



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 7TH DAY OF JUNE, 2000 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales and Saltzman, 4.

OFFICERS IN ATTENDANCE: Britta Olson, Clerk of the Council; Ben Walters, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Item Nos. 811 and 813 were pulled for discussion and on a Y-4 roll call, the balance of the Consent Agenda was adopted.

- 795** **TIME CERTAIN: 9:30 AM** – Open Meadow High School film presentation: "Are We S.A.F.E.? Portland Pollution" (Presentation introduced by Commissioner Saltzman)

Disposition: Placed on File.

- 796** **TIME CERTAIN: 10:15 AM** – Accept the report and recommendations of the Goose Hollow/Civic Stadium Planning Committee (Previous Agenda 751 introduced by Mayor Katz)

Motion to accept the amendments: Moved by Commissioner Saltzman and seconded by Commissioner Francesconi.

Disposition: Resolution No. 35891 as amended. (Y-4)

CONSENT AGENDA - NO DISCUSSION

- 797** Accept bid of Moore Excavation, Inc. to furnish St. Johns diversion manhole replacement project for \$83,835 (Purchasing Report - Bid No. 99870)

Disposition: Accepted Prepare Contract. (Y-4)

- 798** Accept bid of Schnauzer Construction, Inc. to furnish HVAC controls upgrade 10th and Yamhill garage for \$116,113 (Purchasing Report - Bid No. 99921 SMP)

Disposition: Accepted Prepare Contract. (Y-4)

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799 Accept bid of Tice Electric Co. to furnish FY-00 traffic signal remodel project for \$502,725 (Purchasing Report - Bid No. 99936)

Disposition: Accepted Prepare Contract. (Y-4)

800 Reject all bids for Kerby Garage re-roofing project (Purchasing Report - Bid No. 99943)

Disposition: Accepted. (Y-4)

801 Reject all bids for Albina / Ainsworth traffic calming project (Purchasing Report - Bid No. 99957 - SMP)

Disposition: Accepted. (Y-4)

802 Accept bid of Eagle Elsner, Inc. to furnish SE Tacoma Street overpass to bridge improvements for \$505,715 (Purchasing Report - Bid No. 99958)

Disposition: Accepted Prepare Contract. (Y-4)

803 Reject all bids for annual supply to furnish native seed (Purchasing Report - Bid No. 99978)

Disposition: Accepted. (Y-4)

Mayor Vera Katz

***804** Contract with Pinnell-Busch, Inc. to develop construction project management curriculum for Bureau of Purchases for the Project Manager/Inspector Training Program, Phase III (Ordinance)

Disposition: Ordinance No. 174510. (Y-4)

***805** Amend contract with David L. Tucker (Ordinance; amend Contract No. 31269)

Disposition: Ordinance No. 174511. (Y-4)

***806** Execute a Letter of Agreement between the City and the District Council of Trade Unions, Municipal Employees, Local 483 relating to terms and conditions of employment of represented personnel (Ordinance)

Disposition: Ordinance No. 174512. (Y-4)

***807** Amend Ordinance for agreement between Multnomah County District Attorney's Office and the City for use of Local Law Enforcement block grant funds (Ordinance; amend Ordinance No. 174369)

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Disposition: Ordinance No. 174513. (Y-4)

- *808** Contract with the Salvation Army, Camp Kuratli for facilities use in an amount not to exceed \$75,000 (Ordinance)

Disposition: Ordinance No. 174514. (Y-4)

- 809** Authorize donation of fifty inoperable firearms to Brian Borrello for use in an art project entitled "Guns in the Hands of Artists" (Second Reading Agenda 773)

Disposition: Ordinance No. 174515. (Y-4)

Commissioner Jim Francesconi

- *810** Grant a Specially Attended Transportation permit to First Cab Co., Inc. (Ordinance)

Disposition: Ordinance No. 174516. (Y-4)

- *811** Authorize the Director of Portland Parks and Recreation to adjust the golf surcharge annually, limited to inflation (Ordinance)

Disposition: Continued to June 14, 2000 at 9:30 a.m.

- *812** Authorize an agreement with Greenworks for contract administration and permit application management of the RedTail Golf Course project (Ordinance)

Disposition: Ordinance No. 174517. (Y-4)

- *813** Accept a \$100,000 contribution from Nike, Inc. for the purpose of completing a track renovation at Whitaker Middle School (Ordinance)

Disposition: Ordinance No. 174524. . (Y-4)

- *814** Authorize the selection of a security services contractor for the Portland Parks and Recreation facilities through a Request for Proposal process (Ordinance)

Disposition: Ordinance No. 174518. (Y-4)

Commissioner Charlie Hales

- *815** Authorize agreement with Oregon Department of Transportation for bicycle and pedestrian multi-use path improvements connecting SW Custer Street to SW Fourth Avenue (Ordinance)

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Disposition: Ordinance No. 174519. (Y-4)

Commissioner Dan Saltzman

- *816** Authorize a one-time payment by Office of Neighborhood Involvement to Steven L. Young, Bureau of Environmental Services employee, for services in preparation of their FY 2000-01 requested/target budget (Ordinance)

Disposition: Ordinance No. 174520. (Y-4)

Commissioner Erik Sten

- 817** Accept contract for the installation of 4-inch and 6-inch water mains in the SW Moss mains package as substantially complete (Report; Contract No. 31765)

Disposition: Accepted. (Y-4)

- *818** Authorize funds for a contract with Oregon Department of Fish and Wildlife to survey fish habitat and distribution in the Sandy River watershed (Ordinance)

Disposition: Ordinance No. 174521. (Y-4)

- *819** Amend contract with Rapidigm, Inc. to increase amount by \$175,000 (Ordinance; amend Contract No. 32300)

Disposition: Ordinance No. 174522. (Y-4)

- *820** Amend contract with NE Coalition of Neighborhoods for \$12,000 for a total of \$60,511 for the Humboldt TAD 00 and provide for payment (Ordinance; amend Contract No. 32804)

Disposition: Ordinance No. 174523. (Y-4)

REGULAR AGENDA

Mayor Vera Katz

- *821** Accept an additional \$92,000 grant from Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, for G.R.E.A.T. regional training by the Portland Police Bureau (Ordinance)

Disposition: Ordinance No. 174525. (Y-4)

- *822** Authorize Bonds and Lines of Credit for Civic Stadium improvements (Ordinance)

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Disposition: Ordinance No. 174526. (Y-4)

- 823** Amend agreement for Downtown Business District Management Services between the City, the Association for Portland Progress and Portland Downtown Services, Inc. (Second Reading Agenda 755; amend Contract No. 50996)

Disposition: Passed to Second Reading June 21, 2000 at 9:30 a.m.

Commissioner Charlie Hales

- 824** Initiate local improvement proceedings and adopt a Resolution of Intent regarding the Local Improvement District for the extension of streetcar service to Portland State University Urban Center, Portland Streetcar Phase II (Resolution)

Disposition: Resolution No. 35892. (Y-4)

Communications

- 825** Request of Derry Jackson to address Council regarding the Police Accountability Campaign 2000 (Communication)

Disposition: Placed on File.

- 826** Request of Jeri Sundvall to address Council regarding police accountability (Communication)

Disposition: Placed on File.

At 10:51 a.m., Council recessed.

JUNE 7, 2000

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,
OREGON WAS HELD THIS 7TH DAY OF JUNE, 2000 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi,
Hales and Saltzman, 4.

OFFICERS IN ATTENDANCE: Britta Olson, Clerk of the Council; Harry Auerbach,
Senior Deputy City Attorney; and Officer Larry Siewert, Sergeant at Arms.

- 827** **TIME CERTAIN: 2:00 PM** – Tentatively grant appeal, with conditions, of the
Sunnyside Centenary United Methodist Church against Hearings Officer's decision to
revoke the conditional use permit that allowed Wednesday/Friday evening meals and
also established limits on the night shelter, day care center, Sunday/Wednesday worship
services and the Indochinese Socialization Center, located at 3520 SE Yamhill and
1030-1035 SE 35th Avenue (Previous Agenda 621; LUR 99-00768 CU)

Disposition: Continued to July 12, 2000 at 2:00 p.m.

At 2:04 p.m., Council recessed.

JUNE 8, 2000

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 8TH DAY OF JUNE, 2000 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales and Saltzman, 4.

OFFICERS IN ATTENDANCE: Britta Olson, Clerk of the Council; Ruth Spetter, Senior Deputy City Attorney; and Officer Larry Siewert, Sergeant at Arms.


828 **TIME CERTAIN: 2:00 PM** – Appeal of the St. Johns Neighborhood Association against Hearings Officer's decision to approve the application of the Port of Portland for a nine-lot land division (Bybee Lakes) without creation of a street, located at N Leadbetter Road south of N Marine Drive (Hearing; Report introduced by Commissioner Hales; LUR 99-00832 SU)

Motion to uphold Hearings Officer's decision with the condition that the Port of Portland agrees not to convey any of the property subject to the land division for at least 30 days after the recording of the consent decree in the Jones v. Thorne litigation, Jones v. Thorne C V-97-1674
ST: Moved by Commissioner Francesconi, seconded by Commissioner Hales.

Disposition: Tentatively Deny Appeal with a Condition. Prepare Findings for June 14, 2000 at 2:00 p.m.

At 3:44 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland


By Britta Olson
Clerk of the Council

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

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Closed Caption Transcript of Portland City Council Meeting

This transcript was produced through the closed captioning process for the televised City Council broadcast.
Key: == means unidentified speaker.

JUNE 7, 2000 9:30 AM

Katz: The council will come to order. Please call the roll. [roll call] commissioner Sten is on vacation. Consent agenda items? There is one, 811 has been requested to be removed. Any other item?

Francesconi: I'd like to pull 813 too.

Katz: 813 to be pulled. All right. Any other consent agenda item that any other commissioners want to be pulled? Anybody in the audience want to pull an item for discussion? If not, roll call consent agenda. [all aye] all right. 811.

Francesconi: This needs a little more work. I'd like it sent back to parks.

Katz: Any objections? So ordered. 813?

Olson: Accept a \$100,000 contribution from nike to complete a track renovation at whitaker middle school.

Francesconi: This is kind of a big deal. I don't see bob here. He's on his way over. I pulled it because I wanted to acknowledge nike. They gave us \$100,000 to do a track at whitaker field. It's a great partnership. It's going to be using that new synthetic material, so it will be better for the students there at the middle school. The neighborhood folks really use this. In fact, when we had a brief press conference yesterday, day before, there were a lot of seniors just walking around the track, had no idea there—it was about to be a press conference. And the neighborhood folks really use it too. The other partner is central catholic high school. And they're putting substantial amount of money into it, as at least as much as nike. And the reason they're doing that is they're going to be able to use this for their track practices, and then we'll eventually do a soccer field. We would not under into an arrangement with a private school unless it would also benefit the neighborhood and whitaker school. During the day, the middle school will have access to this, and then the neighborhood will have access to it. So this is really another example of parks being creative. And we put this together with some people like tony at central catholic, and so this is a great thing. It's going to be an improved track, and then a soccer field, and they're going to work with to improve the baseball field. So it helps the school, the neighborhood, it helps central catholic, and it helps Portland parks. So this is a terrific thing. Eventually that soccer field will be like the rieke field. So it will be state of the art facility. I wanted to do this publicly. I wanted to thank nike and central catholic for their leadership on this. As an aside, I wish tony were here, because he had such a pleasant experience working with Portland parks, and it was really first dee craig and bob schultz and others that played a role in putting this together. This was a contrast, and i've had—well, I don't—Portland public schools has some issues to work through in terms of how they handle their facilities. And we're working with them. But I wanted to credit Portland parks for the works they did.

Katz: Is anybody here? Cathy? Just go ahead? All right. Anybody want to testify? Were you finished? Anybody want to testify on this item? Okay. Roll call.

Katz: I too want to acknowledge the contribution of nike. They've been under a gun for a lot of reasons, but when asked to step up and help Portland public schools or the parks or some of the projects like the chinese classical garden, they've been there as a community contributor. So thank you. Aye. All right. Time certain. 795.

Saltzman: Thank you. I'm pleased to have a very special group of students and their teacher from the open meadow learning center's high school class, and in particular the high school s.a.f.e. Class, and s.a.f.e. Stand for saving a forgotten environment. I don't want to take away from their presentation that we're going to see and hear, but these students have spent a lot of time studying the

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issues associated with the willamette river, and we've spent a lot of time talking about issues related to the willamette river as well. They've put together an amazing film that had its world premier here in Portland last night. Their journey promises to be a real eye-opening experience for us. This morning their television premier. For all those tuning into our council sessions via cable access and the internet, they'll have a chance to see this film and its replay over and over. It's not bad. Not a bad debut for a group of high school students and their class project. I'd like to invite paige knight and her students, john wagner, michael newton, chelsea pretty, alissa and stewart to come forward and tell us what it is we're going to be watching this morning, and the story of how it came about. We also have the school's founder here too, a good friend of mine, carol smith. I don't know if you want to come up as well—

== i'm going to let these guys carry the show.

Saltzman: All right.

Katz: Welcome.

Saltzman: Their class newsletter, there are copies by the door.

Katz: Identify yourself— each one of you that does talk, don't be nervous, we're not going to keep a clock on you, but we do want to know your name.

Paige Knight: my name is paige knight, and i've been a teacher at open meadow for some years.

Stewart: i'm stewart, a sophomore, and I joined open meadows late in— last year.

Paige Knight: I would like to thank commissioner Saltzman, commissioner Hales, commissioner Francesconi and mayor Katz to agreeing to help us with our premier today, our second debut. The students that I have with us, and let me make a correction that it's michael mitten. I didn't check that over very carefully. These students and some others have been working on this film since september. They have gone through many hours of videotape and have basically been the vision for this film. They have provided the vision. They have also put together a brochure that goes with the video, when we start getting it out to community agencies and schools. It's a teaching brochure, and they did the work on that. They also have done all the work on the newsletter. So they have been really working hard toward this whole thing, and next year we plan to do a lot of outreach. With that, i'm going to have stewart, who has—was chosen as the student director of the film, talk to you a little about that.

Katz: Raise the mike a little bit. Good.

== paige has been an environmentalist for many years, and a few years ago started a class called s.a.f.e., saving a forgotten environment, in order to teach students about environmental issues. In the past they've done a lot of hands-on education, like street tree inventories and things like that. And then I think it was last year or last summer that—last summer she met a filmmaker who makes independent documentaries, and suggested they make a student film project together. And so this year the class has been working—paige has been teaching us about the environmental issues of work around our school and around the city, and sharon has been teaching us how to use film equipment, how to shoot film, how to edit film, so forth. But it's really been the students' project, and it's really amazing for paige to be able to lead a project like this without controlling it and really be supportive and helpful as she has been without taking control of the project and still being able to really leave it up to the students. So it's been great. About halfway through the year I was elected director, so i've been working on this project quite a bit.

Katz: Okay. Did you want other students to say anything?

== they're going to respond afterwards to questions and answers.

Katz: Okay. Then we're ready for the show. [sound quality of film was not clear enough to caption effectively]

Katz: Thank you. It was wonderful. Come on up. All of you who are here who participated in this project, come on up. Why don't you share—for those of you who want, you may not want to say

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anything, but do you want to add a couple of words or send us a message? Or say anything you want to say. Hello, mom, dad—anything you want to say.

Paige Knight: i'm going to start things off here. It's a tired morning, and— early morning for these kids. This has been an incredible project. As I said earlier, these people have worked tirelessly. One of the things I didn't mention was we have a display board over here that alissa has put together. She's been the photographer for this class and has gotten into photography, sort of a dream of hers through this project. So this has some very good information on it. And all of these people have contributed immensely, so somebody—

Katz: Let me ask you a question. Somebody said, I think it was you, I can't remember, no one seems to care what our future is worth. Did you write that?

== that was actually my friend jessica, who is no longer in the class.

Katz: Do you all feel that way?

== yeah. I think so. I feel like nobody really cares, and they just take it for granted, and what—what the earth is actually worth and how beautiful it is.

== I feel just about any issue that people complain about or dislike, most people think, well, it's too big for me to do anything about it, so then nobody does anything about it. And—people don't bother to find out what the issues are anymore, even. That's the downfall of things.

Katz: So all of you are still in school, some of you are going to take a year off. What do you think each of you individually would like to do to assist us in making this a little bit of a better world and certainly a better river?

== I think one thing that's really important is keeping people educated on what's going on, what kind of pollution is being put into our air and water. So they can get a little bit involved.

== if nothing else, the purpose of our film is to encourage other people to be educated about the issues.

Katz: So you see yourselves as educators. Through the arts.

== yes.

Katz: Anybody have any other questions?

Saltzman: Are the poems original, and they are. I'd like to get a copy of those poems.

Katz: They're in the brochure.

== not all of them, though.

Saltzman: If it's possible, I would like to get all of them. I thought they were all very compelling poems, and i'd like to perhaps use those in my own work as we work to clean up the river.

Paige Knight: somebody suggested last night at our wonderful premier that we put those together into a book so something—that's something i'll be figuring out with the class how to do that, and when we'll do that. The poetry, I know that this has sort of a heavy feel to it, this film, but this is truly—this truly came from the students. And this is how they feel, and one of the things that I hope as an older person is that we really do more than we're even doing now, because it is their future. It is our children's future. It's our grandchildren's future. And we cannot lead—leave them this mess.

Katz: Anybody else want to add anything?

Hales: I think your film will motivate people. I think people will see that and they will get involved, and they will get angry, and they will get interested. So I think you're going to accomplish your goal, the more people who see it. I hope we can help in getting it out into the community so people can see it. Great work.

Saltzman: Good job.

Francesconi: I had written down the same thing that the mayor had. The quote about nobody seems to care what our future is worth. That was actually incredibly strong and powerful statement. Maybe just a couple things. Obviously you care, and you've been put in positions by your school and your teachers, and your principal to show others that you care, and to motivate the rest of us to care. So I guess, you know, what you just said about people feel powerless because it seems so

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overwhelming, and as a result we don't educate ourselves, I think those are the two fundamental issues facing not only the environment, but many other issues, inequality of wealth, et cetera. So I think what did you in the film is try to carve out areas to show that individuals can make a difference. I guess I also want to tell you, i've had a chance to look at other schools across the city, including alternative schools, but I think this film is an example of—that you're probably the best alternative school in the city, because you have teachers that care about you and love you, but also have given you some ways of expressing—learning about the environment, learning about science and medicine, about poetry, learning about film, learning about music, learning about photography, about public speaking, learning the art of persuasion, all wrapped up in the—in your own experience, but as paige just said, she let you express your film in your—and your ideas as opposed to expressing adults' ideas. And so I think the result works. And so now the challenge is, you know, how do you continue to do that and find effective ways throughout the rest of your lives. But the bottom line is, people care about you. So thanks.

Katz: Let me just add a ps. Commissioner Francesconi is right, we do care about you. We both wrote the same thing down because I wanted to comment on that as well. What my responsibility, paige, is going to be now to let you know about all the things that are happening in this city by a lot of groups for the purpose of cleaning up the river. And the river is going to be a top priority for the council. In fact we're looking for a new name not for the willamette, but a new name for the project that's called the willamette river project, and that will put anybody to sleep. So we're looking for a new name. And want to share all of that information, and each of us will do that. So coming here probably will create an additional task for you, but I hope if we make that commitment to you and to your class and to your students, that the students will take a look at each one of these projects and make a personal decision whether this is something they want to be involved in. Because it's nice to make a statement, and you've done it. And you've done a beautiful job. But for me, i'm going to push you a little bit in terms of, okay, what's next? You have a whole year off, you're going to be working, but you'll also have free time. All of you i'm sure will have free time on weekends and maybe in the evening. Then you'll have to make those decisions. So paige, we'll—do you have an e-mail address?

Paige Knight: I do. [laughter]

Katz: Did I see it on the card? I didn't see it on the card.

on the brochure we just opened up an e-mail for the class, and so I can tap into that.

Katz: That would be great. For those of us, we'll send it on to you and you can talk about it, and continually educate yourself. Is that all right?

Paige Knight: that's wonderful.

Katz: Good. Thank you.

Saltzman: I certainly hope you will be using next year to take this film to other students throughout the school district.

Stewart: we'd like to take it to middle schools and high schools and we're working on getting the money to make copies of it so we can do that.

Saltzman: I know as you said sometimes these issues seem overwhelming. It's hard to think that one individual or one city council can make a difference, and—but believe me, that's what we're here for, we're here to make a difference and to take these issues and break them down into small pieces, that we can have individual successes on and hopefully those successes will add up for us and for our planet. So we're plugging away, but we need you to keep us plugging away. So thanks a lot for your efforts.
you.

Katz: Okay. Congratulations. [applause] okay. 796. It's not quite 10:15, but we'll start.

Katz: Let me start by saying that i—
== I need a couple minutes to set up.

Item No. 821

Katz: Let me see what we've got. I don't know if there was going to be anybody from the police bureau, but I don't think so. Why don't we take—is anybody here for 821? We'll go ahead. 821. Britta?

Katz: Anybody want to testify on that? If not, roll call.

Katz: Mayor votes aye. I want to hold off on 822, because I think there's going to be some conversation on that. 823.

Item No. 823.

Katz: There's no objections, i'd like to bring this back in two weeks. And I think we can deal with the issue in—within two weeks. Hearing no objections, so ordered.

Katz: All right. Are you all set up? Let me slowly open it up. When we realized that we were going to make a commitment to renovate the civic stadium and to deal with the seismic issues and the financial issues as well, in march of '99, I decided that it would be a value not only to deal with the civic stadium when we had a group that was working through that, but also to bring the community both citizens and property owners together as well as some public agencies to begin thinking about the civic stadium/goose hollow area as a whole. I can't—I wish I could tell you it is thriving, that area with a lot of activity going on. It's not. And the whole vision was that if we are going to make this major renovation effort, that there were things that the community has wanted to do for a long time, and this was the impetus. And my philosophy is you take advantage of opportunities when they're there, and you begin to broaden those possibilities. So this group, and you're going to hear about it in a minute, was made—made some decisions about the needs of the neighborhood, strengthening the connections to burnside—this is the same theme we're hearing from the west end planning group as well as from old town chinatown, how do we cross burnside, how do we make it a friendlier connection. We're hearing now also the blitz weinhard property is being—as that property is being developed. I-405 was not an accident that i-405 and the discussion with the american landscape architects came about, knowing full well as you begin to develop west and you begin to develop on the other side of the freeway, that i-405 is a major barrier to connect the neighborhood to the downtown, or connect the neighborhood to the activities of the downtown area, or the central city. And so they went to work to try to figure out what kind of activities, public and private activities, they would like to recommend to us. And that's all i'm going to say. I want to thank them, everybody involved in this project, both the civic stadium project as well as the goose hollow/civic stadium planning project has given many, many hours of their time, and we appreciate the work that's been—the work's been well done and will give us at least a blueprint to begin thinking about the future. Mr. Larry brown?

good morning.

Katz: You did read the item. Okay.

Keith Witcosky, PDC: the—keith, Portland development commission. What we have before you today is the report and recommendation of some of the goose hollow/civic stadium planning committee. We're asking you to accept this report. It sets out a vision of what could happen in the area over the next one to ten years. It sets a vision, a blueprint, related opportunities and blocks adjacent to the stadium as well as other kinds of improvement that's will bring in amenities that the neighborhoods and the businesses and the property owners would like to see happen. It's—as the area grows. I'm going to run through quickly a presentation that identifies some of the background and then some of the key points in this report. We have some consultants and bureau staff here that will be available to answer follow-up questions if needed. As you stated, it was a 16-member committee representing people in the area. It included—managed by pdc and included staff from Portland transportation, the bureau of planning, and led by a team from an architect team, and the committee met 15 times over the period of 12 months. The charge and the role it played was to

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implement and advance actions from an existing goose hollow station community plan which council accepted, or adopted by ordinance back in 1996. It does complete a vision for the next ten years to guide full land use activities. It was also an attempt to resolve long-term problems and leverage fee structure opportunities. We wanted to identify enhancements to the pedestrian environment, improve the neighborhood's relationship to west burnside, and it also feeds into that Portland transportation project in terms of what should happen along the burnside corridor, at least in the goose hollow area. We also identified improvements for parking and circulation, and a lot of the work that came out of the report, and a lot of the strategies and analysis that was taken from this report led to the creation of the ctmp and a lot of the stadium-oriented transportation strategies that you adopted back on may 18th. We examined parking, transportation and land use. And we looked at what are the existing problems and—in all those areas, what are the stadium-related impacts and the future development. That was the premise on how we set the tone for moving forward in the report. The report has 14 strategies that will be implemented through 40 different action items. Just to highlight quickly for you, the committee believed the implementing three critical projects should begin as soon as possible with the goal of completing one or more in the next five years, and they completely understood this was a wish list right now. There isn't funding following these actions, but it's a blueprint, things they'd like to see lap. I'm going to walk you through those three really quickly, and we can take questions and answer them in more detail. The first is strategy number 7, action item 7.1. It calls for the creation after civic plaza through the redevelopment of the blockbuster video parcel between southwest 18th and 20th on southwest morrison. This project could not begin until the 130 -- at least 138 housing authority of Portland units are relocate order a parcel nearby, because that's what's in their project right now. That is the, if you look at the map over here to the right, it's the block just to the north of the stadium. You're can see civic plaza, and it calls for mixed use development in the area. The next critical project was strategy number 7.3. This called for the redevelopment of the butler block at southwest 8th and salmon for the purposes of a new transit oriented mixed use project with shared use parking. Woe talked about the—the committee talked about the uses it—that should include office, residential and retail. Right now that block carries a lot much parking contract with mac club and other adjacent institutions. It's owned by tri-met, and the other two or three parcels are owned by what used to be wilshire. It's also owned by—bill riley own as block, and there's another parcel as well. Strategy 11, 11.1 was the last critical project the committee saw to be important. That just called for strengthening pedestrian and bicycle and vehicular ties on southwest taylor and salmon streets from civic across 405 to the downtown. What they discussed was the need to try and match up with what has occurred on yamhill and morrison with the improvements on light rail. There's wide sidewalks, nice lighting and they want to try to work to do a similar thing on salmon and taylor, which don't have those amenities right now. So what's next? The committee is requesting city council to accept this report. The report will be presented to the pdc commission this summer, likely in january. And the committee also requests that they stay in 99 -- intact, because—since it brought together such a group of citizens from northwest Portland, goose hollow, business, property owners, they want to stay together and begin work on overseeing the possibility of urban renewal in that area. They want—they want pdc to look into a feasibility study and in this report they request that begin in december 2000. We can talk more about that during this presentation. Those are the highlights of the report. I didn't want to go into detail on all 58 pages, but I think it gives you a good summation of what's important to the committee.

Katz: Larry?

Larry Brown, PDC: I just wanted to say, again, on behalf of the Portland development commission, very pleased with the amount of time and efforts and time away from jobs that this committee has put forward, and their ability to look beyond just the issues surrounding the renovation of the stadium and looking at the future livability of their district, and how the collective efforts of the

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public sector and private sector can work together to make it an even better neighborhood than it is today. So we're very appreciative of their efforts and the time commitment they've made.

Katz: Thank you. Okay. Testimony?

Olson: We have three people signed up.

Katz: Sharon, why don't you start.

Sharon Paget, Goose Hollow Foothills League (GHFL): okay. Sharon padgit, a resident of goose hollow and a member of the committee representing the civic stadium negotiating team. I just—my comments are short. I just want to say what a great working committee this was. Keith did a tremendous job in having it organized. We moved through, we did a lot of meetings, we covered an enormous amount of work in that period of time, and as a goose hollow resident, I think it was imperative with all that was going on at the stadium that the surrounding area of the stadium be looked at very critically. And I think we've done a good job, I think we've set up some points that prioritized points that we'd like to see happen, and it's just exciting to see that more is going on, and—in our neighborhood. I mean, it's just a great place to be living right now.

Katz: Thank you, sharon.

Denny West, Housing Authority of Portland (HAP): denny west, executive director of the housing authority.

Katz: Get closer to the mike so we can hear you.

West: okay. It's not easily done. Denny west, executive director of the housing authority of before Portland. I'm here on behalf of howard shapiro, our board share. Howard is in boston, or new york, and helen is at her pdc retreat, so i'm the third string quarterback here. On behalf of them, I want to thank the council for the opportunity to participate and the concern that it displayed in the—and the other members of the planning group displayed for low-income housing. We urge acceptance of the report. I think you know the report calls for the replacement of the civic units at a block nearby, "the Oregonian" block. Our board, in final consideration was this, was feeling like they wanted to be more entrepreneurial, and I think keith has agreed to amend the report to say at least 138 units, and instead of just at "the Oregonian" block, a block nearby, keeping some options open. And we appreciate that. That may be good language as we hit further along. I think the project has a lot going for it, and we look forward to participating with it in the future. Thank you.

Angela Crawford, GH Business Assn.: i'm angela crawford, the president of the goose hollow business association. I was one of the members of the committee. I represented the businesses in the goose hollow area. I think the committee developed a great vision for goose hollow area to be implemented over the next five to ten years. We support the project and the report recommendations that came out of that committee, and look forward to seeing it happen.

Katz: Thank you. Questions? Okay. Let's keep going. Anybody else want to talk to us about this project?

Francesconi: Sharon, could you stay just a second? I have one question for pdc i'd like to get sharon's reaction to too.

Katz: We have one more person to testify.

Francesconi: I'm sorry.

Katz: Anymore? Okay.

Kim Knox, Tri Met: 710 NE Holladay, 97232. i'm kim knox, representing tri-met. Tri-met was a participant in the planning committee for this process, and I would like to echo sharon's comment on what a great job pdc staff did in organizing and making sure we didn't have meetings when we didn't have things to decide, and keeping the process moving along. Balancing a whole bunch of different perspectives that were on the committee, and I think that's an outstanding hallmark of this process. As tri-met, we felt very well represented, both as a public agency and as a property owner, and we appreciate the inclusion of our comments. We want to be a proactive partner with pdc or any other pro active folks in the neighborhood to get good things to lap around the light rail stations, and are

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prepared to do that. We want to make sure the investments that's made next to the station are good investments, because they're going to be there for a long time and will affect transit operations in that area. So that was our comments.

Katz: Good. Thank you. Keith or Felicia or both, come on down. Commissioner Francesconi has a couple of questions.

Witcosky: Let me quickly before you get to the questions, I've got the formal change that's been requested.

Katz: And the word is?

Witcosky: It's on a piece of paper. Many words. I'll pass it around.

Katz: All right.

Francesconi: Just one question. Where do we go from here.

Witcosky: In particular, the reason for the committee to stay intact, and then working on a feasibility study for an urban renewal district. Here's the—you know this better than I do. Gateway is ongoing, and they want a plaza, like you do, which is terrific that people recognize the importance of plazas. They want pedestrian amenities and they want parking. Hoyle—Hollywood, they want a plaza, they want parking, and they want pedestrian improvements. St. Johns is early, they want improvements to their plaza, they want pedestrian amenities, they're talking about parking. Whether he needs it is another story. The point for PDC—Portsmouth, that issue is coming up, I'm waiting for OFA's fiscal analysis. I still don't have it. It's my understanding we're close to 13.2% of—out of the total cap of 15%. I may be wrong on tax increment. What do we—what are we telling the citizens about the likelihood of urban funding in the Goose Hollow to fund these things, and do we have alternatives to that?

Katz: Let me—let me get you off the hook and shift it to your boss. [laughter]

Felicia Trader, Director, PDC: Portland Development Commission. You very clearly describe the dilemma that we're talking about right now, which is the basis for the recommendation to wait and even consider this until December. The Interstate Urban Renewal area is coming in considerably larger than what we had talked about whether we first started talking about the urban renewal area. The community wants us to do a lot of work out there, wants the city to do a lot of work out there. And their proposal, as I understand it and we are still getting the final numbers on this, is an—an area that covers approximately 3600 square 36 -- acres of land. There are two tests that's urban renewal areas have to meet—it can be no longer than 15% of the incorporated area geographically, and also no larger than 15% of assessed evaluation. It's the geographic piece that we are moving up on pretty quickly. And the last numbers I had, Commissioner Francesconi, was this put it as approximately 12.4% of that 15%. Now, those numbers may—there may be—they may still be changing, but we'll be coming to you with a report on that fairly soon, and with the OFA impact analysis, you identified very quickly the issues that we're also talking about in terms of other geographic areas that have indicated interest, and we're working very specifically with Gateway and have included them as you know in our five-year planning process for predevelopment funding. And for the next look at urban renewal. Now, the issue in Gateway is a far more concentrated geographic issue than what we're looking at at Interstate, and we would assume there we'll be talking about no more than perhaps 600 or 700 acres of land. That easily fits within the 15%. So then it's a question of where you go from there. The further question is, when the downtown urban renewal area expires, which I believe is 20002, do we let it expire with still some maximum debt that we could continue, and use to do other projects in downtown? Again—but again, downtown won't deliver much in terms of geographic coverage. It does deliver quite a bit in terms of A-B, but not in geographic coverage. So those are all the issues that we're going to be putting in front of you as we talk about where we go next after—if after Interstate and after Gateway, and in terms of what—the discussion with where does that put this particular priority for Goose Hollow.

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Saltzman: The reason you said this committee would not start until december is that we will make these decisions between now and then on interstate and on gateway? Am I tracking you correctly?

Trader: certainly you'll make the decision on entity. We'll have more specificity in terms of the intent at this point in terms of gateway. So we'll have both of those things in front of you before december.

Witcosky: and the reason we selected december, the committee may have been managed unconventionally, but it was citizens only that were on it. We allowed them to make the recommendations. We allowed them to drive it, and it was their report. So they talked about december, and we explained to them this, is a wish list and we might need to come back to council and evaluate in december what the other urban renewal areas looked like and what happens with the election in the fall, and then decide whether we should take another small step forward on goose hollow at that time or not.

Francesconi: It's even worse than I said in terms of the description, because—and I don't know how much, but it takes away from general fund dollars, so then to deliver some of these things that you requested in other neighborhoods that want them that I didn't even list, that aren't on the list for tax increment, it affects that too. I was going to ask you how much of this did you understand, sharon, but I don't need to. I just wanted to air this out publicly, because sometimes pdc is caught in a tough spot. They want to serve you, they want to give you all these things, but then there's tough trade-office that we up here have to make. And that's why I wanted to air this. I do think—and the mayor in her last budget has put some money aside for capital projects in the neighborhoods outside of tax increment. And that's the direction we have to go. We can't make everything a tax increment district. So the other thing is if we knew how much your projects cost, so we can try to get a handle on some of these priority projects outside of urban renewal districts, that's something we need to do.

Katz: Keith? You want to submit these amendments?
yes.

Katz: Okay. I need a motion.

Saltzman: so moved.

Katz: Do I hear a second?

Francesconi: second.

Katz: Any objections? Hearing none, so ordered. Basically what we're doing is getting—giving flexibility for housing from—for possibly more than the number of units that are currently in place, and a variety of different options.

Witcosky: correct. Not just limiting the relocation to "the Oregonian" block.

Katz: Good. We got it. Okay. Further questions? Patricia gardener is here, and she's late, but because she's such a key player in all of this, i'm going to ask her to come up and add a few words. Then we've got to figure out what else we're going to let you do.

Patricia Gardner, President, GHFL: you'll have to excuse me for being late. My previous experience was this lasts forever, so— [laughter]

Katz: Why don't you pull the mike over to you and identify yourself yes.

Gardner: patricia gardener, president of goose hollow. Very briefly, I just wanted to say to everybody that this has been an incredible process. This is part of the net that we talked about, the net of the good neighbor agreement, the traffic management plan, and this is the other district, the long-term view of what happens in that particular region, and beyond goose hollow what happens to the close edge of northwest district and how we interface with downtown. And so the process to put it together, as i'm sure you already heard, was incredible. It was neighborhoods, it was business owners, it was institutions from the city, and we did a terrific job. It's a terrific report. It shows a lot of thought. People put a lot of thought into it, and they put a lot of thought into picking the priority items. And nothing was done cavalierly. I wouldn't say that's true, we certainly spent enough time on it collectively for that not to be true. That thoughtfulness shows. It shows in the quality of the

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document, it also shows in the measured weight that we did it. And I would just reiterate that any hasty moves in regards to putting them into effect are probably not in the spirit of what we did. For example, that things need to happen before these things go into effect. If you were to—if an institution was to want to do something, they would have to do the same thing that everyone else has done in the civic stadium process. They would have to study the traffic, they would have to talk to the neighborhood and come up with the same measured proposal that this whole effort has had. We have done incredibly in the years time that we had, and it does feel like a year. It may be shorter, but it certainly feels like a year. That thoughtfulness should carry forth in the implementation of this document as well.

Katz: Thank you. Anybody else? Okay. We'll—i'll accept a motion to accept the report.

Hales: so moved.

Katz: And I hear a second.

Saltzman: second.

Katz: Roll call.

Francesconi: In the past I think i've credited the neighborhood leadership, and this one I want to really focus briefly on the staff. And thank keith. From everything i've heard, you've done a terrific job on this process. I do think the report is very good. Both in the sense of timing, as you said, that things have to lap before other things happen, which is a pretty degree of sophistication that we don't see in some reports, and the other is your priorities. I really like them. You have, despite my prior comments, you have a powerful argument that more should happen here, because you're bringing people in from outside to use the stadium, therefore you should get something out of it. It makes a lot of sense to me. The question is, how do we finance some of these things. In terms of your priorities, I think they're terrific. On the issue of the plaza, I am looking for alternative ways of funding an urban plaza at hollywood and gateway and chinatown. These are really important. If we're going to be a little more italian in the city and— i'm actually looking at that. So we need to add this one to that list. I've got some thoughts about that. So whoever particularly was working on that, it's fuzzy at the point, but you should let me know who that person is and how we work on that. The issue of parking, which I think has to be addressed, we can increase the mode splits even more, but parking is an issue. And now how you finance that, you have people in the room here, there's some private sector abilities too. And i'll leave the pedestrian— the transportation issues to commissioner Hales. But thank you for all your work on this. Aye.

Hales: I want to sound one quick celebratory note and one cautionary one when looking through your strategies in the list. I think this is a great piece of work overall, a good staff work, good vision by the neighborhood, good collaboration with the property owners, kind of meets all the tests for a healthy neighborhood planning process. So I want to commend you all for that. The—item 5.3, make tri-met free for stadium patrons, we may be in a race between the implementation and the plan and the implementation of that policy, but we'll get that one done right away, thanks to great work by the office of management and finance and by our negotiating team in the neighborhood there. Sow it looks like we might be able to check off that action item before the ink is dry on the plan. Just a cautionary note, under item 7.2, it mentioned the possible—the potential reuse of “the Oregonian” properties, which obviously are potential reuse, but then said that the last sentence that the location and configures ever— configuration would be—the cautionary note I want to sound and particularly since felicia and denny and kim are here, when we're talking about publicly-owned properties in particular, but not just those, I think we've got to look at the quality of materials and we've been building a lot of 25-year buildings lately, and I don't think that's going to serve goose hollow or any other neighborhood well, and if the public agencies can't help end the plague of pseudo stucco and fake wood siding, that has broken out in new projects around the city, then who can? So we ought to be looking for ways to build these projects out of brick and stone and durable materials and build hundred-year buildings instead of 25-year buildings in goose hollow and everywhere else. That

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makes it more difficult, because those materials are more expensive, but it's a question between short-term cost and long-term costs that I think we've got to face, and the council has talked about quite a bit over the last year or so. So I just want to flag that. I don't think you're implying that we're going to build another special on those blocks, but I just want to make sure that we keep turning the spotlight on that issue of materials as we take these action items from ideas to projects. But with that one cautionary note, and again, I don't see word here I would change, I think this is a great piece of work. I'm very pleased to support it. Aye.

Saltzman: It's a very good report. I really want to commend the mayor on her philosophy of striking while the iron is hot. And I think this is a philosophy that we—I think that's a good philosophy for city government to adhere to. We had something happening, a major activity at the civic stadium redevelopment, and this was a good time to bring you all together and take a look once again, all the other issues, and I think you've produced a good vision and a good document that should guide our public discussion over this for years to come. Aye.

Katz: Commissioner Hales, thank you. This is your message has been a message that I have sent to our public agencies, and basically said it may happen, it's just—if that's all we can do. And the units that we were talking about are units that are probably the most unfriendly units in the entire city in terms of how they relate to the street and the materials. So I would be very happy to see something that would make everybody in the community pleased, especially people who have to live there. This is the perfect time not only for the civic stadium, but folks spending a lot of money on the transit development with the transit center. And it's a neighborhood—two neighborhoods that many folks don't own cars for the obvious reasons, there's no place to park, but also because of lifestyle decisions to live in a very, very urban environment. And I have walked from where I live to downtown, and with the exception of maybe three or four blocks, it is not a very pleasant walk through the city to get into the downtown. So if it's not pleasant for pedestrians, it's not pleasant for bicycle riders, and yet we've made investment for bicycle lanes as well. So I think we need to focus on this part of the geography of a city that we have also ignored for a long, long time in terms of those kinds of amenities for people who live there. So I'm—I commend the committee for doing their work. I remember being at your first or second meeting and I didn't think that it was going to be a happy journey, but it turned out to be a very positive one. And Keith, you've learned a lot from our office, and you now have even a better teacher in Ms. Trader and your work has certainly improved. And—[laughter]

Trader: I get to graduate, and—is that what you're saying? [laughter]

Katz: That's the kind of compliment that's I give. Seriously, Keith, you've been in front of this council on two items, one is the civic stadium and this report, and it has been superb work. And you take your work very seriously, and you understand the commitment on the part of the community to this, and you've carried out that commitment. I appreciate it. Thank you very much. Thank you citizens, thank you goose hollow. And folks who live in the southwest and northwest around the stadium, this report will not end up on a shelf. It will have to wait a little bit until we figure out where we are, but things are going to be changing in southwest. Aye. Okay. Thank you, everybody. That's about as much of a compliment as you're going to get from me. [laughter] now we'll put Keith on another project.

== why does he look tired all after sudden.

Katz: Item No. 822.

Katz: All right. Let's—where's Ken? Come on up. Why don't you just talk to us about this.

Ken Rust, Office of Management and Finance (OMF): morning, mayor, members of the council. Ken Rust with the bureau of financial management. The action item in front of you this morning is an ordinance that will provide us with the authority to start the financing process for the civic stadium project, which I know you're all very familiar with. What it does is allows us to put into position a line of credit which is the form of finance that we will use for our share of the civic stadium project

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costs. At some point in time we will take the line of credit out with long-term bonds, and that's our plan for finance for the project. The ordinance talks about lines of credit and bonds, and the bonds are really ones that were already authorized by council pursuant to an action undertaken about a year ago for revenue bonds that the city issues. We're using a portion of that authority as authority for the this line of credit. It is an interim form of finance and we will not execute a line of credit financing unless we have an agreement that is brought back to council with Portland family entertainment that would really signify completion of the negotiation phase of the project and the beginning of construction of the renovation of civic stadium improvements. So all of this is predicated upon completing that negotiation with pfe.

Katz: Okay. Questions of ken? Anybody in the audience want to testify? All right. Roll call.

Katz: Mayor votes aye. Thank you. We are getting closer and closer to completion on this, everybody. All right. 824.

Item No. 824.

Hales: We have staff here to answer questions, but this is basically a next step implementation of the council's direction to extend the project down to 4th and harrison, at the urban center. We are obviously coming back with operating plan and the other steps that are necessary to make this investment actually work, and day-to-day service. I think one of the exciting things about this is it really does put us in a position to next consider how we get to riverplace and to have the streetcar beckoning to the north macadam district soon era they're than later. But this—forming this l.i.d. Will let us go ahead and stay on schedule and keep our construction process moving forward, and open all the way to Portland state on, I think we've now picked the date, july 20th, 2001. Yesterday the marketing committee recommended that particular date. The previous prix is fry the 13th, so we thought maybe the— friday the 13th, so we thought the 20th sounded better f you have any questions—there may be property owners here to testify.

Katz: Anybody who wants to testify? Vicky, just come on up. We haven't heard from you in a long time.

Vicky Diede, PDOT: i'm with the office of transportation project manager for the Portland streetcar project. What the resolution in front of you will lead to is the return to council on july 12th, at which time there will be a report to council on remonstrances, there will be the time and manner hearing, there will be a presentation of the formal operating plan, both the numbers and the scenario for operations, as well as a contract amendment for stacy to begin that construction work. The timing fits in really well with when they'll finish up, when then we'll move into phase ii, and at the same time the lovejoy ramp project is under construction we'll put in the tracks in 10th and lovejoy. That project, we're opening bids tomorrow.

Katz: When?

Diede: we open bids tomorrow for the lovejoy project.

Katz: Okay. All right. Questions? All right. Roll call.

Francesconi: Aye.

Hales: Keep up the good work. Aye.

Saltzman: Aye.

Katz: Mayor votes aye. Thank you. **825.**

Katz: Is mr. Jackson here? All right.

Item No. 826.

Olson: Jerri Sundvall called and asked to be excused.

Katz: Okay. If there's no further business before the council, we stand adjourned until 2 o'clock. Be here and then we'll adjourn.

At 10:51 a.m., Council recessed.

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Key: == means unidentified speaker.

JUNE 7, 2000 2:00 PM

Katz: Item No. 827

Harry Auerbach, Senior Deputy City Attorney, mayor Katz, members of the council. At the counsel's—council's request, I have meeting with the sunnyside neighborhood association and the sunnyside methodist church to try to get them to an agreement to resolve the issues and allow the programs to continue. We are almost there. I know I said this last time. I'm saying the one more time. We only have one more big issue left to do. It's not that there's a sticking point, but we haven't processed it through yet, and that has to do with the manner in which sanctions would be imposed. We hope to have that done in the next couple of weeks, and then get an agreement out. So i'm asking that we continue this hearing until july the 12th at 2:00 p.m. And the parties have concurred in that.

Katz: Okay. Questions of harry?

Francesconi: Did you buy a new suit and tie for the occasion?

Auerbach: no, commissioner, i've had this for a while.

Katz: But did I ask him to comb his hair.

Saltzman: You characterize that as things are going smoothly. That's one big last major issue. Is this going to be a potential stalling point, or—

Auerbach: my impressions so far is that the conversations have been far less contentious than I expected them to be, and that everybody has participated in good faith, and have been able to agree on things I had some doubt they'd be able to agree on. So we're all—we all continue to be optimistic that we will have an agreement on the last piece as well.

Katz: Harry, it's you. Okay. Further questions? All right. When do you want—what date?

Auerbach: july 12th.

Katz: Any objections?

Auerbach: we'll have the agreement and findings that day.

Katz: Any objections? If not, so ordered. Thank you, gentlemen, and we stand adjourned until tomorrow at 2:00 p.m.

At 2:04 p.m., Council recessed.

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Key: == means unidentified speaker.

JUNE 8, 2000 2:00

Ruth Spetter, Senior Deputy City Attorney: please keep in mind this hearing is on the record. That means you may not submit new evidence, you are bound by the evidence that was submitted initially at the hearings below. You must limited your remarks to arguments based on that record, in presenting your argument it's permissible to refer to evidence previously submitted, but not new evidence. It is not permissible to su [the following text is the byproduct of the closed captioning of this program. The text has not been proofread, and should not be considered a final transcript.]bmit new evidence today that was not submitted before the hearings body below. The planning staff will be listening carefully and hopefully will not find that you have been talking about new information. If your argument includes new evidence, the council will not consider it and it will be rejected by the city council at its final decision. Please be sure that your comments address expressly whatever code section and/or legal argument you feel is relevant, because if you don't raise an issue now and you wish to appeal later, you may be prevented from raising those legal arguments later. Ah madam mayor, are there any issues of conflict of interest or ex parte contacts?

Katz: Ex parte contacts on this issue? Anybody in the audience want to question our veracity in not responding to any of these questions? Okay. Then we'll have staff report for about ten minutes. The appellants for ten minutes, the supporters of the appellants for three minutes, the principle opponents for 17 minutes, their supporters for three minutes, and then the appellant has a five-minute rebuttal. == they want to question our veracity, but not on this particular item. [laughter]

Katz: Okay.

Duncan Brown, Planning Bureau: thank you, madam mayor, members of council. You have before you lur 99-832 su, proposed land division, bybee lake land division, creating eight lots and one open space tract. There's no creation of a street involved. Lot number 8 is the site of proposed Multnomah county corrections facility, but that shouldn't have any bearing on what's before you today. Other than just an awareness of where the location is. Partial street improvements will be made to allow access and development of lots 4 through 8, and in addition to the corrections facility, and then development on lots 1 through 3 will trigger additional street improvements to complete the formation of a loop road, leadbetter road. There's a tract a open space which will bodder lot 8, that's the corrections facility lot, and act as a buffer between the corrections facility and bybee lake. We'll see some aerial photos that show that in just a moment. In order to be approved, the proposal must meet the criteria of 34.30.030-b of the city code. Approval of minor land division. And principles of acceptability and design standards. The application was received back in october of 1999. The review was delayed for a while in order to provide additional information. That information was forthcoming and the application was determined to be complete in february. Hearing was held in april, and the hearings officer decision made april 28th. On may 12 the appeal was made by the st. Johns neighborhood association. There are seven items that the appellant has appealed on. Ownership of the site on per— unpermitted filling of the site, filling in violation of state statutes, and using unpermitted fill areas for calculation of buildable area, alienation of public trust, ignoring federal court decision not supporting obedience of the law and recognizing smith bybee lakes for limits of ownership. I'll go into a little more detail toward the end of my presentation. The site is located in the rivergate industrial area, just about in dead center. It is bordered on the west by the columbia slough, which flows from the bottom of the picture toward the top, and enters the willamette river just about the confluence with the columbia river. To the south is bybee lake, part of the smith bybee lakes natural resource management plan area, and to the east is some already

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developed industrial area, the cluster of four buildings down to the south includes the columbia sportswear distribution facility. Up toward the upper right of the picture is the offloading area for autos in north Portland harbor and terminal 6. Here's a general site plan of the proposal. Right now the road that you see through the site, including this dead end cul-de-sac here, is dedicated, but a large part of it from—through the proposed subdivision is not developed at this point in time. The applicant is proposing right now developing the cul-de-sac and the connection to it to the right to leadbetter road, which is developed and connects to north marine drive. And then as lots one, two, and three are developed, the remainder of leadbetter road from the cul-de-sac to the west and north would be improved and that would connect at a second point to north marine drive. There are eight buildable lots that are proposed lot—down in the lower right-hand corner. The—that is the proposed correction facility, lot 8, and around the edge of it there's a tract a open space that is being proposed. This is a map showing the extent of the hundred-year floodplain. The area has been filled, so that all of the lots, including lot 1 in the extreme northwest corner have buildable areas of about 200 by 200 feet minimum area that are above the hundred-year floodplain. This is the entry to the area, the intersection of north leadbetter road to marine drive. In your lower left-hand corner, if you can see around the little insert on your screen, you can see the orange arrow which indicates where the picture was taken from.

== is that columbia sportswear?

Duncan Brown: yes. Well, no, actually that wasn't well, the white building in the background is columbia sportswear. Excuse me. Again, columbia sportswear here, we're looking back from the end of the improved portion of leadbetter road. The site is on your right to the right of that yellow line. And this is a picture from about there, just to the right of that yellow line on the prior picture, there was a mound, and this was taken from standing on the mound looking to the southeast. The numbers are the lot numbers 5, 6, 7, and 8, and 8 back there is the corrections facility site. As you can see, this is virtually level site. What geographers refer to as a ubiquitous plain. This is a picture taken from the far northwest corner, lot 1 is in the foreground, and lot 8 is way in the background next to those trees. The tree and the shrubs on your right are the edge of the columbia slough. The west end of the site is bordered by a railroad, and loop railroad that goes through receivegate, and that's in the foreground of the picture. And then turning to the left, directly north, this is the approximate location of what will be the complete loop road to—of leadbetter drive up to marine drive. Okay. There are seven issues which I mentioned before. I'll go through each one very briefly. First with regards to ownership of the site, the city requires the record owner to be listed as part of the application. That's a requirement of section 34.30.020-b, and then the signature of the owner has to be on the application form. And the absence of either null identifies the application. Multnomah county list the port of Portland as the owner of record and an authorized representative of the owner of record has signed the application. So the applicant—the appellant has prevented no evidence to—presented no evidence to support the assertion that the port of Portland is in fact not the owner and deed holder of the site.

Katz: Whoa, go back. There's no conveyance of the submersible lands of the leadbetter peninsula. And the hearings officer couldn't find that in the record either.

Duncan Brown: what was in the record was a tax map which delineated the site. It's Multnomah county tax assessor's tax map, and the printed out from the tax assessor, which named the port of Portland as the owner of record for that map. Which included the entire site.

Katz: We'll go back.

==yeah, i've got a question about that too.

Katz: I'm sorry, I interrupted you. Go ahead. I didn't want you to skip that. You conveniently skipped it, doug.

Duncan Brown: no. Really out of the seven issues, they all resolve around two major issues. One is the ownership of the site, and the second is the filling of the site. The second assertion here, reason

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for the appeal is the unpermitted filling of the site. The applicant claimed filling of the site was done without state or federal permits, and—however, the appellant didn't explain how that case supports the claim. And there is no fill permit in the record, however, the review is for land division, not for fill or fill violation. We normally do not include—

Francesconi: Before you leave that point, so there's no evidence of a fill permit in the record. Is there any evidence that it was illegal in the record?

Duncan Brown: no.

Francesconi: And the next question I guess is for the lawyer. Ruth, whether it was illegal or let's assume it was illegal for the purpose of this. Is that grounds, the hearings officer said that's not grounds to support an appeal. Is that right? Is that correct?

Spetter: the facts as I understand them in this case are that you have an applicant who is shown on the county tax records to be the owner of record, which is the standard under city code as sufficient to be the owner. And I have further understanding, but I am now speaking beyond the record, and I am uncomfortable doing it, there is no ruling in this case that the site upon which the development has been approved is affected by any of the court cases.

Francesconi: But that wasn't my question.

Spetter: to the extent of making it impossible. Yes.

Francesconi: But let's assume it was illegal. That's an assumption for the purpose of this question.

Spetter: I think that's an outside issue that is not relevant to your review of whether or not this particular land use applicant is appropriate. You don't have a ruling from any federal court of which I am aware—you want me to assume it's illegal.

Francesconi: Is that grounds for—for granting an appeal?

Spetter: I think that's an issue for the applicant to have to deal with if they go ahead and build, and then someone decides that they actually have an illegal situation. They won't be able to go forward, but it's not one of your criteria.

Francesconi: That's what i'm asking. Thanks.

Duncan Brown: I think I can clarify that a little more further on in here.

Francesconi: Okay. I'm sorry.

Duncan Brown: that's fine. Okay. Filling in violation of state statute. 34.60.030-e of the city code does require each parcel toe have a building site in elevation at least one foot above the hundred-year flood level. On this site the criteria is met through fill, and without that fill the criterion would not be met. And this appeal issue, again, is based on lack of title to the land's river, and the fill of lands without the state or federal permit. Which are the first two issues. And then—so let's see. So that—if in fact that fill were required to be removed or if we could not consider it, then this particular criterion I don't know could not be met, and we either a variance would have to be given to this particular approval criterion, or the proposal would have to be denied.

Hales: And that's because of dimensions, or area of the lots?

Duncan Brown: it would be because that it does not have a building site above the hundred-year flood level.

Hales: oh, I see. Which lot in particular? All of them?

Duncan Brown: we don't have any historic records of what the prefill elevations were.

Hales: okay.

Duncan Brown: and, again, this is probably outside the record. Well, it is definitely outside the record. I could speculate, but I don't think it's—

Hales: all right.

Duncan Brown: -- should be looked into right now, because it is outside the report.

Hales: yeah, okay.

Duncan Brown: alienation of public trust by the hearings officer. This appeal issue is based on the lack of a title of lands, river, and also the fill of lands without state or federal permits. Which by

the first two issues we just covered. Fourth, ignoring a federal court decision. Again, this one approval criterion that requires a building site with an elevation of at least one foot above the flood level, and that that relates to the second issue. Not supporting obedience of the law, appellant claims filling was done without state or federal permits. Again, there was a court case that was cited to support that claim, but the appellant didn't explain how that case supports the claim. And the ultimate—and also the ultimate decision of proceeds from a land sale, that is the money going to the common school fund, is not a criterion for the land division review. And then finally, recognizing smith and bybee lakes, it deals with the ownership that lands below the meander line are historically owned by the state and title is transferred to an upland property owner in some instances, and—however, as I mentioned before, the city requires the record owner to be listed and to sign the application. Port of Portland is listed as the record owner. In conclusion, the appeal issues are based on claims that parts of the site are not owned by the port of Portland, and the fill of the site did not receive the state or—proper state or federal permits. Multnomah county lists the port of Portland as the record owner, and although federal case— court case was cited, the appellant didn't explain how that case supports the claim that the proper permits were not issued. So as an—in conclusion, we recommend that you uphold the hearings officer's decision to approve the land division with the conditions.

Katz: Let me ask the question. A federal judge rules—the appellants are going to make this clear, but a federal judge rules there was an illegal fill. Correct?

Spetter: I haven't seen it. I'm assuming that's correct.

Katz: it's in the—is that correct?

Spetter: we don't know.

Katz: that's the allegation.

Spetter: that court case, the body of that court case was not entered into the record.

Katz: the descriptions of the decision were in the record, but not the decision itself.

Spetter: yes.

okay.

Katz: Don't tell me, ruth, we're not going to be able to hear what the judge ruled, because it wasn't in the record at the—and wasn't introduced at the hearing. That's going to be—

Spetter: if you would like to hear what the judge ruled, the issue was raised you can hear it, and I am certainly not the proper person to tell you the details, because I was not involved, but i'm sorry, go ahead.

Katz: I guess the question is, if somebody does something illegally, if that's the ruling, I need to know two things— what was the conclusion on that case, what was the liability, and second of all, if there wasn't any, if it was just ruled it was illegal, do we just ignore that and just continue business as usual?

Spetter: I think that the way i've been looking at this is that you've got two things going on. It's not unusual for us to be asked by an applicant to consider things beyond our criteria, and we don't do that usually. You've got someone who's come in for a subdivision request. And we've looked at the facts that they gave us, including property ownership, and we relied on the county records, which our code says is sufficient for us to do to determine that they're the owner. Based on everything we know, they met the criteria. Now, if somebody feels that through some processes taking place outside of our process, somebody will at some time determine that something that the applicant did was illegal, which doesn't necessarily mean that it affects the approval in a way that makes the approval illegal, maybe it was some other element or some other piece of land that will be affected without affecting the approval in the first place, that is a separate issue. And if the applicant, having met our criteria, goes forward and then through the other proceedings determined to have an illegal situation, that's their risk. But it doesn't affect our review.

Katz: I think we had something like this many, many years back on an issue of legality. But go ahead.

Francesconi: Well, as I understood the staff, they were interpreting—it was a little different than your response to my question. They were saying one of the review criteria was having infill, and therefore if the infill has to get removed, therefore they haven't met the criteria. But i'm not sure that there's anything in the record that says that the infill has to be removed at this point. That would be a future event. I guess my question is, I didn't see what the conditions are, but if the infill is required to be removed, can we have some— what happens? Can we have some condition—

Spetter: all you've approved is a subdivision based on the facts you had. If those facts change, they don't have an approval.

Francesconi: Okay. That's the answer.

Katz: Let's hear the appellants.

Spetter: you based it on those facts.

Katz: Come on up and—come up and muddy the water a little more for us. You have ten minutes.

Raymond Piltz, St. Johns Neighborhood Association (SJNA): 7209 N. Buchanan, 97203. i'm from the st. Johns neighborhood association. Just a brief history of my involvement in this. I'm a 60-year resident of the north, and this is very familiar to me. I know every foot of it. The way it was, the way it is now, what they've done wrong, what they've done right. Along them same lines, what goes on with the port i'm going to refer to them as the 400-pound gorilla in our area, and they pretty much don't come to us first with what they would like to do with our wetlands. And i'm sure you're cognizant it's the biggest wet lined inside of the city limits inside of the united states. It's been my playground for 60 years, and it's not much of a playground anymore. It's pretty much a dead area. Due to the—mostly to the port's treatment of it over the -- since about 1966, I believe it was. The hearings officer's reference to the st. Johns objections, they wanted to give it a brief discussion. Which is pretty insulting to us, because we have 9,000 people living out there. And the lands in the public trust, they don't recognize that either. And for a hearings officer to have no knowledge of the public trust doctrine is beyond us. I'm no lawyer, I have no leanings towards that, but i'm discouraged at that, because at least I know that much. For a hearings officer not to keep that in mind. And the evidence of the ownership, public trust then says the meander line, the state of Oregon and all the people own the land. And we have the maps and we have submitted them to the meander line, and that makes all of this land that they're proposing to you not buildable. Because it's on the lake bottom. And I noh it's on the lake bottom from my own personal knowledge. And they'd have to show this, that this past from the Oregon land board division and the Portland—and the public land trust to the port of Portland, which they haven't shown. And the burden of proof doesn't lie with us as a neighborhood association to show that they've followed the law. And it has it under the submersible land and trust for the benefit of the people, and the general public has a right for the full use of these resources, including navigation, commerce, recreation and fishing. And that's all spelled out also. This is true in all 50 states. And ours has always been a leader in the past of trying to keep things for the people, in the public trust. You've already learned about the lack of a permit. We haven't been able to find it, and they keep asking us, but we can't come up with a permit. If it isn't there, we can't come up with it. We found no record of it, and we stride to research it as much as possible. This has also the illegal fill is on the lake bottom, passed the meander line, into the lake as I knew it, and they have never—they being of record as owners, it's not necessarily true that just because you're on the tax rolls you are the owner. They are trying to lead you to believe that. But what we'd like to do is have each individual member of our board as flair own part of this, they'd like to give you the details. I'm just trying to run over it. And i'd hope it wouldn't take too much of your time. Anyway, we would like you to reject this and have them go back and follow the law. All of us have to follow the law. But they evidently don't, because they haven't. Thank you very much.

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Katz: You—you have about seven minutes, so—questions?

Hales: This is a subdivision case. I need a sense of—I know it's off the record, so it may not be that relevant to our discussion, but the st. Johns neighborhood association has chosen to appeal this particular subdivision based on issues that you just mentioned.

==right.

Hales: Has the association discussed what it thinks ought to happen with this property? Should be—it be subdivided and developed for industrial purposes?

Piltz: we don't mean the industrial purpose, the jail or any of that. But we want, come off the lake bottom. There's plenty of land for what they want to do, but they've got to come off the lake bottom where they put the illegal fill. As you'll learn later from other members, the federal judge has called for that already to remove the fill that's there illegally. And that is a matter of public record. Although the port hasn't been able to dig this up, we've left a copy for you to look through it entirely.

Katz: You left a copy for us of what?

Piltz: of the judge's decision. And it is a matter of record, and it is a tentative settlement that's now—will be settled in a very short period of time.

Hales: Wait. Now we're drilling down to the issue I think may be relevant to us. If you have a federal court decision which says that the port must remove some of this fill, and if the amount of that fill that had to be removed would reduce the lot sizes below the minimum required in our zoning code to do a subdivision, again, this is subdivision case, we're not an appellate body for federal decision making for anybody else, but for our own hearings officer who applies the code to pieces of land to chop big pieces of land into small pieces of land. If you can show us a decision by? Competent authority that says property owner, in this case the court, is required to remove some of the fill, and that the amount of that fill to be removed would reduce the lot size below our minimums in our zoning code, then you've got our attention.

Piltz: right. And it will show that in the record.

Hales: Do we have that decision in front of us?

Katz: There's a copy right here. One copy.

Piltz: and it does show the removal of the fill and—but like you say, mr. Hales, it doesn't specifically say that given site within a couple of them lots. But the other lots it has written out where—and the port knows this. They've agreed to this already for them to show ignorance of this happening is inconshunable. They know they have to remove this fill, and they've already agreed to remove this fill, all the way around the biggest lot, which is lot 8. And then on down further.

Hales: Okay. Thank you.

== anything else?

Katz: No. We've given the case to our attorney here.

Spetter: the only thing I would caution is, I haven't seen this. Be sure it's as exactly—it says exactly what you want it to say. It's beyond the record, and as I understand, this whole matter is in a settlement conference, which may or may not have a different result. So I think that's another critical element. I'm not sure you want to start getting into this. It isn't part of your review.

Piltz: and that's all we ask, is they know this is in the works. I don't know what the hurry is that they have to—

Katz: Okay. We'll get to that. The article we have is that there has been a settlement. So i—if the port wants to talk about it, i'd like to hear about it. Okay. We'll listen to your colleagues now. Thank you.

go ahead, Britta.

Olson: Come up three at a time, please.

Eleanor Piltz: hello. My name is eleanor, and my address is 7209 north buchanan avenue, Portland, Oregon. Good afternoon.

Katz: Good afternoon.

Eleanor Piltz: i'm pretty much going to go over some—I'll start out, i'm kind of nervous, so i'll read most of it. According to the courts and the division of states lands, the people of Oregon own the bed and banks of all navigable streams and rivers and lakes up to the ordinary high water line. This land is commonly referred to as the submerged and submersible land. In addition the people of Oregon also own all lands subject to title—tidal influence, commonly referred to as tide lands. Ors 274430 state ownership of meandered lake status as navigable and public waters. All meandered lakes are declared to be navigable in public waters. The waters are declared to be a public character. The tidal to the submerged lands of such lakes which are not included in the valid terms of a grant or conveyance from the state of Oregon is vested in the state of Oregon. Ors 327.405, common school fund, composition in use. The common school fund shall be composed of the proceeds of all property granted to the state when the purpose of such grant is not stated. All proceeds of the sale of submerged and submersible land as described in 274.005. All such proceeds shall become part of the common school fund. The income from the common school fund shall be applied exclusively to the support and maintenance of common schools of each school district. Multnomah county records lists the port being deed holder of the site and to the limits of the lot boundaries shown on the site plan. The st. Johns neighborhood association claims ownership to the meander line existing prior to the fill. This meander line does not coincide with limits of the lot line shown on the site plan or Multnomah county assessor's maps. If the fill were found to be unpermitted, all of the land would not be suited for the intended use. And the proposal could not be approved. The heavy-handed tactics the port of Portland has used in dealing with the citizens of the peninsula has to stop. They have caused a lot of hard feelings, frustrated neighbors, and residents. Of north Portland that have fought so hard. And so long to save the wetlands. The money, time and efforts from all parties is massive. The port of Portland finally announced a tentative agreement of a lawsuit filed against the port and five federal agencies in 1997 by michael jones, who was tired of seeing wetlands and wildlife habitat destroyed by the court. The port acknowledges the lawsuit brought to light several flaws in the river gate permitting infill process. And the people of st. Johns have been testifying over and over to county officials, port officials, et cetera, and it took a lawsuit to bring forth the truth. What a waste of time, effort and taxpayers' money. We are asking the city council to reject this subdivision and to send a message to the port of Portland to please play fair, and above all, follow the law. Thank you for listening to me.

Katz: Thank you.

Jane Bogus, SJNA: my name is jane bogus, st. Johns neighborhood association. 9128 north buchanan, Portland, Oregon. I am also nervous, and will read mine.

Katz: It's all right. You're doing very well.

Jane Bogus: does the law mean anything to the city council? Do you know what it does to the neighborhoods when you don't uphold the laws? Who represents us, the city of Portland? Even today, when it is clear the port has taken away land that belongs to us, the port of Portland illegally filled land below the 11-foot line. On smith and bybee lake. There are two versions of the law that forbid filling below the 11-foot mean sea level. On smith and bybee lake. 541.622 passed in 1976, and 196.820 remaining in force today. I don't have copies of these with me, but i'll make sure you get them if you need them. Please uphold the laws for the city of Portland. Please keep our wetlands for us and generations to come. And because of the tentative statements—settlement of the lawsuit against the port of Portland's illegal landfill, we feel that the conditional use permit that was given to this county for the leadbetter peninsula for the new jail should be reviewed. We don't think that it upholds now. Thank you.

Katz: You're welcome.

Donna Babbitt: 9441 N. Willamette Blvd., 97203. my name is donna basketball it, and i'm a st. Johns—babbitt, i'm also a member of the association. I'm here to speak to you about the particulars on the permit, a little bit about the fill, a little bit about the public trust. I'm going to start with

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showing you a packet. I did intensive research over the past two years. This is a packet of only removal permits having to do with the leadbetter peninsula from 1978 to 1995. They are all listed as rp number 2991. At the same time that the port of Portland took this out, it was in regards—

Spetter: excuse me. I just understand this is outside the record and was not part of the original testimony. Before the hearings officer. You do have it on the record case here. It's tough, but that's the way the rule is.

Katz: Go ahead with your testimony. I'm going to ask you a question. And then you can answer it.

Donna Babbitt: okay. At the time permits were taken out, which was the removal permit and section 10 permit, which also allowed removal. Those were the only things that were taken out. No fill permit was ever issued from the division of state lands, no 404 permit was issued from the federal government. And the port has the burden of proof. The illegal fill created the led better peninsula that you see today. We cannot allow subdivision of lots on the leadbetter peninsula because it is a nullity, and that is specifically null and void. If the illegal fill was not there, the lots that the port of Portland is asking your permission to subdivide would be well below the hundred-year floodplain, and they would be too small. Further, the illegal fill violates Oregon state law 196.820. The illegal fill also violated federal law concerning the permit 404, which is the clean water act. Which was recently won in a citizen lawsuit, jones versus thorn, 1997. In this recent settlement of mr. Jones, the port states in an article dated 6-2, 2000, for the public record, I have it here, of the business journal that the lawsuit brought to light, and this is quoted, the lawsuit brought to light, quote, several flaws in the receivergate permitting and fill process. And that was said by steve johnson, port of Portland's spokesman. In the next few weeks in the federal register, you commissioners will see, number 1, a consented decree, and number 2, an enforcement order. This will be from the epa and the corps of engineers, mandated by the federal court that the port of Portland was found guilty of illegal fill on the leadbetter peninsula. Commissioners, you will need to see—you will also see the port of Portland agreed with this enforcement order. The illegal fill violates the public trust property rights of the citizens of st. Johns. Since the illegal fill was put on, the top of the submersible lands that we people own, the port of Portland is in direct violation of the fifth and the 14th amendment of the united states constitution. In conclusion, a federal court has found that the very area for the proposed subdivision of lots of land is illegally filled by the port of Portland. The filling of this area, the leadbetter peninsula, was a violation of a state law that the citizens of st. Johns have the legislature passed to—

Katz: Okay. Let me ask you, we understand that. Let me ask you the question. Did you not have the final condition and—of the disposition of the federal court case during the time when this issue was being heard?

Donna Babbitt: no, we did not.

Katz: You knew about it, but you didn't have the final—

Donna Babbitt: we didn't really know about it, because to my estimation a lot of things were kept confidential having to do with that. What we knew was that there was some sort of mediation that was going to go on, and that a settlement would come to pass. And that has come to pass, according to what i've read up to this point.

Francesconi: A couple things. First, I think, and I don't know if it applies here, there's this idea of judicial notice, where you can take notice outside of the record of court decrees. And I assume that applies here. Is that right or wrong?

Spetter: it probably applies. I really don't know about the application. I know luba does it in land use cases. But perhaps the port should address that.

Katz: What date was that?

Francesconi: I think we can take notice of other decisions. I'm pretty sure. Which means it doesn't have to be in the record. I think we can do that. But my two questions are, and I tried to read through this document, but I couldn't tell if it's the same fill for the same piece of property as is in

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front of us. I'm going to ask the port the same question. In other words, is the fill that has to be removed part of the 38 acres that has to be removed, is that the same subdivision that's in front of us?
== that's some of the fill. That's some of the fill.

Francesconi: But some of the fill is the same subdivision. Or do you know? If you don't know, just say you don't know. If it is—

== i'm not understanding what you're saying.

Francesconi: Is some of that --

== mandated for them to remove, are you saying is that the fill?

Francesconi: Is some of that fill that they have to be— where they're planning this development?

== exactly. Some of it is.

Francesconi: My second question is, and it was complicated because the lawyers -- because of the lawyer's response. According to—i'm trying to figure out what you get from coming here. This is why i'm asking the question. Because the lawyer has said that if the fill is illegal in a separate decree, and the fill has to be removed, then whatever we do today is moot. Is irrelevant. And the port, if the fill has to be removed, would have to start over again. See what i'm saying?
yes.

Francesconi: If that's true, why are we fighting now? I don't quite understand.

Donna Babbitt: for myself, on may 29th, 1999, I wrote extensive letters to the division of state land, and mr. Cleary, the head of the division of state land, for the violation of my property rights to what is filled. And for the port to stay in the record as owners of that land, which I started out in 1948 in vanport, i'm vested. My roots are in this area. That is my land. My children recreate on it. They study on it in outdoor schools. That's my priority there.
== but dig.

Francesconi: If i'm understanding this, what our decision is, if it's legal fill, they've met the criteria. Okay? If it's not legal fill, they haven't. So if some other court or process says it's illegal, you win. But, see, this—unless i'm missing something, this isn't the place. It won't matter. If it's illegal, then they don't no matter what we do won't matter.

Donna Babbitt: you're only seeing the outcome of the federal—at the federal level. You haven't even seen the state level.

Francesconi: We have certain criteria to meet. I don't think we have anything to fight about.

Donna Babbitt: I guess I ought to reiterate what ms. Piltz talked about. We've gone back on this almost three years.

Francesconi: I understand. You have a legitimate—you're making progress, it sounds like. But I think our decision should just be if it's legal fill, they can do it. If it's illegal, they cannot.

Donna Babbitt: they can't do it in any case if it violates my right to due process. And my property rights under the public trust. They cannot.

Francesconi: We have certain criteria we have to meet, and you may have that argument, but that doesn't wouldn't in front of us.

Donna Babbitt: I think it does, because— excuse me. I think it does, because by you denying any decision that has come out of a federal court, a state decision, you're putting blinders on and mufflers over your ears, saying this is not my purview. That is in essence—

Francesconi: You misunderstood what I said.

Hales: We're not a court here. We just act like—it's called quasi judicial for a reason. We're not a court. Even though jim is a lawyer—

Francesconi: Actually, I want everybody to forget that:

Hales: We abuse that because of his background, but we have a set of rules to apply to chop a big piece of land into a smaller piece. We're a city council, not a court. If there's all kinds of legal activity going on in the courts, that is a separate world from what we do here. We apply our land use rules to land use decisions. We don't apply everything in the kitchen sink to those land use decisions.

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We apply our land use rules to our land use decisions. What our lawyer, our lawyer who is on the payroll as our lawyer, has said when you apply your rules to this case, they pass. Now, if some other court somewhere else says—pulls the rug out from under the basis for that application and says the land you claimed is land wasn't land, as she said, then the whole thing is moot and goes out the window. What we don't get to do is impersonate a court, take all this other stuff into consideration, and render a judicial decision. We don't do that. We apply land use rules to land, and—in a very limited way.

Donna Babbitt: but you are my commissioners.

Hales: We are, but in this role we're not—

Donna Babbitt: to a certain degree you have to protect my rights.

Hales: We're not carrying out public policy. We're doing this mechanical thing of applying our rules to the land. And i'm sorry to sound stubborn about that, but we should not impersonate judges. And you don't want us to.

Katz: Let me ask you the question, where is your ruling on the submerged and submersible land issue? Have you gone to court on that?

Donna Babbitt: as far as my complaint, i'm thinking of moving this to the state level.

Katz: You are thinking about that. Okay.

Donna Babbitt: I have had many conversations with ms. Warner, who is an assistant to mr. Cleary, and I think this should be looked at. Because a lot of wrongdoing was going on, especially during 1991 to 1993 on the leadbetter, specifically way back before then, to hundreds of acres in the rivergate area.

Katz: The reason I ask that question, you may be right on that issue. I'm not a lawyer, but I was in the legislature when we did work on submerge and submersible lands. It is not an easy issue. And—but you haven't gotten any ruling on that level. You did get a ruling from the federal court on the fill. I just wanted to make very clear what we know and what we don't know yet, but what we suppose.

Donna Babbitt: there is a ruling that's come down, and we'll see it—

Katz: On—

Donna Babbitt: on the fill and the 404 permit.

Katz: Okay. That's what I said. That's not any different than what I just said. Thank you. All right. Let's hear some more.

Olson: I didn't do—

Katz: Anybody else want to testify?

Olson: This is for the appellants.

Katz: You're the one who filed the lawsuit?

William Michael Jones: 2714 NE Mason. yeah. I'll tell you why. The only place people in north Portland can get environmental justice is federal court. You might come to the city, don't go to the state, because they don't give a damn. I'm sorry to say that, I have to tell you the sadness I feel, people are dead now that I really admired, they came back from the legislature, jim crest, do you remember him? They came back and said, we've saved the lakes. Nobody stood up and said, so you got a law, nobody cares about a law that only applies to north Portland. We're not going to do anything about it. The port is going to go ahead and fill, the corps will get permits. The state didn't give a permit because they knew it was against the law. So the port went ahead without it. Just like they're doing now. They're going ahead, breaking the law, it doesn't matter. The law doesn't matter to anybody, you know, that— except—there is something— let's start over again. What we said was ownership is a criteria, and then the city comes up with, all—we've got to consider because it's in the application for the tentative permit. That's the only place you mention ownership at all. Is in an application. That's not criteria. It wasn't ever considered. I'll tell you something, I know this is on the record, and so I won't submit it, but i'll tell you, there's a website at lane county, and they

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ask—they answer the question like this. It's in big writing, what's the difference between a tax lot and a lot of record? And they go on for four pages. And I suggest you guys access this and you'll find out that a tax lot is not the same as a lot of record. In fact, the state law allows somebody, not the real owner, to be on the tax rolls. That's the law. But here's—let me say what they say in lane county. Lots of record verifications vary. In many cases, these situations can be corrected by a partition or subdivision application. A lot of record problems are not easily corrected. Each situation is unique and requires an in-depth consideration. That's all we're asking from you, is what they do is routine, and have on their web page. Consider the ownership. Know the difference between a tax lot and lot of record. What people are trying to say to you is, we don't have to prove who owns submerged lands. It's the law. And people like you who uphold the law should know, it's the law that when a land is submerged, it belongs to the state, and it doesn't—nobody else belongs—owns it, whether they're on the tax rolls or not. They—i don't have to go and prove to some hearings officer who is so lazy he can't say to the port s. That true? Have you lost that case? Is that true? You don't have a conveyance of land? But instead, we get this thing, you're going through this hyper legal thing, we don't have to consider this, we don't have to consider that, and so we can go on breaking the law. And you know, you are as guilty when you affirm or when you ratify illegal act, you are guilty yourself. And maybe not in land use law, but certainly in common law. Now, you're a lawyer, you know this, you sat there just a few minutes ago and said, we don't apply the law. We do this mechanical thing. And living in north Portland all these years, I know what that mechanical thing is. I'll tell you, you find any little reason you can, you know, and—my three minutes are up?

Katz: Yeah, and you're going places I don't want you to go.

William Michael Jones: I hardly got to the part where the port doesn't stand up and say, no, it's not true. Plus, you should ask me where the case stand, because there's -- there's a confidentiality thing, nobody really knows—

Katz: I will ask you. If you stop your testimony, where—where are we on the case law?

William Michael Jones: the case is being settled. It's almost settled now. It has to go—the enforcement order and consent decree are on their way to janet reno now. It will be printed in the federal register. The first thing I ever wrote to the hearings officer, the hearings people, is let's put this off. If I have to go back to court, if I have to go back to court, we're going to remove more than 30 acres. We're going to remove a lot more. The main reason i'm settled, i'm tired of this. And I think everybody else is as tired of it. But I will say that nobody knows where it is now. And it could blow up anything. But one of the problems, one of the reasons i'm here is because contrary to what the city attorney says, you divide this lot, they sell it, and it will be almost impossible under chapter 92 for anybody to do anything. I mean, governor could maybe do it, because he can assert state ownership, but he's not about to against the port. That's the whole problem. So when you divide this lot, it will be sold within days. In fact, the port and the Multnomah county have broken the law because you can note sell land before it's subdivided.

Katz: Thank you.

William Michael Jones: you can't negotiate, whatever. So here we got somebody here already got a contract, already got—

Katz: I asked you one question, you've gone way beyond.
okay.

Francesconi: I want to—

Hales: I want to ask a question. Maybe I won't try to explain how we make these decisions anymore.

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William Michael Jones: wait. Can I see this—say this? I'm saying you didn't consider all the criteria. Ownership is a fundamental criteria that you've not considered, and that's what we'll take to luba.

Hales: I got that part. I'm sorry I made you angry when I said this is a mechanical process. But when I took this office, I swore an oath to uphold the law. Not the law as I imagined it, or the law as I think it should be, but the law as I can read it with the eyes in my head on a piece of paper. What the law says that we get to apply here is that we're chopping up a big piece of land over—applying rules that allow people to do that in a small—into small pieces of land. I hear your argument. You say this court case will require the port to remove some of this fill from this land. That's relevant to us. Because, again—stay with me.

William Michael Jones: let's look at a different situation. Suppose somebody comes to you with a—with the columbia river subdivided.

Hales: I don't want—

William Michael Jones: would you say, well, they came, they asked, i—

Katz: Let him finish. Hang on, michael.

Hales: I want to ask a specific—

Katz: He likes people to argue with him, but you've got to listen.

Hales: You've got to hear what i'm saying, not what you wish i'm saying. Take a pencil and draw on this map which land they have to remove. Can you do that?

William Michael Jones: no. Because it's not saidled. It's been decided. We'll have big charts and everything at some point.

Hales: For us to make this decision—

William Michael Jones: no, no. This is a federal case about 404. You caught on to that. There is a state case left, there is a state case that says not even the city council can give you permission to sell submersible lands. That's what you're doing right now. You're saying that it doesn't matter if I can get a federal judge to ask it to be removed, it is that the law is, this land belongs to the state. It doesn't actually belong to the state. It belongs to me, to you, the state holds it in trust. You are helping these—the people, the port, sell land that doesn't belong to them. That's criminal. That's what you're doing. Now, you can go through your criteria that don't consider ownership in subdivision, which I think is foolishness, but we'll find out later, but i'm saying, you're breaking the law yourself when you subdivide land under the high tide line.

Katz: Thank you.

William Michael Jones: until it's conveyed. Why not have it conveyed? Why not say to the port, here's what the port can do to get where they should be now. They can go to the state division of lands and say, look. We screwed up. We filled this land. With filled this land and we'd like to buy it. Because the law is very clear, they have to pay fair market value for the land to subdivide it. Then they come back to you with a conveyance from the state division of lands, then they own the property. Now they really own the property, and then they can subdivide it. And whether they remove this acres and that acres and whatever isn't as important to me as that the law can complied. And why, with all the trouble the schools are in, why let the port take money out of the schools' coffers?

Katz: Thank you.

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William Michael Jones: wait. There's another thing i've got to say. In any case, and it won't be enforced, in any case, all these years have been a law against filling into smith lake, and it's gone on. In—and nobody knew how to stop it. When fuller elected—people say, that's the law, that doesn't apply to us—

Katz: The reason you got a little extra time, bless your heart, you took a 400-pound— we are the 800-pound gorilla. You took a 4-00-pound gorilla to court and you won. You spend all your years doing this. Because of that you deserve—

William Michael Jones: you would never be able to spend the money the port spent on this case. You just—

Francesconi: Let me ask. Hang on. I wasn't paying attention.

Katz: Trust me. Take a deep breath and relax.

Francesconi: Get back on this ownership issue. I wasn't listening closely enough until just now. Now, on the ownership question, i'm looking at the lawyer again now, first we're saying there's no evidence in the record to say the port doesn't own it. And they put in something that shows they own it. But if there's a state statute that says they don't own it, that should be enough, actually. Because you could take judicial notice after statute. Am I wrong about that?

Spetter: I guess my concern is that you're not the fact-finder. You haven't found facts that would show the port doesn't own that land. It's not one of your criteria.

Francesconi: Okay. But—you mave be right. And—but if there's a state statute that says who owns the land under certain conditions—

Spetter: and I don't know if there is such a statute.

Francesconi: I think we were just told there was.

== there definitely is.

Francesconi: Let's assume there's a statute that says land is submerged a—belongs to the public. Then if there's facts in the records saying the land is submerged, then there would be enough to create an issue of fact. Are you following me?

== m-hmm.

Francesconi: I didn't pick that up until just now.

Katz: If the land is submerged, he is right.

Francesconi: I want to hear from the port on this subject.

Katz: Okay. Go ahead.

Carol Warner: 7454 N. Mohawk, 97203. good afternoon, my name is carol warner, I reside at 7454 north mow hack in st. Johns. I'm not only a property owner, but a property investor in north Portland. The reason I moved to north Portland as opposed to living in the home I have in lake oswego is because of the beauty of the wetlands, affordability and livability. I also am a member of the st. Johns neighborhood association, and have been attending many, many meetings. I am here just to express my not only displeasure, but outrage at the disrespect shown to the neighbors and the neighborhood association when I as a property owner and—come to seek information as you are sitting before us today, seeking information. I go to seek information and the disrespect that is shown to people who have information that I need by the port officials and by city officials that come out to speak to us in north Portland. I'm only in north Portland for a short period of time. Relative years. Not only has there been put— child protective services out there, the probation office, we're now getting a health clinic out there for low-income, and now the jail. And our—in our very small area. I am not only here to, again, express my displeasure at the disrespect shown to the neighbors and neighborhood people who have information, but I am asking you as a board, commissioners, to please, please pay attention to those of us out there in north Portland. Thank you.

Katz: Thank you. Anybody else want to testify on behalf of the appellants' position? Okay. Nobody else? All right. We—the applicant. You have 15 minutes.

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Vincent Salvi, Port of Portland Assistant General Counsel: madam mayor, and members of the council, my name is vincent, I am an assistant general counsel with the port of Portland. We are, contrary to some of the statement that's have been presented to you today, concerned about the neighbors. We are concerned about the neighborhood, we are concerned about the development in receivegate. And we have tried to do exactly what the neighbors have asked you to do, which is to follow the law. So i'd like to briefly reiterate how we believe we have met the approval criteria and then try to address some of the other issues that relate to the ongoing litigation, because I think that's critical to your— critical to your decision today. Whether we have prepared our application, the issue related to ownership, and the way ownership is reviewed by staff, the office of planning and development, is to look at the application, which the applicant certain identifies with respect to ownership, and to review that information with the county. And the issue related to ownership pursuant to your own code, title 34.16.033, defines owner as the person to whom title to real property or the contracted purchaser of real property of record as shown on the last available complete assessment of the office of the county assessor. So in following your prescribed procedures and your code, we submitted our application, the office of planning and development reviewed that. It is in the hearings officer's record as exhibit g-1. The staff indicated in that on the record that they had independently verified the tax records of the port was the record owner. We are the record owner. So pursuant to title 34, you're obligated I think to recognize that. They have raised numerous other issues that go to the issue of ownership. But the fact is, before the hearings officer, none of these issues were articulated, other than there was no issue of conveyance. There was no need before the hearings officer for other evidence of conveyance beyond our statement and the independent verification in the record by staff. These issues are not relevant to an appeal criteria under your code. And i'd ask you to reject them not that they are passionialitily made before you, re—we recognize that, but it's not part of the appeal criteria under title 34. Now, many of the other issues that have been presented to you today are reflection of issues raised in federal court. And I don't know what was handed to you by the neighborhood association. I'd love to see it if I could, because it was represented as either findings or—

Katz: It's in the daily journal of commerce.

Salvi: I understand that. I'm not sure what this document is.

Francesconi: It's the summary judgment.

Katz: That came out after the hearing before the hearings officer.

Salvi: and I understand that. And the finding, they appear to be appropriate, there were findings and recommendations of a federal magistrate, which are referenced here in july of 1999. These other motions in support of them, are federal deeds going back I believe to some period of time, I have not reviewed these, but I would object to additional items being introduced for your consideration, other than the finings and recommendations to the magistrate. We don't have any objection to those. I don't think we would object to commissioner Hales—if you do that, what you many find is a very complex piece of litigation that entailed numerous issues over a number of different permits over a long period of time. And findings that related to a couple of particular permits in the early 19 90s. And what you will also—what the neighborhood association was referencing was an agreement-upon settlement the port has signed, and mr. Jones as plaintiff in that litigation has signed. It is still subject to the united states department of justice approval. It will be published as mr. Jones indicated, and it is subject to modification based upon published comments. That settlement, although not final, does contemplate removal of some fill. And it also contemplates settlement of all of the issues raised with respect to allegations of violations of the clean water act, or any other illegal fill on the leadbetter peninsula. The purpose of the settlement on our part and his part was to settle those claims, and it does, if it's final. I am prepared to show you, mr. Hales, generally on the map where the fill would be removed. As part of that settlement, there was with the initial proposal with the county, under the sale agreement between the port and the county a 200-foot buffer that

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surrounded the boot of the peninsula, adjacent to lot 8 and on the east, south and portions of the west side. The settlement agreement continues having a 200-foot buffer. But it creates an obligation on the port to remove some of the fill and to create a slope from the 125-foot setback to about 200 feet on a 1 to 4 level and plant that with vegetation. That's what we've agreed to do, assuming the settlement agreement is implemented. All the other issues raised by mr. Jones are settled if that is finalized, and our obligation is to spend multiple millions of dollars to do mitigation both onsite and offsite. If you review the findings of judge magistrate—magistrate Stewart, she indicated there is roughly 30 acres of illegal fill. The mitigation required in the consent decree would require us to mitigate about 15 acres on an adjacent to lot 8. None of that mitigation in our opinion would affect your decision or our request for this land division. We can do that consistent with the plat or amended plat pursuant to our application. So as much as the passion is before you as to prior act, we have acted, we believe in good faith and diligently to try and resolve these issues. It has been hard for our—hard-fought litigation. If it has been accepted, and we think it's a couple months away from being final, these issues will be finalized and settled. The port has taken responsibility and is willing to do so on dealing with the issues on fill. So I am asking you to do—

Saltzman: On lot 8, what you just said, the original plan is to have a 200-foot buffer and now with the consent decree—

Salvi: it's still—

Saltzman: Are you going to remove that part that goes beyond the meander line and still maintain the 200-foot buffer?

Salvi: the proposal is, if you look at lot 8 in your packet in the exhibit, from the currently described property line, to create a buffer 200 feet back from that. So you can see tract 8 in the proposal. Tract a, excuse me, which is right now a 70-foot buffer, that was the original proposal that the port would retain ownership of that 70 feet. The county would do an additional 130 feet of planting and buffering. The proposal is that now of the 200 feet setback from the current property line, not the meander line, that there would be removal of fill back to the 125-setback, and for the next 75 feet, there would be a 1 to 4 slope, and on that slope there would be native vegetation planted, and the port is in discussion with the county then on where the buffering even beyond that. We're envisioning probably another 40 feet of visual buffer on top of that. So the end result we believe of the concept decree will be probably 240 feet, something in that neighborhood of buffer. And we believe we can accomplish that clearly within confines of the lot we've described through an agreement with the county as far as the management of that property.

Katz: There's another issue here that I think you're ignoring, because of the potential settlement. If you're required to remove the fill, you don't own the land. I mean, that's clearly showing that that land is not yours, that it was submerged, and it belongs to the public. And what the gentleman asked of you is, he understands that the settlement is probably a very sound one for the community in terms of the mitigation. But that you ought to go through a process of convey—of having the ownership clarified and getting it—a conveyance on the ownership.

Salvi: I think I understand that now, madam mayor. That has never been clear to us prior to—

Katz: Oh, please. You know you need to do these things. You're an attorney.

Salvi: actually, this is the first time as a lawyer on behalf of the port that has been represented in a manner that I had any understanding of, that that is the intent of the neighborhood association. It is not been an issue before us. They have not participated in the lawsuit which we have been trying to settle. It is not an issue they brought forward to us. Sit not.

Katz: But it is an issue that has come forward now. Submerged and submergible land belongs to the public. That at least a portion of this isn't yours. As you claim it is. Am I right? What am I missing something.

Salvi: I can't acknowledge that we don't have title to the land. We had a deed from dsl on these parcels, madam mayor, and dsl in the '70s conveyed its interest to these parcels, and I can't

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acknowledge our—or accept the fact that is not title or a property conveyance. We're not here to acknowledge that argument.

Francesconi: Now that you've heard that, you've also heard—I'm not saying this is true, but the fear is that you want to subdivide this and then sell it before it sounds like the effect of the decree.

Salvi: we could not do under that under the terms of the decree.

Francesconi: That's what the concern is. What—either—what would be wrong with postponing this, our decision, until the decree, and then marrying the two to make sure they marry each other, or -- and I don't know at the if we can do this, coming up with conditions right now that say something to reflect the decree? You see what I'm saying?

Salvi: yes.

Francesconi: Where do we go from here?

Salvi: I think the report is prepared to suggest that we—the board is prepared to suggest we would like the this proceeding delayed. We think we have met the criteria.

Francesconi: Why do you not want it delayed?

Salvi: it really goes to our commitment to the county to move this process forward. We don't think it's in the public interest to delay. We have an obligation to comply that decree. We must comply with it. And we will. So to be honest, I don't know, and I don't see how that benefits this process at all. To the extent—

Francesconi: Why do you need to proceed—to meet your county commitment. I'm just ignorant.

Salvi: it's an issue that has been discussed in the port. Whether or not it would be appropriate to agree to delay. Our view is that there are multiple objections to the development of the jail site, and our commitment was to the county to try to go forward pursuant to what we believe is our right under the code to divide this property.

Francesconi: Okay.

Salvi: we're committed to do that under our sale agreement.

Francesconi: What kind of conditions do you recommend as an alternative, if we decide to go this way, to make sure the property is not conveyed to somebody else in the meantime, and that the decree is complied with? As part of the conditions of this subdivision?

Salvi: I'm not prepared to submit conditions to that effect. At this time.

Francesconi: Well, I think you better think about that.

Katz: I'm not—I have to tell you, I'm not willing to vote on this until some of this is resolved. You better be prepared.

Saltzman: What is the expected time line for the decree to actually become final?

Salvi: somewhere between two and three months.

Katz: I'm sorry, we interrupted you. Why don't you—go ahead and try to finish.

Salvi: I mean, the argument that I was going to conclude with is simply that we believe we have met the criteria. We are in support of the hearings officer's decision. We feel we have met all of the approval cry tier ya and the arguments against this approval are not based upon the record. That is where we believe you're obligated to do, to follow the procedures under title 34 and to look at what is actually before you in the record. The only thing that has come in today that is different than what was before the hearings officer is that—the decision of the federal magistrate. That decision with respect to a portion of the leadbetter peninsula on whether it was legal or illegal fill, and our judgment does not affect your ability to make a decision on this.

Spetter: knowing this will make me very unpopular person, I just wanted to share with you the fact that the statute requires that the approval or the denial of a decision correctionary permit application be based on the standards and criteria that are set forth in your ordinance. I just wanted to emphasize that.

Francesconi: Can you put—I'm thinking out loud—if we could think about this for a week and bring it back to see if there are any conditions, but could we put a condition on this, maybe you know,

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commissioner Hales, where they can't convey it to anybody else? What kind of conditions can we i'm thinking of those—

Salvi: I think we could agree to that.

Francesconi: That's where I was going.

Salvi: we are not in a position to convey, nor does the decree allow us to.

Francesconi: That's what I was hoping you would come up with here.

Salvi: it's difficult for me to do that off the cuff.

Francesconi: I know. That's why i'm suggesting we wait a week and you try to come up—

Hales: Let me try a little variation.

Saltzman: I understand the port's obligation to the county to try to move this along. I also know, maybe the county wants to speak about this, the county is considerably behind schedule and having everything -- the money in place to operate the new jail, so i'm raising the question, what harm would there be to postpone this for three months until the consent decree is final, and then we would have firmer ground rules, at least a clear understanding of the whole picture. I don't know if the county wants to—

Katz: We're getting to closure, and that's not fair—I want to continue the proceedings. But ruth, I also, when I took this job, swore to uphold the constitution of the united states, the state, and the laws of the state as well. Just—

Salvi: do you have a minute I could consult with port staff?

Katz: I—do you have other people who are going to be testifying on your behalf?

== madam mayor, there was no one from the port. I believe the sheriff is here in support of the application.

Katz: Okay. Did you want to testify? All right. Are you finished?

Salvi: I am finished. I would—could I reserve a minute to come back on your request?

Katz: Absolutely.

Hales: Just a question or two. So you say i'm not going to ask you to do it, because I think we may be getting back into territory where I shouldn't have gone in the first place, you could take a pencil and draw the revised boundaries of lot 8 that would result from the removal of improperly placed or allegedly improperly placed fill pursuant to the settlement that you're on the way to settling. You could take out a pencil and say, yeah, after this is applied, lot 8 will look about like this. Instead of about like that.

Salvi: actually, there's two possible options, that lot 8 would be constricted or it would stay the same, and the port and the county would work out an arrangement whereby the mitigation would be under taken. It is not required under the terms of the decree that the configures of the lot would change. It only how the—that buffering area is treated and managed. But I could do that, yes.

Hales: Do any of those options reduce the buildable area of lot 8 below the standards of our code?

Salvi: no, they do not.

Hales: Or below the site area needed to build the jail?

Salvi: no, they do not.

Hales: Okay. So regardless of how that is settled, lot 8 meets our code, and the county can build a jail on it.

Salvi: absolutely. The code requires a 40,000-square-foot buildable lot, and 100- --150-foot—

Hales: This lot looks like about ten acres to me.

Salvi: its excess of that.

Hales: So it's a lot more than 40,000 square feet. A lot more than 400 square foot.

Salvi: if I could just return, if you can give me a minute after --

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Katz: I'll give you time. Did you want to testify? Do you feel safe? [laughter] i'll ask you to do your testimony, tell us when you're going to start construction of the jail that you don't have the money to operate.

Captain Bobbi Luna, representing Multnomah County Sheriff Noelle: good afternoon, mayor Katz, and commissioners. My name is bobbie luna, a captain with the Multnomah county sheriff's office. My address is 11540 northeast invernness drive, Portland, Oregon. I'm happy, pleased to be here today representing sheriff knowly. The sheriff hoped he could be here to talk to you today about this land division, but unfortunately a last-minute conflict arose. I want to thank you for this opportunity to testify. As you're aware through your consultations over the last year with both the sheriff and the county board chair, the southern end of the leadbetter been instance la -- peninsula is the site for the new cruxs— corrections facility. I'm the project manager for the sheriff, managing design, planning and construction of the facility, and once the facility is opened, i'll commend it. This new facility will incorporate 225 jail beds, 300 secure alcohol and drug treatment beds, and it's desperately needed. Earlier I handed to the clerk a copy of the sections from our application for conditional use permit, and environmental review that describes the critical need for this public facility. The demand for jail beds as well as secure alcohol and drug treatment beds has risen sharply over the last decade, and its programs just such that we'll find at this new facility that will directly complement the efforts of the Portland police bureaus to reduce quality of life crimes that are a focus of community policing efforts. Earlier this year, the county received its conditional use permit from the city for this project. The substance of our successful application was the product of partnerships with neighborhood members, businesses, and environmental groups. Environmental groups including the friends of smith and bybee lakes, smith and bybee lakes management group, and the columbia slough watershed council. Together we developed plans for an environmental buffer surrounding the facility that will truly landmark proportions, one that has earned the enthusiastic endorsement of leading environmental advocates in our area. The county held off on the initial construction of the facility, awaiting the settlement of the jones v. Thorn lawsuit that you've heard about today. We're aware of the contents of the signed corn sent decree that will resolve this legal matter and we're pleased with the results. The environmental buffer gets a bit larger, and improves in quality while construction of this critical public facility can now proceed on track. The lawsuit is resolved or near resolution as we've heard today, and we—we're ready to begin construction. On behalf of sheriff—the sheriff, I ask you to please affirm the hearings officer's design to approve the land division so we can move ahead without further delay. Thank you.

Hales: I've got a question. This is just like alice in wonderland, it gets curiouiser and curiouiser. You've applied to the building review for a conditional use and environmental review, but not a building permit to build a jail? Is that right?

Luna: yes.

Hales: And you've received approval?

Luna: of our conditional use permit and environmental review with conditions, yes.

Hales: You, the county. Not the port. The property owner. But you the county.

Luna: yes.

Hales: Now we have the port here after you've received a conditional use approval applying for a land division on the site?

Luna: what I can tell you—

Hales: I don't get it.

Luna: what I can tell you in terms of sequencing is the port and the county made application for the necessary permits at approximately the same time. What you heard earlier today was that there was a request for more information so there was a delay, as I understand it, in having a complete record. That's why this is going behind.

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Hales: Hell me—help me out on this. I hear complaints all the time from people who say we should be able to process development review concurrently with subdivision review, and here we have it being processed prior to subdivision review. How did that happen?

Duncan Brown: it was a request for a conditional use in an industrial area. The site was a portion of the larger port lot. And—

Hales: So they applied for the whole piece of land.

Duncan Brown: the whole piece of land was the overall site, and they were just building.

Hales: Site of all of these lots. So it was big enough, obviously, something like 30 acres, the whole thing is 150 acres or something, so they applied for a conditional use for that 150-acre parcel to build a jail on the corner of it—

Katz: For all the lots.

Duncan Brown: no, just for—

Katz: They applied—

Duncan Brown: a portion of this large site.

Hales: All right. You can do that. I'm sorry. It's peculiar, but not improper.

Duncan Brown: from the standpoint I think of a conditional use application, it's probably more efficient, because the configuration of the jail or the conditions of approval of the jail may have required a redesign, a larger lot or smaller lot. And then that would drive the—

Hales: All right. I get it. Thank you.

Katz: Further questions? Okay. All right. Come up and then we'll have the rebuttal by the appellants. You'll be interested to hear what they just agreed or disagreed upon.

== i'd like not to lose commissioner Saltzman.

Katz: That's fine. Why don't you hold off.

Katz: I will give you an assignment before we come back on the submerge and submersible lands.

== I had a feeling. We're a family friendly city. That's why we're going to wait. Patiently.

Salvi: I have consulted with port staff, and we are prepared to accept a condition of approval of our application for this land division that we would not sell the property for at least 30 days subsequent to the recording of the consent decree, which is essentially what we've agreed to that's—as part of the decree. There would be no sale, and the decree would be recorded. So it would be public, anyone interested in the site or conditions of a sale would have an opportunity to file if they chose to challenge to that sale. But we are willing to accept that condition.

Katz: Thank you. Appellant? Now, you only have five minutes. Watch your clock.

==you watch it. We'll start— [laughter]

Francesconi: That's the first time anybody said that in thousands of testimony. That was good.

Raymond Piltz: I just—what has transpired in the last few minutes is, we've been trying to get out of the port for years just some kind of cooperation. Some—make some kind of commitment to do things right. And this is the first time. Thank you.

Katz: Go ahead.

William Michael Jones: I wanted to say first there is no settlement. And jim is a lawyer and he figured out the problem I have. Suppose they get this land conveyed and start construction? And there's—and the settlement doesn't go through? Then the balance of equities has am changed. I couldn't get an injunction once they start building the jail. So I would be sucking air, and i've asked everybody, let's hang on. Let's wait and see what happens. I think everything is going to go well. Also, I think that mr. Hales picked up on something, the conditional use is dependent on certain plans they had. And the plans provided a 200-foot buffer. Not for mitigation, but as kind of a gift to the people in north Portland. We'd rather have you promise to keep the precinct open as long as there's a jail there. But they promise that 200-foot buffer. "the Oregonian" noticed it and said, what's wrong with these people? They aren't going to go along with this buffer. Now you'll notice the buffer is down to 70, and falling. But the issue is that if they promised a 200-foot buffer in

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conditional use, shouldn't they still have to do it? Already the port and Multnomah county feel they can get together and negotiate that. That difference in the conditional use. We of course would be spitting into the wind. You said you'd do such and such, and we won't have a forum. All of the state claims remain. If the dsl, i'm interested, if dsl promised—if they conveyed those lands, i'd love to see it. I mean, ownership is not a criteria that you consider, and I can ask you to consider criteria that you haven't considered, and then if you don't consider it, I can ask luba to send it back and have you consider it. Now I think it's pretty clear you've considered it. In the packet we gave you, there's a deed. And I love it, because it's from ulysses s. Grant which he was president. He was a citizen of north Portland, almost. [laughter] we love him, and talk about— he's—but anyway, if you'll notice, there's a bunch of stuff in there, and when the port— this land was set aside by the leadbetters for they said—you can have this land if you hold it for 50 years. Well, they hadn't even cooled in their grave before the port condemned it. And the condemnation papers are in here, and on page 3 it talks about the limit. And let me say what the description of the property says. Following the high water line of bybee lake along the south. So a federal patent, they only go to the edge of the water. They only have a federal patent if they've got something from dsl, i'd like to see it. That's how I think this thing should have been handled. I raise the issue, they had plenty of time to rebutt it, and we kept the record open and then the—and the hearings officer gave them three days past when we put our record in. They had plenty of time to rebutt it. I'd love to see this conveyance from dsl. Frankly, I don't think it exists. But if it's not there, I think you ought to insist on one. Before as a condition. That's a condition. I am very pleased to—by what i've been hearing, but it would be nice if the port would just buy this property like everybody else would have to. But maybe they have and we just haven't seen it. But remember, there is no settlement. And if there—if will is no settlement and they've already started the jail, i'm in deep trouble. So that's all I have to say. Thank you.

Katz: Thank you. Let me just editorialize. I think this is one of the reasons I love this city.

Because of the passion of people like you who are so persistent about what the—belongs to all of us.

Raymond Piltz: on mike's behalf, he spent \$100,000 of his own money on this federal lawsuit.

William Michael Jones: i'm going to get 50 back.

Raymond Piltz: he's going to get half of it back. If that isn't passion for the wildlife and the north end, it's something.

Katz: Okay. Members of the council? I want to wait until dan— okay.

Francesconi: I think—i'm not going to—i think we should make a motion approving the hearings officer, denying the appeal, but adding the condition that the land—port cannot convey the land for 30 days after what's the language?

Katz: Settlement.

Francesconi: The recording of the settlement.

Hales: I'll second that.

Francesconi: So that's the motion.

Hales: Tentative decision.

Katz: Right. Meanwhile, ruth, i'd like for you to do a little research on the issues of land ownership, especially of submerge and submersible lands, and if you have to get ahold of the division of state lands, so be it. And maybe that's just because I have a little history and I don't want to ignore it.

Duncan Brown: do you right now want to make the request a little more specific in terms of the question that you'd like know answer.

Katz: I'll get to that.

okay.

Katz: Later on.

that's fine.

Katz: Okay. Dan, do you feel comfortable with that?

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Saltzman: M-hmm.

Katz: Okay. This is a tentative decision. Roll call.

Francesconi: I think this is it follows the law, number 1, both the constitution as well as the smaller law we have to follow. It protects the neighborhood from sale to someone else, and allows the port to do what it wants to do, and it doesn't slow down the jail construction. Which is what we don't want to do. For all four of those reasons i'll support it. If grant can be a citizen of north Portland, I live in northeast, so i'd like to be a citizen of north Portland too, is that okay? Aye.

Hales: Aye.

Saltzman: Aye.

Katz: I just want to thank all of you. We're sometimes put in this legal bind, and we have to clearly follow our own code, but I think this council in all fairness likes to step back and see the bigger picture. And if you push us enough sometimes, as you did, and we appreciate it, we do see the bigger picture. Because there are other laws of the land that we have to uphold. I think the recommendation and the solution that the council came up with is one that I think will work for everybody, including Multnomah county. So i'm pleased to vote aye. Thank you, everybody. When will you come back?

Duncan Brown: with findings?

Katz: Yes. Two weeks. I may or may not be here, but that's all right. You wrote need me.

Olson: That will be june 21st.

Katz: I won't be here. Okay.

Olson: Or did you want june 22nd?

Hales: It doesn't matter to me.

== I won't be here, but—

Katz: Neither will i, but as long as the three of you are here—

Hales: Go with the 21st, then.

Olson: You're gone.

== we could do one week.

Hales: One week, then.

Katz: Okay.

Olson: That will be july— june 15th.

Katz: Before the port add journals, my recommendation also would be to sit down with some of the members of the neighborhood association and discuss some of these issues with them. That would be nice. Okay. We --.

Olson: You're supposed to be out june 15th too.

Katz: We'll work it out. If that's not a good date, we'll find a date where at least the three of us are here. We stand adjourned.

At 3:44 p.m., Council adjourned.