and community interactions. With that, I now invite the chief to share with you the fruit of our labor to date.

Larry O'Dea, Assistant Chief, Portland Police Bureau: Thank you very much for this opportunity. I'm Larry O'Dea, and I'm one of your assistant chiefs and also a member of the community and police relations committee known as CPRC. I'm here today to express my thanks for your support of the human rights commissioners and specifically CPRC. CPRC's made up of human rights commissioners, community members and officers, supervisors and command staff of the Portland Police Bureau. I've been a Portland police officer for 26 years and a member of many different groups and communities over that time. One of our difficulties is in finding partners willing to engage in difficult yet respectful dialogue and to do so from an informed perspective. It's very important for the police bureau to have policies, practices and training to define what's important to our community. This can be difficult when discussing emotionally charged topics such as use of force and racial profiling. The CPRC has created an environment of trust, understanding, and respect. This effective relationship that allows the group to have genuine discussion around those emotionally charged topics and to do so from an informed perspective. Members of the group take time to learn why each of us do what we do, why we think the way we think. The group is then able to build understanding, change mind-sets, and make informed recommendations and changes. I feel like the work of the CPRC has just begun. We've worked on racial profiling issues, worked on issues created by community and local law enforcement and the immigration and customs enforcement. We did an in depth review of the Portland Police Bureau's use of force policy. Members took the time learn applicable laws, training tactics, learn the capabilities and limitation of the tools that were available to us. They went through scenario-based training in addition to table-top scenario discussions. The result of this process was thoughtful and informed recommendations that will help the police bureau's policies, practice, and training to be better in line with community expectations. The CPRC is currently working on our biggest project yet, a five-year equity plan. The work is entitled building community by understanding the diversity or our cultural experiences. Designed to educate, inform, change culture and issues of equity in all of our internal and external processes. This commitment goes beyond the plan to address racial profiling. I am pleased to have the office of equity and human rights and the director, Dante James, as a partner in this endeavor and director James has already committed significant personal time in this project with us. I look forward to the continued work of the CPRC and believe it can be very effective in many more areas for us. I see this committee as one of the most effective venues for creating healing, understanding,

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and promoting genuine respect and understanding in police and community relations. Thank you all.

Lazo: Thank you hector and assistant chief o'dea. In closing I just want to not that the information regarding the work of the human rights division and the office of equity and human rights work plan dante provided you earlier is really just a place hold, and there are more things we'll do besides those you see on the sheet. We appreciate that dante has left space for us to complete our strategic plan recently. We just gave copies of our plan to you, and we're working on the subsequent work plans in each of our areas of focus. Again, we greatly appreciate your continued support of this important work, and i'm always happy to answer questions or receive your feedback. Thank you very much.

Adams: Thank you. Congratulations good work. Keep it up.

Fritz: Do we have other folks to testify on this?

Adams: Anyone else wish to testify?

Moore: We have one more person who asked to testify.

Adams: Welcome.

Fern Wilgus: Good afternoon. My name is fern wilgus, and i'm here as a community representative. I came before you all when this office was first being initiated, and I spoke of my support of it. I'm here to also say I continue to support, and I hope that the recommendations dante has made with the time commitment that you all and your offices totally support it. I have a human resources background, and I know how much work and effort and heart work it takes to change not just actions but culture. It sounds like a lot of time out of your employee's day or month, but nonetheless i'm thoroughly convinced that what he's asked to carve out is just a minimum to make a cultural change, not just a practice change.

Adams: Thank you very much. Karla please call the vote.

Fritz: Mayor I have a substitute.

Fish: Second.

Fritz: Thank you. Just to let folks know and demonstrate how this is going to be a fluid and ever-changing document, I had a good conversation with joe zehnder in the bureau of planning and sustainability. And work was already underway in the office of equity and human rights to assist the bureau of planning in the ability to infuse equity principles throughout the comprehensive plan policy expert groups added another objective on page 21, and that's what the substitute does. So we'll have that up on our website later today for those who would like to see the details of that. It's exciting work. I move that amendment.

Adams: Unless there's further discussion, please call the vote on the motion to substitute.

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

Adams: Aye. Substitute is approved. Please call the vote on the substituted motion.

Saltzman: This is 836?

Fritz: Yes.

Saltzman: Thank you, director james, and everybody else who has spoken today on the plan the plan is an important thing for a lot of people including myself. I want to thank commissioner Fritz and mayor Adams for their leadership. I'm pleased to vote aye.

Leonard: Thank you. Aye.

Fritz: This is another beginning, another end, and continuing work. I commit to continuing to work hard in partnership with the community. I really appreciate how this room is filled with community members, with staff members, with a lot of folk who have put a lot of time and effort into helping the office of equity and human rights develop this work plan. It's good to know that we're going to be continuing to move forward together and good to know that we're going to make mistakes and that we're going to say things and do things that we question each other about and that we have worked through this far in the last two years and three years together, forgiving each other our

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mistakes and knowing that we are working towards a goal that we all share, and that is a more equitable Portland, a place where more people have opportunity to jobs and contracts and services in the city, more people feel welcome in our city. I greatly appreciate the work that's been done. I'm honored to continue to lead it. Thanks to dante james and the staff of the office of equity and human rights who have done a lot of that puzzling through all the issues. The Portland commission on disability and the human rights commission have been our partners for three years now. The new Portlander advisory council is newly formed and up and running, and our steering committee, which came from the creation committee and is going to be meeting tomorrow to finalize this proposal for bureau advisory committee so i'm amanda Fritz we do community participation, and we will continue to work together on these efforts, on this good work and the actions that will implement those goals we all share. Thanks to dora perry and sara Hussein and tom Bizeau in my office who share my passion for this issue. And my partner, mayor Adams, who has supported this work and who is establishing it so it continues to move forward next year. Aye.

Fish: Director james, I just want to thank you for your report and say how impressed I am with your early efforts. I've seen you speak at community events, and I think you represent the city and the office of equity very well. You have met with me and my colleagues on a regular basis to get our input on your work plan. We appreciate that. The Portland housing bureau is delighted to have you as a tenant. And if there was any doubt in your leadership skills, I would say that your decision to hire joe wahl as your deputy director seals it for me. For those who don't know joe or haven't worked with him, in his prior life, he assisted us in doing outreach, hiring, and other important tasks. I've worked closely with him on a couple of recruitments and he's the real deal, so congratulations on that hire. You asked us to make a few commitments. One of them was you wanted an increase in your budget already.

James: You can say yes to that.

Fritz: We didn't mention it, but if you're ready --

Fish: You have obviously my commitment and my bureau's commitment to participate in the equity team, and we look forward to working with you in that and to do the heavy lifting where you want to take us. Thank you. And thank you for your work plan. To our human rights commissioners who are here, thank you for your service and thank you for your good work. There's one minor suggestion I have going forward. To the extent possible, if we can avoid duplication of efforts, if there's an existing group of citizen leaders working on a task, I would hope that we would not set up a parallel system before we have a chance to engage them and make sure that they're doing the right thing. Lord knows we have a lot of work. If we start duplicating efforts, I think it's only going to become more complicated. To commissioner Fritz, who's been leading they have for the, I want to thank you for your work. This is unsung work, difficult work. Also she's at the same time running for office, and so she's got to wear a lot of hats. I really appreciate the leadership she's shown and the work and of course the mayor's commitment to this work. So thank you all for an outstanding presentation. Now the hard work begins. Aye.

Adams: Congratulations and a huge thank you to commissioner amanda Fritz who's just been doing fantastic work on this. It is new work for the city. I am very grateful to director james. You've hit the ground more than running. I appreciate your experienced but fresh look at everything that we're doing. I think it's really important. And your commitment to both innovation and sort of quantifiable results, giving people the tools to achieve them, is exactly what we need. I want to thank the folks of the human rights commission for your great work and working with us through the changes. Now with the stability of the buildup, the end of the beginning nearing, your ability to now go on and do the work. I've got suggestions for you of things you want to look at. They're only suggestions. If you want to meet with me, I can share them with you. Just ideas. And let's see. What else? There are folks on my staff I mentioned before. I'd thank them again. They've been a key part of staffing our collective efforts. I'm very pleased to vote aye. Congratulations.

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[applause] we're taking a five-minute break, because we have a time certain at 3:00. We'll reconvene at 3:07.

Recessed at 3:00 p.m.

Reconvened at 3:08 p.m.

Adams: City council will come back to order. If you could find a seat and sit in it. Were about to come back from recess and considering item number 838. karla please read the title resolution item 838.

Item 838.

Adams: In the Portland plan, when we talk about being a prosper rugs, healthy, and equitable city, the equity is infused into the first three of those goals. First among equals is giving every Portlander an equitable access to economic security. Government exists to serve the people, and the city government exists to not only serve the people but to also serve as an example, and so the work that has been under way constitute actions that were initiated before the creation of the office of equity but have definitely been infused by the early work of the office of equity since it's been up and running. It also is the result of court cases. If you don't know the crosan decision and the required crosan disparity study that is a law of the land as it pertains to government procurement, your life might be better in some ways, but it also is necessary to note of those court cases in order to fashion here in city government and in other governments a legal processes for seeking equality in opportunity with city contracting programs. Our disparity study was completed under the leadership of commissioner nick Fish and a group of citizen advisors. These are very complex legal studies, and the results of which help to shape and in some case dictate what we can and cannot do in terms of tools that we can and cannot employ to bring equity of opportunity in our procurement process. So today you're going to hear about our proposal for moving forward under the staff leadership of procurement director, christine moody, and a group of public and private partners has come forward with some changes and reforms as to how the city does business. We're going to be looking at the early results of an equity initiative that was put forward by commissioner randy Leonard known as the minority evaluator program report, and we'll be hearing from the folks in the office of management and finance, and we'll also hear about what we call the high road results from the clean energy works program, a nonprofit created by Portland city council. There are some significant changes in what we'll have before us. There are two reports, one on the minority evaluative program, one on clean energy works, and we'll also hear from worksystems inc and another partner that we have that focuses work efforts on the underemployed, the unemployed, and youth. With that, i'm very pleased to introduce director christine moody from the bureau of procurement.

Christine Moody, Chief Procurement Officer: I'm christine moody, the chief procurement officer here at the city of Portland. I'm very happy to be here today. This has been a long process starting with the disparity study in 2009, getting here before you with recommendations. With that, I will start on the background. On june 22nd, 2011, city council adopted resolution 36868 directing the procurement services division to work with the fair contracting forum and city bureaus to review the guidance provided by the 2009 disparity study and bring forward recommendations that will expand and strengthen the city's equity contracting programs. As way of background, Portland city council created the fair contracting forum to support and promote accountable, transparent, fair, effective, and efficient contracting practices. The fair contracting forum meets on a regular basis and over the years has touched on many topics pertinent to the contracting community. Last august, mayor Adams kicked off a disparity study implementation project that brought together various community stakeholders, including contractors, consultants, members of the fair contracting forum, awami, namco, Columbia pacific buildings trades council, nuca, native-american chamber, agc, and

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others to for workgroups that would focus on the five programmatic areas of workforce training and hiring, good faith efforts, prequalification, a new prime contractor development program and professional, technical and expert technical services. The proposal that is being presented today for the five program areas are reflective of the recommendations from these community work groups. In total, there were 85 participants and over 40 meetings held over the last 10 months. In addition, the resolution called for expanded and improved outreach. We have conducted seven outreach events, reaching over 200 consultants and contractors and have included over 35 bureau representatives and five general contractors. The new focus of these types of events are to learn about specific projects, giving a chance for businesses to connect with the city project managers and ask direct questions about scopes of work. Small business are also able to network with larger general contractors to seek out partners subcontracting opportunities. In working with the bureaus, there has been a concerted effort into keeping the construction and pte forecast calendars up-to-date.

As a result of the expanded outreach, both calendars have been averaging over 7000 views a month. Through the liaison group, procurement services has been working with the construction bureaus on identifying projects early on that may lend themselves to a cmgc process that will allow for the city to negotiate an mwesb subcontracting plans. Working with facilities in the fire bureau, the fire station 21 project was identified as a good candidate for the cmgc during the design stage and has been written into the contract with the design firm. The rfp for the cmgc is currently out on the street with proposals due July 25th. One of the recommendations is the business equity performance recognition and a way to recognize city contractors based upon past performance on city contracts in the areas of minority, women, subcontractor utilization, and minority and women workforce percentages. Information will be collected at the end of each project as a type of report card. Contractors will be ranked, and there will be awards given out annually for top performers. The city will establish a 27% aspirational goal on city funded construction projects for apprentices and journey level workers. 18% minority and 9% female, these goals will be reviewed on an annual basis. This is in addition to the existing 20% apprentice goal the city already has as part of the original program. Contractors will be required to submit a workforce plan on projects \$200,000 and over. This will include how the contractor plans to achieve the workforce diversity goals and any assistance that may be needed from the city, union shop, apprenticeship or preapprenticeship programs. We will implement a post contractor project report. The final report will include mwesb subcontracting utilization, apprenticeship of mwesb-certified firms will be used with low-bid solicitations based upon mwesb marketplace availability. Marketplace availability will be calculated by the city on each project before a bid is issued. Working with the office of equity and human rights and the city bureaus, internal criteria and a review process will be established for construction projects in order to foster greater opportunities for small businesses by unbundling projects or using an alternative contracting method like a cmgc.

Adams: One of the frustrations was the federal requirements and the Croisan disparity study is it doesn't require governments to establish expanding the number of firms that are available, and it doesn't measure that. So part of what you and I have talked about as well as to continue to feed -- to continue to track the lack of availability and to follow our efforts -- and this is a key issue when we do not find contractors to bid on the work, even bidding on the work, that the efforts are in growing, in some cases getting new contractors up and running in some of the areas that we don't have available contracts is going to be part of this effort as well.

Moody: The city's prequalification process has been identified as a barrier for doing business with the city. As a result changes to the prequalification program will center around consistent evaluation criteria by all construction bureaus and justifiable evaluation and review throughout the city. Currently the city asks contractors to renew the prequalification annually. We will be moving to a biennial review and renewal. The prequalification applications is now simpler and web based and can be submitted electronically. There will be an increase of the general prequalification limits to

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\$250,000 from the current \$100,000, therefore allowing contractors to bid on projects up to \$250,000 without going through the prequalification process. With the economic downturn and less construction over the past years, it was recommended by the community work group that the city broaden the project experience within the last 10 years. There will not be an automatic reduction in the contractors bidding limits unless there are documented performance limits issues and the contractor's bonding has been reduced. This change would need to be approved by the chief procurement officer and the city attorney. Specific project special prequalification will be required to be evaluated and approved by the chief procurement officer before being applied to any project. Lastly, with the passage of this resolution, we will move forward with city code changes for prequalification approval by city council.

Adams: Can you also talk about the expanded eligibility of state prequalification as also being accepted as city prequalification.

Moody: We are working on coordination with the bureaus and coordinating with the state, Oregon department of transportation, about their qualifications and how they look at prequalification and if that transfers over to at least our transportation projects.

Adams: So we have great confidence that the prequalification at the state level on transportation projects, having dug into it in the last couple months, will indeed serve as prequalification for city transportation projects?

Moody: As of October, 2011, the sheltered market program is no longer in existence. There will be a new prime contractor development program. This program will consist of four tiers with construction projects up to \$1 million. The new program will be for those contractors that hold a state of Oregon mbewesb certification and are licensed and willing to commit to work as a prime contractor in the areas of sewer construction, water construction, street improvement or building alteration and building construction. Contractors also must be able to provide the necessary financial statements to a third-party consultant and be found financially solvent to be admitted into the program. Realizing that access to capital can be a barrier for minority and women-owned businesses, we will collaborate with our partners about funding and financial assistance available to them. Program applicants will be evaluated by a selection committee that will include community representatives and city staff. In addition, the city will also evaluate and determine that the certified firm performs a commercially useful function. In tier 1, contractors will compete for projects up to \$150,000. The city will provide project-specific technical assistance, basic training on standard specify cases, scheduling, contract close-out, bidding and estimated assistance. Tier 1 will be limited to certified firms that have gross annual receipts of \$1.1 million or less a year. On tier 2, contractors will compete on projects between 150 and \$350,000. As part of tier 2, participants will be required to complete a 10-month business development course. The business development course is connected to Portland State University and will include course work in the areas of business demographics, job creation, revenue, financing, government contracts, new customers, marketing, and community involvement. Tiers 3 and 4, contractors will compete on targeted projects from \$350,000 to \$1 million. These tiers are intended to roll out in two years in order to allow for program participants to develop business skills and move through tiers 1 and 2 of the program. Working with the office of equity and human rights, we will establish mechanisms to track the success of minority and women program participants, set the goals for participation, and metrics program performance. The formal dollars threshold for pte rfps is currently at \$23,662. Increasing the dollars threshold to \$100,000 will allow for targeting of contracts to certified mwesb firms through the informal solicitation process. Increasing the dollar threshold will allow for direct contracts with mwesb firms will allow bureau project managers to contract directly with these firms. This simplified procurement process will encourage the use of certified firms and allow for negotiation of project approach and cost. Contract awards will be reviewed periodically to assure that work is being distributed equitably. The work group identified some challenges with the city's

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current rfp language stating that it's not clear to proposing firms. The aspirational goals favors esbs and scoring mechanisms are unclear to evaluators. An aspirational goal will be included for mbe, wbe, and esb firms and the rfp language will be adjusted to break out the criteria into sub categories making it clearer for proposing firms on what is being asked for in their response. We will also provide a clearer scoring guideline to proposers and selection committee members. An online directory of certified firms will be created to assist bureau project managers in finding certified firms. The directory will provide more detail about a firm's experience, expertise can be found on the state of Oregon's website, making it easier for project managers to establish direct contracts and solicit responses to informal rfp's. On December 16, 2009 city council adopted resolution 36757 that requires inclusion of at least one minority evaluator on all panels that review and award city contracts not based on lowest bid. This applies to all formal rfps. The goals of the program are to engage diverse members of the community and to the city of portland's evaluation and contractor selection process. Provide transparency and build relationships between city bureaus, business partners, and the community. The city partnered with the alliance of minority chambers to develop outreach efforts, create a website and database, and internal and external training sessions. To date, people of color have participated on 250 rfp selection panels, and the database includes over 370 minority evaluators. Although the intent of the program is to create transparency for city processes, we have found that it has provided businesses with a more comprehensive understanding of how proposals are written and submitted and some additional insight into the city's evaluation process. As you can see from the exhibit a report, the benefit has been increased participation on city ptc contracts from mwesb firms. In fiscal year 11/12, the city had 15.12% mwesb prime consultants and 80.74% in subconsulting. Comparing this to data before the program was implemented, there is over a 5% increase in prime contracts and 38% increase in subcontracts. Over the next few years, we will continue to work on additional recommendations for the study. I'll turn it over to council if you have any questions, and we also have members of the community here to testify.

Adams: We'll have christine stick around. If council wouldn't mind having folks come up? Because they'll fill in additional information before we have questions and answers. Where is my group of folks? Jeremy, could you come up and talk about Oregon clean energy works? Wsi, come on up. Thank you.

Jeremy Hays, Board Chair, Clean Energy Works Oregon: I'm Jeremy hays, board chair, clean energy works Oregon. For my day job I work for a national non profit called green for all which is dedicated to building our green economy--

Adams: Jorge, is Jorge here? come on up. Excuse me, please continue.

Hays: Thank you. So thanks for having us in to present. I want to give you some background on a truly extraordinary project that I think is advancing equity in the regional economy and is serving as a national model for how to advance equity within public private partnerships, economic development initiatives and sustainability initiatives. I think the city has a lot to be proud of in clean energy works Oregon. This program started as clean energy works portland a city wide pilot that has expanded into a statewide effort run by nonprofit which you all set up and chartered. The purpose of clean energy works Oregon is to bring together contractors and workers, home owners, lenders to advance home energy upgrades. Make homes more energy efficient and comfortable. Since the beginning of this project, clean energy works is a city pilot, clean energy works Portland as a statewide entity has facilitated the energy upgrade in over 1,800 homes across the state. We've gotten paychecks to 800 workers. 56% of the hours performed have been performed by women and people of color. 17% of all of the dollars that have flowed through clean energy works have gone to minority and women owned firms. We work with about -- a few dozen prime contractors and a number of subcontractors that deliver this home energy upgrades across the state. When we started this work at the city started this project and got together with community members, said we want to make sure that as we do this energy upgrade program we have equitable impacts on the regional

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economy and that we're inclusive of who gets business opportunities and jobs off this. We looked around and said how many contractors are out there are that can do this work that are certified minority and women owned contractors. Across the state there was one. We had our work cut out for us. We had an ambitious goal of having 20% of all the contract dollars in this project flow to historically underutilized firms like that. So we have been able to make really impressive progress. In my regular job I work with programs across the country and I can tell you that 41 cities and states across the country have divvied up about half a billion dollars in energy efficiency block grants from the department of energy which is some of the money that were using at Clean energy works Oregon. Clean energy works Oregon is a project you started far and away is the national leader in delivering a comprehensive and focused equity strategy to the use of these dollars across the country. I want to say two things that we have learned in the course of this work that may be useful as you go forward with the equity contracting strategy for the city at large. The first was we have to work closely with our community advocates. We passed a policy that said we have goals to achieve these hybrid outcomes, we know some strategies that might help us get there. Then we sat down and mayor Adams appointed a stakeholder evaluation implementation committee. We met monthly with members of community groups, labor unions, with contractors, job trainers, with representatives from agency procurement services, bps, energy trust, wsi. We worked really hard not only to not just walk away from a policy pass but to make sure every day we were looking at what was happening, we were improving, making adjustments, making sure we were achieving the out comes we intended to when we passed the policy in the first place and set up the organization. The second point is that data is absolutely critical. As you talked about earlier today here, all of the policies and strategies only matter if they produce out comes at the end of the day and we've done a lot of hard work to track the data and keep our eyes focused on who is getting the contracts, which businesses are growing. Which workers are finding living wage jobs in this effort and how is it strengthening our regional economy. That's been the guiding light for us. Everything else is just a way to get there. Thanks for the opportunity to present.

Adams: Thank you.

John Gardner, Director of Business Services, Worksystems, Inc.: Thank you, commissioners and mayor. I'm john gardner, director of business services. In that capacity I have the honor to focus on the construction industry which a-- construction apprenticeship and work force solutions. Cause has been working as a stakeholder group focused ongoing increasing participation of women and people of color in the trade. It's exciting to sit next to jeremy and think about how clean energy works has been a proof of concept the model ever setting goals and meeting those goals through public-private participation. Specific to the work of the disparity forum I had the honor of serving with kevin katie and co-chairing the committee. Our charge was to look at the city's current work force training and hiring program and look add ways to strengthen and expand that program. We couldn't do it alone but the city sort of organized a terrific ensemble of many otherman sup al partners. We had Portland housing bureau, city of Portland staff, pdc, home doors, building trades, the carpenters were part of the committee. Obviously we had a few construction companies as well. We began a six-month meeting and work group process to really look through the current stabbing of the program. We looked through performance, we conducted stakeholder interviews and did a 200 contractor survey to hear what was working and what wasn't within the program. Work force was not one of the targeted areas of the original study but because of information that we saw through reports that over 75% of women or people of color entering into registered apprenticeship were failing and our work force in the construction industry was not keeping pace with our general demographics. Over the course of the six months we were able to develop recommendations for the city to consider under program goals, program operations and just over all program considerations. We feel very excited at what this resolution represents in terms of a first step around ensuring construction pathways are more inclusive. We think that a qualified apprentice turns into a

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qualified journeyman level work they're can turn into a qualified and competitive business owner. It's all part of the process. We believe although this is a good first step, it's just the beginning step of what we hope is a formal community benefit approach to public contracting moving forward. Having said that, it's a great first step and it speaks well to the mission of cause in many other community based organizations. So thank you.

Adams: Thank you for your great work.

Jorge Guerra, President, Oregon Association of Minority Entrepreneurs: Good afternoon. I'm Jorge guerra. OAME have been around over 25 years and have been providing support services to minorities, women and small businesses. Currently we have one of the largest contractors architects and monthly we meet to see what's going on in the industry, how they are performing, who is getting contracts, who is not getting contracts. We work with education and private sector and public sector and I can say that for me to be participating was a privilege. Being able to have input and see how the industry was trying to work better with contractors. On behalf of the OAME chairman of the board and the members which I -- the support is not just for an organization. We want to recommend the resolution. The approval will enhance the participation of minority, women and emerging small business. So that's the impetus to do that. Lets keep going and working together so we can have good results.

Adams: Thank you for your participation. We're going to have three speakers talk about the minority evaluative program then the last invited testifier will be dante james. So Roy jay, kate simmons, niel lee. Is there anything you want to say? Come on up. Mr. Jay would you like to begin.

Roy Jay: Ladies first. [laughter]

Adams: Kate?

Kate Simmons: Thank you for the opportunity to speak today. I'm kate simmons. I'm a personal financial advisor from a firm downtown. I have lived in Portland since 1995. I'm a transplant from a very small community in northern canada and I moved here with my young daughter because I wanted to live in a community where diversity was embraced and inclusion was the life-style. While I believe we are still a work in progress I believe Portland is that city. When I was asked to participate in the minority evaluative program I had no idea what I was getting into. I hadn't yet combed through responses, resumes and references from companies around the country who were looking to do business with our city. And hadn't worked on trying to distinguish potential from ability and most importantly I had not yet worked to try to find new ways to create accountability for diversity and inclusion in industries like mine that really don't have that as their legacy. Since working with the program I have done all those things and much, much more. I have been learning about the city's goals and steps that have been taken to achieve those goals. I have been included in many conversations and seen the dedication of the staff and volunteers who work on the program. I have had the opportunity to speak with members of the community about the procurement and contractor word process. There are a lot of people who are curious about how it works and have not yet participated, so it's been an interesting process. I do plan to continue contributing my time in support of the program. It's my belief that by doing so I support equity in this process, and I just want to thank those who created and support the process, all of you commissioners, mayor Adams, roy jay, tiffany all the community. For everyone who continues to try to work to make Portland a better place and a place that we can be proud to call home. I thank you very much. Your efforts are much appreciated.

Adams: Thank you. Sir?

Neil Lee: I'm neil lee. I am born and raised in Portland, so i'm a pure Portlander. Thank you for having me today. I'm very honored to speak in front of you. My firm is also -- the name of my firm is leeka architecture and planning. I'm an architect. I have my own small business. It's a minority business and I intend to grow it. Hopefully with these programs this should help. I was involved

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with the minority evaluator program for probably a couple years now. I have done a number of reviews, proposals. I believe in bringing individual -- I have done this program, and there's some positive things about it. One is being inclusive and bringing outside entities alongside the city individuals to review these programs. It makes it more equitable and fair. On my personal side as a business owner, I also -- I get to see the inside how these proposals are being viewed, how they will be scored, and how they are written. That is a plus for me because I personally go after these proposals on the other side of the table. With that understanding from the other side, I'm able to understand how to write a better proposal. The other positive impact on that is that being there it's also a networking and p.r. thing. I meet these project managers at the city. I meet fellow reviewers and I find a synergy with that and it's positive for opportunity. So I guess in retrospect I would say that I would like to have that keep going. I really endorse it.

Adams: Thank you.

Moody: Mr. Lee was also involved with the professional services work group and had been a member bringing forward the recommendations that I had presented to you a little while ago.

Adams: I know it's a big time commitment depending on what contracts you're working on, so underscore our thanks for your willingness to volunteer your time. Thanks.

Roy Jay: Mr. Mayor, council, this is exactly what he said. This is a whole purpose of this minority evaluators program. When we started this in 2009 small idea and these two commissioners were up at midnight, 1:00 a.m., we were collaborating back and forth, everybody else got on board some folks said it's not going to work --

Leonard: Separately? I want that to be clear.

Jay: Okay.

Jay: Different email. Randy is on medication. Forget him. [laughter] anyhow, we came a long way. I just really want to give credit where credit is really due. It could have been a great idea when it first started but without a good team coming forward and the commissioners stepping forward and all this late night collaboration, it was actually the work of christine and especially tiffany, who hit the ground running and all the folks that you gave to us help participate, and also the fact that people like mr. Lee and everyone behind me sitting on one of these panels at some particular time is what has made this a great program. This is just the beginning. We have 370 people. We hope to have 500 before the end of the year. We built it and it started to grow. We still maintain the database and everything else is very proprietary for folks to understand. This like jury duty. People are spending their time to come for three days, three hours, whatever it takes. Some evaluate it from home. The whole purpose was not to have at least one person of color but at the same time people like mr. Lee say he has had a chance to see a successful proposal and it sharpens his skills to be competitive. So thank you. It's working. Let's move on to a better Portland.

Adams: Thank you very much.

Jay: There you go.

Adams: I would like to underscore our thanks to not only christine but tiffany, just done a great job. Thank you. [applause] our last invited speaker. Dante james. How many people are signed up?

Moore: We have five people left.

James: I thought you couldn't applaud.

Adams: Only when the mayor says you can. Yeah. [laughter]

Dante James, Director, Office of Equity and Human Rights: I'm dante james the director of the office of equity and human rights. I appreciate the opportunity to come and provide some comments and support for what the office of procurement has put together. The proposal you have before you is a proposal that allows for continued flexibility and growth and improvement. I have been in numerous meetings with christine and Bryant enge on how to think outside the box and make improvements and I must commend them for their desire and their willingness to put up with me and my thinking outside the box and offering alternative suggestions and new ideas, maybe old ones

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thought about differently. It's a difficult job. I did this in denver. I used to tell the mayor, you owe me hazardous duty pay because nobody was ever happy, it was either too little or too much. To find the balance, work well with communities and with contractors and within the confines of legal issues and concerns, it's difficult. I believe we are continuing to move and work on behalf of improving the numbers, which is what we're talking about. Improving the ability to get contracts and dollars to minority and women owned businesses and grow them and grow this program. So the minority evaluator program is an excellent opportunity. I think the opportunity to utilize the alternative contracting method more where there are more selection panels is a great opportunity to increase those numbers. So just something that may come down before you more and more instead of just purely low bid for some contracts. Anyway, I just am here and I appreciate the work they are doing, the difficulty of doing that job. Thank you.

Adams: thank you Director. All right we'll go to our folks that have signed up.

Moore: First three please come on up.

Adams: You don't want him to be lonely? Good thinking. Welcome back.

Melvin Oden-Orr, National Association of Minority Contractors: Thank you, always a pleasure. Mr. Mayor, council persons, thanks for this time. I'm melvin oden-orr, counsel on behalf of namec oregon. We wanted to support -- the comments are specifically toward the new contracting program. First I want to say how hard that people in procurement, christine moody and her staff, have been working with fair contracting firm which I have been involved with over the years in making these -- coming up with these recommendations. But I just wanted to take a moment and talk about just a very short story to remind you of how we got here. Short version. Last year, you may recall, the auditor's report related to the sheltered market program. One of the things that the auditor pointed out was the origin was related to the 1995 disparity study. That ordinance was originally suggested the purpose of that program was to address and rectify the disparities for minorities and women. Fast forward last year we had the disparity study that came out that talked about in the absence of city efforts that there continues to be a disparity for minorities and women. What I want to say on behalf of namec Oregon is to the greatest extent possible to ask the council and procurement to heed the words of the auditor, to heed the words from the disparity study preparers, even though we questioned the completeness and accuracy of the disparity study, one thing they pointed out was that the city should consider implementing a program that is focused on minorities and women. We would encourage you in that effort. I think that's all we want to say.

Adams: Welcome.

Steve Dukart: I'm steve dukart. Thank you, mayor and commissioners. I would like to ask permission for a few of my fellow nuca members to come stand behind me as I speak to you today. Is that okay?

Adams: No.

Dukart: Okay. All right. Well like I said, i'm the chapter president. Nuca members including roy moore with moore excavation perform a great the city's excavation and utility work. We're proud to provide quality work that maintains and improves the standard of the environment and life in Portland at competitive prices. Nuca would like to thank you and the city staff for all the hard work on equity and contracting from commissioning, developing and publishing the most recent disparity report to considering appropriate ways to address disparities found in the report through preparing and presenting today's resolution. We would also like to thank you and the city for the opportunities the public has had to be involved in the process. I have been honored to participate as co-chair on the new construction program, the small business construction program. Nuca executive director Melinda daily, vice president john calcoven and board member matt warrington, have all been honored to participate on the fair contracting forum and the subcommittees for good faith efforts and prequalification programs. We want to thank all the other fair contractor forums and subcommittee participants as well. We all know that the process does not end here with today's

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resolution. In fact the city staff will have a great deal of hard work to do to implement today's resolution with concrete and substantive programs that appropriately ensure equity in contracting. Nuca is particularly pleased to see the resolution before you today calls for continued fair contracting forum participation in the process of implementing what today's resolution orders. Nuca and its representatives are looking forward to continuing in the participation and the process. We're certain that together nuca, city staff and other stakeholders can implement today's resolution with concrete, substantive programs that ensure equity, maintain quality and keep costs to the city's rate payers at a minimum. That is our hope and our expectation. Based on that, nuca supports today's resolution.

Adams: Thanks for your testimony. You can ask your members to raise their hands. Thanks for being here. Security won't let me do what you asked.

Dukart: No problem.

Adams: Mr. Posey.

James Posey: Thank you very much, mr. Mayor, other city commissioners. I'll try to be as brief as I possibly can. I just want to call your attention to a couple things. I was not privy to the referendum or had any participation really in the design and/or contribution to how this document came about, but i'm one of those folks who have the benefit of history, and looking at this meeting today I went back and looked at some of the letters from the old namco 1996 to mayor katz - [audio not understandable] the previous disparity study. I looked at the current referendum proposal and there are some constants. One is the focus. The focus on this document you all are presenting. Is focused on the minority contractors as being the problem. The training, the tears and all this stuff the focus has always been minority contractors are the problem and why we don't have more minority contractors is minority contractors as opposed to all of the nonminority folk who get these meetings or contracts, million dollars worth of contracts every year and their accountability in terms of how they include people in their work force and their programs. So the focus has always been trying to minimize people who have resources to really do something and focus the blame as it is on the minority contractors. Secondly, there's intervals. I looked at the intervals on this particular program, and it's always annual. You're going to review the program annually. These political cycles, some of you will be elected and reelected, and there's a continuing problem then it will be in someone else's administration. You won't have to deal with it by looking at these programs critically annually. I have watched this over the last 15, 20 years of how we want to slow roll these programs and really I hold people accountability rapidly and successfully ongoing. Excuse me. I got my notes on an i-pad. Aren't i-pads wonderful? The other quick thing is compliance. I notice there was nary a word about compliance. No policemen on the ground. No one really looking at this in a critical way. There's no community participation in terms of ongoing -- I was listening to nuca and the other folks talk about their success in the programs but really when you look at it you'll find there's no compliance. There's no real attention to that. Finally, I see the buzzer going off, it's profitability. Everybody is going around patting everybody on the back, but at the end of the day minority contractors and these proposal is not going to work toward making sure the minority contractors have any profitability.

Adams: Your time is up, sir.

Posey: Social programs. It's about making money.

Adams: Thank you for your testimony.

Fritz: I have a question. Mr. Posey, in your opinion does this resolution move it forward, take us back or leave us in the same place?

Posey: Well, honestly I think we're repeating history. I have been here since 1997 and there's little tweaks here and there, but at the end of the day there's not much here substantially to be right candid with you. I know a lot of people disagree with me, but that's my opinion.

Fritz: I wanted to know your opinion. Thank you very much.

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Adams: The next two.

Moore: Maurice raymond and tony jones.

Adams: Welcome back.

Toney Jones: Thank you. Good afternoon. I'm tony jones executive director of metropolitan contractor improvement partnership. Our mission is to provide business capacity focused on historically under-utilized businesses to help them grow their businesses, make a profit and provide strong contractors for the industry. As a director of mcip, I do not report to resolution one for a specific reason. The reason is that the disparity study pointed out discrimination still does exist in the city of Portland and in the contracting community. That it has an impact on the available and utilization of contractors. It does not speak to a overall city-wide goal for mweb participation. That is really what is needed to set a clear message throughout our city that you're serious about really addressing race and gender equity. We cannot address it if we do not set race and gender specific goals. Good faith effort, race and gender neutral goals do not get us there because we have ducked it for many years. I can see what can happen. We'll identify certain projects, we can't do it because the scope, not minority-women contracts. There's a lot of reasons certain contracts will be exempt because we believe that there's no capacity in the community to do that work. Unless we set clear goals across the board that every bureau, every project, look closely and carefully how we can have that participation, particularly at the prime contracting level, setting that as a goal, that's what we will need to continue to move forward. The reason why clean energy works did have success, it did set that goal initially from the beginning of their 20% minority women contractor participation and their minority women. That set the standard from the beginning that everyone on the team knew what they were shooting for, what they were striving for. Still that's not clear through this resolution. So I believe that the economic and race and gender inequity facing this community should be driving the resolution and then we should be using our legal resources to support that resolution and not be driven by the fact that we're concerned about a lawsuit and not having race and gender hard specific goals for minority and women participation. Thank you.

Adams: Goals, you mean set-asides?

Jones: If you want to call it set-asides, that's fine. I know there are legal issues. I believe you could maybe set a city-wide aspirational goal or target that you could work toward --

Adams: When it says 20% aspirational goal.

Jones: That's for workforce. I'm talking about on the contracting side.

Adams: Okay.

Fritz: I don't understand the difference.

Jones: The difference is the workforce side is for workers, minorities, women, apprentices, pre-apprentices making sure they have a job. I'm talking contracting dollars on the contracting side.

Adams: On the contracting side we'll have christine explain, but the group worked through and to be able to set that for every single project is the requirement as opposed to --

Jones: For a specific percentage? Overall percentage on the contracting side? I didn't see that.

Adams: It was part of her presentation. Were you here for that?

Jones: I was here for most of it and I read the resolution.

Adams: We'll have her reiterate that again. Thanks for your comments. Appreciate it.

Maurice Rahming: Thank you, mayor and commissioners for having me here. Thanks for the courageous conversation. Maurice Rahming, president of o'neil electric. I was in business for over 14 years. Done over \$10 million annual sales, had over 60 employees. We currently are based in the city of Portland. Southeast Portland. Equity to me means closing the gap. The disparities identify only less than 1% of the dollars the city spent for procurement contracting went to all minorities. The actual number is .6%. But there was some ethnicity that had zero over the study period so they didn't have one contract or if they did it was so minuscule it didn't registered on the disparity study. One of the things that I would like to see that we continue to keep the focus in on is

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having those clear outcomes. Whether or not you're going to set annual benchmarks, have monthly reporting back to this body so we can then track the results or the lack of results, however it is, whatever it turns out, so we can make clear midstream decision changes. That's one of the things clean energy works was able to do. It's able to look at what was going on not only on a weekly basis but a monthly basis and make those corrective changes that are needed to make sure everyone is included and participating in the program that wishes to. I think the other thing the city might want to consider with the fair contracting forum is to make sure there's more minority contractors participating in the program, not just people of color. I think the contractors are the ones that are most affected by the decisions that are made by this body, so therefore making sure that they actually have a voice in the fair contracting forum that they are over-represented in one sense so you can have a clear hearing of their voice so it's not gone silent. I feel that will also help increase the utilization numbers. The other -- one of the last things I have is as a minority contractor, what I would like to see is for minority contractors to have an access to the programs. No program should be excluded from minority contractors by a select group or select body choosing whether or not we can participate and saying, you're in, you're out, yet saying we welcome all minority contractors that either have the insurance, licenses and bonding to do the work, being able to participate. We're not looking for a handout. We're looking for the opportunity to bid. If we have the opportunity to bid I feel these numbers will increase. So to look at programs and having those opportunities and also having the opportunity to bid that's all we're asking for is the opportunity to bid. Thank you for your time.

Adams: Thanks for serving on the forum. We really appreciate it.

Saltzman: Maurice, you said something about the fair contracting forum did not have sufficient minority prime contractors? Is that what you said?

Rahming: The fair contracting forum has a lot of special equity groups very crucial to the city. But the thing is we're talking about contractors, talking about minority contractors most affected. You would think the majority of those people in that room are minority contractors, so the results and the information you're receiving are from the people that had boots on the ground, so to speak, so you know this is what we're going through on the ground, not just saying, okay, whether these groups think what these people are thinking.

Saltzman: You're saying presently minority contractors with boots on the ground are not sufficiently represented?

Rahming: That's correct. I would say that the representation is extremely limited and narrow in its -- there's one person that's on the fair contracting forum that doesn't even live in the state any more.

Saltzman: Thank you.

Fritz: I have a the same question. Do you think this is a step forward or a step back or doesn't move us at all?

Rahming: I think that it's up to the council and the mayor right now. I think if you monitor it and you look at it and say, okay, where are we a month from now, two months from now. Is this an inclusionary process. I think it can be a step forward and or it can be another restriction that pushes us back. It depends on what follows.

Fritz: Thank you.

Adams: If you would come up, the work that the group did was inspired by two successes, one, clean energy works which works basically with a near single industry, and having helped set that up, and continue on its board, what you heard from jeremy is that they took responsibility for building capacity because it didn't start out with much. That's why when the slide talked about the reporting on a case-by-case basis or a contract by contract basis, it's important to me that the bells go off when we don't have capacity. That we work on building that capacity. So that was -- and clean energy works Oregon did that in relatively short time period. Our expectations of bureaus and

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of this effort that that would happen as well. The other touch point of success is trimet. Trimet evaluates on a contract by contract basis what the availability is and sets very aggressive goals on a contract by contract basis. Over the years I have had a lot of positive feedback about the way trimet contracts as opposed to the way the city contracts. The last disparity study had those across the board goals. It didn't work as well in my opinion as the trimet efforts worked despite a lot of effort and a lot of good intentions. So we are radically changing the way that we're approaching our efforts at contract equity by adopting sort of the two local most successful models, the expectation that it is not just about, oh, the city. There isn't anyone available, so like the disparity study you get to check the box. Our job will be now to go out and grow, to grow that availability, and to be able to sit down with what the state calls alternative contracting what I hope would become a primary mode of contracting, not necessarily low bid or -- but instead to have very robust cgnc contracting processes. This is how trimet has had the success that it's had.

Moody: I agree, mayor. Specifically you're talking to our subcontracting piece which we call the good faith efforts. As opposed to how we currently do things we have an over all city-wide aspirational goal of 35%. Looking at our numbers for that, we met 36% last year for our subcontracting under our good faith efforts program, but the new program that we're looking at implementing is a project by project availability approach, so to look at a project scope, look at what types of work is in that project and then doing an availability analysis. The other part is as you mentioned, working with our partners, organizations like awami and mamco, other organizations that have memberships of minority or women contractors to get the availability to where we can increase those percentages on our contracts.

Adams: The other accountability when I look back -- I too have been around at least on this issue since 1994, 1995, with these reforms you're looking at the person responsible for delivering the results and her boss is sitting over there. She is going to be empowered to tell bureaus no. And that means no exemptions from the pre-qualification for things that bureaus seek to get exemptions for and on a project by project basis, for pre-qualifications or anything else, christine moody is vested with these reforms and the ability to create administrative rules, which is also a best practice of trimet so that the administrative rules can be nimble. Christine moody is responsible for making sure that everyone else that does procurement in turn is responsible. That has not happened before. Everyone has gotten to hide behind city-wide goals, and oh, they are in charge. The frustration you hear from folks is incredibly legitimate. We now know who is in charge. We ultimately are in charge, but on the staff level, you will get complaints from your project managers, members of the council, because christine's going to demand a level of quality in the efforts around equity that -- she's vested with the power with this resolution that no procurement manager has had before.

Moody: I think dante said I get hazardous duty pay for that.

Adams: You need a flak jacket.

Saltzman: I just wanted to follow up on Maurice's point about lack of minority contractors on the fair contracting forum. I guess I never really asked who is on the fair contracting forum.

Moody: I was looking through my notes. I do not have a list of who is on there with me. There are some contractors represented. Unfortunately, not all of those minority contractors always show up. So what we can do is we can look at the list of those and do some refreshing for more interested parties of people that are actually interested that do want to attend the meetings and have a vested interest. So when he was talking about that, I do agree that there are some people assigned and they just don't attend. We need to look at replacing those people.

Fritz: Then changing the time of the meetings so people could come --

Moody: Additional outreach to see why they can't make it. Yes.

Adams: It's important to check in with the committee. Maurice's point is well made. Check in with those that want to continue and make sure that we have at least a plurality of women and minority owner contractors.

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Saltzman: On the determining availability respectively on a contract by contract basis, I guess trimet has done it. There's a way of doing it. Is that what the dunn and bradstreet database is all about? We've talked about that. How do you -- maybe shy just ask more broader questions.

Moody: How do we do it?

Saltzman: You've got a contract for \$1 million. How do you determine what the availability is?

Moody: We actually --

Saltzman: Point in time basis I guess.

Moody: Right. So that data does have to be refreshed. What we do now is we have not implemented the program but we have a consultant who is giving us some availability numbers based upon the most recent disparity study. Use dunn and bradstreet and other things like. What you do is you look at the type of work, the categories of work within a certain project, and who is available to do that work with those categories of work. It comes up with an over all percentage for that project.

Saltzman: So is the who's available like a real time calculation that says, some contractor who may be available is actually --

Moody: I don't know how old the data is. It needs to be refreshed. They said at least on a yearly basis. So --

Saltzman: Really on sort of like an annual.

Moody: It's not -- I don't think we would have the capability of doing something --

Adams: The goal is also to set up a program where we can ping people to not get official availability but informal availability as we look especially on the larger contracts. That's the system that is going to be put in place that you saw in the last bullet along one of the slides was that directory, an understatement of we want the ability to ping folks based on unique opportunities of a contract. There's cement work and then there's cement work kind of thing. We hope for more real time availability along the lines that you're talking about.

Saltzman: My final question, no pre-qualifications for jobs up to \$250,000.

Adams: Annual.

Saltzman: Well, we don't really mean no pre-qualification, do we?

Moody: Yes.

Saltzman: We do?

Moody: Yes.

Saltzman: Business license?

Moody: They still have to bond and they still have to provide insurance and they still have to have a business license and ccb license. We're not doing a separate pre-qualification process with the city. Currently, we don't pre-qualify contractors for projects under \$100,000. The resolution and subsequent code changes would make it up to 250. Then the smaller contracts are available and there's not an extra step for contractors to go through to apply for those projects or bid on those projects.

Saltzman: Okay. Thanks.

Adams: They still have to win the bid.

Moody: They still have to win the bid and provide the appropriate bonding insurance.

Adams: What the city has been guilty of is the contractors do the pre-qualification, then smaller rfps come out, they too can have special informal layer of pre-qualifications and it's a daunting obstacle course for a small contractor and historically under utilized contractors to get through successfully.

Fritz: Is the fair contracting forum going to continue?

Moody: As it is, yes. There is the resolution actually has us to develop administrative rules. Those rules will be ran through and briefed through the fair contracting forum.

Fritz: Those won't come back to council.

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Moody: No.

Fritz: The code changes will come back to council.

Moody: Code changes will come back to council.

Fritz: Is there an ongoing advisory committee of the minority and emerging minority and women owned businesses?

Moody: Other than the fair contracting forum? No.

Fritz: Given it sounds like we're not getting as much participation from those groups as you would hope, I wonder if there might be an ongoing tracking group of those most affected. The out comes, as Maurice pointed out as you know the reason we're doing this is because the out comes are not what we hoped they would be. I did take to heart the comment that coming back in a year or two might be too long in terms of being responsive and you having the resolution, there's various things that we're going to be trying, I would like you to have an ongoing advisory group that would help track with you very similar to what we're doing in the office of equity. We want the community to be with us every step of the way to see how this is going, what suggestions do they have.

Adams: That is the fair contracting group. Sounds like we need to improve the membership on the - - you want some of folks that have been part of the discussion to continue on to have some of that legislative history, but in terms of contracting, that's going to continue.

Fritz: It seems to me it depends on who is benefiting. If the majority of the group is those already doing well, then it might be difficult and maybe that's the reason why the minority businesses aren't showing up. They feel like there isn't the opportunity to make a difference.

Moody: Maybe a more -- I presented five different programmatic areas. There's maybe something that's more focused so if we're making changes to professional services maybe a more of an advisory group that's more interested in professional services, or if we're making changes to prime contracting, an advisory group interested in prime contracting. Is that along the lines you're saying?

Fritz: Kind of. Do you have an over all advisory committee?

Moody: We have a bureau liaison committee. It's between our office and the bureau's. The fair contracting is our office with the bureau's and the community members and contractors.

Fritz: Do you have -- you don't have a community bureau advisory committee that meets periodically year around.

Moody: Other than the fair contracting forum, no.

Adams: They only do contracting.

Fritz: Right. With the success of the minority evaluator program there are now a lot more folks who have been involved in the contracting process you might be able to give good advice on the next iteration of this.

Adams: We'll check out the way that -- we'll send an email out to everyone to get feedback. I don't know a bureau-wide advisory committee since they are the procurement bureau, we can have more conversation at what your getting at. It's a good time for us to reflect on how we have gotten advice on policy development side and now we're going into implementation and feedback and changes and we'll pause and reflect on that. Other questions or comments? We're going to start losing members here. For christine? Karla, please call the vote.

Saltzman: Well, I think this is a really good resolution. I think it's definitely strikes a balance. I think there's concerns. A lot of concerns about how we're going to do this, maybe about how what I would call maybe intentional ambiguities, but that's I think to preserve our ability to do the most to contract with minority and women businesses and to develop more prime contractors that are minority and women owned businesses. I think the goals are good and we're putting a lot of faith and trust in our procurement officer christine moody. I feel confident from her interactions to date that she's up for that challenge. Living that challenge every day as she is now. I think there's a good balance here. We should move forward. Pleased to vote Aye.

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Leonard: Leveling the playing field for not just this subject matter but the city and a number of other areas has been something I have focused on since I have been here at council. This is the culmination of a lot of various efforts and I think sam is right saying that christine has the experience, my experience not just that she's up for it but I think she actually believes in these goals and helped us as she alluded to implement some what we're passing today in the fire station 21 project which we're very proud to be the first project in the city to incorporate these objectives and goals and even before this resolution passed. So i'm pleased that we have been able to do that. I have every confidence that christine will make sure this is done and done well throughout the city. Aye.

Fritz: This is controversial because it matters. It's about the money and about following the money and about who gets the money for city contracts. I have been very impressed with christine moody since she became chief procurement officer in her diligence even after a bid is accepted, continuing to seek better representation particularly in the subcontracts. However we need to look at the prime contracts and who is getting them. I'm concerned about the limit of 250,000 which is a relatively low in the scheme of contracts that come through city counsel are often millions of dollars. What I like in this resolution is that it sets a standard for how people become qualified or companies become qualified, whether pre-qualified or not, that there's going to be a clear expectation so people will know when they are preparing the application and the minority evaluator program has helped all of us understand better what's required, what's not required. Still a lot in this resolution that I have significant concerns about. I was thinking that we were going to be airing this conversation today, not actually voting on it. I'm prepared to vote in favor with the proviso that I continue to believe that many of the concerns I have heard today are valid and that we need to -- i'm prepared to vote for it because I know procurement Moody shares the conviction that we need to do things differently and we need to continually evaluate. I know the office of equity will be involved moving forward. I would encourage you to bring something back. This resolution says its binding city policy and we can change findings by a vote of the city council. I would encourage you as things come up that need to be changed, let's not wait for a year. I don't see a schedule for when you're going to come back with a report on how is it working. I would assume you'll be bringing an annual report. When you bring the code changes it would be helpful to have that clearly stated as to when and how we would be looking again. Improved mechanism for consistent input from the minority and women businesses into the program ongoing, not waiting for major changes but doing them as we go along. With those provisos I vote aye.

Fish: Looking at the resolution i'm reminded that we're in the third or fourth year of really hard work. And I have learned a few things through this process. One is I have come to have great respect and admiration for the professional team at the city, christine and the whole procurement team for their work. Two, I have learned when we have the right people at the table from the community helping us get this work, whether it's selection of the contract, disparity study or oversight of that process or in this case fair contracting forum, we have a better chance of getting it right. Third, with the focus that the mayor has brought to this work, I believe we're making progress. I'm actually less concerned about the city honoring the commitments it's made today than I am with the potential ramifications of a change in leadership in Washington in november. Because as difficult as it is to operate within the existing legal framework, I shudder to think about what would happen with a significant change on the supreme court and a new set of guidelines which further close the door on our capacity as government to remedy injustice. I don't say that lightly because this approach that we have adopted as a city is not just highly controversial, it's highly contested legally. There is in my view, my personal view, a significant risk of the goal post changing radically depending on the outcome of this election. Just want to note that I have more anxiety about that than I do the city is going to follow through on its commitment. I thank

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everybody for their good work on this. As someone who will be serving here for another two and a half years unless i'm recalled, I commit to doing my part to implement this work. Aye.

Adams: I want to thank peter parisot and my office for his work on this. Underscore my -- also the city attorney's office underscore my thanks to you, director moody. You know, it is to a degree a leap of faith that we're empowering you with as much administrative authority that we are. But if anyone knows during the changes that successfully occurred at trimet you'll know someone named bruce watts. He was at that time empowered with the same kind of authority and high expectations, and they made some very quick changes to the way in their ability to offer more equal and equitable contracting and contracted work force opportunity. I'm looking forward in the time I have left, 165 days, to get the administrative rules in place and any code changes that need to come back. We are determined to improve and to improve and lead the city not only lead the city by example but be a city that can lead other cities by example. So thank you for your work and everyone else who has worked on this. Aye. Do we have anything else? We are adjourned for the week. [gavel pounding]

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