



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF DECEMBER, 2013 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fish, Fritz, Novick and Saltzman, 5.

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

Item No. 1204 was pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS	Disposition:
1184 Request of Lisa Herlinger to address Council regarding her small business Ruby Jewel Ice Cream (Communication)	PLACED ON FILE
1185 Request of Pia Welch to address Council regarding West Hayden Island (Communication)	PLACED ON FILE
1186 Request of Tom Dechenne to address Council regarding West Hayden Island (Communication)	PLACED ON FILE
1187 Request of Mike Roach of Paloma Clothing to address Council regarding challenges of dealing with competition from the internet (Communication)	PLACED ON FILE
1188 Request of Mary Ann Schwab to address Council regarding People's Water Trust petition initiatives (Communication)	PLACED ON FILE
TIMES CERTAIN	
1189 TIME CERTAIN: 9:30 AM – Recognize Sandra Guyot as the recipient of the 2013 Steve Lowenstein Trust Award (Presentation introduced by Commissioner Fish) 15 minutes requested	PLACED ON FILE

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<p>*1190 TIME CERTAIN: 10:00 AM – Ratify a successor collective bargaining agreement between the City and the Portland Police Association relating to the terms and conditions of employment of represented employees in the Portland Police Association bargaining unit (Ordinance introduced by Mayor Hales) 1 hour requested for items 1190 and 1191 (Y-5)</p>	<p>186391</p>	
<p>*1191 Authorize agreements between the City, United States and Portland Police Association related to police interactions with persons experiencing mental illness (Ordinance introduced by Mayor Hales) Motion to accept amendment to Exhibit A to update Code references in paragraph 9: Moved by Fish and seconded by Fritz. (Y-5) (Y-5)</p>	<p>186392 AS AMENDED</p>	
<p style="text-align: center;">CONSENT AGENDA – NO DISCUSSION</p> <p style="text-align: center;">Mayor Charlie Hales</p> <p>1192 Reappoint Roger Alfred to the Adjustment Committee for a 4-year term to expire June 30, 2017 (Report) (Y-5)</p>		<p>CONFIRMED</p>
<p>*1193 Authorize a grant agreement with Lifeworks Northwest for \$70,000 to provide additional resources for the New Options for Women program (Ordinance) (Y-5)</p>	<p>186383</p>	
<p>*1194 Amend grant agreements with Janus Youth Programs, Inc. to include an additional \$120,000 to provide shelter beds and treatment for juvenile human trafficking victims (Ordinance; amend Contract No. 30003686) (Y-5)</p>	<p>186384</p>	
<p style="text-align: center;">Office of Management and Finance</p> <p>1195 Accept bid of Cascade Bridge, LLC for the NW Thurman St: Macleay Park Bridge Rehab for \$3,190,421 (Procurement Report - Bid No. 115943) (Y-5)</p>		<p>ACCEPTED PREPARE CONTRACT</p>
<p>1196 Accept bid of Canby Excavating, Inc. for the SE 62nd Ave and SE Morrison Sewer Rehabilitation Project for \$1,608,837 (Procurement Report - Bid No. 116048) (Y-5)</p>	<p>ACCEPTED PREPARE CONTRACT</p>	
<p>1197 Authorize a price agreement for Land Application Services with Madison Biosolids, Inc. for a 5-year total not to exceed \$3,500,000 (Procurement Report- Project No. 115407) (Y-5)</p>	<p>ACCEPTED PREPARE CONTRACT</p>	
<p>*1198 Adopt housekeeping amendments to Private For-Hire Transportation (Ordinance; amend Code Sections 16.40.030, 16.40.460, 16.40.470 and 16.40.480) (Y-5)</p>	<p>186385</p>	

<p>1199 Grant a franchise to Oregon Health and Sciences University for telecommunications services for a period of ten years (Second Reading Agenda 1065) (Y-5)</p>	<p>186386</p>
<p>1200 Consent to franchise transfer from Paramount of Oregon, LLC to LCP Oregon Holdings, LLC for pipeline facilities (Second Reading Agenda 1171; transfer Ordinance No. 180378) (Y-5)</p>	<p>186387</p>
<p style="text-align: center;">Commissioner Steve Novick Position No. 4 Bureau of Transportation</p> <p>1201 Rename a segment of NE Everett Pl lying between NE 97th Ave and NE 99th Ave to NE Everett Ct (Ordinance; C-10035)</p>	<p style="text-align: center;">PASSED TO SECOND READING JANUARY 2, 2014 AT 9:30 AM</p>
<p style="text-align: center;">Commissioner Amanda Fritz Position No. 1 Bureau of Development Services</p> <p>*1202 Amend investigation fees in the Bureau of Development Services fee schedules for building, electrical, mechanical, plumbing, signs and site development (Ordinance) (Y-5)</p>	<p>186388</p>
<p style="text-align: center;">Commissioner Nick Fish Position No. 2 Bureau of Environmental Services</p> <p>1203 Authorize the Bureau of Environmental Services to amend the legal descriptions for temporary construction, sewer and permanent pump station easements and to acquire said easements necessary for construction of the Safeway Pump Station Remodel Project No. E10292 through the exercise of the City's Eminent Domain Authority (Second Reading Agenda 1175; amend Ordinance Nos. 186095 and 186243) (Y-5)</p>	<p>186389</p>
<p style="text-align: center;">Commissioner Dan Saltzman Position No. 3 Portland Housing Bureau</p> <p>*1204 Authorize a combined total of \$1,938,209 in additional funding for three subrecipient contracts to help end homelessness for vulnerable adults and families (Ordinance; amend Ordinance No. 186168) (Y-5)</p>	<p>186390</p>

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<p style="text-align: center;">REGULAR AGENDA</p> <p style="text-align: center;">Mayor Charlie Hales</p> <p style="text-align: center;">Bureau of Police</p> <p>*1205 Accept and appropriate a grant in the amount of \$131,645 from the State of Oregon, Oregon Military Department, Office of Emergency Management FY 2013 State Homeland Security Grant Program to fund joint state bomb teams equipment and training (Ordinance) 15 minutes requested (Y-5)</p>	<p>186393</p>
<p style="text-align: center;">Portland Development Commission</p> <p>1206 Authorize the submittal of a boundary change request to the State of Oregon to add 172.5 acres to the Portland Enterprise Zone (Resolution) 10 minutes requested (Y-5)</p>	<p>37047</p>
<p style="text-align: center;">Commissioner Nick Fish</p> <p style="text-align: center;">Position No. 2</p> <p style="text-align: center;">Bureau of Environmental Services</p> <p>1207 Amend various sections of the Public Works Improvement Code for consistency and clarity of general language and organization cleanup (Previous Agenda 1182; amend Code Chapters 17.32, 17.34, 17.36, 17.37 and 17.39)</p> <p>Motion to accept amended Attachment A presented by the Bureau: Moved by Fritz and seconded by Fish. (Y-5)</p>	<p>PASSED TO SECOND READING AS AMENDED JANUARY 2, 2014 AT 9:30 AM</p>
<p style="text-align: center;">Water Bureau</p> <p>1208 Amend contract with MWH Americas, Inc. to extend term and increase compensation in the amount of \$1,475,000 for the Kelly Butte Reservoir project (Ordinance; amend Contract No. 30001127) 10 minutes requested</p>	<p>PASSED TO SECOND READING JANUARY 2, 2014 AT 9:30 AM</p>

At 1:05 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF DECEMBER, 2013 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fish, Fritz, Novick and Saltzman, 5.

Commissioner Saltzman arrived at 2:05 p.m. and left at 3:41 p.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Ben Walters, Chief Deputy City Attorney; Ian Leitheiser, Deputy City Attorney at 3:00 p.m.; Mike Cohen, Sergeant at Arms; and John Chandler, Sergeant at Arms at 3:23 p.m.

<p>1209 TIME CERTAIN: 2:00 PM – Authorize City Auditor Independent Police Review Division to directly question Portland Police Bureau employees, change Police Review Board public reporting requirements and other Police Accountability Reforms (Ordinance introduced by Auditor Griffin-Valade; amend Code Section 3.20.140 and Chapter 3.21) 2 hours requested</p> <p>Motion to strike “/or” from final line of Bureau Witnesses, 3.21.220 A. so that it reads “and answer the question or questions asked”: Moved by Novick and seconded by Fritz. (Y-5)</p> <p>Motion to add sentence to Police Review Board, 3.20.140 H.4. to read “The cumulative report of discipline imposed outside of the recommended range shall be included in the PPB semi-annual report.”: Moved by Fritz and seconded by Saltzman. (Y-5)</p> <p>Motion to amend Handling Complaints 3.21.120 G.8. to read “The Police Commissioner and the City Auditor shall be notified and provided with explanatory information in all cases where an administrative investigation exceeds 129 days, and the information posted on the City’s website.”: Moved by Fritz and seconded by Novick. (Y-5)</p>	<p>Disposition:</p> <p>PASSED TO SECOND READING AS AMENDED JANUARY 8, 2014 AT 3:00 PM TIME CERTAIN</p>
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At 4:25 p.m., Council recessed.

December 19, 2013

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,
OREGON WAS HELD THIS 19TH DAY OF DECEMBER, 2013 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fish, Fritz,
Novick and Saltzman, 5.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Ian
Leitheiser, Deputy City Attorney; Kathryn Beaumont, Chief Deputy City Attorney at
3:55 p.m.; and Wayne Dykes, Sergeant at Arms.

The meeting recessed at 3:47 p.m. and reconvened at 3:55 p.m.

<p>1210 TIME CERTAIN: 2:00 PM – Accept recommendations for a Disabled Parking Program and direct Portland Bureau of Transportation to complete development of the program and implement new regulations effective July 1, 2014 (Resolution introduced by Commissioner Novick) 1 hour requested for items 1210 and 1211</p> <p>Motion to change PBOT return to Council date to September 30, 2015: Moved by Fritz and seconded by Novick. (Y-5)</p> <p>(Y-5)</p>	<p>Disposition:</p> <p>37048 AS AMENDED</p>
<p>*1211 Extend the date of the privileges for regular disabled parking permits (Ordinance introduced by Commissioner Novick; amend Code Section 16.20.640)</p> <p>(Y-5)</p>	<p>186394</p>
<p>1212 TIME CERTAIN: 3:00 PM – Accept the Citywide Tree Policy Review and Regulatory Improvement Project Report (Report introduced by Commissioner Fritz) 1 hour requested</p> <p>Motion to accept the report: Moved by Fish and seconded by Fritz.</p> <p>(Y-5)</p>	<p>ACCEPTED</p>

At 5:35 p.m., Council adjourned.

LAVONNE GRIFFIN-VALADE
Auditor of the City of Portland



By **Karla Moore-Love**
Clerk of the Council

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

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

DECEMBER 18, 2013 9:30 AM

Hales: Good morning everyone. Welcome to the December 18th meeting of the Portland City Council. Karla, would you please call the roll.

Novick: Here. **Fritz:** Here. **Fish:** Here. **Saltzman:** Here. **Hales:** Here.

Hales: Good morning, let's start with communications items, please.

Item 1184.

Hales: Good morning and welcome, please. Thanks for coming in.

Lisa Herlinger: Yeah, you're welcome. Hi.

Hales: Give us your name, and you've got three minutes.

Herlinger: My name is Lisa Herlinger and I started Ruby Jewel Ice Cream in 2005. I started selling ice cream sandwiches at the Portland farmer's market. Soon realized there was a demand for ice cream sandwiches and a need in the grocery stores for an all-natural ice cream product. So I obsessively looked around and really didn't see anything quite like it, that was all natural, using local ingredients. So I worked -- or I entered a contest at the food innovations center down in northwest Portland. It was called America's food fight. And they said, if your product has commercialization potential, come and enter this contest. I ended up winning which allowed me a whole year of time to work on the product and take it from making 100 cookies, to thousands of cookies. It really helped me to market the product and get it out there. I luckily got that jump-start to the business and that was in 2005. We grew the business very organically through credit card debt and a few small business loans to have distribution all along the west coast. We are in mostly like Whole Foods and higher-end natural food stores. And in 2010 we opened our first retail scoop shop in North Mississippi. That was a huge success right away, which enabled us to open our second scoop shop down here on southwest 12th avenue. We've got a couple businesses going. We have a distribution side of the business and two retail scoop shops all under the Ruby Jewel name. And our -- at that stage right now of really, we've maxed out our production capacity in our own kitchen that we have in North Portland where we make all the ice cream. We're now working on what the next steps are to grow the business because we're really, truly going to be the ice cream brand that's from Portland that goes nationwide. So I'm really now at that stage of working to, you know, raise more money and get more help from people because it's been really me and my sister that have been growing the business for the past eight years.

Hales: That's great.

Fish: Could we ask some questions? First of all, how many people do you employ in your company?

Herlinger: It's seasonal. In the height of the season, which is the summertime here in Portland, just about 50.

Fish: Wow. And you said you are all-natural, locally sourced.

Herlinger: Yeah.

Fish: Do you get your dairy products from --

Herlinger: From Junction City, Oregon. And from Lochmead dairy. We've been working with them for about seven years now.

Fish: And what's your most popular product?

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Herlinger: At our scoop shops, it's a caramel ice cream with salted chocolate on top.

Fish: That's the diet one.

Herlinger: Yes, all low calorie. We won't go sugar free. I really, truly believe if you're going to make ice cream -- we make a high butterfat, really good ice cream. Ice cream sandwich-wise probably our fresh mint with a dark chocolate cookie is our top seller.

Hales: See, now everybody's hungry.

Novick: I have to say that, based on personal experience, I can attest that that fresh mint with dark chocolate cookie is dangerously addictive. And according to my doctor, that product alone has increased my risk of heart attack by 5%.

Herlinger: Shoot. [laughter]

Novick: And I think your whole business should be regulated as producer of controlled substances. [laughter]

Herlinger: Yeah, no, all in moderation. But if you're going to eat, you might as well eat something.

Fritz: I think Ruby Jewel is a great name, how did you get that?

Herlinger: Oh, it's named after a yurt in Colorado. I used to live in Steamboat Springs and I went on a ski trip and it's the name of the yurt right by Jewel Lake. It literally had no connection with ice cream at the time, I just loved the name. And now it's a big part of my life.

Fish: And you're -- 95% of our small businesses employ 50 or fewer employees. She's right at the sweet spot in the heart of our local economy. Great to have those success stories.

Hales: Another question I have, and that's from your experience -- it sounds like one thing that worked was the business incubator function that the food innovation center played. One thing that maybe didn't work initially was access to credit since you were using credit cards and other by hook and by crook stuff. Is that a fair characterization, that access to credit was maybe a tougher hurdle?

Herlinger: It was hard -- I had a loan with the Oregon economic development commission and a loan through the Portland business development fund. I had some help through the food innovation center, a little bit of pull from people there that helped me a little bit more. I also got a loan from Whole Foods and we're working on a second loan to launch our pint line. Whole Foods has been a great resource for small businesses in the food world at least. It's tough to get significant numbers but I think it's possible. It's just doing some research.

Hales: I hope you're working with PDC now in your expansion plans.

Herlinger: Yeah, I haven't been working with them yet.

Hales: We'll make sure to send them your way.

Herlinger: Okay, sounds good.

Fritz: I have one more question, do you provide sick time to your employees?

Herlinger: We -- we have -- we have some alternative benefits we try to offer but we're -- I'm glad we're doing this, but I also -- there's this risk of having it taken advantage of by the employees. That definitely can happen.

Fritz: As you know, we are going to implement January 1st, so I just wanted to offer to you and other businesses owners if you need assistance understanding something.

Herlinger: I think we're pretty good. We're on it. Thank you.

Hales: Thank you very much. Appreciate your coming in, thank you very much. [applause]

Item 1185.

Moore-Love: She informed us she cannot make it.

Hales: Oh, okay. I think she sent us some material but maybe someone else did. Sorry.

Item 1186.

Hales: Good morning, Tom.

Tom Dechenne: Thanks very much for the opportunity to speak before you. I know a couple of you. You should have an aerial photo in front. My objective here today is to speak to you on behalf of -- in support of the Port of Portland's plan to develop approximately 300 of the 800 acres of West

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Hayden Island. I'll also give you a written testimony. Basically I wanted to cover about three points. Number one, emphasize the shortage of industrial land. Number two, to identify some of the different uses regarding industrial warehousing, etc. And number three, try fit that into a balance. By way of introduction, I'm an industrial real estate broker with Norris, Beggs & Simpson and I've been doing this for about 30, 35 years, and I'm a member of the Portland freight committee, and most recently a member of the industrial lands watershed health group. So I feel like I've been involved in that and trying to make a living leasing and selling industrial properties as well. Regarding the industrial lands we're on, as you probably well know, it's been now confirmed there's a shortage, relatively speaking, of industrial land, not only in the city of Portland but throughout the metropolitan area. I think that this is one situation where that could greatly benefit that need, as well as shortage. We could talk about brownfields and a lot of other things but that's the one point I'd like to make, kind of confirm. The second point is the uses of industrial land. As you probably well know, throughout the meetings that I've been involved in and as a practitioner, having industrial lands available is one thing, making them economically work is another. But the use is so critical. A warehousing distribution center are low job intense per acre, manufacturing, the Intels, Gunderson's, etc., are high intense as far as jobs per acre. But to make the industrial system work, we need that combination of rail served, of marine served, of road service to accommodate not only warehousing and/or manufacturing, but those bulk distribution-type entities that make our whole economy work. So I wanted to make that point, that the uses are of very significant in how those are utilized. The third thing I did want to talk about is the balance of available land and those uses and when it comes to a West Hayden Island. I think it's very important that we as community are aware of what that asset means. I know there's been a lot of talk about environmental issues. There's 500 acres of open green space which I think is a pretty good balance. One of the things I wanted to for sure make you aware of is, as you look at this aerial photo of the approximate 300 acres, there's only about less than half of that is that -- would be affected by open green space. I'm not a geologist but common sense tells me, it isn't like we're taking 300 acres of pristine open space and converting it to heavy industrial. My point is we're only taking about half of that.

Hales: Tom, just your time, so wrap up and I've got a question for you.

Dechenne: Oh, that's overall. Sorry about that.

Hales: That's fine, that's fine. So the question I had is that you're in this business of trying to accommodate industrial users on different kinds of land. Where's the shortage right now? What kind of space? I mean, we have, for example, 600 acres of brownfield property right along the Willamette River that but for the cleanup would be available. That's another challenge that we face as a city. What's the kind of space that you're seeing great demand for that we have a hard time meeting?

Dechenne: Roughly speaking, not only Portland but the metropolitan area. Basically 3 to 10 to 12 to 15 acres, overall probably around 3 to 12 to 15 acres, that shortage. We've got a few big parcels and you've seen the report, etc. But I'll tell ya, when you're working with somebody who says I need to build a building, 40, 50, 60,000 square feet, that takes about three to give acres. And to find a property that's available, number one, that's realistically priced, that can be developed, that I think is the heart of our users in the Portland marketplace. That's where I think the biggest shortage is.

Hales: So the smaller parcels. Not necessarily rail served, right?

Dechenne: Not necessarily. I mean, those are on occasion, that's the real heart of what we are missing.

Fish: Don't we have some available dirt in Airport Way that meets some of those specifications?

Dechenne: Some, not much. I could count on one hand the available parcels that are in that size range that are zoned light industrial. No kidding, you would think, you drive along there and you go, wait a minute, I see this green patch looks like it's 10, 15 acres. But when you drill down to available properties that are on the market that aren't being held by users to develop later on, or are in the development stages, not many. Relatively speaking, I would say at best there's probably three

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or four sites that are five acres and up. I can only think of one or two that are five acres or less, and that's just Airport Way. You get to the brownfield areas it's even less. I really appreciate having the opportunity.

Hales: No, this is helpful. Thank you very much, thanks for coming in.

Item 1187.

Hales: Good morning, Mr. Roach.

Mike Roach: Good morning. Thanks for the opportunity to be here. And I want to start out with a thank-you to the council for your support, your proclamation and dedication of support of small business Saturday back right after Thanksgiving. Those kinds of -- and your support for the Little Boxes program and our golden ticket program in Multnomah and Hillsdale. That kind of support goes a long way and is really heard by small business owners who can sometimes feel pretty lonely and like they are not being listened to. That makes a big, big difference. Of course, we hope the visibility we had over that weekend, we hope it continues and lasts through the entire holiday season. That'll remain to be seen but it's a great time to highlight small businesses and we really appreciate that you did that. Our golden ticket program that we've done for the last four years with Multnomah and Hillsdale business districts working together, is growing and getting stronger. We're pleased to see the Beaumont district association picked it up for the first time this year. Some quick facts about Paloma clothing. We've been in business since 1975, that's 38 and a half years. I wasn't in diapers when I started the business but I was 25 and I turned 63 about two weeks ago. I started with my mom, Phyllis Roach in 1975, have managed it and owned it with my wife Kim Osgood since 1986. It's 1500 square feet in the Hillsdale business district. I'm pleased to count all of you or your family members as customers in our store, I appreciate that, as well. We have 15 employees and we're really proud to be able to offer the following benefits to them. We pay 85% of their health insurance, we set aside 10% of wages into a retirement plan, we provide vacation pay and earned sick pay. I point out that we can only do those things because we have great customers. We can't just do it out of the goodness of our heart. You have to have customers and sales and profit to support the ability to provide those benefits. I'll get to my point real quick here. Brick and mortar stores do a lot more than sell stuff. We give -- for a lot of teenagers it's the place they get their very first job. Indeed, my wife Kim has called Paloma clothing a finishing school for young adults. Because we've taken some, you know, young people we saw potential in but were kind of rough around the edges and they have been with us a long time and they really learn how to conduct themselves in a really adult way. They learn sales skills. They are around positive adult role models, it makes a big difference on how they are able to develop as individuals. We donate to school auctions. We are a \$500 sponsor for the elementary school auction, we're proud to say that. I wanted to point out that we also donate to multiple school auctions including alcohol free graduation parties, you know, so local businesses do a lot. We also donate, locally owned businesses donate at twice the rate to local nonprofits as big box and internet companies do. Because literally, you can walk in our door and ask for a donation and probably talk to the decision maker that same day.

Hales: Mike, I need to you wrap up soon but I like what you're covering here. Thank you.

Roach: I'm going get to my point here. The primary point is we really appreciate the fact that you highlight the importance of locally owned businesses versus big box businesses. But we are facing real incredible competition from the internet now. And to the degree that you can remind the public, Portlanders out there, that 67 cents of their dollar stays in the local economy when they spend at locally owned business. But zero stays behind when they buy over the internet. That's an important piece of education I don't think Portlanders fully realize. If you can help us lead the charge on that education piece we would very much appreciate it. Otherwise we're going to have nothing but payday loan shops and coffee shops in our business districts, with no stores that are actually selling products. Again, thank you for all your support of small businesses, it's a big deal.

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Novick: Thank you. And one thing I'd like to point out is that even purchases that sort of instinctively we think you make through national internet companies you can sometimes make through local businesses. For instance, in our neighborhood if you're ordering books you can't find on bookshelves anywhere, you could go to Amazon or you could walk down to Annie Bloom's in Multnomah Village and ask them to order the book for you.

Roach: Absolutely.

Fish: Mike, just two things. My wife Patricia, when she was pregnant with our son, bought all of her clothing at Paloma because she liked the looser fitting clothing during her pregnancy. So, she's a big fan. The second thing is, how did you do, how were your sales on small business Saturday?

Roach: On small business Saturday we were up 30% on that day. And on the Sunday that followed, I think from the inertia from Saturday, we were up 40%. So those were some big increases we saw.

Hales: That's great.

Roach: Those haven't continued like that since then but it sets a good tone for the holiday season and we're cautiously optimistic that all small businesses are going to have a really good season. But seriously, the council made a real difference in what Portlanders did over those three days because of the visibility that you, working with Heather Hoell at Venture Portland and the media brought to the issue of shopping local. So keep up the good work. Appreciate it.

Hales: It's interesting how if we're all reinforcing that message, it apparently is getting through.

Roach: Right. It's encouraging, it's very encouraging that there's a chunk of the public that's paying attention.

Hales: Yeah, and it's pretty congruent with Portlanders' values about localism. We heard that earlier about food. Coincidentally, I met earlier this week with a technology business that's planning to move to Portland and bring a bunch of new jobs, which is great. But they said our tendency toward localism and how we shop is one of the factors that caused them to think it'd be a good fit for their company. So it seems like it's not only people already here but some of the folks considering coming here are attracted by that set of values that you're expressing through the way you operate your business and the little boxes campaign and all of rest of this.

Roach: I'm pleased to hear that, Mayor. That's a good sign. If we can use that as one of the things that attracts larger businesses and of course employ more people individually than our small businesses, that's great. Because then you get the virtuous circle going where locally owned businesses, of course, we buy all our business support services from other locally-owned businesses. That's how we hit the 67 cents. We use a local accountant, local printer, local media. They, in turn, use other locally-owned businesses and that's how you keep -- once that money stays -- goes across the counter and into a locally-owned business, it just keeps circulating in the locally-owned sector because of the way our businesses behave, versus a large business buys all those support services from corporate headquarters. It's not evil, just a different business model that has a different impact.

Hales: Thank you very much.

Item 1188.

Hales: Good morning, Mary Ann.

Mary Ann Schwab: It's hard to talk fast but hang on, here we go. For the record, my name is Mary Ann Schwab, I'm a community advocate living in the inner southeast neighborhood, Sunnyside, 44 years and counting. I would like to start out with discussing things going on with the League of Women Voters. Then I'll go on to my own private comments. As a member of the League of Women Voters, I would like to poach from their think before you ink brochure written by the League of Oregon. This brochure allow reminds to us think before we sign anything, especially before we sign off on initiatives we have not had the opportunity to read it. Your signature is valuable. Here are the reasons why citizens should be informed. Consider all six questions in that brochure. Number one, is it complex? Some decisions can be simple yes or no votes. Complex issues may need a thorough legislative examination. Number two, is it confusing? Some initiatives

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aren't well written. They may have conflicts requiring court interpretation or resolution. Number three, does it belong in our constitution? Initiatives can be local, statutory, or constitutional. Should this become fundamental constitutional law protected from change? Further corrections by constitutional amendment be cumbersome and costly, requiring another vote of the people. Number four, how will it be funded? Is it an unfunded mandate? Would it force or legislature to pull funds from other essential programs? Consider how this would limit government flexibility. Initiatives should create their own revenue sources, not earmark, restrict or obligate specific percentages from the general fund. Number five, who is behind it? Chief petitioners must file campaign finance transactions under the initiative petitions committee, which must be open by the elections division before the filing officer approves a petition circulation. You can find out who the other real supporters and opponents are after the petitions are certified as a ballot measure, and assigned numbers. Chief petitioners do not need to be citizens or even Oregon residents. That is huge. Get contribution and expense reports from the Oregon elections division. And we have the information on the brochure how to do that. Number six, before signing, ask for ID. A paid, not volunteer signature gathers are now required to carry badges, ID and photos issued by the secretary of state. They aren't required to wear or show the ID unless you ask, but refusal should lead you to refuse to sign. If a case of fraud arises you have information that could help authorities. Again, think before you ink. Understand your signature is valuable, more valuable than your vote. Considering that fewer signatures are required to approve petitions before ballot measures. Only sign initiative petitions you believe should become law. Again, think before you ink. And I'm hearing the bell, so I'd like to add one more little thing, please. Understand, the rest of my comments are mine, and mine alone, no way representing the League of Women Voters. I am asking each of you, as well as the viewers watching city council this morning, to take time to read two point of view on the PUD for Portland published in the south examiner in December 2013. Time for a public water district? By Floyd Jones and Kent Crawford. And, why we oppose the Portland water district by Bob Sallinger. Personally I feel the Portland water bureau may be at risk when unknowingly citizens sign off on the public water district initiative based on two or three misleading sentences. Big print giveth, small print taketh away. [laughter] Prior to signing, my guess is few, if any people, with exception of the League of Women Voters, have actually read the 26 pages detailing how the proposed ballot measure will change parts of the city charter. Or, had people taken time to Google who is enforcing it. Albeit, if approved, misinformed voters won't be surprised when the region's largest industrial water users and polluters would actually pay less than residential households and small businesses. Again, think before you ink. The League of Women Voters also have ongoing education groups. I want you to go back and this is to our commissioner Steve Novick, I've heard again and again talk about -- we're in the earthquake zone time period. And he keeps talking about emergency preparedness. Well yes, I support having the fire trucks and emergency equipment on the west side. More important, after listening to the communication format, freedoms, limitations, responsibility, even by some of your city employees, the reason we're having trouble with floods and a shortage of electricity, their copper. Copper doesn't like water. What's in Portland? Water. We need to put the highest priority on fiber optics within our systems. Because if you're having a heart attack, and you don't have that means, that person is in trouble. Number one, it's a public health safety. Number two, we have police, fire, and 911 dispatchers everywhere. We need fiber optics. We've got to put that higher on the list. Remember, it is jobs. There are highly skilled electricians willing to help us with it. And there's people making the fiber optics. So as you talk jobs, please put our communication higher on the list. Anyone wanting any more information, the League has got their open -- all the information is available, including a water quality test recently in April. 380 miles of Oregon coast and near shore has been really studied by the League. And guess what the biggest chemical in our pacific is? And China's not buying our oysters? We hit the nail on the head

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last April. It's caffeine. Because there's no money with DEQ to go out and inspect the septic tanks along the coast. I won't go there. So, that's it.

Hales: Mary Ann, thank you. This is great. There's an old saying in Portland about good citizens being the riches of the city. I think you and the League of Women Voters are personifying that. Thank you for all your volunteer time.

Schwab: And you have a stellar one sitting right to your right. It's because of her I joined. Custom little knit-picky things here.

Hales: Okay, make it quick please.

Schwab: No, I was asked. Mount Tabor wrote a letter to you guys on the first of July, we're still awaiting confirmation, thank you, Commissioner Novick and Commissioner Fritz for responding, telling us to contact you and to contact Commissioner Fish. Since July 1, 2013, we're still waiting. I'm also awaiting confirmation on my email to you.

Fish: Since the letter was responded to, who's waiting for what?

Schwab: The people that signed it, if you look on the second page --

Fish: We've not only responded to it, Mary Ann, we've met specifically with the author in my office to go over the issues. I think we've done that.

Schwab: I was given this information two days ago. And I didn't call your office.

Fish: And that was within two months of the assignment and we had a very robust discussion.

Schwab: Okay. And I want water back in that tank. Mount Tabor has got to have water, we've got to protect that investment. I don't care what it costs, I want those security cameras back on, I want those valves corrected, I want those pumps maintained. It's a good backup. It's not broke, don't damage it by not having water in it. And Nick, you and I will sit in the raft when we fill it. [laughter]

Fish: I have made this promise, I was approached by Peter, I was approached by Steve Wax and Eileen Brady. I said I will put water in Reservoir 6 if the council concurs and the petitioners do not use it as a new claim in their lawsuit or as the centerpiece of their campaign against the city. Because the criticism we've received by even talking about putting water in is it's a non-mission critical use of ratepayer dollars.

Schwab: That is horse pucky. [laughter] [applause] And I'm part of the friends of Mt. Tabor Reservoir and I'm not taking it and I'm not taking twelve inches of it. I don't want mosquitoes in that thing.

Fish: We're on the same side of this. I'm just saying, I don't need another lawsuit. I'm just saying--

Schwab: I'll be there.

Hales: We might make you a special emissary to them to negotiate that. With that opening line they are going fold. [laughter] Thank you so much.

Schwab: Thank you so much for letting me go through this list. And Commissioner Novick, I really, really hope that the people are going to start listening and we get fiber optics out here. I'm concerned about the 311 call center to assure better handling of after-normal hours. Non-emergency calls from victims needing domestic assistance. We lost the best attorney on the planet. And my heart goes out to his family.

Hales: All of us do. Thank you, Mary Ann, you're a treasure. Thank you so much. [applause]

Schwab: That's my mentor, by the way.

Hales: He's not sure about that, either. Thank you, Mary Ann. We have a consent calendar. I don't believe we've had requests to take items off thereof.

Saltzman: I'd like to pull 1204.

Hales: Okay, done. Oh, there it is. It was right here with a red tag, I missed it. Any others? With the exception of 1204, let's vote on the consent agenda.

Consent agenda roll.

Novick: Aye.

Fritz: Aye.

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Fish: Aye. Mayor, point of order, would the council consent to putting 1204 first on the regular agenda? I see that Marc Jolin is here, so he doesn't have to stick around for two hours?

Hales: That's fine with me as long as it's fine with the rest of the council.

Fritz: But we have a time certain.

Saltzman: He's here for the Lowenstein?

Fish: He would also be here for 1204.

Hales: Go ahead and vote, Nick.

Fish: Aye.

Saltzman: Aye.

Hales: Aye. [gavel pounded]

Hales: Okay, the consent calendar is adopted. We do have a series of time certain. But if the item 1204 is not a lengthy one--

Fish: Oh, no, I'm sorry. I meant first on the regular agenda, mayor.

Hales: After the three time certain? Oh. Okay. I don't see any problem with that. Okay. Alright, then let's take item 1189.

Item 1189.

Hales: Commissioner Fish.

Fish: Thank you, Mayor. I'm going to invite Art Alexander and Joe Hertzberg and our honoree to come forward. And just tee this up very briefly, Mayor and colleagues. This is the fifth year I've had the honor of presenting to council the Steve Lowenstein Trust Award. As we all know, the award is named for attorney, author, and civil rights activist Steve Lowenstein. Steve was the founding director of Oregon Legal Services, a Peace Corps volunteer, an advocate for social justice, and the former chief of staff to Mike Lindberg. I also learned when I moved to Oregon that Steve's mother was my next door neighbor in another city. Steve wrote that the recipient of the trust award, quote, shall be that person who demonstrated the greatest contribution to assisting the poor and underprivileged in the city of Portland, Oregon. Past recipients have included Mariah Taylor, Kayse Jama, Marc Jolin, and Denny West. This year, the board has selected Sandra Guyot, pronounced goy-yet, for her tireless work with Golden Harvesters, a nonprofit providing meals and serving low-income families in our community. Here to tell us more about Sandra and her service to our community is Art Alexander and Joe Hertzberg. Welcome.

Art Alexander: Good morning, Mayor Hales and council. First I'd like to extend greetings from our chair, Michelle Harper, who has been the person doing this for several years. A death in the family prevented her from being here this morning, so she asked me to extend greetings to council on her behalf. I am very happy to represent the Lowenstein Trust this morning. I would ask the members of the trust who are here to please stand.

Fish: Let's give this a round of applause.

Alexander: And Chris [inaudible]. [applause] As you mentioned earlier, Marc Jolin, who is a past recipient is also a member of the Lowenstein Trust and we're very happy to have had him join us. I will go ahead and pass the microphone over to Joe Hertzberg who will talk a little more about Steve's legacy.

Joe Hertzberg: Let me just say a few things about Steve, because I think most of you didn't know him. Although as Nick points out, I first met him because we were introduced by Steve's mother. You can probably find in Wikipedia if you look up feisty or firecracker. Steve's resume is pretty amazing. He worked in the early days of the war on poverty, worked for the Ford Foundation in Ethiopia and Chile. He founded the Oregon Legal Services and the Oregon Law Foundation and he wrote the definitive book about the history of the Jews of Oregon. He also found somewhere in that 52-year too-short lifetime, six years to work in this building as Mike Lindberg's chief of staff. Mike is also a member of the Lowenstein Trust board. Those were in the '80s when Bud Clark and Frank Ivancie were mayor, when the council had members like Margaret Strachan, Dick Bogel, Earl

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Blumenauer. And Steve was trusted and respected as a straight shooter, consensus builder, and a passionate advocate for the disadvantaged. I think the most important part of Steve's legacy right now every one of you has people in your bureaus who considers Steve to be a mentor and role model. There are people all around this city who ask regularly, what would Steve do? And the answer usually is let's go get dessert. He had just a hopeless sweet tooth, far worse than yours, Steve. He drove just an embarrassing lemon of a car that he wouldn't get rid of for 15 years. He had an infectious cackle of a laugh that would fill a room. But those aren't the things that bring us here. The things that bring us here are Steve's passionate commit to this city and to the disadvantaged of this city. As members of the trust board, we have to ask what would Steve do every year. It's a privilege and serious responsibility.

Alexander: And in this year's recognition we are very happy to -- in this year's award, we are very happy to recognize Sandra Guyot for her tremendous work with Golden Harvesters. They provide meals, food, clothing, for people who are deeply in need. I had the opportunity to visit their location and it was bustling. And that was on one of the coldest days we've had recently. It was packed. And the volunteers who work there are doing tremendous work, and we are recognizing Sandra for her decade of commitment to increasing the capacity of Golden Harvesters. They started in a very small space and due to her efforts, they have managed to move through two other spaces to a space now that's large enough to provide a good measure of service. Still needs some measure of work, but Sandra's going to talk about it. And I will go ahead and turn the microphone over to our awardee for 2013. Sandra.

Sandra Guyot: Okay, thank you. I wanted to thank the Lowenstein Trust Foundation for this award, and I wanted to thank the city council for this time to be with you, and our members. With me came Jesse Baker and he is a general contractor who did most of the work on the remodel of our new building that we have just moved into. It was a six-month -- he happened not to be working -- for six months, he worked for diligently every day until he got it done with the help of our volunteers. If you don't know what Golden Harvesters is, it's a food pantry run by all volunteers and we feed -- we have active members. Our active members total about 140 people, which include over 500 when you put their families together. And then besides helping them, then if we have any extra, we never let anything go to waste. We have other agencies that we go to, and we call, we take things to them, we have several agencies. So nothing will go to waste in our program. As I said, we are all volunteers. I've been a volunteer for Golden Harvesters, which located in St. John's, going on my 10th year. And how I got started in this. After being recovering from a long illness, I started to volunteer. It was like, I couldn't work anymore but there was something I need to do. And I got involved much more than I thought I ever would be. I'm currently the treasurer and I write all the grants. This experience has been extremely rewarding for me, and at times tremendously frustrating. The rewards are many from the simple thank-yous that you get from the small little boy that you gave a toy to, or a peach or an apple to his parents that maybe don't have any food for the day. And we will give food. If they come to our door, we will give them food if they don't have money. We get our money -- the only way we run is by the \$20 a month that our families pay to come in and get groceries. And it's a slim picking. And I have to take all that money and we have to pay our bills. So I always have a long list of things that need to be done. We will be starting our 26th year in the first of the year. I'm looking forward to this coming year, which is this big space that is still kind of a work in progress. We have no more money but we continue on. And it's extremely rewarding at times. And one of the most frustrating things I've found is when we had outgrown our building and we couldn't find a building that we could afford to live in or rent. Finally, after two and a half years of looking we found this wonderful, wonderful man who let us have this building that had been empty for 10 years. And he said, just go in and do whatever. So he is so gracious and we are so thankful for it. The thing about Golden Harvesters is I have a want list and a need list. The need list is long. With the funds we're going receive from the Lowenstein Foundation, I can get some of

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those things off that list. One of the first things I know that I will buy, I know in my heart that's what I'll buy -- excuse me -- is I have \$1000 from a grant that I got. But a new freezer will cost \$1700. And I have to use the money by the end of the month. So now I can buy that freezer and have it delivered within the next week or so that we really desperately need. Little things like that might seem unimportant to people but to us it is. Yesterday something really -- I went over to Golden Harvesters because I had some things to do. We're only open Monday, Wednesday, and Friday. And somebody knocked on the door. And I opened the door and this man handed me an envelope. I said thank you. And then about a half hour later, knock on the door. Another person handed me an envelope. I said thank you. I put it down. And then about a half hour later, another person knocked on the door and said, can I come in? I want to help you. So he came in. We were awarded with money in checks just yesterday that we didn't even ever expect to get. And now with this and this money here, I have so many things that we need. It's going to be so -- I'm so thankful that god is always looking and helping us out. Excuse me. I'm very emotional about Golden Harvesters. It has become just part of me. And I really appreciate this award. I really, really do, and thank you.

Hales: Thank you. [applause]

Fritz: Sandra, if other people are moved by what you just said and want to contribute, how can they do that? Where should they go?

Guyot: If people want to contribute, they can mail. Our address is 8100 N Lombard. We have somebody making a new Facebook page, but if you look in it, one of them has the old address and we can't get in to change it. And they can stop by. We're open 9-1 Monday, Wednesday, and Friday. Come in and see if anybody -- we operate only on volunteers, if anybody wants to come and volunteer, you're always welcome. We always need volunteers.

Alexander: Officially on behalf of the board of the Lowenstein Trust, I'm very proud to present the 2013 Lowenstein Trust Award to Sandra Guyot, as well as a check for the support of Golden Harvesters.

Hales: We'd love to take a photo with you, Sandra, thank you. We'll put you in the middle here, congratulations. Thank you. Thank you. [applause]

Fish: Mayor, before we lose the Lowenstein Trust friends, we should put in the record that the check they just handed to Sandra is \$7500.

Hales: Outstanding.

Fish: So this is a very meaningful to a worthy cause. [applause]

Hales: Excellent. That's great, well done, thank you so much.

Hertzberg: Kayse Jama is also here, too.

Hales: Kayse, that's great. Well done, folks, that's really great work. Okay, now, we had some other time certain items. I did want to explore the notion that we might take that item quickly while Marc is here. Let's take 1204, please.

Item 1204.

Hales: Commissioner Saltzman.

Saltzman: Thank you, Mayor, members of the council. This really is to acknowledge and once again thank the council for its support for a supplemental appropriation towards homelessness projects totaling about 1.7 million. Although the formal documents said 1.9 million and that's due to some accounting things. But I'm pleased to bring this forward, the three projects that begin to address homelessness right now. We approved the initiative in the fall bump, and with your approval today, we are putting this money to work right away. We've worked quickly to take immediate steps on targeted impacts on homelessness with the one-time funds. Today, with approval, we are supporting three projects. One is a multi-organizational approach which will collaborate with public safety partners to identify vulnerable adults in hot spots throughout the city. Another project focuses on adults aged 55 years and older who need help with housing. The third project focuses on housing for families. The City's \$700,000 investment is being leveraged with

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\$800,000 by Multnomah County, and \$130,000 from the Oregon Department of Human Services. All of the projects have an emphasis on working with communities of color, and I'm looking forward to the partnerships with culturally specific organizations. All told, these funds will reach over 200 adults and nearly 100 families starting, starting, as I said, today. So again, I want to thank the council for its support of this important amount of funds. I want to thank our service providers for work they do day in and day out. And our community partners, Multnomah County and Oregon DHS, for their support. So that's basically what we're doing today with your vote.

Hales: Great. Thank you, Commissioner. And did we have anyone signed up to speak on this item?

Moore: We didn't have a sign-up sheet but I know someone wanted to speak.

Hales: Come on up, if you'd like to speak. We'll let Lightning go first. Come on up, Lightning.

Lightning: Good morning. My name is Lightning, I represent Portland Lightning think tank. I always commend the Mayor and commissioners for any efforts that you make to reduce homelessness. I'm in total agreement with what you're doing. Where I always have an issue is we do have that 1500 to 2500 people currently outside, which I consider the excluded, that aren't included in a lot of these programs, aren't included in housing throughout the city. My belief, housing first, housing for all, nobody excluded. I know that funds sometimes are difficult to come by to get people into housing. We need to continue to focus with the real estate development community on, when they do their projects -- I've said this time and time again -- possibly a condo development -- each condominium they sell, we need to have them possibly put in an agreement that 1% of that sale will be funded toward their privately created foundation. And why I say that, I want their foundations funded from their inventory on every sale that happens throughout the life of that condominium. Then, what they can do down the line is create a coalition of developers with their foundations and begin to fund these types of projects that will pick up on that excess amount of people, the excluded, that 1500 to 2500 people that do not fit into these certain projects throughout the city. It's an area that needs to be looked at. We need more developments created. The developers have the potential to do that by creating their own foundations. And guess what? It costs the developers no money to do this. That 1% is coming off the 7% of a real estate commission, is what it is. They have the ability just to request, since they developed the projects, please distribute 1% of that sale into my foundation. When they do that, we will have a revolving revenue stream that will take care of the excluded throughout this city. It will create a tremendous amount of additional money to develop these projects. It doesn't cost them any money. We need to just ask them to do it. I'm sure a lot of the developers will be willing to look at this and get this done. It will reduce homelessness, it will take care of the problem. Thank you very much.

Hales: Thank you, thank you very much. Who's next? Joe, go ahead.

Joe Walsh: My name is Joe Walsh and I represent individuals for justice. The other day, I was visiting a guy named Hayseed. Hayseed spent two years outside your building in a protest that had to do with the camping ban. He was taken to the hospital. He has frostbite. He's going to lose all his toes. And in the process of being tested they found that he had terminal cancer. You know him because you saw him every day. His real name is Joe, which is ironic for me. Because we keep asking you to pay attention to the people that are outside your doors. What Mr. Lightning has just said to you is very true. You have anywhere from 1500 to 2500 people every night. I saw a camp by Burnside by 84 that I've never seen before. We were going to a meeting and there's a huge camp site there that I've never seen before. So I don't know all the camp sites. And I don't think you do, either. I know you did a walk-around, Mayor, and I acknowledge that and encourage you to do some more. We have this problem and you're not facing it. There is nothing in this money that's coming from you or the county that addresses the people outside. This is a very complicated problem. And you cannot take the same organizations and give them money over and over again, and say, we're doing something. That's not it. I beg you, Commissioner Saltzman, when you spend this money, watch it. And try to figure out how much of the money actually gets to the people that you're trying to get to.

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So for instance, if you had \$100, how much actually gets to this one person that you're trying to get off the streets? Is it \$90? Is it \$10? Are you eating it up in your bureaucracy? And I suspect you are. When you hire people, you just eat up the money. That's what we object to. We applaud you guys thinking, trying to do something about this. Even though I go after all of you on some of the issues, I applaud this one. However, you have to be creative and you have to follow the money. How are you spending it? Thank you.

Hales: Thanks very much. Good morning. Gives us your name for the record, please.

Kathleen Bushman: My name is Kathleen Bushman. I may be excessively cynical but I suspect each of you owes your soul to the downtown business alliance. And I see that's why you pursue the sit-lie ordinance, turning our sidewalks, the taxpayers' sidewalks, over to the police department. Maybe I am cynical, but I do think that decentralizing the social services is something that is dear to the hearts of the DBA. I'm fully aware of that. And if they would be willing to give free bus passes to the poor and homeless, it would be great. Maybe it wouldn't be such a bad idea. But it isn't, as long as there is no free bus service. And the other factor is, I -- the other issue I'm really upset about is the fact that you need to hear more from the homeless themselves. Your experts don't know -- even the homeless probably don't have a good idea of what the exact figures of the homeless are. There are a lot of homeless. I was homeless at one time, most people had no clue I was homeless. I didn't want anybody to know. And I certainly didn't go to the social services. That's another story. For anyone over 55, you can feel intimidated going there. And I decided it was a waste of my time. I had art, and I would sell art on the street and I made money that way. But on the other hand, as I was able to feed myself, I had it pretty comfortable actually because I'm a fair artist, I guess, at least enough to survive with. But on the other hand, the other issue I'm furious about is the fact that you approved this deal that would allow the Portland police to use steroids? Are you all brain-dead?

Hales: More about that soon, not quite yet.

Bushman: And I thought you ran on the issue of making the police more accountable. You are either lying or you've given up, is all I can conclude. And that's why I am very angry.

Hales: Thanks. Anyone else wants to speak? Come on up, Mark.

Mark J. Hofheins, Jr.: Hi, guys. Mark J. Hofheins, Jr. with UCARE. There are only a few basic things I really wanted to address with this. I agree greatly with a lot of what they were saying. It seems more like a sponge fund to me, it ended up being sponged up by the organizations which you're using. I see a great deal of what happens and where the money goes and it ends up getting sucked up over a long term period of time by the people that work for the organization instead of going to the people. And that's a huge issue. Second off --

Fish: Mark, could you give us an example with JOIN, since it's the principle--

Hofheins: And mind you, JOIN does get people off.

Fish: Give us an example where JOIN is sponging off this money.

Hofheins: Well, okay. Here's the thing about it. I mostly have great things for JOIN, okay, so you can throw JOIN at me all you want. You're not going to get any extreme negative things from me. The only thing Marc and I have already discussed and addressed with you guys there is a there is not a shelter, a year-round shelter. Like I said many times, if you guys were to follow Salt Lake City's example, afford them the opportunity to get off the streets, and it separates the criminals from the ones who actually want to make a change. But that's beside the point. The other thing is we have been addressing the people on your front doorstep for how many years now. But you keep weaseling your ways around it. Also, I didn't like the fact that there wasn't any homeless people or people that were more educated as far as the experience of homelessness, on your group of committee. That was not appreciated, that was not cool. Because without -- if you're privileged, you've been in a house or even middle class, you haven't experienced that which we've experienced. Mind you, I am off the streets now by my own working through JOIN, by the way. And so the key to the matter is, without having those people there that actually have the experience and deal with the people on a day to day

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basis like myself or these people. You really don't have the full education of what it is. I don't even have -- keep a constant bias because of the fact that I was homeless. No. I've been both sides, I've had two BMWs and a six-bedroom house of my own. So, I've been on both ends. So here is the key. If we can address the issues and get people that actually know and have experienced these things to actually address what could better the situation, it would be a whole lot more effective. And stop avoiding what has been brought to you. Instead of you know, doing everything else besides that. If you can do that, then we wouldn't have to be here.

Hales: All right, thank you. Thanks. Good morning.

Fritz: Can I just comment. You don't know our backgrounds. You don't know our experiences. So, it might be good to have a conversation about that rather than--

Hofheins: Please. And I would to have a conversation. It's hard to get time with any of you.

Fritz: Just call my scheduler.

Hofheins: Okay, I most definitely will. Especially you, Amanda Fritz, I'd appreciate that. Thank you.

Hales: Good morning.

Barry Joe Stull: Good morning, council. My name is Barry Joe Stull. I've had some experience with JOIN. As a person with a disability, JOIN refused to help me. I endured. Ms. Erickson, reinforcing Mr. Jolin, said JOIN had promised to help me, in her presence, and JOIN refused to help me. But I'm a pretty smart guy. I took JOIN to federal court this past January. Because where I was camped on the city property for years, a police officer came and said he was going to refer me to JOIN. I asked him where his office was and I promised him, and I kept my promise, that I would give him the materials, the email exchange I had with JOIN and the Multnomah County Health Department had on my behalf with JOIN. JOIN refused to help me. Now, that could be that JOIN is in the Portland police bureau's administrative rules. They are the ones that you all, when you post your lies that you had in the window of this building that says shelter is available. You know that's not true. You just had people today tell you there are 2500 people sleeping outside tonight. You're telling us shelter is available when you post that a camp is going to be swept? So, I'm quite upset with this because what happened with me was I sued JOIN in federal court. I got appointed on my motion, Mr. Darien Loiselle, over here behind us on the 19th floor working for Schwabe, Williamson & Wyatt. I had a meeting. Mr. Loiselle said they wanted to settle, the court wanted us to settle. I had a meeting with JOIN. JOIN promised to take me on as a client. My first meeting with JOIN, my attorney was present. When JOIN said I qualified for a HUD program financed through JOIN called now home. We had a little bit of trouble finding a landlord, because as I endured my years of homelessness I endured arrest after arrest after arrest by the Portland police. If you type my name into a search engine, you will see a bunch of booking photos where I was found not guilty, or cases that couldn't even be charged. So I'm quite upset with this. On September 10th I got my keys through the now home program as a person meeting the qualifications of one, being a person with a disability and two, being a person meeting the definition of chronic homelessness. Now, I was chronically homeless because my nonprofit affordable housing landlord filed a 30-day no cause eviction -- was against an express statutory prohibition. And I appealed that. And my landlord destroyed \$20,000 worth of my property. And you know about this. Because I've said it before. And I've been trying to get, police commissioner, a police report written against Judge Ed Jones at the courthouse for official misconduct. Because he stole my right to a jury trial. In 2010, I got a check for \$4775 for the musical instruments -- I have a degree in music from the Lewis & Clark College -- musical instruments and tools destroyed in October 2006. I got that check in May of 2010 after my appeal was dismissed for want of prosecution owing to a font size.

Hales: Thank you.

Stull: So that is problem we have here and this is a continuing problem. All of these things are coming together. We have an agreement regarding the civil rights abuses of the Portland police

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bureau. And I want to know why PCRI, my landlord, today has a five-plex that's vacant. I've contacted your office, Commissioner Saltzman. I have not gotten a response. Today when I settle down after I leave this hearing, I'm going across to the county to see if PCRI still owns that. We have some explaining to do here in this city. I'm not proud of the way we've been handling it and especially not proud of the way you all have been handling me. I am on your side. You should listen to the truths I have to say. And I should not have to take you all to court as I've done, by the way.

Hales: Alright. Thank you, thanks very much. Good morning, Charles.

Charles Johnson: Good morning, commissioners. For the record, once again, Charles Johnson. And I was rather surprised to get to page 6 of the related PDF for this item and find out there is citizen participation planned. I see some unsettled faces on the commission but I think you've had a number of people who are engaged with the homeless service providers and I believe it was Commissioner Fish who asked about specific shortcomings. Many people who are downtown are frustrated by the trek out to JOIN. So I don't know if any of this money will help JOIN better engage with downtown. There's not a lot of chances for you to remain well-nourished near JOIN. But I will specifically respond to Mr. Fish's concern about where he thinks that providers are falling short, exclusive of JOIN. Transition Projects is an unsupervised organization. Doreen Binder may be a good-hearted person, but what happens is a lot of these moneys, you don't supervise them. And the level of service degrades. The Bud Clark Center is not -- I've been in Portland for 18 months and I've watched the level of service decline. So I hope that in this money you will look at better accountability and relationships between the people receiving services and the people supposedly managing services to maximize that benefit. And I do appreciate your openness, that your doors are open and we can speak to you individually as well as right at this table to make sure good things happen for the people in need. Thank you all.

Hales: Thank you. Anyone else? Anything else, Commissioner Saltzman? [applause] If not, we'll take a roll call.

Item 1204 roll.

Novick: Aye.

Fritz: Aye.

Fish: Dan, thanks for putting this on the agenda. This is 1.7 to 9 million, I know there's accounting, but this is general fund money and let's remember that it is a time of sequestration and federal cutbacks on what is a national responsibility, this is the housing commission and City of Portland stepping up to fill a void. And I congratulate you for prioritizing JOIN, the NW Pilot Project, Multnomah County, our key partners in leveraging resources and getting great outcomes. I also think the focus on families, vulnerable adults, is appropriate. And the fact that 200 people will be served I think is good news in this holiday season. You did not say, nor did anyone say, this is going to end homelessness in our community. But this is another investment in proven long-term cost-effective approaches for ending homelessness. And I congratulate you for bringing this measure forward. Aye.

Saltzman: Thank you, colleagues, for approving this funding. I just also wanted to recognize the Portland Housing Bureau, Sally Erickson and Amy Trieu in my office for their good work on this. The organizations we're funding, JOIN and NW Pilot Project and Multnomah County, are first class organizations and I have full confidence in their ability to work with individuals on the streets and help get them off the streets. And we will be watching how this money is spent. We will get monthly reports from the providers on the results they are achieving, and we will bring a report to council I believe in March or April to give council a snapshot of how this money is being spent and how we're getting the results that we're intending to get. Thanks again for your support. Pleased to vote aye.

Hales: Do what you can with what you have where you are. That's a good motto for a lot of things, and that's what we're trying to do here. And I appreciate your leadership on this, Commissioner

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Saltzman, and the good work that's been done to put this package together. If you compare and pair this decision today with the honoree Sandra Guyot that we just heard about from the Lowenstein Trust, everybody in the community has a responsibility to help on this problem. And a lot of people are. And so I think it's great that the City is stepping up. I also think it's great there are organizations like hers that people who care could make contribution of time or money and help. So the City is doing what it can with what we have with good partners. We all need to do more and we have an opportunity to do that. And I hope we all exercise that opportunity by volunteering, by giving food, by supporting organizations like these that are here in the room today and many others that are trying to address the crisis of homelessness in our community. Thank you for the good work and work to be continued. Aye. [gavel pounded]

Hales: Thank you all. Okay, let's move to the remaining time certain items. And let's read them together.

Item 1190. Item 1191.

Hales: While our team is getting organized let me make some opening remarks and set the stage for the presentation we will get on these two items this morning. First of all, this is complicated, emotional stuff. And extremely important. This is the most dire relationship between the City and our citizens, which is how our police officers conduct themselves, and then how do we manage and take care of the officers who work for us in this critical bureau. So it's important stuff, it's important to get it right. We're talking about three interrelated but different items this morning and a fourth one this afternoon. That is first a four-year collective bargaining agreement with one of our city's largest unions, the Portland Police Association. Secondly, a memorandum of understanding between the City, the U.S Department of Justice, and the Portland Police Association. Third, a letter of agreement between the City and the Portland Police Association. And then this afternoon, fourth, proposed changes to our code that govern the Independent Police Review, which is in the auditor's office, and the Police Review Board, this is in the police bureau. They are legally separate things but of course they are interconnected. They all address our how police bureau functions, how it works with the community, how we manage them, and how we hold our officers accountable. The difficult issues we'll hear about today include the provisions of the agreement itself, how we move forward on the Department of Justice, the ability to compel testimony from officers through the Independent Police Review function, and much more. We have a lot of work to do on these issues. These are very important milestones. They are milestones, they are not the completion of these important tasks. But I think we are making progress. And I see evidence of that as the commissioner in charge of the bureau. I hear reports from the field from our officers and from our bureau about how they are conducting themselves. And occasionally -- and in fact last night, hear from citizens that are seeing how our officers are dealing with people experiencing mental illness. I want to read this letter. It's to Officers Paolini, Straub, Klundt, and Marshall. I write to complement each of you on your handling of a situation in my apartment building last night. Sergeant Simpson shared your names with me this morning. I live across the hall from a young woman whose friend reported that she had threatened suicide. I didn't see any part of your interaction with her, but I heard a fair amount of the lengthy conversation and believe you represented the Portland Police Bureau with distinction. You acted with compassion, empathy, and a tremendous amount of patience. I recognize the many difficulties of interacting with people experiencing a crisis and was very impressed with your calm and caring approach throughout. This probably wasn't an unusual incident for you but it was certainly was out of ordinary for me. And I want to acknowledge your courtesy and professionalism. I appreciated getting that letter, and I appreciated the conduct that it recognized. That's the standard we set as a community, that's what we want to see every time in our interactions between the police officers and the community. It's what we all strive for. And it's what these agreements and understandings between the city, the federal government, and our union are setting the standard for and putting in writing. With that, I want to ask Anna Kanwit, our HR Director, and Ellen Osoinach from the city

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attorney's office to walk through these documents and tell us the particulars. So, good morning and welcome.

Anna Kanwit, Director, Bureau of Human Resources: Great, thank you. Mayor and council, as you stated, I'm Anna Kanwit, the director of the bureau of human resources. I am here to present to you the ordinance to ratify a successor collective bargaining agreement with the Portland Police Association. This has been a long road but the tentative agreement before you meets many of the City's very important goals and interests. It's also a fair agreement as evidenced by the fact that 77% of the Portland Police Association members ratified this tentative agreement. Before getting into the details of the agreement, I do want to thank Daryl Turner, the PPA president, for his hard work. And when Ellen Osoinach finishes her comments, he's going to come up and make comments as well about the agreement. But his willingness to collaborate with the City while still protecting his members' interest was instrumental in getting us where we are today. I want to thank my spokesperson, Jerrell Gaddis, for his long hours and diligence in getting the work done. Of course, Mayor Hales and Chief Reese for their support in the efforts throughout this. So, what did we accomplish? The PowerPoint does provide an overview. But first and foremost, the contract is part of a broader settlement, a global assessment with the Department of Justice lawsuit regarding certain practices of the police bureau with respect to people with mental illnesses. As the Mayor mentioned, Ellen Osoinach will be presenting that agreement. But this contract is an important part of the mediated settlement with the United States Department of Justice. The Portland Police Association agreed to withdraw their grievance and a challenge to the DOJ settlement. If the tentative agreement is not ratified by the city council, we really will not have a mediated global assessment. I cannot stress enough the importance of this one piece of the overall settlement. It also meets a key goal that has been expressed by city council, which is not only to obtain the mediated settlement, but also a negotiated labor agreement with the Portland Police Association. The contract is a four year agreement and essentially a cost-neutral agreement. The increases in the premiums that I'll be addressing will be paid for by a corresponding decrease in the contractual benefit. There is, as you know, a potential of a one-time expense over the contract savings of approximately \$1.5 million, which I'll cover. But it's noted by the city budget office that is a one-time expense, it's a worst case scenario here and can be addressed if need be in the spring bump, using the compensation set aside. This tentative agreement provides clear language on performance evaluations for the officers and the other ranks represented by the Portland Police Association. Performance evaluations are an incredibly important tool. They provide a feedback loop for officers and their managers. They provide an avenue for discussion of goals and priorities. Feedback on what the officer is doing well, areas to improvement, allows a meaningful dialogue between that office and his or her supervisor over various initiatives, goals that the officer sets, including work they are doing in their own districts to decrease crime in the city. Again, I can't stress enough what an important management tool this is. It can both improve performance and also is an avenue providing very clear direction to officers about the bureau's and the city's goals and expectations. Performance evaluations do not replace employee discipline. They are two separate tracks. The bureau has processes in place for dealing with disciplinary issues that can certainly arise out of poor performance and also out of acts of misconduct. That system is still in place, it's not supplanted or replaced by the performance evaluation tool. But this tool, again, is an incredibly important communication process that can overall improve officer performance and understanding of bureau goals. The Portland Police Association also agreed to accept 50% of the cost of living increase in the Portland index that the City uses. They did so in clear recognition of the shared sacrifice between labor and the City, in what was a very difficult budget year with the City facing a budgetary shortfall of approximately \$25 million. This met a very important council goal, as well. The increase will be .9%. The Portland Police Association also accepted that the City was unwilling to agree to make that increase retroactive to July 1, the date of the beginning of the new contract absent

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agreement prior to that date. We did reach agreement that this COLA increase would go into effect August 29th. Again, this is a very important achievement for the City as it does signal to our labor partners that we want to work hard on our labor agreements but we do want to reach agreements as much as we can prior to the end -- by the time our agreements actually expire so we have them in place on July 1st. The contract eliminates a very expensive and unforeseen expense that allowed officers to cash out at their discretion compensatory time earned for working on holidays. This provision has cost the police bureau approximately \$1.2 million per year. Effective January 1st, 2014, there will be no cash-out unless the bureau agrees to that. The savings generated by this elimination actually pay for the cost of the negotiated premiums. And again, I mentioned earlier, it does make this agreement essentially a cost-neutral one. As noted, there is a possibility of a one-time budget hit if past behavior is not a predictor of future behavior. And by that I mean over the years that this comp time provision has been in place, the cash-out provision, 39% of officers were taking advantage of cashing out all of their holiday comp time where 61% have not done so. If those percentages hold true, the police bureau will not be faced with any additional costs whatsoever. The 1.5 is simply the worst case scenario if every single person cashes out all of their holiday comp time. As part of this contract settlement, we settled 11 grievances, which is very important in terms of labor peace and being able to move forward with important initiatives. One of those grievances was, as part of the bureau drug testing program, what happens if an officer tests positive for a steroid that's contained in a legal over-the-counter supplement. This is by no means carte blanche for officers to use steroids. If an officer tests positive for a steroid or for a hormone, that officer will be terminated. However, if the officer can show through testing of the supplement, through a City-approved reputable laboratory, that the substance they tested positive for was actually in a legal supplement and was not labeled, the officer doesn't face automatic termination. It does not mean their termination is not a possibility and it doesn't mean there won't be other disciplinary actions, but it does recognize that what the officer ingested was actually a legal supplement.

Fritz: Let's just say that again, Anna, because we did have some confusion. That, no, police officers are not allowed to take steroids. If they test positive and can bring in both a sealed container and one that's been opened of what they have been taking that is an over-the-counter supplement, they then themselves pay to have that tested. And if it turns out that substance did contain steroids without it being labeled such, they must stop taking it. And there may be some discipline but short of termination.

Kanwit: That's correct, Commissioner. Under the drug testing program, if it is a positive test for a drug otherwise for the steroids, it would be an automatic termination outside this one exception. Since the program, we have still -- part of the drug testing program, as well, still includes random testing, which is the best deterrent for drug use, and reasonable suspicion testing. So if there is a question regarding an officer's behavior, that officer can be tested. We've conducted over a thousand drug tests and over a thousand steroid tests since the implementation of this program and have never had a positive test yet for drug use or steroid use. The contract also provides for premium increases to patrol sergeants and for dog handlers. The 5% for the patrol sergeants is in recognition of demonstrable increases in workload, some of which arising from the implementation of after action reports and some other initiatives implemented by the police bureau. With respect to the 6% hazard premium for the canine handlers, that is in recognition that, like other hazardous assignments, the canine officers are exposed to very hazardous and stressful situations. The dogs, I don't know if they're getting anything, but perhaps the handlers can be persuaded for an extra ration of food or something. But seriously, this is a hazardous assignment and the contract recognizes that fact. Finally, the tentative agreement provides for increases to the shift differential for afternoons and evenings. And that is continued efforts to incent senior and experienced officers to those shifts where there really is more crime, more incidents to deal with. Those are the officers we would like to have on those shifts. Otherwise shift selection is by seniority. Finally, there's a 1% increase to the

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longevity pay at years 15, 20, and 25 percent. And again, these premiums and increases are being paid for by reallocation of resources with the elimination of holiday comp time cash-out. I highly recommend council ratification of this contract. Not only does it meet the very important council goals of allowing the City to move forward with the Department of Justice settlement, it also meets council goals to provide certainty in terms of our contract negotiations. And removes what otherwise would be a distraction, if the very people implementing important reforms don't know what their wages, hours, and working conditions will be without going out for a long way with our contract negotiations. I'm open for questions on my presentation as the Mayor mentioned. Ellen Osoinach will present the memorandum of agreement and after she's finished, Daryl Turner will also come forward with his comments. Thank you.

Fish: I just have two questions. And thank you for the briefing that you made available to all of us on the specifics prior to today's hearing. Could you remind us that if we do not move forward with the agreement that's before us, what will likely happen in the course of negotiations? In particular, just give us a quick primer on interest arbitration.

Kanwit: Certainly, Commissioner. So, if this agreement is not ratified, the parties will be at impasse. Because we have both the City and PPA worked very hard to reach negotiated settlement. So, there would be little utility in going back to the table. We would declare impasse, and with a public safety workforce, like police officers, they are prohibited from striking. So the way that contract impasse is resolved is the matter is presented to an arbitrator. Each side presents their last best offer, and an arbitrator must pick one side's package or the other. The arbitrator cannot pick and choose. The difficulty with those proceedings is time. They take a long time to schedule. The hearings are lengthy. We would not have a result for a minimum of six months. Likely it could take a year. And, of course, we lose control over what that contract looks like because it is the third party arbitrator that makes a decision and in essence imposes a collective agreement on the city.

Fish: You mentioned it could add six months to a year of time uncertainty to this process?

Kanwit: Absolutely. This is a two week hearing at a minimum. And in our prior experience with interest arbitration, by the time we are impasse, we are a minimum of six months before we get a decision, and in all likelihood a year.

Fish: The second thing I want to clarify is the PPA agreed to shared sacrifice, as have our other labor partners, on the half COLA. So we should acknowledge that and be grateful, because it's effectively a pay cut not to get a full COLA, if you look at it from one point of view. There's always a question in these negotiations of whether we make these increases retroactive. What has been our policy and how did you resolve that in this contract?

Kanwit: The City's practice has been the cost of living increase we agreed to, we have always gone back to July 1st, which is the start of the City's fiscal year and also the start of all of our collective bargaining agreements. The issues with that in terms of collective bargaining is there is very little incentive to get to an agreement if the economic pieces of the agreement are always going to be retroactive, and in my opinion, has led to drawn-out negotiations where otherwise we could probably reach an agreement sooner. So, while the COLA is still retroactive to August 29th, it is certainly a step in the right direction and sends a very strong message to our labor partners.

Fish: Thank you.

Hales: Other questions for Anna or her team before we move to Ellen's presentation? Again, we will take public testimony on both items after we have had the two presentations. Okay. Thank you, Anna. Ellen, good morning.

Ellen Osoinach, Deputy City Attorney: Yes, a real PowerPoint. While Karla is helping to get that set up, thank you. My name is Ellen Osoinach, I'm a deputy city attorney in your city attorney's office. And I'm here today to go through the item 1191, which contains a memorandum of agreement which is between the United States, the City, and the Portland Police Association and then a letter of agreement that is between just the City and the Portland Police Association. I'd like

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to begin with some thank-yous and some acknowledgments. Working on this case has given me the opportunity to work with some extraordinary people who care deeply about policing in Portland. Including Accaria [spelling?] the attorney for the Portland Police Association staff and members, Shauna Curphey and Ashlee Albies, who are attorneys for the AMA Coalition, and of course the members of the AMA Coalition and the extraordinary attorneys at the U.S. Department of Justice. I particularly want to thank Mayor Hales and his chief of staff Gail Shibley for their clear leadership throughout those complex negotiations, negotiations which they inherited. Each of you on council have stepped in at various times to break logjams and provide needed feedback. Commissioner Saltzman has been a part of this process from the very beginning. Commissioner Fish has provided me with invaluable guidance at critical junctures. Commissioner Fritz and her incredible staff person Dora Perry have kept the city focused throughout this process and journey. Commissioner Novick and his staff Bryan Hockaday have jumped in and were incredibly quick studies about these complex negotiations. I want to acknowledge the leadership of auditor Lavonne Griffin-Valade and her director Constantin Severe. They too have been here from the beginning and have worked incredibly hard and diligently to move this process forward. Likewise, Chief Mike Reese has demonstrated unwavering commitment to ensuring a principled settlement of these issues. Finally, the City is blessed to have a dedicated and whip smart bunch of attorneys who work in the City's attorney's office, and I'm honored to have been able to work with them. In particular, Mark Amberg provided labor advice throughout the proceedings, and David Woboril, who has provided decades of dedicated service to the city on police issues as an invaluable participant throughout the proceedings and made this settlement possible. So, I'd like to walk you all through what the settlement is, and I was teased a little bit this morning that I have broken every PowerPoint rule by having a text-only PowerPoint. It's true, but I will just attempt to go through it quickly. One of the things I thought was important for both you all and particularly for people that are here today on this item, was to understand a little bit of the background of how we got to where we are today. It has been a complex two-year process that brought us to this moment. In July of 2011, the United States began a 14-month investigation of the City's policing practices, and in September of 2012, the United States concluded that systemic deficiencies in the City's policy, training, and supervisory oversight mechanisms resulted in a pattern or practice of police officers using excessive force against persons who have or are perceived to have mental illness. At that point, the United States told us that they intended to file a lawsuit against the City. So, we immediately began intense negotiations with the Department of Justice and ultimately reached a settlement agreement that addressed the allegations. In November 2012, the council unanimously approved that settlement agreement. After council approved the settlement agreement, the next step was to take the agreement to federal court. And I think all of you know, I think it is worth noting that in general, parties cannot resolve a lawsuit via settlement agreement without a court's approval. That is why we needed to take it to the court to see if they would approve the settlement -- if the court would approve the settlement agreement. At that point, two outside parties moved to intervene in the court proceedings, the AMA Coalition for Peace and Justice and the Portland Police Association. Both objected to the settlement agreement but for opposite reasons. The AMA Coalition did not believe the settlement agreement went far enough and PPA believed that in some cases it went too far. The court granted enhanced amica status to the AMA Coalition, and the court granted intervener status to the Portland Police Association. Based on 9th circuit case law, court told the parties that it would not enter the settlement agreement if it contained terms that conflicted with the PPA's labor contract. The City believed no conflict existed and the PPA believed that conflicts did exist. Although the AMA Coalition was not granted intervener status, the court recognized that they had a special stake in the litigation. At that point, the court asked the United States and the City to engage in mediation with all four parties. So the United States, the City, AMA Coalition and the PPA all participated in formal negotiations and mediation. And as you might imagine, there were at that point a multitude of views in the room

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about what would be the best way to proceed. To further complicate matters at that point, the City was collectively bargaining a successor contract with the Portland Police Association. In addition, the Portland Police Association had filed a grievance alleging that the City could not implement the settlement agreement. So we had the motion to intervene and mediation to deal with. We had collective bargaining on a successor contract, and we also have a grievance to deal with. Throughout mediation, the parties worked very hard, and we were able to negotiate a collaborative agreement with the AMA Coalition, and city council approved that collaborative agreement in July 2013. Through that collaborative agreement, the AMA Coalition agreed to support the court's approval of the settlement agreement while reserving the right to advocate for further changes. The United States, City, and PPA were not able to negotiate an agreement through mediation but we continued to have discussions. Part of the reason we were unable to negotiate an agreement by July was that the biggest issue the court wanted the parties to resolve whether the DOJ settlement agreement conflicted with the PPA's labor contract. And it was not possible to really resolve that dispute until we had a successor contract in place. So, at that point, the --

Fish: Can I ask you something? Can you go back one slide? This issue comes up regularly here at council. It comes up with FPD&R and comes up with our labor contracts, it comes up in the ordinary course. And I think we take for granted that this is an issue that has to be resolved and reconciled and there's competing law. But could you just like give a two-sentence, drill down a little deeper just briefly on why it is that where there is a duty to bargain, the council can't act or what happens if the council does act and there is a duty to bargain and what are the legal consequences.

Osoinach: Where there is a duty to bargain, in general, if the council acts unilaterally without engaging in collective bargaining, then that is considered an unfair labor practice and it would subject both the decision of council and however they implemented their decision to second-guessing and being overturned in addition to perhaps having the employment relations board sustain an allegation that we had, in fact, engaged in unfair labor practice.

Fish: I think by way of context, in some jurisdictions, like Wisconsin, the legislature has simply stripped public sector unions of certain rights to bargain, and that's one way of addressing it. In Oregon, we have a state law that mandates that you bargain in good faith with your labor partners and that's the law we're bound to follow. Correct?

Osoinach: Yes, absolutely. Thank you for that clarification. As a result of the bargaining that occurred between July and November of 2013, the City and the PPA were able to tentatively agree on a successor contract, and that is before you today in item 1190 that Director Kanwit just explained. One the contours -- the collective bargaining and discussing potential settlements with the PPA were occurring simultaneously. But once the contours of the successor contract were in place, the City and PPA were able to finalize those agreements and resolve the PPA's objections to the DOJ settlement agreement. And just for reference, when I say the DOJ settlement agreement, I'm referring to the settlement agreement that was approved by council in December of 2012. Because this is a global settlement, council must pass items 1190 and 1191 in order for the court to move forward in approving the DOJ settlement agreement. If either item fails to pass, the lawsuit will move away from settlement and toward further briefing, and possibly trial, which is what Judge Simon indicated he believed would happen if we failed to settle the PPA's objections. So, moving now to the actual substance of --

Fritz: Excuse me, sorry to interrupt, but that means that we can't get to the fairness hearing that would be scheduled in February unless we approve both of these items.

Osoinach: That's absolutely correct.

Fritz: Thank you.

Osoinach: Item 1191 contains two agreements, a memorandum of agreement and a letter of agreement. I want to go through those briefly mainly for the benefit of those who are here to testify and for you all. The terms of the memorandum of agreement, the heart of the agreement is that the

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PPA agreed to withdraw its objections to entry of the settlement agreement and to file any necessary court paper work to make that happen. It also agreed to dismiss the grievance that I referred to earlier that was related to the settlement agreement. And importantly, they waived their bargaining rights to already implemented reforms, some of which I will talk about and Chief Reese may talk about, what those already implemented reforms are as well as future implementation of reforms that they reasonably anticipate will occur. They retain their bargaining rights for implementation of reforms that they could not have foreseen and they retain bargaining rights in relation to three specific subjects in the settlement agreement. The first is interview protocols for officer involved in force events, the IPR interview of officers, and unforeseeable court enforcement of the agreement. I want to note at that point that I have submitted an amended memorandum of agreement that has an updated reference in paragraph 9 to the proposal that you will hear this afternoon for the changes of the IPR code. The memorandum of agreement that I submitted had a reference to the code that was introduced in October 23rd, and now I have updated it to indicate that it is -- they're retaining their rights to the code, the sections of the code being introduced this afternoon.

Hales: Those are changes of reference, not of substance.

Osoinach: That's correct.

Fish: Does that tool bar icon in the bottom -- it's blocking some of your text.

Osoinach: I know. I can't seem to get --

Fish: I don't want to make more --

Osoinach: No, I appreciate that.

Hales: Microsoft moment here.

Osoinach: Thank you, Karla. I think there may have been some confusion about what paragraph 9 means in terms of does this mean that the City agrees that they're prohibited from enacting changes to these areas? We wanted to make it clear that City retains its right to enact any changes to the manner in which officers are interviewed when those changes are not mandatory for bargaining. And if the PPA and City disagree about whether a change is mandatory for bargaining in one of those three areas, we both retain our right to submit that dispute to an appropriate decision-maker. The PPA retains collective bargaining rights for matters unrelated to the DOJ settlement agreement. Paragraphs 11 through 9 contain housekeeping matters, such as an affirmation of the due process requirement for discipline, the procedure for enforcing the memorandum of agreement, the term of the memorandum agreement and other general legal provisions. The letter of agreement clarifies that the discipline guide which is required by the DOJ settlement agreement will not supplant the legal requirements of due process and just cause. But otherwise the City will be implementing and using the discipline guide at their discretion.

Novick: Ellen, just to drill on that point for a moment. So PPA has agreed that the implementation for this guide is not mandatory subject of bargaining?

Osoinach: That's correct.

Novick: Thank you.

Osoinach: So clearing the path to reform, what is the benefit of the agreements that are before you today? Allow the City to confidently continue implementation of the settlement agreement without the threat of those actions being second guessed or overturned in some other legal proceeding. For example, the City has already or is about to implement reforms to its policies, trainings, and accountability systems. With the settlement, those changes will be freed from the uncertainty of legal challenges. Some of the highlights of the settlement agreement include a new use of force performance and taser policies, and those will become effective January 1st of next year. Those policies are currently on the City's web site, the police bureau's web site. If you Google police bureau, Portland police new use of force policies, the link will come up right away for you and folks can look at those. These policies are incredibly important and for many were the heart of the Department of Justice settlement agreement. And they focus on de-escalation and appropriate

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responses to people experiencing mental health crisis. The bureau implemented a training plan that included scenario-based training, incorporating de-escalation tactics such as disengaging, waiting, calling for appropriate back-up units. There are specialized responses to mental health crisis included in the DOJ settlement agreement, including the fact that all officers will continue to be CIT trained, and the addictions and behavioral health unit will continue to advance their cutting edge techniques for police interactions for persons experiencing a mental health crisis. And finally, there are important changes to officer accountability, including that supervisors will continue to go to the scene of all uses of force and conduct investigations, something that had been a subject of a grievance that will be resolved with this global settlement. And very importantly, the City will have a discipline guide for the first time. There will also be new thresholds in the employee information system for triggering an overall evaluation of an officer's use of force. For all of those things, the PPA has agreed to waive their bargaining rights. So, those are important reforms that can move forward. There are clearly important milestones left to come, and this global settlement does not address every concern that I think council and the community has, but it is a giant step forward toward accomplishing the goals of implementing further police reform and improving police accountability. Thank you.

Hales: Thank you very much. Questions?

Fritz: I have a question. While you were negotiating this settlement -- which by the way, thank you all for your very good work -- there was a different proposal in the Independent Police Review for how officers could be questioned than is on the table this afternoon. If the council approves either this afternoon or after the fairness hearing something similar to what is in the latest proposal, how does that relate to what is in the settlement?

Osoinach: The original agreement, the PPA wanted to retain its bargaining rights as to those changes that the council might make to the manner in which IPR questioned officers. The language I used in the initial draft should stay substantially similar. The code changes that are being presented today, we think resolve the City's -- they don't trigger mandatory bargaining. But in speaking with the PPA council, they wish to retain their bargaining rights to that aspect of the code changes. We simply agreed that those changes are substantially similar and so I updated the references in the old code to correspond to the references in the new code. That's the way it relates. It doesn't change anything substantively. They would have retained their rights to the old or the new code, but we just wanted to make it clear.

Hales: Other questions for Ellen? Great. We want to call up Daryl Turner from the PPA and I think also the chief after that. You can come up together if you would like. Thank you, both of you, we may have other questions as the hearing goes on. Good morning.

Daryl Turner, Portland Police Bureau: Good morning. I'm struggling a little bit with allergies, so I'll do my best.

Hales: Anna is relieved it is not a cold.

Turner: It is not a cold.

Hales: She is moving away from you.

Turner: It goes away in warm weather. Mayor Hales, commissioners, I'm Daryl Turner, the president of the Portland Police Association. I'm honored to be here today representing the 900 men and women of the Portland Police Association as the City moves to ratify new collective bargaining agreement and the U.S. DOJ settlement. This has been a long, complex process. The City and PPA negotiating teams worked tirelessly in weighing budget issues, policy issues, U.S. DOJ issues, the rights of the members, and the welfare of the citizens we serve. The negotiations were tough but fair. We reached the fair and equitable agreement before you only through collaboration. When I began my tenure as the PPA president three and a half years ago, I advocated that we work collaboratively together with the City and police bureau as issues arose. Working together towards a voluntary agreement results in a far better result than what we could have come up with after years

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of contentious litigation. Although this current bargaining process didn't necessarily begin with collaboration, we reached the end result only through collective hard work, dedication, resolve. I hope that we take the core lesson that we have learned from that process, that collaboration best serves the parties, and apply it as we move forward addressing other important law enforcement issues that we will face in the days ahead. Although there are many people who worked tirelessly to get the parties to this point, I would like to especially thank Anna Kanwit, Ellen Osoinach, and Chief Mike Reese. Most of all, I would like to thank the 900 members of the PPA. Their hard work, dedication, and compassion for the community has made Portland one of the safest, most livable and respected cities in the nation.

Hales: Thank you very much.

Turner: Also I have one little bit more to add. I do want to clarify an issue regarding the discipline guide. We agreed to use it as an advisory tool, such as the PRB. But the PPA did not agree that the discipline guide is not a mandatory subject of bargaining, nor do we agree that it is mandatory for bargaining. We simply agreed on how to use the guide. I wanted to add that.

Hales: Duly noted.

Turner: Thank you.

Fish: Sounds like you kept your options open.

Turner: Yes.

Hales: Alright. Good morning.

Mike Reese, Chief, Portland Police Bureau: Good morning, commissioners, I appreciate the opportunity to address council this morning. The collective bargaining agreement and the MOA are a positive step forward for the community and the Portland Police Bureau. It is morally and ethically appropriate for us to own these reform measures and to begin the work immediately. And I'm very proud of the work that we have already done. We didn't wait until today to begin the processes and implementation of the reform measures. We used the settlement agreement that was drafted and approved by council last year as a roadmap, and we will continue to use it as a roadmap to move forward. We have done good work already, and we anticipate doing much more good work. It is challenging work. There are too many people in mental health crisis in Oregon and certainly not enough resources to assist them. We know, as the Portland Police Bureau, that we can always do better and we are committed to continuous improvement and I'm looking forward to the opportunity to show council that improvement. In regards to the collective bargaining agreement, it helps to provide certainty as we move forward with the DOJ settlement agreement and that we're not going to have labor strife over issues important for the community and important to the bureau. It has important changes that are fiscally responsible and provide improved accountability and those include some of the things Anna mentioned earlier, such as employee evaluations. I want to also close by thanking Ellen Osoinach, Jerrell Gaddis, and Anna Kanwit for their hard work and leadership on this and I urge your support. Thank you.

Hales: Great. Questions for Daryl or the Chief?

Novick: I have a follow-up question on the issue of the discipline guide. It seems to me that having a discipline guide is a critical piece of what we're doing going forward and it is important to have consistent discipline and I think that that will be reassuring to the citizens and also to members of the force. I have heard expressed concern about inconsistent discipline. And also I would hope that having a consistent discipline guide would ultimately lead to different results in arbitrations and ERB proceedings where it is my impression that sometimes the City has been on the losing end, partly because we have had a record of inconsistency. I'm a little confused, Mr. Turner, by what you just said compared to what Ellen Osoinach just said. It was my understanding that there was -- you said you would not argue the implementation of the discipline guide is the subject of mandatory bargaining. I'm wondering based on what you just said whether when there is an attempt to

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implement discipline based on the guide, you will argue that that needs to -- that each element of the guide needs to be bargained.

Turner: No, because the police chief and the police commissioner have control over discipline. So, obviously, we knew that even though it is an advisory guide, that it would be used as a springboard for discipline by the chief and police commissioner when they have that right to do that. We understand that they have the right to use the discipline guide as a tool for discipline.

Hales: I might put words in both of their mouths, and I think my understanding of this fits both of those perspectives. And that is, the discipline guide, if you look at it, is a matrix of choices for the party who gets to exercise discipline. Namely the commissioner in charge and the chief. Judgment is still involved. It's not like there is no discretion or no judgment whatsoever involved in the exercise discipline. But there are parameters around what each type of failure receives in terms of discipline. I think it's extraordinarily clear and useful, while still acknowledging the fact that real people who exercise judgment are still in the loop and you can't, nor should you, try to have a discipline guide that's so mechanical that no exercise of judgment by the chief or commissioner in charge would be possible, that would be crazy and wouldn't work. But I think this is clear enough and definitive enough, if you do this, you will be subject to a range of discipline that looks like that. And I do believe that it will be reassuring to our officers and also pushing them in the right direction. And that it will give the chief the opportunity to look at particular circumstances around a situation, mitigating or aggravating circumstances that, you know, in this particular case, it was even worse that you did this or in this particular case, it is a little more understandable that you did this. This range of discretion is appropriate, but also having some clarity for the community, for the officers, for everybody involved that these are the rules. I think we're as close as human nature allows in the management of discipline with this matrix.

Fish: Mayor, can I put a finer point on that? Because I think Commissioner Novick raises an excellent point. Our understanding based on the testimony, therefore, as a council, is that we have a discipline guide which you and the chief will use. That if the PPA believes that the facts or the law do not support a decision, or that somehow that guide has been applied inconsistently, they would, of course, have the right that they have preexisting right to grieve that and go through the ordinary course and have the arbitrator decide that. But my understanding is that they will not file concurrently on fair labor practice saying that you and the chief are without legal authority to refer to a discipline guide because it has not been bargained. Is that correct?

Turner: The discipline guide is an advisory tool and can still use it. We understand that the chief and commissioner will be able to use it, yes.

Fish: So again, it doesn't impact the rights of a member and the union to bring a grievance --

Turner: We always have had that right.

Fish: We have an agreement that says a higher authority also may decide the question, but it would not be accompanied by an unfair labor practice saying that you don't have the right to refer to this discipline guide.

Turner: Correct.

Fish: Okay. Thank you.

Hales: Other questions for the Chief or for Anna or Mr. Turner? Alright.

Novick: Chief, I did have a question about the 48-hour rule, which has been the subject of considerable controversy. And it's my understanding that although the agreement with PPA says that we will continue to generally have a 48-hour rule, that you have discretion in some cases to order compelled testimony in the investigation before 48 hours has elapsed. And I wonder if you could talk about whether there are some circumstances in which you would use that discretion?

Reese: I don't know of any circumstances where we've used that recently. I can foresee opportunities where we may. Certainly the PPA has an officer bill of rights that carves out a part of that. One of the rights is that they have 48 hour notice prior to an administrative hearing where we compel

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testimony. And in the past, we – there's some exceptions to that. In the past, we haven't used that. I can see where, for example, there is a timeliness issue. So, you may have an investigation underway. You're interviewing one member, and in the course of that interview, information comes out that you want to bring in and compel testimony from another member, and you find out that member is perhaps leaving town the next day. So you may employ that 48-hour rule exception to bring that member in to get that testimony so that we're not delaying the course of the investigation. These are often complicated, certainly by criminal matters. So if you have an officer-involved shooting or a case that involves criminal culpability, you're going to have the district attorney's office involved in that decision-making as well.

Novick: Can you express what your response would be to a citizen who said that we shouldn't give people 48 hours before their testimony is compelled, that sounds like we're just giving them time to get their story straight?

Reese: Again, these are administrative hearings that often occur long after an incident has occurred. So, for example, in the case of a citizen complaint where we're doing a thorough and complete investigation, that complaint may be two or three weeks after the event. So the investigators have to give the employee notice. We have to pull reports. We may want to interview the complainant and other people prior to interviewing the officer.

Hales: Okay. Other questions?

Kanwit: If I may just add a little bit to that point. As the chief mentioned, you know, best practice when you are conducting an investigation is generally to collect all of the relevant information that you can before you do your interviews of what in this case, you know, in a force situation, a citizen complaint, the officer would be the respondent. And when you get to that point of doing those questions, it's much more effective, obviously, if the investigator has as much information as he or she possibly can have. In that respect, those investigations really aren't that much different from the other investigations that we conduct in the city, but, as the chief mentioned, this is very, very complicated, particularly because of the nature of police work and that police officers, part of their job, unfortunately, is to use force when necessary and there can be issues with compelling testimony. With use of force, as you know, there is always a potential issue of criminal culpability. And also the issues of those events are very traumatic. And there are studies that other attorneys can talk about here today that do caution against immediate interviews. But, again, the contract language does provide for where the delay would impact the investigation, would jeopardize the investigation, those interviews can take place prior to 48 hours. Or if criminal culpability is not an issue, interviews can take place prior to 48 hours. So there's not an absolute prohibition in the contract language.

Reese: I will say when we have timeliness issues or we have compelling reason to pull an officer in, the PPA has cooperated in many of these instances. And so we haven't had to force an officer to come in without representation in that type of setting.

Novick: There is another issue that I wanted to talk about a bit. It might be helpful to have Ellen back up to address it. Related to the DOJ agreement.

Hales: Come on up Ellen. Just bring a chair with you, if you want.

Novick: I -- and this is an issue which I wish I had known about and thought about earlier, but the DOJ settlement says at page 42 that the Citizen Review Committee appeals will be resolved within 21 days. And I had a member of the CRC come to me some days ago and say that that's not really a realistic timeline for a group of volunteers, many of whom have full-time jobs, to review information, and get together, and render a decision. Ellen, it is my understanding that that is a point that the City made in discussions with DOJ and DOJ was not very receptive. Is that fair?

Osoinach: I would say that's very fair. It is certainly a concern that has been expressed in numerous forums, both -- I know Commissioner Fritz is very aware of this issue. During the course of even mediation, we talked again about that issue and just were not able to get a compromise with the

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Department of Justice on that. Having said that, I think their position is also that they actually wanted a much stricter timeline than 180 days, and the 21 days is part of that 180 days. What we, I think, have gotten them to agree to, is that if we are not able to achieve substantial compliance, so for example if the CRC could not achieve substantial compliance with the 21 days, that issue, since it has been raised repeatedly by both advocates and the City, I think is certainly something that in the future if we were not able to achieve substantial compliance, we put them on notice and I believe that there would be room to negotiate in the future about it.

Novick: I hope that's true. But I am concerned by the fact that the language -- I understand that you worked hard on this, my beef is really with DOJ. I'm concerned by the fact that the language says, you know, appeals to CRC shall be resolved within 21 days. And I just -- I mean, I don't think the complainants generally are going to complain about the timeline being too long because they exercise the right to appeal to the CRC and that may take more than 21 days. And I would think that from a complainant standpoint, the timeline issue would relate to our investigation that precedes that. And I am very concerned that we might lose people from the CRC and it might actually be impossible to maintain the CRC if they're faced with a timeline that they simply can't meet. And I will say that last week, I called Amanda Marshall and asked her about this, and she said no, it's very important to the civil rights division that we keep to 180 daytime line and, in fact, they thought that the delays at the CRC was a big fat problem so they wanted to do something about it.

Fritz: Commissioner, I'm going to have suggestions when we do the IPR ordinance this afternoon, because I share your concern.

Novick: Thank you.

Hales: Thank you very much.

Tracy Reeve, City Attorney: Mayor, we may want to move the amendment before taking further testimony.

Fish: So moved.

Fritz: Second.

Hales: Yes. Thank you. The amendment has been moved and seconded. Any further discussion? Roll call on putting the amended version on the table.

Fritz: Can we have Ellen briefly say what the amendment is just one sentence, please.

Osoinach: The amendment is to paragraph 9, subsection ii, and it updates the information to conform to an item being heard later today.

Fritz: Thank you.

Hales: Just by referring to the rate code sections. Alright. Roll call.

Roll on amendment.

Novick: Aye. **Fritz:** Aye. **Fish:** Aye. **Saltzman:** Aye. **Hales:** Aye.

[gavel pounded]

Hales: Okay, so that amended version is now in front of us along with the other item and we can take testimony on both. Because we are hearing two items together, we will give people four minutes instead of three. I don't know if you have a sign-up sheet.

Moore-Love: I have two sign-up sheets.

Hales: You have two. So let's begin.

Moore-Love: Do you want to combine? Because some have signed up on both.

Hales: Let's combine them and again give people a chance to testify on both items at once rather than make them wait.

Moore-Love: Okay, I'll start with the list on 1190, the first three.

Hales: Come on up. Welcome. Whatever order you would like to go in. Dr. Bethel first.

T. Allen Bethel: Good morning. Dr. T. Allen Bethel, President of the Albina Ministerial Alliance and also the vice-chair of the AMA Coalition for Justice & Police Reform. Thank you Mr. Mayor and council for the opportunity to be able to speak this morning considering the two documents,

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legislation, things that are before you. Number one, we want to talk simply just a few things about the CBA. We believe that there have been some missed opportunities in dealing with the CBA agreement. Number one, and those we will talk about the 48-hour rule which you have raised also from the council, is that we do find that there is nothing mandating that the City has to bargain about the 48-hour rule or the IPR's ability to compel officer's testimony. The City, we believe, could have just simply struck that out of the contract and not dealt with it. I believe that it is a missed opportunity to have not cleared this clearly that it will ever be in the future construed as a mandatory bargaining right. Secondly, it was not brought out, but it is a part of the contract, that talks about drug testing. And particularly that piece around the use of steroids. And being found in a particular product that an individual officer may use, it was not aware that there was a steroid inside of that particular product. I am believing that we have missed because there is nothing that then strictly forbids that officer from using that product again knowing that it does contain steroids. If for the United States Olympics and for athletes and other groups, the use of steroids are completely forbidden and you can lose and even be stripped of things, we feel that that should be strongly enhanced in that as well when we talk about drug testing. Performance reviews that have been absent for many years, not only in the Portland Police Association or the bureau and other departments, but particular in this CBA it talks about that we will not use them to determine anything about transfers, discipline, or promotion. What's the use of having an evaluation if the evaluation is not to help to instruct, to correct, and to move forward and improve what a particular officer has done or is doing? Just to leave it as something that is done that has no real impact, I don't believe, once again, that we have taken the opportunity to strengthen what this contract is going to be and can be. Finally, when we talk about the discipline guide and that was one that was just brought up recently that I added a few notes on, is that many times, if this -- what we find is that when something goes to arbitration around an officer in the Portland Police Bureau, most officers have been returned, sadly to say. None of the discipline seems to stick. Off for a few minutes, we might say, might equal some months or weeks. But in the end, they come back and then they are repaid. I have 28 more seconds to go and I can use those up very quickly. But we're concerned about total transparency, total accountability, and if an officer is fired for just cause, that officer remains fired and not then return. I think later in the evening, this afternoon, you will be considering something around the IPR and when discipline is different and then whether the chief then reports to the commission to right that. We are concerned that is not just written inside of something that only the officer sees. Finally, we want to urge the council to note and look at this contract very carefully. And see if it is really in the best interests and in the forward motion of addressing the issues of the DOJ findings, and not allow the CBA to hold changes hostage and work towards a more transformative and transparent Portland Police Bureau and a collective bargaining agreement and one that does not hold the DOJ's settlement agreement hostage to the signing of a CBA and MOU. Thank you.

Hales: I know you are going to speak as a panel. Perhaps when I ask you a particular question to follow up on one of your points to make sure that I understand it, and that is, with respect to the discipline guide, there's been a regrettable series of incidents in which the police chief and police commissioner made a discipline decision and it was overturned in arbitration. Do you believe that that discipline guide gives us a stronger position in that dynamic?

Bethel: I would have to answer that both yes and a no. Yes, it will give a guide in that we will see what will be the discipline issues, and then a no, because currently we see that things -- when discipline has been recommended in one particular case that we will bring up, the chief has decided that he would do something totally different. And I bring up again the case that you heard me talk about which is in dealing with Officer Wyatt, a man who could not keep his hands off of women, a man who was sent to class three times to understand what sexual harassment is, he still could not keep his hands off of women, and then instead of him being fired, he is demoted and then he is

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promoted in being in charge of the very department that he is to take care of victims who are a part of sexual harassment. That doesn't make any sense. So that's the no part of the discipline piece. It is not going to stick tight. I hope I'm proved wrong, but so far at this point, I have not.

Hales: Okay. Thank you. Thanks.

Fritz: Dr. Bethel, I'm going to check on the exact language. My understanding was on the steroid use, if the over the counter substance is found to have steroids they have to stop taking it. They are not allowed to keep taking it. They have to stop taking it. But because they didn't know about it, that it would not automatically result in firing.

Hales: I noted that, too. We should get confirmation on that.

Fritz: We would have to check on that.

Bethel: I understand it would not automatically result in firing. The piece that they can no longer use it, then I want to be corrected.

Fish: Dr. Bethel, we're going to get, we're going to have all of the testimony and come back with the laundry list. But my understanding is that once you are on notice that a product has a steroid, you don't get to use -- take it again and claim that you didn't know. So, there might be another product that you could claim ignorance of, but once it has been determined that there is a steroid in that over-the-counter product, you would not be able to take it again. And as to your question about whether we somehow lock the City in on a -- the question of whether the 48-hour rule is now a mandatory or permissive subject of bargaining, we will bring the team back after to answer that one as well after the testimony.

Bethel: Thank you very much.

Hales: Thank you. Good morning.

Shauna Curphey: I'm Shauna Curphey, I'm here today speaking on behalf of the National Lawyers Guild Portland chapter. I'm also legal counsel for the AMA Coalition but I'm not speaking in that capacity today. The NLG as an organization is a strong supporter of the rights of workers to organize and to collectively bargain for better wages and working conditions. The NLG also appreciates that the ordinance at issue today resolves part of the PPA's opposition to the settlement agreement by the lawsuit brought by the Department of Justice against the City and moves that case forward to a fairness hearing where the public may weigh in on the agreement before the court. The NLG, however, finds it deeply troubling that the collective bargaining process was tied to the PPA's opposition to the settlement agreement, and as a result, important public policy decisions took place behind closed doors. Moreover, the CBA overall appears to make several important concessions to the PPA without corresponding gains in police accountability. I'm going to focus on three. The 48-hour rule, as I'm sure you know, is a huge issue. IPR's ability to conduct independent investigations, and IPR's authority to conduct investigations of deadly force incidents. First, the 48-hour rule, as you have already heard from Dr. Bethel, is a huge concern for the community. As the NLG outlined in its memo to city council, decisions by the employment relations board indicate notices like the 48-hour rule are not mandatory subjects of bargaining. This means that the City, in its negotiations, chose to keep it on the table instead of making a public stand for accountability. I recognize there are exceptions to the rule, as the chief discussed, including that it does not apply when criminal culpability is at issue or if delay will jeopardize the decision. These exceptions beg the question of why have the rule at all, especially considering how it erodes public trust in police oversight, and ultimately, in the bureau itself. Moreover, the MOA that resolves the PPA's opposition to the settlement agreement reserves the PPA's right to grieve issues related to obtaining officer statements and investigation and thus leaves uncertainty about this important issue. Second, IPR's ability to conduct independent investigations, which I know you will address later today, and there will be a different member of the NLG to speak to you then. The CBA still implies that a bureau member will interview officers or conduct investigations, as it states that interviewees will be informed of the name, rank, command of the officer in charge of the investigation and the interviewing officer. This

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lack of clarity is troubling because, again, the PPA has reserved the right to grieve the City's implementation of the settlement agreement as it relates to officer statements and investigation. Third, IPR's ability to conduct investigations of deadly force incidents. The CBA states that IPR has no authority regarding article 61.7, which, in turn, refers to an officer's right to council and union representation in deadly force incidents. The CBA is thus unclear in regard to whether the IPR has no authority to investigate deadly force incidents or merely has no authority over officers' right to representation. Deadly force incidents, as you know, however, are the most serious incidents that potential police misconduct and therefore merit the highest degree of public oversight and accountability. In conclusion, the public expects and deserves an oversight system that is credible, effective, and just. The CBA does not get us there. I want you to consider Dan's suggestion, who will speak to you next, that the MOA and the CBA can be separated so that the suit can move forward -- the DOJ suit can move forward without binding the City to the CBA before the public gets to speak to the court on the fairness of the settlement agreement. Now, I know that you have been told that this is the last best offer. I want to remind you that collective bargaining is not a force of nature. It's a choice. It's a choice reflected by the parties that sat at that table. And it is your choice here today to choose to ratify the CBA. Thank you.

Fish: Counsel, can I just ask you, since we have the benefit of you being a lawyer on the panel, is it your opinion that in not addressing the 48-hour rule that we have somehow conceded it is a mandatory subject of bargaining or do you believe that then is still an issue that could be decided by a higher tribunal?

Curphey: I think that is still an issue. I think you missed an opportunity by negotiating it.

Fish: But I mean, that is an important distinction.

Curphey: Right.

Hales: Another question on the subject of the timing of these interviews, 48 hours or whenever, the ACLU said last year if the bureau requires a mandatory unseen interview, it may foreclose the possibility of criminal prosecution and while the bureau and City may decide that this risk is outweighed by the value of having accurate information in a timely manner, they should make this decision intentionally. You don't think the chief still has that prerogative?

Curphey: It's my understanding that if there's criminal culpability as a potential issue, the 48 hour rule does not apply. That's what it says in the CBA. So the garrity concern, which is what I think you're raising, is not tied to the 48 hour rule to the extent that the rule does not apply when criminal culpability is an issue and garrity only applies when criminal culpability is an issue.

Hales: Right. Okay. Thank you. Dan, you may want to address the same questions.

Dan Handelman: I probably will. Hi, I'm Dan Handelman with Portland Copwatch, I'm also steering committee member of the AMA Coalition for Justice & Police Reform. Mayor Hales, Commissioners, even though we are concerned about the broad potential challenges to the policy it allows, we understand that the City signs the Portland Police Association's memorandum of understanding regarding the DOJ agreement today. This will allow the federal judge to enter the agreement into the record this Thursday and set a fairness hearing to decide whether the agreement resolves the problems identified by the DOJ's investigation into the Portland police use of force. However, community testimony at that fairness hearing, expected to be held sometime in February, could prompt the judge to order changes to the DOJ agreement that better fix Portland's troubled oversight system and clarify issues around use of force. Because the CBA could be affected by those decisions and because the judge should not be influenced in this decision by facts on the ground created by signing the new contract ahead of the agreement's ratification, the City should delay voting on the CBA until after the fairness hearing. We want to be clear that our organization works regularly and supports labor unions and the right to bargain for fair working conditions and wages and benefits. The PPA is association of police officers who are sometimes called out to squash the demonstrations of other workers. They use their considerable power to prevent accountability for

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use of excessive and deadly force to avoid being investigated by anybody outside of law enforcement. We will be equally as alarmed if the Portland teachers association were going beyond asking for reasonable class sizes, which directly affects their workload, and instead asks for rights to institute corporeal punishment against students with limit to outside review of their actions. The PPA contract was negotiated mostly behind closed doors. There were three public meetings, all which I attended, and only two of which the PPA attended. The council is our elected leadership and we expect more from the City in clearing the way for timely and independent investigations. However, the City chose to leave in the so-called 48 hour rule and parts of the contract which could be interpreted to limit IPR from investigating misconduct, including deadly force cases. It's also a great concern that the newly reinstated performance reviews will not include all complaints against officers, only ones sustained, and will not be used for transfer, discipline, or promotion. If an officer has a pattern of receiving certain kinds of complaints, don't you think their supervisor should mention that in their annual review? We also hoped that the City would expand drug testing introduced in 2011 to include mandatory tests after deadly and excessive force incidents but that did not happen. We signed on to a letter the National Lawyers Guild sent you earlier this month pointing out there is nothing mandating the City has to bargain the 48 hour rule, or the ability to compel officer testimony. You could have struck those parts of agreement and said, sorry, it's not mandatory. But you didn't do that. Getting back to the DOJ agreement, we raised concerns that administrative investigations are mandated only when officer is found to have violated somebody's rights at civil trial rather than also when a judgment or settlement are entered. The fact that PPA is asserting its due process rights over this piece which affects very few officers, since few lawsuits result in jury verdicts, underscores it this as a reasons that we hope the DOJ agreement gets modified after the fairness hearing. And just, the tying together of these two issues. If this so intertwined and this is a global settlement, then this was part of a DOJ agreement and the AMA Coalition should have been involved in the negotiations. And I believe we were not involved.

Fish: I haven't heard that argument before that you just raised about the performance reviews. And I wanted to give you a chance to flesh out the point you just made. So you just suggested to us that rather than base the performance review on sustained complaints, that we give the supervising authority the power to base it in part on complaints that haven't been sustained, which I think to lawyers and to people concerned with workers' rights, raises some issues about fairness. So, what's the analogy that you would have any other workplace setting where a mere complaint that hasn't been founded in fact could lead to a negative performance evaluation without, potentially, recourse by the employee, and since you raised it, why do you believe it would be fair?

Handelman: Well, I didn't say there was no recourse, there's recourse built into the agreement about the performance reviews. But the issue is that there are some officers who get the same kinds of complaints over and over again, and they're either not sustained in the sense that they're exonerated and found within policy or they're not sustained because there was not enough evidence one way or the other. And it was he said, she said. And believe me, I know that is a lot of the cases, because it's just the officer and the person. Which doesn't mean it didn't happen. And doesn't mean that the officer isn't having behavioral issues. So having a stack of unsustained allegations against you doesn't mean your performance is spotless.

Fish: I appreciate the point but I want to put up a caution flag. Because we all, regardless of how we view the outcome here, we believe in some basic tenants of fairness. If it is not sustained, or it doesn't have adequate evidence behind it, or whatever, through the back door to say that it has weight in determining performance evaluations to me is a slippery slope. And I want to flag a concern. Because now you're talking about something which has not been sustained, but could be the basis of a negative performance evaluation which could have implications for your future advancement within the department.

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Curphey: As I understand it, the performance evaluations do not lead to discipline in any way. What I think Dan is trying to get at is he wants to capture a situation where it looks like there is a problem with this officer. And actually, I'm not talking about public employers. But in the private setting, you will put a note in the file if you get a complaint. Anyway, there's different rights for public employees. But I think what Dan is saying is, if it looks like there is a pattern based on complaints that are not -- where the officer has not been exonerated, what harm is it to consider that in a performance evaluation, if the evaluation isn't used for officer discipline? As I understand it, it is not used for officer discipline.

Hales: Not in and of itself.

Fish: Not in and of itself, but it is part of the record that could be used for things like considering promotions in the future. Hopefully not going to disregard a negative series of performance evaluations. I'm just -- it strikes me that -- I understand where he is going, I just have some concerns about the fairness of operating off of a mere complaint. And in the private sector, we find that some complaints are often directed to people based on invidious classifications. I would hate to see the black employee, or the gay employee that's getting complaints because of some disparate treatment to have that influence his or her employment evaluation. I just think we should tread lightly.

Hales: Other questions for this panel? Thank you all very much. Good morning.

Jo Ann Hardesty: Good afternoon, Mayor, city council members. For the record, I'm Jo Ann Hardesty, I am on a steering committee of the Albina Ministerial Alliance Coalition for Justice & Police Reform. It's amazing how we get that name mixed up a lot. I want to thank you first for some of the changes that were made to the Portland Police Association's contract. I appreciate you doing away with the fake fitness bonus so that we're no longer paying people to have their fingers pricked and their blood pressure taken. So I appreciate that disappearing in these contract talks this time. I appreciate that the performance evaluation actually has a little more clarity than the last collective bargaining contract that this body passed. However, I'm concerned that the performance evaluation is not going to be used to determine someone's fitness for a particular assignment. I think it is ludicrous to evaluate someone and then not be able to determine whether or not this is a police officer that should be either -- whether it is the mental health unit, whether this is the ideal person to work with people with mental health issues, whether this is the appropriate person to work with gang youth, whether this is the appropriate police officer to be an emissary out in the community working with community organizations. So if you are not going to use a performance evaluation to determine whether or not you have an effective employee, then I have to ask you, why the heck would you do a performance evaluation? Most employers use those to determine assignments, to determine special assignments, to determine whether or not the employee is matched to the right work assignment. And so to say that the performance evaluation won't impact someone's pay, their assignment, etc., etc., seems to be a bit ludicrous. When I hear Daryl Turner say that the discipline matrix will be an advisory tool for the police commissioner and the police chief to use, that again makes my blood boil. Because the reason we need a discipline matrix is because there is no certainty, either in the public or in the police bureau, about what appropriate sanctions are for certain activity. And so if we're developing a discipline matrix simply as an advisory tool rather than something that will give certainty to police officers and the public, I think that is a mistake. I will also for the record say that our missed opportunity once again as it relates to taking the 48-hour rule has already been spoke about, but I want to put on the record that the performance evaluations, the 48 hour rules, have been consistent problems when it comes to trying to hold police accountable for inappropriate behavior. They've been consistent problems that we had the opportunity to fix. And we chose to just say well, it is going to be a problem so we won't deal with that. My fear is that in the settlement agreement, what you will do today will prevent Judge Simon from actually making significant changes because he will not want to make any proposed changes to the settlement agreement that would impact the collective bargaining agreement. So, basically you have put us

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back in the same box we've been in. And through your actions today with this vote, you basically have put us right back where we have been. And the community hears over and over again, we can't discipline officers because of the collective bargaining agreement. Well, guess what? We had a chance to fix the collective bargaining agreement, significantly this time, and you chose not to do that. I'm done.

Fish: Didn't Judge Simon -- and we will pose this question later, but didn't Judge Simon make it fairly clear throughout the proceeding that as the federal authority on this, his view of the law trumps whatever we do?

Hardesty: No. I think what he made clear was that he would not interfere with a collective bargaining agreement. He cannot interfere with a collective bargaining agreement. So, you voting on this agreement today -- so, when the public comes to the community fairness hearing and talks about the public doesn't have 48 hours before we can give a statement, so why should the police have 48 hours, even if the Department of Justice brought that up in their investigation. When we take that to Judge Simon, Judge Simon will say, well the Portland city council just voted a new four-year contract, so clearly they didn't see the 48-hour rule as an issue. Right? Well, the community has been saying this for well over a decade.

Fish: So I will put this to the attorneys later, but I think we're missing each other in the conversation. Because I do believe on the supremacy clause he has the authority to trump us. We will ask the team.

Hardesty: Yes, I had the impression that he did not want to do anything to impact the collective bargaining agreement, which is why he sent us to mediation. So, when you vote this in, that becomes what we have to live with for the next four years.

Fish: Okay.

Hales: Thank you.

Kayse Jama: Good afternoon, Mayor Hales and commissioners. My name is Kayse Jama, I am the executive director of the Center for Intercultural Organizing. First of all, before I start my comments, I want to let you know that both my organization and myself absolutely supports the union's collective bargaining in general concept, but in terms of this case of the Portland police union, I have been around this issue for a while and it has been becoming clear that it is being used as a tool to derail community police accountability. And so for that sense, today, my issue is a very complex one and it has a focus on paragraph nine that the city attorney presented to us, particularly as it relates to the 48 hour rule and as it relates to the IPR review that will be foreseen today. And those two issues, for me it's simple. One is that, as I understand now just what I heard before when the chief was here, that even the 48 hour rule, the chief might have a potential to be used as a tool if he wants to. And my understanding is that we have to be very clear. If we have we should not be attached to this issue as folks from the AMA said, that we should not be attaching the 48 hour rule to the CBA, we should be separating, and the City should not be for giving that aspect of that collective bargaining issue. That allows us then to move forward. The second piece that I want to address is that I think IPR -- if we really, truly wanted to have IPR, Independent Police Review, I think we should have one. And the proposal that is right now in front of us that has been attached to the collective bargaining is very much not allowing to have that independent police review. And I really believe that we should not be accepting this contract today as a good faith. Time and time it seems to be happening that, even if issues that Jo Ann Hardesty raised, that the chief might be able to use it as a potential tool -- that actually, to me, is what's wrong with the heart of this system. Collectively, each time, we're asking the Portland police to police itself. And I think it's time for us as a community to stop for a minute and step back and realize that we want to support our police union, our police force. We want to make sure they do their job well. But in the meantime, they are the ones who have the guns. And we have to hold higher standards because of that. And for that reason, we have to give every ample opportunity for the community to believe that their police force

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are accountable. So, in conclusion, I urge you today to not accept this MOU and not accept the collective bargaining agreement that the City has struck with the Portland Police Association. Thank you very much.

Hales: Thank you. Joe. Good afternoon.

Joe Walsh: My name is Joe Walsh, I represent individuals for justice. And some of you know that when I was working for a living, I was a chief union steward for the IBEW. And I did negotiate contracts, and I did negotiate working commissions, and I did negotiate with management about what the rights of management are versus what the rights of the union is. So I'm familiar with a lot of this stuff. If I negotiated this contract, and I got it signed off by the council, I would have all of my friends in the union buying me drinks for weeks. This is a very pro-union contract. What you have is a question about the 48-hours that everybody in the community that I talk to has great concern and they don't believe that if a police officer shoots somebody that he doesn't have to talk to anybody for 48 hours. Most people don't understand that. The drug testing that you're introducing now and saying, well, you know, if we pick up steroids and you bring in the commercial energy drink and show us that it contains steroids, we will give you a letter of reprimand instead of firing you. That's a little bit insane. If there is any --

Fish: Joe, in fairness that is not actually what it says. If you bring in that 48-hour drink or 24-hour drink and it you establish that that is the source. Whatever it is. Let's say you have something you bring in and you say this is what I consumed --

Walsh: Let's start at the beginning. Start at the beginning. You get tested for drugs and it shows up positive. Go from there.

Fish: The only exception that is built into this drug policy is if you can establish that you unknowingly consumed the steroid, i.e., you can produce something that you consumed where the steroid is not marked on the ingredients, a lab test establishes that it has a steroid, and you can show that you through no fault of your own that you consumed it, that is the only exception that has been created here.

Walsh: But you also had testimony that you have -- I would like some of my time back. You also have testimony that you have some of your testing done, you have done thousands of testing and nothing has shown up. Why is the union so concerned about this exception coming in if there is no indication that any of the officers are using steroids? Did I miss that? It seems to me that that was the testimony. Thousands of tests, and all negative. Why are they so concerned about this one exception? And what -- why did your negotiators let it go? Now, my last point, just going to say that the process here is very difficult for the public. You have all of your negotiators, you have all of the unions here, you have more guns in this room. If we could sell them we would all be rich. And you bring in the public to testify at this point. For you to overturn this contract, you would have to kick in the teeth of your negotiators. You would have to say, you did a bum job. And you guys don't do that. You keep complimenting each other, so much it makes me very confused. You bring this in at the wrong time. You lock us out and you do the negotiations behind closed doors. You don't allow people to come in to a process at the middle, or the beginning, and as Dan Handelman testified, he went to three and the union didn't bother showing up because they don't want it in the public. They want it private. And on their property, they made it private, if that's my understanding. So, I have a great deal of trouble with this whole process. You bring us in at the wrong time. The chances of you not voting for this is zilch, nada. You will vote for this -- you may give some little gift to all of us here, but you're going to put this into effect and we're going to go before the judge in February handicapped again.

Hales: Okay. Thank you.

Fish: Karla, how many people in total have signed up?

Moore-Love: I've got nine on 1190. And I have four on 1191.

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Fish: Mayor, before we take more testimony – because we are going to have more testimony than deliberation, and then at some point we have to get to the regular agenda and just because we have city staff that is on call, do you have any --

Hales: Yeah, it's my intention we could go until 1:00 and break for an hour.

Fish: Break for an hour and pick up whatever is left on the regular agenda?

Hales: Pick up, and then take up the afternoon agenda after that. Does that make sense to everybody?

Fish: Can I assume that would include 1208.

Hales: It could include everything after 1205. Yes, it would.

Fish: Okay. I just want to -- I don't want people to --

Hales: I think there is a slim chance that we will get to the regular agenda before this afternoon, at 2:00, I mean.

Fritz: Since I recognize that some people's parking meters may be challenged, I wanted to let folks know that my staff has been looking into the issue of what's in the contract versus what's in the policy, and the new regulations on steroid substances are in the policy rather than in the contract. I think we're both correct, Dr. Bethel, that it is not. So we are getting clarification on the changes in the policy as well.

Hales: Great, thank you. Go ahead, Mark.

Mark J. Hofheins, Jr.: Hey, Mark J. Hofheins, Jr. with UCARE. I only have two points. The first point is that we don't get 48 hours, nor should they. The second point is that I think the worst statement made today was that we have talked about how to use it but not that we are going to use it. That was the worst statement made today. And, so, I think that needed to be addressed and thought about just because it is going to be on the books doesn't necessarily mean that they're going to use it. That was the exact statement that they said. And, so, with that clarification, I will let you guys figure out what you're going to do.

Hales: Thanks. Good afternoon.

Barry Joe Stull: Barry Joe Stull. I hate to have to correct Mr. Walsh who loaned me this pen, but we're handicapped still. This is an ongoing environment here in the city of Portland. And I don't know what I can do to change it. End of the last century, in the year 2000, I was a pacific green party candidate, if you could manage to get through all of the booking photos on an internet search of my name, you would find out that I was a pacific green party candidate and the quotes on that page include, Stull's not a career politician posturing for your vote, he fearlessly tackles government and racist police corruption right on. Since then I have this scar on my head. I got that as an alum at Lewis & Clark College where the campus safety intentionally scarred my head on the paving stoves, knowing I was an alum, knowing I was a person with a disability, and most importantly knowing that in this environment they were not going to be held accountable by this corrupt government. That being said, I had a knock on my door, September 1st, 2003. I was protected under the medical marijuana act. My neurologist had advanced degrees in neurology and neurophysiology, he taught neurology at the OHSU medical school. The jury never got to hear his testimony. What was the problem? The problem was the police officer put in his police report the subject is Steven Dons who died in custody at the Multnomah County detention center across from the park after a shootout with the Portland police. I think it was friendly fire. I think the Officer Colleen Waibel was actually shot by another Portland police officer. And I thought I had to pay for it, because not only did Office Sery put that he thought I had inside information -- I do have informants -- but that he fatally and shot and killed James Jahar Perez, an unarmed black motorist, 30 seconds after they pulled him over. I was supposed to have my pot trial on April 20th, 2004, but I couldn't that day because of a court scheduling error that somehow bumped my trial so they could instead of district attorney Michael Schrunk chairing the coroner's inquest into the fatal shooting of James Jahar Perez. Fearlessly tackles government and racist police corruption head on. That's what I said before I

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picked up this bogus felony conviction when I was protected under the medical marijuana act that I worked decades to affect. I don't know how we're going to change until you change. I really don't know how we are all going to change until you five change. Thank you.

Moore-Love: For item 1191 we have Dan Handelman, Joe Walsh and Mark J. Hofheins, Jr.

Hales: They have already testified. Anybody who hasn't testified?

Moore-Love: That's all on the list. Everybody else testified.

Hales: I think there is some questions for staff. So I think we certainly need Anna and then David is going to go get Ellen. And then we may need police bureau as well. But who is on first with a question for Anna, if we have any. I think there are a number of questions for Ellen. Maybe none for you, Anna.

Fritz: I had asked Anna yesterday about the 48 hours and if you could just recap what the reasons are for why we didn't address that.

Kanwit: Certainly. When in terms of the collective bargaining, one of the things that -- I guess there's a couple of things. One with the 48 hour rule, while the City does think some of that language is permissive, we also understand from the advice of our city attorneys that the employment relations board may look at this as mandatory, particularly when you are talking about use of force and that could be treated differently. But what the parties believe about a particular subject for bargaining, whether it is permissive or mandatory, is not the end of that discussion. Because if there is disagreement, either party has the opportunity to go to the employment relations board and have the board resolve that issue. Again, that would have resulted in a lengthy hearing. We know because that board is underfunded, the cases we have before them take anywhere, again, I don't think we've had a case heard in less than four months. We've had this cases waiting out there for as long as a year. Again, not the fault of the employment relations board, but this is a very lengthy process. And the likelihood of it coming -- a decision being -- well, in some cases it probably mandatory impacts to this, so it isn't a clear-cut issue of you simply take it out of the contract and move on. The other part is this is a very complicated issue in terms of allowing some period of time before an officer's interview is compelled. As the chief said, this doesn't prevent voluntary testimony, but there are a lot of complicated issues to this. And we believe some of these should be resolved through implementation of these reforms, once we have the compliance officer in place, these issues can be addressed as part of the larger discussion. But again, absent the mediated settlement, we don't have the same opportunities to do that.

Fish: Can we just address specifically Dr. Bethel's question? Dr. Bethel asked, and I thought a reasonable question, that has something that we have done in the proposal before council tilted the playing field here in terms of whether it will later be construed or could be construed as mandatory or permissive? Is there somewhere in that course of bargaining or what we're going to do that gives some advantage to either side on that question?

Osoinach: I appreciate that question. And I also thought it was a fair question and concern that Dr. Bethel raised. Certainly from our point of view, the answer is absolutely not. It's clear in the memorandum of agreement that the City and the PPA have a respectful disagreement about this issue and in terms of the permissiveness of the bargaining. We fully retained our rights with regard to that. And, so, from our perspective, the answer is absolutely not. We have not compromised. There is nothing in either the collective bargaining agreement or the MOA that would compromise our ability to argue in any forum it is a permissive subject of bargaining.

Fritz: The way it is set out, if I understand correctly, is that the judge in the Department of Justice settlement agreement could say, City and union go bargain this, or take it to employee relations board, and by settling the contract, except for the carve out, we are settling everything else but acknowledging there may be some direction from the court to go do something else on those three carve-outs?

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Osoinach: I would say that is a misunderstanding on the part of the advocates in terms of the ability of Judge Simon to actually rewrite the agreement. So, at the fairness hearing, the community and interested members are going to have the opportunity to testify before Judge Simon about their concerns, objections, support for the proposed settlement agreement. And the decision before Judge Simon will be whether to accept or reject the settlement agreement. But the judge does not have the power to actually rewrite the settlement agreement. So, for example, the judge could not add a term to the settlement agreement that directed the City to renegotiate or get rid of certain contract terms. So, the DOJ agreement must rise or fall as a whole, and the --

Fish: Ellen, his practical effect is that if he threw it out and said we were going to go to trial, that, in effect, places pressure on the parties to do something if they want to avoid a protracted trial, right?

Osoinach: That's correct.

Fish: So he has indirect leverage, even if he can't compel it.

Osoinach: Yes, that's absolutely right.

Fish: I think that is where -- I think, actually, Jo Ann stated it more accurately than I did, that he doesn't have the power to compel a term but he can by saying we're going to go to trial put pressure on the parties to discuss or negotiate any particular issue.

Osoinach: Yes, I think that's right. The only sort of nuance to that is that in the collaborative agreement that we negotiated with the AMA Coalition, they would advocate for the judge to enter the settlement agreement, but they wanted to reserve their right to also advocate further changes to the settlement agreement. I don't believe that at least the written documents from the AMA Coalition indicate that they do not want to advocate that Judge Simon rejected at agreement.

Fritz: But the carve-out means that we are agreeing to disagree on that one issue.

Osoinach: Yes.

Fritz: The judge cannot direct us to -- cannot direct anybody to address that issue, singly, that they can reject the whole thing but they can't say go figure that out. We can, and this I guess is a question for Anna, we can open the contract again for bargaining on just that one issue? Or no?

Kanwit: Yes. Yeah, we could talk to Portland Police Association about doing that. And my experience with the association is where there are issues that arise mid contract, that they have not taken the stance of we're not going to talk to you because we have a contract in place. They have been willing to talk and negotiate with City over issues that arise that they believe are mandatory for bargaining.

Fritz: Do both sides have to agree to open a contract to discuss a particular item?

Kanwit: Generally, yes. It really depends on the particular item. But if it's express language in the contract, yes.

Fish: Could I follow up on that for a sec? And I'm not advocating this approach, but, if we adopt this contract, the contract is ratified and at some point in the future, the police commissioner determines that there needs to be a change in the 48-hour rule and believes it's a permissive subject of bargaining, then he or she would technically have the right to make that change, understanding that it could trigger a ULP and it would get decided. But if it's permissive, they technically could move a change mid-term, correct?

Kanwit: Well, I would probably be more comfortable if one of the labor attorneys were going to address that completely. But I think, yeah, based on your questions, certainly we could do that. Yes, there could be a ULP filed.

Fish: The difference being, instead of holding up the whole contract process, it could be decided in a different cycle with the contract in place.

Kanwit: Yes.

Fish: I'm not advocating that approach but if it is permissive, then we are claiming we have the right to make changes in policies, correct?

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Kanwit: Just to be clear, the fact that because we have negotiated language, whether it's permissive of mandatory it's still part of our collective bargaining agreement. So we can't unilaterally change something that's expressly in the contract absent a negotiated agreement.

Fish: So it would require a reopener.

Kanwit: Yes.

Novick: I think we may take a second to look at the actual language of the so-called 48-hour rule, which is, whenever delay in conducting the interview will not jeopardize the successful accomplishment of the investigation, or when criminal culpability is not an issue advance notice should be given not less than 48 hours. I think it's up to the police chief and the commissioner to determine whether delay will jeopardize successful accomplishment of the investigation. It's not an absolute rule, it's something where there may be disputes between the chief and the commissioner and the union as to jeopardization but there seems to be substantial possibility for the chief and the commissioner to say the 48 hour rule should not apply.

Hales: That's my interpretation as well.

Osoinach: The only thing I would want to add, Commissioner Fritz, in response to your question is that in terms of the judge adding some sort of term that would say, you know, thou shall get rid of the 48 hour rule in the contract, the judge wouldn't be able to do that. But I want to stress that the DOJ settlement agreement requires the City to develop protocols for on-scene investigations following post-critical incidents, and work with the district attorneys and the community to come up with protocols about how the chief will exercise that discretion when it's important to immediately compel and interview, and that that's a part of the settlement agreement that we must comply with. And the only thing that the Portland Police Association did was to reserve its right that if those changes were to implicate a mandatory change of bargaining -- that they wanted to retain their rights to that. But, the conversation about when it's appropriate to immediately compel an officer to submit to an interview is a subject that I think, as Mayor Hales pointed out, the ACLU and others acknowledge it's a very complex decision that deserves and frankly needs widespread community input about how the community should proceed.

Fritz: That language that Commissioner Novick so helpfully just read would allow that leeway. Because the community advisory board could develop guidelines for what that means as to when a delay might impede the investigation and that would be within the guidelines of this contract.

Osoinach: Yes. It would be remiss of me to say I think the PPA has a different view, perhaps, of our ability, but yes, in terms of the City seeking advice about how they should exercise language under the contract I think certainly it would be an appropriate body to weigh in on that.

Fish: One of the challenges I have had is reading and re-reading article 61. I think it's fair to say that the language that we're interpreting is not a model of clarity the way it's structured.

Osoinach: It contains some double negatives, yes. [laughter]

Fish: It contains some double negatives, which to me are not -- if you read it are not actually intended to be parallel double negatives. Steve quoted the first section which is, when delay will not jeopardize a successful accomplishment of the investigation. I think we can understand what that means. It goes on to say, or when criminal culpability is not at issue. Now, freely translated I read that as when criminal culpability is not at issue because, what? Which side of the ledger? Because someone someone believes it's likely to be an issue or not an issue?

Osoinach: Not an issue.

Fish: It's not an issue.

Osoinach: If the commissioner determines criminal culpability is not an issue they can compel an interview prior to 48 hours.

Fish: It's actually, you know, when you continue reading the sentence, it's not actually what it says. It then says, you may give 24 hours' notice. So but I think Commissioner Fritz's point is well taken in that it's written with conditions that can be interpreted, it's not an absolute. Whether there's a

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disagreement between the parties, I don't know we have ever tested the contours of that agreement because there are two conditions here which the decision-making can interpret. And sure, the other side is free to contest that but it is conditioned. It's not absolute.

Osoinach: Yes. Absolutely so.

Fish: Can I address a couple other issues that came up? We've heard a lot of conversation about the steroid issue. To the point that was made by Jo Ann, if in all the testing no one has ever tested positive for steroids, why did we carve out this exception?

Kanwit: I think it's an issue of a matter of fairness to -- as you stated, Commissioner, when an officer unknowingly is ingesting a substance that contains an unlabeled steroid. We know that has occurred, not within our force, but there have been instances of steroids not on the label showing up in over-the-counter supplements. So it's not beyond the scope that it could happen. But the issue that if it's not a problem why don't you carve it out -- we have shown that we don't have a problem with drug use either, based on the tests we have done, yet we are going to continue to have this policy in place where we conduct random drug testing, where we conduct reasonable suspicion testing. So, it's a matter of fairness and the City can't be dictating what a person does, police officer does that's lawful in their own time. We don't have that authority.

Fish: Do you view this as a major loophole in our law or simply as a fairness carved out that once it's been determined that that substance is a steroid you cannot use again?

Kanwit: It's really a fairness issue, it's not a major loophole. The policy -- yes, it's not in the contract but it's a binding negotiated policy. So it's every bit as enforceable as a contract provision would be. Explicitly states the employee has to stop taking the supplement. And it doesn't state the employee gets a free ride with no discipline. It doesn't even guarantee there won't be termination. What it does carve out is if an officer is found guilty of -- I mean, tests positive for another illegal drug, cocaine or something, its automatic termination. In this case it's not automatic.

Fish: The other issue that --

Fritz: Before we move on from that, excuse me, Commissioner. My staff has not been able to find that policy language, so if you could before the end of the hearings get that to me I would appreciate it. Just knowing we have some confusion over the fitness rules in the last contract, I would like to see that language.

Kanwit: Absolutely. It does state in section d-1, the employee shall stop taking the supplement. And I'll provide that to you.

Fritz: Thank you.

Fish: Dr. Bethel and Dan Handelman and maybe others raised interesting issues about performance evaluations. I would like a little more clarity.

Hales: I was going to ask the chief to come up on that point as well.

Fish: I think there's a couple of issues raised. One is -- which I'll state not in the negative but the positive, once you've done a performance review, under the proposed agreement before us, what can you do with that performance review? Let's take an example of a performance review that says someone is a poor performer. What under this agreement can you do with that in terms of future actions involving that officer?

Hales: I might try to broaden that question a bit and get them to answer both ways, maybe. So describe, not just for our benefit but for anyone that might be paying attention, in the new order created by these agreements and the discipline guide and the other things that you're changing in the bureau, what is a performance review for? How does discipline happen? And how does somebody get a promotion and where do they connect? I realize that's a big subject.

Reese: That is a big subject.

Hales: In general terms, how is someone evaluated in a performance evaluation and what happens to that information? What bearing does it have on their work?

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Reese: It's going to inform the supervisor on how they are doing as an employee and inform the employee of their supervisor's thoughts on work performance and guide the employee in future performance issues. If we have performance deficiencies identified, then the next step in that process, if they are minor, would be potentially a work plan where you're documenting what those deficiencies are and how to correct them and a timeline for doing so. Certainly if you have misconduct that you're identifying, or the performance rises to such a level that it's a violation of policy, then we're going to do an investigation into that poor performance and it will result in discipline.

Hales: Performance evaluation could therefore --

Reese: It's going to inform the supervisor and the employee.

Fish: So how would the public know about an instance where an employee repeatedly gets poor evaluations, poor performance evaluations, but subsequently at some point gets a promotion or transfer to a higher rated job. How would the public or this body know that in spite of negative performance evaluations, someone has been promoted?

Reese: I'm not sure that those would be made public. Like most of our personnel decisions, they are expected to be kept confidential. When we have -- I believe in redemption. And employees are provided the opportunity to do better. So at some point in that evaluation process the employee is put on notice. If there are issues, they're given a plan of correction or assistance, and employees can move forward. If you have repeated behavior, then I would expect it to result in a different process. So if year after year the same employee is having performance issues, then that's going to result in a different process. If it doesn't, we hold the supervisor accountable.

Fish: So chief, just to put a finer point on it, under our form of government you report to the commissioner in charge, in this instance the mayor.

Reese: Yes, sir.

Fish: If you come to the mayor with a request that he authorize a promotion, under this system, the mayor routinely can say I would like to know a little bit about this person's performance. And that would include how have they been evaluated, what's been their record, to the extent deficiencies have been identified, what steps have you as a supervisor taken. That would be all within his purview?

Reese: Correct. And we have those conversations now.

Hales: Yeah, that's not a hypothetical, that's actually how it works.

Fish: Except now we're adding another tool. You're saying the safety valve here is that the decision maker will have access to this information, so it would have to -- for someone who is a chronic poor performer to get a promotion under this system, somehow it would have to slip through the supervisor, you and then ultimately the accountable party, which is the commissioner in charge. They would all have access to that information?

Reese: And part of our promotional process, to the mayor's point, is that the division commander comes into the chief's office and presents on the employee's performance and it includes commendations, it includes any discipline issues and performance issues. It makes a recommendation as to whether or not that employee should be promoted.

Hales: Again, we have been through this very discussion on real people and the question of real promotions and that is how it works. That comprehensive record is in front of me, in front of the chief when that decision is being made. The buck stops with us as to whether it was a good decision or not. Other questions for this team? Other points that we haven't clarified from testimony? I wanted to clarify that about the steroids and performance reviews so thank you. Anything else?

Novick: Two things. One, I think it should be clear that voters for the police hall of fame may take inadvertent steroid use into account in making their decisions, and nothing we do today would affect that. And also it would assume that in any circumstance in which you would promote somebody by

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bad performance reviews is if they were a maverick who broke the rules but it got results and at some point took down Al Capone, consistent with pop culture.

Hales: Actually, again, it's not hypothetical. The chief said he believes in redemption. We have seen situations where employees underperformed in the past and over a lengthy period, improved their performance and proved worthy of promotion. And I believe in any organization, police or otherwise, that that ought to be possible. Having never been perfect myself, I would hope that there would always be the opportunity for improvement. Seen it in a lot of people. Some people fall short. Some people can't break the bad habit, and therefore sometimes they are subject to discipline if that breaks the rules or endangers the public. In other cases they are left behind and not promoted because they have not proven the ability to take that higher level of responsibility. It's not a hypothetical. In the real work of the bureau and working with me I have seen that system that we have today asking the right questions.

Fish: I have just one other question. A lot of the commentary has to do with transparency. Do we public aggregate data on the results of our drug tests?

Kanwit: I don't know that we publish it.

Fish: Is it available?

Kanwit: It's certainly available.

Fish: So if someone wanted to know, in the aggregate, because there's privacy issues, how many people were tested and whether there were any positives that's available?

Kanwit: Yes that is available. I did provide that information to the Oregonian.

Fish: In addition, under this new system, would the aggregate data be available of people that tested positive but subsequently offered a mitigation?

Kanwit: In terms of the over-the-counter supplement issue?

Fish: Well there are some concerns, and I understand the basis of the concerns, that we're creating a carve-out here that could lead to abuse. So, is there a way for the public to monitor the number of tests that occur where someone tested positive for steroids but subsequently invokes this clause and establishes that it's unknowing.

Kanwit: We can add that to our database.

Fish: Well I think we ought to have that data because that's best response to the concern that this could lead to abuse is to publish the numbers and let the public judge for themselves.

Hales: Good idea. Any other questions? Thank you all very much. Let's take a roll call on the first item, please.

Novick: I'm embarrassed to say, I forget which item is first.

Hales: The CBA itself.

Item 1190 roll.

Novick: I appreciate all the work that's gone into this by all parties -- to the agreement -- and interested parties. And I don't think that the agreement is perfect, but I do think that it furthers the city's goals. I know that the issue of the 48 hour rule has been the subject of considerable controversy and I think it's important to note that it's not an absolute rule, that it gives the chief and the commissioner in charge the responsibility of determining what circumstances there are and which -- delaying an interview for 48 hours will jeopardize the successful completion of an investigation. I know the commissioner and chief will take that responsibility seriously. I think that the fact that we are going -- I realize this is not in the CBA, but in the justice agreement, but the fact that we are going to have a discipline guide which is going to be used, and the union acknowledges that will be used, I think is a really important thing. Because I think that it will promote public trust in the discipline process. I think that it will make officers more comfortable with the discipline process, and I also do hope that if we have a discipline guide and are using consistent discipline then we will stop losing so many arbitrations and appeals because it does -- my impression at least, is the

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fact that we haven't had consistent discipline or a consistent discipline process has jeopardized our ability to make these discipline decisions stand up. For those among other reasons I will vote aye.

Fritz: You rarely get everything that you want in a collective bargaining agreement. Came pretty close after a 56-day strike at OHSU, but I think we want to avoid that kind of acrimony here. So I'm pleased that this contract is being settled. There are continuing to be big issues between the police union and the City as well as with the Department of Justice report over-shadowing these negotiations and complicating them. And again, thank you to Ellen Osoinach and Anna Kanwit for negotiating all of those challenges. I particularly appreciate that the addition of the annual performance evaluations -- again, it's not entirely where some folks would like it to be, but that is a significant win. The longevity pay increasing pay at 15, 20 and 25 years I think will recognize that not everybody wants to move up the ranks into management and it's really valuable to have experienced officers on duty and particularly on duty at night. We have again increased the shift differentials to 4% for the night shift, hoping some of the more senior officers will choose to work that shift. This happening in nursing and I hope that is the case because we definitely need a variety of both new folks with -- who have gone through the training with all the new things that we now know, as well as experienced officers who can help guide those younger officers. I'm pleased with that piece. There will be a one-time cost in cashing out the holiday comp time in the long term I think it's the right decision for the City's budget. I appreciate all of the discussion that's been here today. It informs what we're going to be doing this afternoon with the Independent Police Review and I think that that and the Department of Justice settlement is where I want to get to. My understanding is that we do need to settle this contract in order to move forward with the Department of Justice and therefore this is the right thing to do. Aye.

Fish: I want to thank all the parties who have worked so diligently to get to this day, including all the advocacy community, AMA in particular, the police association and our crack team at the City for the work that they have done on a very difficult issue. This is, in my view, a fiscally responsible contract. It involves shared sacrifice with our labor partners and other changes that we have sought over time. As Steve said, it's not perfect, and there are reforms here that many people of good will believe we have not gone far enough on. I would be equally concerned, however, about not seizing this opportunity to lock in progress. Because ultimately, if we were to get to a point of interest arbitration, which is a system that just picks a winner and a loser, we may very well lose ground on things that I think are important in this contract and which represent progress. The purpose of a hearing like this is to give everyone a chance to put their concerns on the record, and I think this has been a very thoughtful hearing and has given council some important guide posts in how we view the implementation of this agreement and any changes that need to be made going forward. But on balance, I think this represents further reform and progress toward the goals that everyone on this council shares of reform and greater transparency in police accountability. With that, Mayor, thank you for your leadership, thanks to our team. Aye.

Saltzman: I think this is a fair agreement that I will support. I appreciate the largely cost-neutral aspects, but also providing for premium pay for targeted members of the police bureau, sergeants who are having more responsibility, sergeants on the street who have more responsibilities under our DOJ settlement, canine handlers, and the longevity pay as commissioner Fritz mentioned is also an important aspect for members who do commit their entire careers to serving in Portland Police Bureau. They need to be recognized and compensated for that. But, the overall rubric is cost neutral and I like that. I do want to thank Anna Kanwit, Jerrell Gaddis, Ellen Osoinach, Daryl Turner, Chief Reese, the Mayor and I think I got everybody there -- oh, and the AMA also, for all your involvement in getting us to this agreement that I am pleased to support. Aye.

Hales: Again, thanks to all of you for good and difficult work. It's a truism I think in any position of leadership that you should try to hire really smart, effective people, then have the good sense to take their advice. And that's what we're doing in this case. So thank you for the hard work and good

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advice, and for getting to yes. Thank you to the Portland Police Association as well for getting to yes again on an imperfect agreement. They always are but where there's real progress here. There are things that we fear in this subject and there are things that we hope for. We fear that our officers will use force when it is not warranted, and that citizens will be harmed or killed by the use of public power. And that's wrong. And we fear it. We fear that officers will conduct themselves in inappropriate ways, whether with force or words, and not face the consequences. And so we ensure against our fears. And there are provisions in the agreements that do that. But we also have to think about our hopes, and our hopes are that our officers will conduct themselves in the way that the officers who are praised in the that letter I read earlier conduct themselves, that they show compassion and concern and empathy with the citizens that they serve. That's what we hope for. That's what we want. And that's what I think we now have a better chance of having. My goal for the whole subject of discipline is to have it be less needed, have it stick, and have it be overturned very rarely, if at all. That's because I hope we are moving in the direction of our hopes while we're ensuring against our fears. And so, what are we getting here? Yes, we're getting a discipline guide. We're getting new rules for the use of force and for use of tasers that are substantially different than past practice and that go into effect in 14 days. In fact, they are already in effect, because the bureau is already training our officers to those new practices. I have seen that training -- I have seen a little of that training -- and I believe that we're on the right road there. And all of that training, the rules, the procedures are all aimed towards the kind of de-escalation that that young woman's letter capsulized. And that's the hope that we all have, is that force will be de-escalated to the point of understanding in every instance where that's possible. I have every hope and every expectation and I will hold this bureau accountable to those hopes and that expectation as we put these documents into day-to-day practice. Thank you all. Aye. [gavel pounded]

Hales: Second item, please.

Item 1191 roll.

Novick: Just actually want to add some remarks on the prior topic, which is that I want the officers of the Portland Police Association to know that I suspect that it's been kind of a rough year. I suspect there are people who feel targeted by the DOJ investigation. I suspect that people are concerned about the cuts that we made to the police force in the last budget. And I appreciate the fact that the association was willing to approve any sort of agreement in that context. I also want to say to Copwatch and the Albina Ministerial Alliance that I, and I think we all, very much appreciate the work that you do and these agreements I think underscore the fact that you've got continued work to do in holding our feet to the fire. In following how closely the City adheres to the discipline guide, and in evaluating the City's use of the so-called 48-hour rule, and we really appreciate your continued advocacy, and we know that the advocacy will continue. I do want to say again that I'm disturbed by the 21-day deadline for CRC appeals. I don't really understand that. I don't understand why it was so important to the Justice Department to impose that. I think that it raises an unfortunate possibility that the CRC process will cease to exist because it just won't be possible for citizens to undertake such a tough job in 21 days. And hopefully the Justice Department, if we go to them repeatedly saying we can't make the 21 days, will ultimately agree that that was irrational provision. But having talked to the U.S. attorney myself last week, I realize they were immovable and we weren't going to get a settlement without it. Thank everybody very, very much. I vote aye.

Fritz: The second item moves forward on the City's work in making sure that people experiencing mental illnesses receive the care that they need, especially from our police officers who are often the first responders. I concur with Commissioner Novick's comments about how this has been a difficult year for the police officers. I have also noticed a new, or maybe renewed, commitment from many of our officers to explain what they do, how they do it, both to me and more importantly to citizens. In the olden days when you went to the doctor, they would just tell you what you had to do and they didn't really say why. And I think we're in that stage with our police officers, that we need to explain

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why we're asking for certain things to be done, and to be in a more respectful relationship when in those situations, rather than the hierarchical doctor-patient that we're now recognizing we need to do things differently. I'm seeing that the police officers and management are also seeing that more explanation is a good thing, and that when we listen to people as well as talk to people, that is a good thing. And we are planning to include people experiencing mental illness and other disabilities in the community advisory board once we get to the settlement. So this measure allows us to present a memorandum of agreement to the court for its approval on December 19, and then to move to the fairness hearing in February. So it's hugely important. Meantime, the council is working on how to advertise the community liaison position that needs to be hired to oversee the work. We have to do that before we can get to the community advisory board. So it has been taking a very long time. As soon as the Department of Justice and the court say go, we have to go. And we have some very tight timelines to make sure -- to be sure that are met. I do share Commissioner Novick's concern regarding the timelines on each individual review and we'll have more discussion on that this afternoon. But this is an important step, and I very much appreciate everyone's participation, acknowledging collective bargaining rights and also that that needs to be done without compromising the rights of community members who may come into contact with the police. Aye.

Fish: While this council affirmatively took the action of seeking the Department of Justice to come in and conduct its investigation and take jurisdiction, I would be remiss if I didn't go back to something I said about a year and a half ago, which was there's a deep irony to me that we're spending a lot of time and money regulating the interaction between mentally ill -- people experiencing mental illness -- and the police, and not spending at least an equal amount of time and perhaps more resources upstream preventing these kinds of interactions between people experiencing mental illness and the police. And the way you do that is by ensuring that people have a home, the services they need, the medications, the treatment and we're failing people with mental illness. And as a result, we're spending an awful lot of time regulating downstream interactions. And while I applaud this effort, and I don't mean to diminish it, I think there's a deep irony that this much time and resources is going into what I think we all agree is the wrong end of the continuum. And once upon a time, we had a more effective national commitment to making sure that people had again the housing, the services, and the resources they need, and fewer interactions on things like streets and sidewalks and places where often tragedies occur. So I want to acknowledge that without diminishing the significance of what people are doing. I also want to thank Dave Woboril and Ellen Osoinach. This is the third issue that we have taken up on council during my tenure that involved significant and complex federal constitutional issues. And I'm reminded that we spent a lot of time together when the joint terrorist task force issues were being discussed, very complicated, very contentious. We spent a lot of time talking about the camping ban and a variety of constitutional issues that arise under that. And now this. I want to underscore what others have said, that we have terrific lawyers in the city who do a great job advising us and helping us hopefully make wise policy. And I want to single those two lawyers out particularly on this and on other matters that I've been involved with. Aye.

Saltzman: Yes, I too just want to again acknowledge Ellen Osoinach and Dave Woboril for their leadership on this. Fully concur that we get great service from our city attorney's office. Thank you, and let's move ahead. Aye.

Hales: Commissioner Saltzman, I want to thank you again for asking the Department of Justice to look at how we do our work and here we are with a set of legal agreements in a court case, but it's much more than that. It is a commitment to a set of practices that change the relationship between police officers and our citizens. I think just in case anyone thinks this just is a legal discussion and a court case, it's a lot more than that and I think council's comments in this hearing and the concerns from the community reflect that. These are important changes to reflect the fact that our mental health system is unfortunately not working, and that our police officers too often are the first

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responders for situations involving mental illness, and to make sure we're trained and humane in how we respond as a police bureau. So yes, this is a court case. Yes, we're going back before a judge. But we're walking right into this with our eyes open and our hearts are in it. Aye. [gavel pounded]

Hales: And we are recessed for one hour.

At 1:05 p.m., Council recessed.

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

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Hales: Council will come back to order. [gavel pounded] I guess, we'll get you to call the roll a little later. Call the roll now.

Novick: Here. **Fritz:** Here. **Fish:** Here. **Hales:** Here.

Hales: Okay, we're going to take an item out of order because Mr. Schaff has to get back to another meeting. So with the council's agreement, we'll take 1208 briefly from the regular calendar and turn it over to Commissioner Fish and David Shaff.

Item 1208.

Fish: Thank you, Mayor, and thank you for your courtesy. David's leading a BAC meeting this afternoon, and I want him to be there because water bureau BAC is doing the hard work of helping us get the rates right. So this is the introduction. This contract adjustment that is before us does not affect the overall budget of the project. During the construction phase of this project, contaminated soils and other materials were found, which required design modifications and significant additional work from the bureau's engineer of record, MWH Americas. The bureau is still well within the current budget estimate, which is actually lower than the amount originally approved by council. We have David Shaff here today to answer any questions that you or my colleagues have.

Hales: Do you think you're done with contract modifications at this point, David?

David Shaff, Administrator, Water Bureau: This is for the design.

Hales: The design side, yeah.

Shaff: We hope so. It should be. But we're in the middle of the construction now and we should be well along finishing the project. The project itself will finish about this time next year -- the reservoir should be in operation.

Hales: Other questions for David? Okay. Thank you very much. Anyone who wants to testify on this item?

Moore-Love: Joe, did you want to speak? Okay, Joe wants to speak. Mr. Walsh.

Hales: Okay, come on up.

Joe Walsh: Joe Walsh, individuals for justice. Just for the record, I think this is terrible. You know our position on covering the reservoirs, and this contract should not go forward. Thank you.

Fish: Thank you.

Hales: Thank you, Joe. As somebody who used to be in construction, you know that sometimes jobs change as you build them. That is what's happening here. Is this --

Fish: Is this an emergency?

Hales: It's not an emergency.

Fish: No, it's not.

Hales: So this passes to second reading. Thank you. [gavel pounded]

Fish: Thank you, Mayor.

Hales: Okay. Now, let's return to the regular agenda as left behind from this morning.

Item 1205.

Hales: Okay, do we have a presentation on this? Some folks available? There's a bomb squad call out this morning, so maybe everybody was at that. Good afternoon, how are you?

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Pat Walsh, Portland Police Bureau: Good afternoon. Pat Walsh, from the tactical operations division. I'm the captain there. And this grant is more of a statewide -- this is our portion of a statewide grant, and it will pay for an upgrade to one of our robots -- it's five years old -- and then purchase a sensor that the bomb team uses to detect bombs, and also pay for training. We have not been as diligent as we would like to be because of the cost of training, and we want to make sure that all of our bomb techs not just in the metro area but in the entire state, are nationally, internationally certified. Because this arena has changed drastically in the last 10 years with the war. So, they need to keep up on their training.

Hales: Questions for Mr. Walsh? Okay. Thank you very much. Anyone else who wants to testify on this item?

Moore-Love: No one else signed up.

*******:** I just have a question. How many bombs have come up in Portland in the last 10 years? The last I heard, you're more likely to die by [inaudible]

Hales: Alright, I can partially address that. Any other comments or questions? This is an emergency ordinance, so let's take a roll call.

Item 1205 roll.

Novick: Aye.

Fritz: Aye.

Fish: Aye.

Saltzman: Aye.

Hales: I don't think there have been very many bombs that have gone off. But there was actually a bomb squad call out at a local hotel this morning. A bomb scare. I think that fact that we've heard nothing further means it was just a bomb scare. And ironically, while we were debating and discussing police use of force, the chief has been called away to a use of force incident that was one of our police officers being required to ram a fleeing homicide suspect's vehicle. So, ironies abound. Occasionally you need a bomb squad. Aye. [gavel pounded]

Item 1206.

Hales: Good afternoon.

Andy Reed: Good afternoon. Mayor, Commissioners, thank you for your time and having us come down today. My name is Andy Reed, I administer the enterprise zone on behalf of the Portland Development Commission and the City of Portland. And with me is Josh Thomas from the Port of Portland. We are going to go through the action we're requesting, and also discuss an overview of what the enterprise zone is, and some benefits we have seen recently through the program. To start, we've had an enterprise zone in Portland since 1986. We are one of 60 plus jurisdictions that have e-zones across the state of Oregon. We actually have two. Last year, you approved a second enterprise zone for east Portland which I will discuss in a couple of minutes. In essence, it's a five-year tax abatement for companies that are making new investment in capital improvements, machinery, equipment. Land in existing investments do not receive the tax exemption. So, again, it is for the new investment that is coming online. When companies enroll in the program with us, they're required to increase employment by 10% and also provide other community benefits. Some of these include paying 150% of minimum wage, that's 13.50 an hour. Our e-zone companies across the board pay more than \$20 an hour in wages with an additional \$9 an hour in benefits. And we have them report that to us every single year so we have some pretty good data on what our companies are doing with our citizens, our residents gaining employment with them.

Fish: Can you remind us how you enforce that? So for example, in our city's tax abatement program, we monitor tax abatements every year. And if someone falls out of compliance, we terminate the abatement prospectively. What is your enforcement mechanism here?

Reed: Yes. So, the state of Oregon, Multnomah County, and PDC all work together to monitor. If they catch wind of something at the state or the county, they let me know and vice versa, if I catch

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wind of something that's going awry. And typically the companies will tell us, or we'll see in the news, that there's been a layoff of some sort. And so, they actually have a one-year in lieu payment where they can make a pay-back of one year of taxes if they drop below the employment threshold. If they do that two years in a row, then it's a full disqualification. So there is a mechanism in place, and we've been monitoring it very closely. They report to us two times a year, so we get pretty good data throughout the year. So, other benefits. The companies have to maintain, they have to have employees -- the increase in 10%, they have to maintain the employees for the life of the tax abatement. To your question again, if they don't maintain that upper higher level of employment, that will negatively affect their tax abatement. And last, companies are required to come up with a plan to do local procurement. In 2011, one of the most reported years for us, we saw \$58 million of purchases within the city of Portland by companies in the enterprise zone program. So the effect is pretty strong not just in their investment but also in other businesses around the city. Since 2011, we have seen significant increase in projects coming in. 26 new projects have brought in more than \$450 million of investment, 1400 jobs. These include companies such as Vigor, bringing the largest dry dock into North America here in 2014. Daimler Trucks North America is siting their new headquarter facility. Leatherman tools is doing a \$20 million expansion. It's been a really good couple of years for us. In east Portland, we have also seen incredible movement as well. Just in a year and a half, we have seen six companies enroll. Leatherman, Bridgetown Natural Foods, New Seasons, Coaxis, Cascade Energy, and Triad Machinery. Those are contributing \$78 million in new investment, with over 300 jobs to east Portland. So, that's a really powerful, again, tool right away. We are seeing significant movement as a result of the program being in place for a very short period of time. Some context. Back during the recession, we had zero enrollments for two years. We have seen a significant uptick since then. So thank you for that action last year, it's helped us. So, to the request, we're asking to include 48 acres of the Colwood golf course and 100 acres of the Port of Portland's terminal 5 to the Portland e-zone to stay within the statutory requirements of 12 squares miles of any e-zone. We also have to remove some portion of undevelopable land in Rivergate. This is wetlands and rail yards. So, that's part of the action as well so that we stay within that requirement. So, to the first piece --

Saltzman: Is this whole area in yellow the whole e-zone?

Reed: Correct. That's -- the Portland e-zone and the east Portland e-zone is a whole other map that I can provide for you if you would like it. In terms of the Colwood golf course, it was recently rezoned, as you participated in that process. We believe that bringing Colwood in is consistent with the Portland comprehensive plan as well as our advanced manufacturing strategy within the city of Portland as we seek to have more industrial land available for investment.

Hales: And this is just that northerly 48 acres that's slated for development. The southern part that is going to be green space is not included?

Reed: Not included. Correct. So, Josh is going to speak to the Portland bulk terminal portion of it.

Josh Thomas: Yes. Mayor Hales, members of the council, thank you for your time. I'm here representing the Port of Portland and we support the proposed enterprise zone modification, which we believe will help provide incentive to spur private investment and development activity at an existing potash export facility at the Port of Portland's terminal five in Rivergate. You may not have seen potash before, so I brought a little sample with me here. It resembles pink rock salt. Potash, or potassium salt, helps increase crop yields worldwide as a mineral nutrient used in the production of fertilizer. It's mined 3000 feet underground from naturally occurring deposits in Saskatoon, Saskatchewan in Canada, where there is estimated reserves of 10 billion tons, which comprises about 60% of the potash reserves worldwide. Canpotex, which stands for Canadian Potash Exporters, is a joint venture among three of the major Saskatchewan potash producers. This marketing and logistics consortium transports potash from its mine sites by long-unit trains of 100 cars or longer to its 100 acre Portland bulk terminal facility in Rivergate. And also to another

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terminal in Vancouver, British Columbia. It's been there in Portland since 1997. Portland bulk terminal exports more than 2 million tons of the potash annually to international markets including Australia, Brazil, China, India, Indonesia, Japan, Korea, and Malaysia. The Portland terminal is already home to the largest wooden structure west of the Mississippi, and they're looking to grow. And that's at the heart of why the Port of Portland supports this enterprise zone boundary change. The enterprise zone will encourage industrial development and capacity-expanding investments at terminal five. A project under discussion by Canpotex currently is a minimum investment of \$25 million, and maybe as much as \$150 million in new construction and capacity expansion here locally. Decisions on the scope of their expansion will be made early next year. If this project proceeds, it would represent an increase in tax revenue to the City of over \$10 million over the first 10 years following construction, and that's even with a five year tax abatement allowed under the enterprise zone. Bulk cargo activities, including grain and potash at terminal give provide an estimated 500 permanent high paying transportation jobs throughout the metropolitan region and also throughout the state of Oregon. These jobs include river and bar pilots, tug and barge operators, railroad industry, as well as terminal management security and terminal operations jobs. The proposed expansion at Portland bulk terminal would increase cargo handling capabilities by three to four million tons, and through our economic impact modeling, we estimate for every 1 million tons of potash handled, that equates to approximately 30 direct, indirect, and induced jobs that are created. We would also anticipate positive employment impacts during construction. Lastly, it makes sense to remove 100 acres of undevelopable areas in Rivergate from the north Portland enterprise zone boundary and replace it with 100 acres at terminal five that are not yet fully developed. And with that, I turn it back over to Mr. Reed and I would be glad to answer any questions that you might have following.

Fish: I have one question about Colwood. The last time we took up an e-zone application, we had fixed zoning designation in the underlying property. In Colwood, council recently took action to approve a change from open space to industrial for a portion of the property, which is in the process of working its way through the system. And I guess my question is, while the e-zone gives you a tax abatement on the improvements, is there any impact on property taxes we collect through the change in the zoning?

Reed: The existing land -- well, you will see a positive effect, potentially, of turning it to industrial use, I'm assuming, as now code allows for different investment. So, the existing land would still be taxed --

Fish: At whatever the appropriate level?

Reed: At whatever the appropriate level is.

Fish: Or just the improvements?

Reed: Just the improvements that would receive the abatement.

Novick: My question is, suppose they would make this investment regardless of whether we put them into an e-zone. How much property tax revenue are we foregoing, based on that assumption?

Reed: So on a \$1 million investment, you will see \$100,000 of tax savings for a company in abatement. On a \$100 million investment, you'll see a \$10 million tax abatement. So you're foregoing on a \$100 million, \$10 million over five years. That said, within five years, you're starting to kick off income, and you will see it for the next 20, 30 years depending on depreciation schedules. But to your question, yeah, there is no e-zone and so they have financial decisions to make. Is this where they would like to site their next big investment?

Novick: What other options might they have?

Reed: I'm not certain, they haven't disclosed to me. I don't know if Josh has.

Thomas: In our case, Canpotex has operations at Vancouver, British Columbia. They've also talked about a new facility at Prince Rupert further north, and there are other bulk terminals and bulk ports

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that would be capable of handling it, if they've decided to do it. Like, Port of Vancouver is dealing with BHP Billiton, which is to establish an entirely new facility.

Novick: And do those locations offer comparable tax abatements?

Thomas: I don't have information on that, but I know it's a competitive marketplace.

Fritz: Would you go over more about responsibilities in exchange for the tax abatement in terms of community benefits and family-wage jobs, etc.?

Reed: Yes, so, in addition to the 10% increase in employment, they also have to pay 15% of their tax abatement to PDC which we turn around and use for investment in work force training, through Worksystems Inc., and small business development. We use it for loans, for neighborhood economic development work. We're using some of the e-zone funds currently for our new NPI areas to help that process. They have to increase their employment by 10%, they have to pay their fees, they have to maintain their employment, they have to retain their employees, local procurement as well, they have to do first-source hiring agreements to make sure that their jobs are posted through the employment department. So that's the kind of thing that they are responsible to do through the program.

Fritz: They have to pay to Trimet and police and fire, too, right?

Reed: In this case, if Canpotex does do this investment, they would be required to provide subsidized bus passes for all employees if they earn more than \$2 million in the tax abatement.

Hales: But they still pay their Trimet tax, was your question.

Fritz: Well no, there's an additional.

Hales: Right. But no matter what they pay their Trimet tax, because that's a payroll tax, right?

Fritz: This is one of my favorite tax abatements because there is an additional list of responsibilities of the company that gets it. It is not just you get it and hope things go well. There is a reporting requirement, there's the family-wage jobs, there's the union issues, there's the recognition that there is a cost to the jurisdiction so that that payment both to PDC and to some of the other jurisdictions -- I can't see a downside to this and I have been a fan of it since long before I was on the council. I think my blog is currently down, amandafritz.com, but it back in 2007, I wrote a pretty long article about -- because I was all skeptical and ready to tear this down and say it was the worst thing ever, and I think it is one of the best things that we do.

Fish: Can I follow up on that for a second, though? Because there is a different impact of a tax abatement when it falls within an urban renewal district or outside of an urban renewal district. So, could you walk us through that a little bit?

Reed: In what sense? Could you clarify a little bit more?

Fish: Well, for example, we went to through big look process with the county on tax abatements for housing. And they were concerned about forgone revenue. Well, when you apply a tax abatement within an urban renewal district where you're already diverting, you're taking the increment and sending it to PDC, they were ultimately persuaded that you didn't need a cap on the amount of abatements within an urban renewal district because it was coming out of PDC's pocket more than their pocket. And that I guess would be different if this e-zone was applied to an area that isn't covered by an urban renewal district, where the increment isn't coming to PDC, but is being -- the growth is otherwise shared by the other jurisdictions.

Reed: Correct. And in the case of Canpotex and this investment, we have full backing of Multnomah County with this particular project. And in the past five years as I've been running this program, we've had nothing but good things coming from them. They see the benefit as well. They have a special assessment team that I work with directly, weekly. And so they're aware of how much forgone revenue is coming out of their pockets.

Fish: So that's good. So having Multnomah County's consent means that they've looked at the forgone revenue piece. And presumably, they have to agree to do something to take this off the tax rolls. So you need more than their consent. Their assessor has to agree with them.

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Reed: By statute, I don't believe we need to have Multnomah's county consent to run an enterprise zone.

Fish: But in practice --

Reed: But in practice, we always ask.

Fish: We took up the issue of an enterprise zone in south waterfront. Now that's an urban renewal district where, by giving someone a break on new capital expenditures, the money is mostly coming out of PDC's pocket, not our or the other jurisdictions because you've already capped the property taxes and you have urban renewal, so. But, our enterprise zone boundaries extend beyond urban renewal districts.

Reed: I'd say, this is a guess, 50% of our businesses are not in an urban renewal area.

Fish: Just a point, because I think there's a different economic impact to the jurisdictions, whether it is within or without an urban renewal district.

Hales: Good points. Other questions for the team? Thank you both. Appreciate it. Anybody signed up to testify on this item?

Moore-Love: No one signed up.

Hales: And it is --

Saltzman: Resolution.

Hales: Resolution. So roll call on resolution, please.

Item 1206 roll.

Novick: Um, these things always make me queasy, because there is no way of knowing if the company was going to make this investment if we didn't put them in an e-zone. So, I'm going to say this with some reluctance, and to great extent of deference to Commissioner Fritz saying this is one of her favorite tax abatements, so I queasily vote aye.

Fritz: Thank you, Commissioner. This is one where we get stuff, and we're sure we get stuff. We require the annual reporting, we get the community benefits which otherwise we would have to pay for sometimes, we get the living wage jobs, we get things that not all companies are known for providing out of the goodness of their hearts. So I enthusiastically vote aye.

Fish: If I could also add that this is a tool that cannot be used unless we consent and approve it. And so where you come to us with an opportunity, and you advise us that an employer is looking at other jurisdictions. And that seems to me to create an immediate urgent problem, whether they're looking at other jurisdictions that have comparable benefit packages or not, we're still competing. And this is a tool authorized by the legislature that we can use to welcome an employer that is otherwise willing to make a substantial investment. And to Steve's point, whether we capture for five years the property taxes or not, there is other, myriad of other benefits to our local economy, not the least of which is the expansion in payroll, but think of all of the construction jobs that will go into building a plant and other equipment as well as other services. So there are tangible benefits beyond just the jobs. I am going to vote aye because this can only authorized following a hearing like this and used in a targeted way. Aye.

Saltzman: Aye.

Hales: Well thanks for your good work on a successful program for the city, for the Port, for a lot of people. I had the opportunity just recently to visit one of the firms that you mentioned, which was Bridgetown Natural Foods. And I'll tell you, it was pretty impressive. Not only that this business had been started from scratch, bad pun, and grown fairly quickly here in Portland, they had added I think 150 jobs in the last year. 70% of their work force live in southeast Portland near the Lents urban renewal area where it's located. They just invested about \$10 million in a new production line equipment, which unfortunately had to be imported from Germany, because I'm not sure if anybody makes this stuff here, but very sophisticated, automated equipment that was baking and slicing granola bars at a furious rate. And the biggest problem that they have as a manager of their work force is translation. Because they've hired so many new immigrants with so many different

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languages that it is a management problem on the plant floor to just get everybody working together and communicating. But they don't mind having the problem, and they're dealing with it, and it is a great problem to have because it obviously demonstrates that they're hiring a lot of folks that are new Portlanders in many cases and who aren't being prevented from employment by maybe limited English skills. So, they're a great example of the community benefits that we do ask for, document, and get in this program. So, thanks very much. Pleased to vote aye. [gavel pounded]

Item 1207.

Hales: We have a proposed amendment, I think. Is that right? Good afternoon.

Dawn Hottenroth, Bureau of Environmental Services: Good afternoon, Mayor and council. I'm the code writer for environmental services. And last week we had this item on the agenda and Commissioner Fritz had a variety of questions for us that Commissioner Fish took the item off of the agenda so that we could resolve Commissioner Fritz's questions, which I believe we have done. And I have the amended language for you, if you would like to see it, with Karla. This is the first reading, just trying to get the clean-up done.

Fish: Let me turn to my colleague and friend. Are you satisfied that your questions and concerns have been addressed?

Fritz: Yes, the amendments do address my concerns. Thank you.

Hales: Okay.

Fish: Do we have the amendment before us?

Hales: I think we do, yes. So do we need to move the amendment?

Fish: And this amendment -- the amendment language has been reviewed and approved by BES?

Hottenroth: And amendment language has been reviewed and approved by the city attorney's office, the auditor, and BES staff.

Fish: Even better.

Hales: Trifecta. Alright, further discussion? Motion on the amendment.

Fish: Second.

Fritz: I can move it.

Roll on Item 1207 as amended.

Novick: Aye.

Fritz: Thank you for your responsiveness. Aye.

Fish: Aye.

Saltzman: Aye.

Hales: Aye. [gavel pounded]

Hales: And this is a continuation of a previous item. Does anyone want to testify on this? If not, then it moves on to second reading. [gavel pounded]

Hales: Now time certain 1209.

Item 1209.

Hales: We'll let our auditor get us properly prepared here.

LaVonne Griffin-Valade, City Auditor: Good afternoon. Lavonne Griffin-Valade, Portland City Auditor. Thanks for everybody's patience today. It's a long day. It's nice to be here with you, councilmembers. Here with me is Constantin Severe, director of the Independent Police Review division in my office. This is the first reading of our modified proposal first which was first brought before you on October 23rd. I plan to bring it back on -- to council for a second reading and vote on January 2nd. The first date you are all back in session. So, in early November, we were approached by the city attorney's office and a member of council and encouraged to move forward with changes to the IPR ordinance and other police oversight changes as expeditiously as possible. We all agreed that there was a need to modify some of the language in the October 23rd proposal to address concerns that had been raised, and we set out to work on that effort. Constantin will, in a moment, walk you through the more significant changes in the current proposal. These modifications were

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completed in close consultation with the city attorney's office and within the last month or more. Ellen Osoinach and Mark Amberg from the attorney's office is here and available to answer any questions that you might have as we go along. By way of some history, we briefed the Mayor, his exec, and police bureau liaison on November 18th regarding the conceptual amendments to our previous proposal. City attorneys were also in attendance at that briefing. It was a positive meeting and we were encouraged to move forward. In addition, other councilmembers and or their staff liaison were subsequently briefed on those conceptual amendments, as was Chief Reese and his command staff. As a result, we continue to tweak the language. So, we have had multiple conversations throughout the last six weeks with council, liaisons, and other stakeholders and shared the draft that closely mirrors the final version in early December. At the end of the day, the changes to the language are minimally different than the amendments presented to you on October 23rd. And we believe, and the city attorney's office concurs, that the version before you today addresses previous concerns and allows us to move forward with strengthening police oversight and accountability. Constantin will take it from here.

Constantin Severe, Director, Independent Police Review, Office of the City Auditor: Thank you, auditor. Mayor and Commissioners, it's my pleasure as IPR director to present these proposed code changes to you and the community. Since the October 23rd council session, we have met with members of the public and been on local media discussing these code change proposals. Additionally, our office has briefed every councilmember staff on the process of the code changes. Mr. Mayor in particular, I appreciate you making yourself available on several occasions for us to provide a briefing to you. Commissioners Fish, Fritz, Novick, and Saltzman, I appreciate making your liaisons and yourselves available for myself and the city attorneys to provide briefings to you when you folks were available. Without the help of two particular city attorneys we would not be here today. Ellen Osoinach and Mark Amberg have been invaluable in making sure that not only we have a good set of code changes, but also something that will be able to withstand legal scrutiny, which is important. Not just that we do something that looks good but that something is good. And that is what I believe we have in front of you today. These revisions to chapters 320 and 321 of the city code are the result of close to one year of work started by my predecessor, Mary Beth Baptista, and led by the auditor, that started soon after the settlement agreement with the U.S. Department of Justice was agreed to by council in November 2012. These code changes are premised on the proposition for oversight to be effective, it must be objective, fair, consistent, and transparent. As you know, IPR is a bit of a hybrid agency. We are part of the auditor's office and we are tasked by city code to hear community member complaints and commendations about police bureau officers. We conduct initial investigations of all community member complaints, and are authorized to conduct independent full investigations. In officer-involved shootings, in-custody deaths, we serve as monitors, reporting to the scene and following the investigation until its completion. The Mayor brought up a ramming that occurred earlier today. Rachel Mortimer on our staff is actually on the scene right now acting as the monitor, reviewing the police bureau investigation of that, since that is treated as a deadly force incident. We must approve every investigation conducted by Portland Police Bureau's Internal Affairs and improve recommended findings of an involved officer's commanding officer. Additionally, we are voting members of the Police Review Board which hears cases where officers are facing possible discipline of a day or more and also certain use of force cases including officer-involved shootings and custody deaths. The CRC serves as our nine member advisory board and hears appeals of community members or officers would wish to appeal recommended findings. The CRC able to make recommendations directly to the chief of police and the auditor. In preparing to put this legislative code changes together, we have talked to various individuals and members of the community. These code changes don't appear in a vacuum. There has been a lot of work done in this community over the last 15 years in trying to figure out, what does our city want our oversight system to look like? In putting together these code changes, we

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have relied on a lot of work product as a result of the work groups, audits, including Mayor Katz' work group that she put together back in 2000 that led to the creation of IPR. The luna fireball audit of IPR which occurred in 2007. IPR's 2010 code changes that created the Police Review Board and the public report process and provided IPR with the ability to initiate independent investigations basically on its own notion. After the IPR code changes, there was a stakeholder report, which I also use as a basis for some of the code changes that we have. Additionally, the auditor's office had an audit not that long ago. The police bureau as a learning organization. And finally, the Department of Justice settlement agreement. I think the DOJ settlement agreement is a key milestone in the evolution of our oversight system. In particular, it addresses the need for the City to implement a discipline guide, that administrative investigations are done in a timely manner, and that IPR have the ability to conduct meaningful, independent investigations. These were concerns that observers of our system within the city and outside of the city had prior to the DOJ investigations. But as a result of the settlement agreement, there has been significant momentum in addressing these long-standing issues. Thanks to your support as council members, IPR has been able to hire three full-time investigators who have extensive background interacting with individuals experiencing mental health issues. Additionally, we have been able to add an office support person who is tasked with being IPR's liaison to the CRC. The current code changes cover three areas. Changing IPR's internal procedures in administrative investigations, changes to the CRC, and changes to the Police Review Board disciplinary process. There is a relatively long presentation that I provided to you at the October 23rd meeting, so I'm not going to go in very detailed presentation to you, but I will go over what the changes are in total. Most importantly is the ability for IPR to directly interview all PPB employees. The ability for IPR to have jurisdiction over civilian supervisors of sworn PPB employees. That IPR must receive notification from the Portland Police Bureau prior to the termination of any misconduct investigation and that all investigations of excessive force will be subject to full and complete investigation unless IPR has clear and convincing evidence that the dismissal is warranted. Additionally, when an administrative investigation exceeds 180 days, the police commissioner will provided an explanation for the delay in the completion of that investigation. The changes to the CRC are two. One, increasing the CRC to 11 members and that the CRC will serve -- CRC members individually will serve as a rotating pool to serve on Police Review Board cases and use of force cases. The changes to the Police Review Board and the disciplinary process, one, which is a requirement of the Department of Justice settlement agreement, is that the city will implement a discipline guide as a tool for PPB managers and the Police Review Board. That there will be a standardized format for the PRB public reports that are issued twice a year. And in officer involved shooting and in-custody deaths, that the PRB public reports include officer witness names when the city had previously released those names, or if that disclosure is in the public interest. Finally, when the chief imposes discipline on an officer that is outside the recommended range in the discipline guideline, the chief will provide a written explanation in the final discipline letter stating his rationale for that. These current sets of code changes are critical to IPR and its functioning. There are several sets of changes that are in the DOJ agreement that we are not moving forward on right now, particularly those that involve the CRC, particularly the 21-day requirement that CRC complete appeals in that time frame. Currently, best case scenario for the CRC to be able to do an appeal, it's 60 days. There is a case file review and then there is the actual appeal. In practice, that on average that has led to CRC appeals being over 100 days. Given that the DOJ settlement agreement gives us 180 days to have a case from when either IPR or the city receives notice of the complaint to when the chief has his proposed findings, having 100 days as an appeal period I don't think is an acceptable proposition for the city at this point. That said, I think there are a lot of ways for us to economize and streamline our appeal process. That is a conversation we need to have with the CRC and the wider community. And I feel given that the Department of Justice settlement agreement is not actually implemented yet, for us to wait on that and have those

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conversations. And when the DOJ agreement is implemented, that we come in front of council again and move forward on making those changes that need to happen for us to be in compliance with the DOJ agreement. This is the first reading on this proposal and we plan to return to council on January 2nd for a second reading. In order for IPR to be an effective oversight agency, it is important that we have the tools to serve members of the public. In particular, the ability for IPR to directly interview PPB officers is critical. Currently, IPR dismisses about 70% of the cases that we receive. So, in that 70% part of the cases that we receive -- and we receive about 400 complaint a year. So about 300 complaints -- the total investigation that members of the public receive is the IPR portion. So, for us to do our due diligence, in cases where we need to talk to the officers, we have to have the ability to actually do so in a way that is in compliance with the United States constitution and is also in compliance with the collective bargaining agreement. I believe what's in the document in front of you and in front of the community allows us to do that. In the October 23rd proposal, there is a recommendation that IPR be able to compel officers and provide admonishment to them for interviews. Based on a memo that the city attorney's office provided to all of us I believe in middle of November, we have changed our proposal so that a Portland Police Bureau liaison would provide the compelling of the officer and providing the admonishment. And the reason why that change was made for an admonishment, which is a constitutional warning, for that to be valid, it has to be done by somebody who is in the chain of command of the person receiving the notice. The police bureau is led by the police commissioner, the Mayor. IPR is not in the discipline business. We are fact-gatherers. We are either investigators or monitors of investigations, but we do not discipline officers. So, for us to give valid -- or for the City to give a valid notice to the officers it has to be somebody in that chain of command. And that would be somebody that the Portland police commissioner delegates with that responsibility. Usually that is Internal Affairs. The other change is when the chief of police is outside of the discipline guideline recommended range. Originally that was if chief of police disagreed with the Police Review Board. Given that the discipline guideline will become the baseline or us having an objective, consistent discipline system it makes sense that all of the fact finders along the way, whether the officer's commander, Police Review Board, chief of police, that all decision makers rely on that discipline guide as a tool when they're making decisions. And particularly, when the chief of police, when his decisions go outside of the discipline guide, that he provide a rationale. When the Police Review Board goes outside of the discipline guide, the expectation would be that they would provide an explanation for their rationale as well. In officer involved shootings, in-custody deaths, the change was made to make the city code provision in compliance with Oregon public records law. Where normally in Oregon, public records law, there is a presumption that the public body will disclose information. That is the presumption. When it comes to disciplinary records of public employees, the presumption is actually opposite, that there is exemption. So, in the context of officer involved shooting, in-custody death, we changed it so when the public agency of the City has released that information about who the officers were or the witnesses in context of officer involved shooting in custody death, then the City, when it is releasing that information, the public report six or nine months after the accident, it can do that to provide completeness and transparency to members of the public. To my knowledge, in my five years here at the City, whenever there is an officer involved shooting, within a week or so, the City has released the names of the officers. I think that is a way to meet our transparency goals as an organization at the same time meeting the confidentiality requirements that the public records law puts on us. And for the timeliness of the investigation, we removed the 180 days as a hard and fast deadline that many members of the public felt that we were putting on. This is something in keeping with the Department of Justice settlement agreement, where we mirror that language where after 180 days, the police commissioner, as the person in charge of the police bureau, will receive notification about why a particular case went over the 180 days and provides us with a baseline and a kind of a measurable to look at why are cases taking particularly long. Is it a type of case? IPR, in 2011,

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completed a timeliness study. We are currently working on another one and hopefully that will be ready in the first quarter of 2014. And I am ready for any questions if you have any, or public comment.

Fish: You said something under the consistency and discipline section that triggered a question. So, the chief is required to provide a rationale when the final discipline is outside of the range recommended by the discipline guide. Well, what happens in the instance where it goes from the chief's recommendation to the commissioner in charge's recommendation -- to the commissioner in charge, and the commissioner in charge decides to either increase or decrease the discipline? How does this section interplay with the final decision maker?

Severe: The final decision maker, given the way our system of government works, is the commissioner in charge for every bureau. And in this case, the police bureau commissioner is not covered by this particular set of changes. It's basically all of the different fact-finders leading up to that decision. So, the officer's commander, the Police Review Board, the chief of police, and ultimately to the commissioner in charge. And the commissioner in charge is available -- generally, in a final discipline letter, there is included a rationale of why the decision was made based on this mitigation information or this information in aggregation, this is why I'm making this decision as police commissioner.

Fish: So just to be clear, each of us has the right to impose a more significant discipline or less based on mitigating circumstances, but the purpose of this IPR code change is to focus on the command structure within the organization up to the chief. And what happens at the elected level is not covered by this.

Severe: That is correct.

Novick: Mr. Severe, there's just one little, sort of almost a punctuation item that I wanted to ask you about. On 3.21.220, it says that if an employee refuses to attend an investigative interview after being notified to do so by IPR, or refuses to answer a question or questions asked by IPR during the investigative interview, the police chief or police commissioner shall direct the employee to attend the interview and/or to answer the question or questions asked. To me, saying and/or seems a little ambiguous. Does that mean that the chief or commissioner can decide to only instruct them to attend but not answer the questions?

Severe: You know, the way this -- when you look at this as a total package, it envisions that when -- and the way it works in practice, a member is compelled by the police bureau -- we recently had done an independent investigation more or less using this format. So a police bureau member is compelled by the police bureau liaison. While they are there at the interview, they are given the admonition of, I am directing you in the name of the chief of police to answer these questions. So, the compelling part and the admonition, they're separate parts of the process. You don't do both during the interview. You only do the admonition. The compelling comes earlier.

Novick: Okay. I'm just -- again, I ask the city attorney, do you have any compunction about the and/or phrasing, or do you think it is clear?

Harry Auerbach, Acting City Attorney: Thank you. Mayor Hales, members of the council, Harry Auerbach, acting city attorney. If I understand your question correctly, Commissioner, the situation can arise either because the officer doesn't come to the interview or he comes and he doesn't answer the questions. And so, you're concerned about if -- the ambiguity between his doing -- not doing one of those things, and perhaps being ordered to do the other one. So, it's a matter of interpretation when the council -- you could clarify it I suppose by taking out the slash or and just have them say that he could be ordered to attend and answer the questions.

Novick: That's what I was wondering.

Auerbach: I suppose that would probably convey the same meaning.

Severe: I don't have that problem with that. Mark?

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Mark Amberg, Deputy City Attorney: Mark Amberg, deputy city attorney. I don't have any problem with that clarification.

Novick: Thank you.

Hales: Yeah, I guess I read it the other way around, but it would probably also be a rarity in that instance. There might be an opportunity where they would just answer the question by sending them a letter.

Auerbach: I mean, our understanding is that you want them to do both things, show up and answer the questions.

Hales: You want it on the record, you want them to be at the hearing and answer the questions.

Novick: Right. I mean, would we be causing problems if we said and?

Auerbach: I don't believe so.

Novick: Alright, I move that we get rid of /or.

Fritz: Second.

Hales: Further discussion of that amendment? Good catch. Roll call on the amendment and then we will take testimony on the amended ordinance.

Roll on amendment.

Novick: Aye. **Fritz:** Aye. **Fish:** Aye. **Saltzman:** Aye. **Hales:** Aye.

[gavel pounded]

Hales: Okay. Are there other proposed amendments?

Fritz: Yeah, I have some. Karla, would you handing them out for me so that we can get them at the folks at the table? A couple of concerns. The first one is in 321.40 for the Police Review Board, this is the section H4 that talks about where the police and chief commissioner's final discipline is outside of the range recommended. I would like to add final sentence stating the cumulative report of discipline imposed outside of the recommended range shall be included in the Portland Police Bureau's semiannual report. They currently do semiannual reports on discipline and outcomes. Clearly, we don't want to identify individual officers or cases, but I spoke with Chief Reese about this yesterday and he felt that this was a reasonable amendment to provide the cumulative reports so that the public know how many instances have been happened of discipline being imposed outside of the recommended range.

Saltzman: Second.

Fish: Just a question. And I'm going to support this. Harry, does cumulative report have any particular meaning, or is it just clear we're talking about sort of aggregate data for the year?

Auerbach: Well, I'll tell you what I think it means. If it is not what you intend it to mean, maybe we need to clarify. What it says to me is that between each period of reporting, so you say it is semiannually, each six months, the report would include the total number of discipline -- the report of the incidents in which discipline outside of the recommended range was imposed during that period. Is that what you intended?

Fritz: That's what I meant.

Hales: Further discussion? Roll call on that amendment.

Roll on amendment.

Novick: Aye. **Fritz:** Aye. **Fish:** Aye. **Saltzman:** Aye. **Hales:** Aye.

[gavel pounded]

Fritz: Thank you. My second one is a series of three amendments, and it's on section 321.120 of handling complaints in section G8. And the current language says that the police commissioner shall be notified and provided with explanatory information in all cases when an administrative investigation exceeds 180 days. My three suggested amendments are to say the police officer and city auditor shall be notified. Because there's two components to how long a review takes. One is within the Internal Affairs division in the police bureau, but also the time spent within the Independent Police Review section. So, both the police commissioner and city auditor are

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responsible for the length of time that administrative investigation takes. The second part of this amendment -- and we can take them as one or three or whatever -- is to say that in all cases when an administrative investigation exceeds 129 days. And the reason for 129 is because then that allows 30 days for an appeal and 21 days for the Citizens Review Committee to finish the review. The Department of Justice agreement, in my understanding, says that it's 180 days for the whole thing, including the Citizens Review Committee. And so, just saying when the administrative investigation exceeds 180 days, doesn't allow the time for the Citizen Review Committee. If I'm getting that wrong -- Ellen, is that correct or not?

Ellen Osoinach, Deputy City Attorney: No, that's correct. Your encapsulation of the requirements of the DOJ agreement, yes that is a correct statement.

Fritz: I think it is incumbent on us to tell the police, Internal Affairs, and the auditor's independent review division you've gotta be done in 129 days in order to leave sufficient time for the Citizen Review Committee to even have a shot of their 21 days, never mind if it extends beyond that. And then the third part of this amendment is that the information upon both the explanatory explanation pieces would be posted on the City's website. So, the full amendment would -- amended section would say, the police commissioner and the city auditor shall be notified and provided with explanatory information for all cases where an administrative investigation exceeds 129 days and the information posted on the city's web site.

Fish: Can I ask a question of the sponsor?

Fritz: I think I have a second. Do I have a second?

Novick: Second.

Fritz: Thank you.

Fish: So what happens under your amendment if, 180 days later, the investigation is still not complete? Are we saying that there is no requirement at that point for notification explanation?

Fritz: That's a good point, Commissioner. So there could be another sentence that says if the CRC's review is not complete after 180 days, there should be a further notice. Part of my reason --

Hales: You could just stick with the original language and append this in front of it, couldn't you?

Fritz: Yes, you could do that.

Hales: Keep them both in the section.

Fritz: Yes, you could stick with the original language and say that IA and IPR needs to be done by 120 days.

Fish: Yeah, I think your intent was to expand not contract the scope.

Fritz: That's correct. And the important piece is that the information would be posted. Because otherwise, if there is a survivor or complainant, they don't know why they're -- the police commissioner and the auditor would know, but the person who's most involved wouldn't necessarily know why the investigation was taking longer than 180 days. If you have a different framing of it, Commissioner Fish, I would be happy to take a friendly amendment. Since the gist of it is on the table at this point, perhaps we could take testimony.

Hales: Let's approve it conceptually. It might be the case, I will ask the city attorney and auditor's office to think about construction of this. It might be simplest to add this language in front of the existing language, so the 180 day trigger still applies but we added a 129 day one in front of that.

Fritz: I'd appreciate that.

Hales: So that's the spirit of the amendment, anyway.

Fish: And the information posted on the state's web site, that's acceptable?

Osoinach: I think so. Having just seen this, I'm wondering if I might have just a further opportunity to look at it without going too in depth on the record, I have one concern about the disjunction between a requirement of a 129-day notification being different than the DOJ settlement agreement. And even with an amendment that would also have us reporting on 180 days, I could see a potential

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conflict between those two that I would like to be able to think through and maybe give feedback to you all.

Fritz: Since we're not voting on this until the 2nd, that gives us time to do that.

Osoinach: Yeah, if that'll work for you.

Hales: You can do that, but I guess -- we'll wait for your good counsel, but I think we're free to over-perform, here, right? We don't have to do just what the DOJ says, we can do better.

Osoinach: Yes, absolutely. It is the issue of being in conflict with it.

Hales: Yeah.

Fish: We can adopt this now and if you can spend us a memo before the second reading, whenever the second reading is, we can take appropriate action if necessary.

Osoinach: Yes, I think it would be my preference to have you all wait to adopt it, if that is all right with Commissioner Fritz. But yes, you can do it either way.

Fish: We're not adopting today. Just amending --

Fritz: Mr. Walters, did you have a suggested language for us?

Ben Walters, Chief Deputy City Attorney: So, I want to make sure that I'm capturing the intent. There would be two sentences in G8 as a result of the amendment. And the first sentence would read, the police commissioner and the city auditor shall be notified and provided with explanatory information in all cases where an administrative investigation exceeds 129 days and the information posted on the city's website. And the second would read the police commissioner and the city auditor, so there -- the second sentence would be amended to conform -- shall be notified and provided with explanatory information in all cases where an administrative investigation exceeds 180 days, and the information posted on the City's website. Is that the intent that there would be two postings, two notifications, two postings?

Fritz: One of them is 129 and the other is 180.

Walters: 180. Right.

Hales: The second one -- In both cases putting on the web site just tells the public what's going on, right?

Fritz: Yeah, it just tells the public what is going on, it lets the CRC know that there is a completed investigation, that there is a 30-day period when it might be appealed and that they better get -- at that point, actually, if they knew that, they could start looking at the record presumably before that 21 days so that they could then make their decision in a timely manner as expected by the DOJ.

Severe: Unfortunately, that's not the way our process works. The CRC isn't able to proceed on an appeal until somebody files notice that they want to do an appeal. And before that, there is whole series of steps. IPR does their part of the investigation, goes to Internal Affairs, and then to the officer's commander to do his part of the case for the findings and then receive notice. We give notice to the complainant of the case and the officer. CRC, they start once we -- my understanding of Department of Justice settlement agreement, that clock starts once the City receives notice that the complainant wants to file an appeal or the officer wants to file an appeal. So that 21 days from the notice that the appeal is going to start.

Fritz: Right. But there's a 30 day period for the complainant to file an appeal. If you were to give notice that you're done with your decision-making after 129 days, then the public would know that this is a completed investigation and there is potentially going to appeal. I guess the CRC wouldn't necessarily get that appeal for another 30 days.

Severe: Yes. The issue is when a case is going to go to the CRC, our office, Internal Affairs, puts together a packet for the CRC members to review. So, the only part of my comment was addressing was that the CRC would be able to get a theoretical head start. They would not be able to do that.

Fritz: They might be able to arrange their own schedules to know that there is potentially 21 days that they would have to work very hard. They wouldn't be able to get the information, but they

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would know that there is a controversial case that's come to an administrative conclusion and that they might get it.

Severe: Sure.

Fritz: Thank you.

Osoinach: Thinking on the fly, the feedback I may want to discuss with you is in terms of it sounded to me like what you're saying is that the 129 days is really the portion of the investigation that is conducted that has nothing to do with the CRC appeal. And, so, one of my concerns was if you have an investigation that is completed in a timely way and the CRC appeal goes out at 129 days, I wouldn't think you would necessarily want that reported on.

Fritz: No, that's the piece after the 129 days. The 30 days for the complainant to appeal and then the 21 days that the CRC has. And as my colleagues have correctly pointed out, we also want to report if that goes along as well. But we can work out --

Osoinach: Yeah, I was thinking, I think it will be a manner of defining what we mean by administrative investigations for the purpose of each deadline.

Fritz: Right.

Fish: I'm certainly comfortable having us adopt this amendment so that it is on the table and then have a further conversation with council. It sounds like there may be some drafting issues and legal issues, but at least we should have it as part of the package before we go to public comment.

Hales: Roll call on the amendment, please.

Roll on amendment.

Novick: I think this is a very good idea. I think that the police commissioner and the auditor should know that there is a possibility that we might go past the 180-day time period, and once the first step is gone over 129 days, that possibility does exist. I think this is a good proposal and I vote aye.

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

Hales: Aye. [gavel pounded.]

Hales: Okay. Any more proposals for amendments? Anymore questions for the auditor? IPR director? City attorney? Thank you all very much. And let's take public testimony.

Moore-Love: The first three please come on up.

Hales: Good afternoon.

LeRoy Haynes, Jr.: Yes, good afternoon. To our distinguished Mayor Charlie Hales and to our esteemed members of the Portland City Council, I am the Reverend Dr. LeRoy Haynes, chairperson of the Albina Ministerial Alliance Coalition for Justice & Police Reform. In the midst of the fluidness of the changes that are taking place with IPR, I'm going to limit my comment until we actually get some more substantive things to be able to do a critical analysis of what's taking place. But in light of that, conceptually, it is crucial for the City of Portland to have a transparent, independent, accessible, empowered review process. To be able to build trust between the Portland Police Bureau and the citizens of the community of Portland, especially community of color and persons with mental health issues who have been the victims of police deadly force and excessive force. This is one of the essential linchpin for the reform of our police force and the transforming of the culture of the Portland Police Bureau. This is why it is so very important that the council have in the city a viable Independent Police Review division with real power to be effective. Hence, we support many of the changes recommended by the auditor's office and IPR, but we also believe that they do not go far enough to change the lack of power in the independent review and the ability to hold officers accountable for violating the policy, their training, and the rights of citizens. I'm glad to see that there is an expansion on the ability to handle all shootings, not just some shootings, but all death in custody situations and serious injuries, as well as incidents that are of a higher concern to the community. It is not enough to just have an internal police review board within the department. If we are to make the Department of Justice of agreement a reality, the component of an independent, transparent review board is a necessity to be of trust in our city. Thank you very much.

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Hales: Thank you. Good afternoon.

Kristen Chambers: Good afternoon, my name is Kristin Chambers, I'm here on behalf of the National Lawyers Guild. We strongly believe that council should delay their vote on this IPR ordinance until after the fairness hearing, for a number of reasons. One, the six recommendations that I sat here and proposed on October 23rd, of those, only one of them has been addressed and was already kind of an issue that was floating around before that hearing. And we have concerns that some of these issues, in addition to others that other community organizations have mentioned, are not seriously being considered as part of these reforms now. One of the things mentioned by one of you, I forget who at that hearing, was wanting to know more from the community about why people don't file complaints. Why there is a lack of trust in the system. What is really going on in the community? And I think the fairness hearing is the opportunity for people in the community to come forward and share their testimony. The judge will be accepting testimony in writing and by video. And it will be a really good opportunity for you all to hear back from the community members and learn more about what is actually going on and what actually needs to be addressed in this ordinance. I'm also here to follow up on the memo that the NLG submitted to you on December 6th regarding the issue of compelling officer testimony. I noticed section 30.21.220 added some new language about compelling testimony, and I had just a couple of concerns about it. One, I'm not really sure why subsection D is necessary. It allows a representative of the bureau to just attend the interview. I'm not sure what their role would be there. It seems to me that that would further detract from the independent-ness of the investigation if a bureau member is just there present. And it doesn't seem necessary to me to have that person present there. Also, under sub-section C, I'm not really sure why -- number three talks about reading a statement to the employee that they're required to cooperate and answer all questions truthfully and otherwise they will be subject to discipline or discharge. And I'm confused about why that is something different from subsection A, which is talking about requiring an officer to answer a question or attend an interview if they're refusing to do so. And I think this just needs a little more work to figure out exactly how this process is going to work. It also raises some concerns with garrity and the procedures and terms of when a statement is being compelled and when it isn't, which is an important thing to be very clear about in these procedures. It is not something that you want to be figuring out down the road. I'm happy to answer any questions that you have about this particular issue.

Fritz: I have a couple of questions. One is, you framed the one about the bureau witnesses very clearly. Have you sent that to us in writing?

Chambers: No.

Fritz: If you would do so, I would appreciate it.

Chambers: No problem.

Fritz: Are there other pieces that are being proposed that are actively bad or just not enough?

Chambers: About this particular section?

Fritz: About the whole thing.

Chambers: The whole thing. I can't say that there is other areas that I specifically focused on. I was really looking at this one particular issue and the other five issues that we raised on the 23rd in our written testimony to you that talked about issues that weren't addressed at all in this proposal.

Fritz: So, we could potentially certainly look at this section 220 in light of your comments to see if there are further amendments that can be done at second reading. But we could potentially adopt what is proposed, look at your other list of five and what other people have also told us they want. And by the way, if you can send that list of five again, is always helpful.

Chambers: Sure.

Fritz: We could do that and bring back something else after the fairness hearing. Does that sound like a reasonable course of action?

Chambers: Yes.

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Fritz: Thank you.

Kayse Jama: Good afternoon, Mayor Hales and city commissioners. My name is Kayse Jama, and I am the executive director of the Center for Intercultural Organizing. I want to first of all highlight that we are in agreement with the AMA Coalition and also the other folks that this should be delayed until the fairness hearing. So, I think that is a conclusion on this issue. You're going to have my testimony so I'm not going to read it, I just decided to talk from my heart because I had been here this morning and kind of seen how the negotiation with the Portland Police Bureau went. And as well as also when I came to this chamber in support of the IPR, one of the most fundamental reasons that I supported an IPR change at that time was the ability, that idea to compel, to interview the police officers. That was for me, fundamental. Because for me, and many community members, it's been a long time that we want IPR to be independent, to do their job. That is really one fundamental issue. I thought that that 0- piece was supposed to be addressing, and I thought it was a good change, and I want to support. But now that again it has been changed to what we have in front of us, a little bit watered down from what we discussed on the 23rd in terms of adding the police officer to be present at the interview, and I don't know, again, why the police officer has to be -- a police employee of the department has to be at the interview. It seems to me it is not independent once we have the police involved in the issue. So, that to me is one of the fundamental issues that I want to say to know and delay this process. The second piece is that for me also, I have been four administrations since I have been coming to the building dealing with the issues of police. I spent countless hours in many meetings with Portland community members talking about holding the police department accountable. I do believe that you care. You're good people. You want to do the right thing. And elected officials before you also were good people and they wanted to do the right thing. Somehow, something is not adding up. Where we are unable to stop and figure out ways to hold our police department accountable. And I came to the conclusion that either we are unable or we are not willing to do that. And I don't know when will be the right moment, but that's kind of where I am today. I'm very, very frustrated with the way we are working with the issues of police accountability. And I hope that as a community we can come together and step back for a minute and say, how do we ensure our community members build a trust relationship with our police department? And that for me, those proposals we are now entertaining are not addressing those fundamental questions. And for that reason I ask you to delay your decision for the second reading. Thank you very much.

Hales: Thank you.

Fritz: May I just ask the same question, Kayse. In your letter, it says, given the urgency why do we think the city should wait? To put it simply, the illusion of change is worse than no change at all. The upcoming district court hearings give the public a chance to weigh in on police accountability in Portland and could be a powerful venue to strengthen the accountability systems. I hear your concern about the compelling evidence piece and I think that's something we have looked into since the last hearing because that is something that I had asked the city attorney to weigh in on. And the city attorney thinks what is currently being proposed is now legal. Is there anything else in this package that you think is not acceptable? If you knew that there was going to be another process, another soon set of changes after the fairness hearing, would you still want us to delay the vote?

Jama: I'm always someone who believes in process and dialogue. So, I think we need -- I will say we will continue to have the dialogue. At this point I do not believe that moving forward will help us to build that trust in the community. Because what we are witnessing for the last few days and the last meeting that we had on the 23rd is that whenever the community comes up and brings an issue forward, and it seems to be that there is push back from the police department, it seems to be we're stepping back and going back to the safe place where we want to make sure that our police department is happier with us. So, to me, I would rather -- I want the real change. What I am saying that we assuming some illusion of change, what I really am witnessing for the last 15 years in

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Portland is that we are having a challenge on this issue. We want to do something, but it seems to be always we go through the process and we end up going away, and farther away from the real changes that are necessary to hold accountable our police. I feel, I believe that is where we are heading right now. That ultimately, at the end of the day, business will be as usual and nothing much will change. We might have a tiny piece here and there, but real accountability is not going to happen and that is where my concerns are.

Fritz: Have there been any conversations in the community with IPR since October asking you what else do you think should be done?

Jama: I sent a letter after the 23rd to you and to the auditors in support of and congratulating the work that has been proposed. We haven't had any conversation with the IPR, independently. I want to underline, my organization and myself, I am fully supportive of the mission of the IPR, but at this point, I'm just wondering whether we need to remove the IN at the beginning and until we really coming up with an independent police review, then we keep the dependent police review portion of it.

Fritz: Thank you.

Hales: Thanks very much. Thank you all.

Dan Handelman: I feel like I've been here all day.

Fritz: Us too.

Hales: That probably is because you have.

Handelman: I'm wondering if I might have four minutes.

Hales: Please, go ahead.

Handelman: Thank you very much. Mayor and city council, my name is Dan Handelman, I'm with Portland Copwatch. The revised proposed changes to the IPR are a huge disappointment, as they are a watered down version of the October proposal, which the community complained did not go far enough. Because so many issues are connected to the DOJ agreement, any decision about changing IPR should wait until after the fairness hearing. The IPR is claiming these changes are being made in conjunction with the agreement. Item number two of the cover ordinance reads, the settlement agreement between the DOJ and City requires IPR have the ability to conduct meaningful, independent investigations of police officer misconduct. Community testimony at the fairness hearing expected to be held sometime in February could prompt the judge to order changes be made to the agreement that better fixes Portland's oversight system. Because of the changes, IPR could be affected and because the judge should not be influenced by facts created here on the ground, the City should delay voting. Also, as mentioned previously, there are dozens of other changes to the IPR/CRC system that have been proposed to the City repeatedly which are not represented in this ordinance. When council sets about to change the IPR system, you should do it all at once and get it right. Here are some items changed since last time. When conducting an independent investigation, rather than having IPR compel officers to testify, a bureau employee will have to be present to compel the officer. This is not much different from the crazy way the IPR director describes how things work now, where the Internal Affairs investigator has to instruct an officer to answer questions one at a time. DOJ asks for IPR to be able to conduct meaningful independent investigations, and this work-around is not sufficient. We have argued for years the best way to make IPR truly independent is to give it power to compel through a charter change that creates an oversight body with such powers. IPR is saying its independent investigations will mostly be folks on the rank of captain and above, not cases involving community members. This is what we warned against in the last hearing, giving IPR power that it doesn't intend to use. Many civilians do not trust the system because the most important part of the investigation, talking to the officer, is done by Internal Affairs. IPR's concept could be useful for recent issues involving Assistant Chiefs Kuykendall and Hendricks and Captains Wyatt and Kruger. However, limiting investigations in this way would let that slide. For instance, Lieutenant Kaer, who left his precinct and shot and killed a

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man in a car across from his sister's house. Though the city paid \$200,000 in that case, the internal investigation led to a firing that didn't hold up in court. When the chief changes discipline proposed by the Police Review Board, instead of having to explain himself in every instance, he will now only have to explain to the officer if the finding differs from the as yet unpublished discipline matrix. Thus if the matrix says you could give the officer a demotion or you could fire him or her, the chief won't have to explain ignoring the board's recommendation if he rejects termination for a lesser discipline. Furthermore, the changes do not address issues in the agreement which would either empower or tie the CRC's hands. The agreement calls for CRC to be able to order IPR or Internal Affairs to conduct more investigation on an appealed complaint. This is not an either version of the ordinance. The agreement would limit CRC to hold the appeal within 21 days and that has to be part of the 180-daytime line and nobody believes that's an achievable goal. CRC hearings currently take 60-90 days and CRC members are all community volunteers. And P.S., the bureau's refusing to put the materials online for the CRC. To its credit, the new code creates some flexibility in the 180 day time line. It says someone, but not who, has to report to the police commissioner when the investigations take longer rather than setting a firm upper limit. So it clarifies that officers will not be let off the hook when investigations last more than six months. The agreement locks in place CRC's deferential standard of review, saying they must decide if an officer's commander was reasonable to find the officer in policy, instead of making their own decision. That language in the IPR ordinance and you're not proposing to change it today. The agreement states that people involved in shooting and death incidents, or the survivors, can't appeal to CRC. The ordinance again is silent on this issue. So we really urge you to delay the vote until after a fairness hearing.

Fish: Dan, I have a question. I understand your point about delay. And I understand your point that you don't believe it goes far enough. But I'm having a little trouble understanding your point that this represents a watered down version as compared to what the auditor proposed late fall. In part because I commend her for sitting down with the Mayor and the city attorney and others and working through some issues that actually came up in our last hearing. So, I am going to give you another opportunity to tell us in what way substantively does this represent a watered-down version in your opinion.

Handelman: As I said in my testimony, Commissioner Fish, the IPR in the old version could say, Officer Jones, I need you to come in and answer my question.

Fish: I understand.

Handelman: In the new version, they have to have the police bureau employee sit there and do that.

Fish: Dan, I understand.

Handelman: That's watered down.

Fish: Well, you said we would need a charter change to fix it. So within the context of what's before us today, absent a charter change, how would you frame that, knowing what you know now, which is we have been given legal advice that we have to balance some constitutional rights and some legal requirements. Absent a charter change, how would you write this proposal?

Handelman: This gets back to another issue, Commissioner Fish, that we talked about in the stakeholder group that never got addressed. That the same city attorney who is advising you about what the police bureau's rights are is also advising the auditor what the IPR's powers are. So you could get a different opinion. Apparently, the IPR was given a different opinion before the last hearing and now you're hearing a different opinion about whether they can compel officer testimony. So I think we have looked at some of the cases they are talking about, the case law, and I think that NLG looking at that too, where it says that the IPR has to be an integral part of the disciplinary system. Not that they have to be able to discipline the officers, but an integral part of the disciplinary system. And because they sit on the police review board and because they can controvert findings, I think would be hard to argue they are not an integral part of the disciplinary

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system. So I think maybe you are not looking in the right place and I think that maybe people are kind of flowing with the status quo. And I would like to see the judge weigh in on these questions.

Fish: Okay, so I appreciate all of that. And let me just say, we've had some highly regarded lawyers from the National Lawyers Guild testify here. If you have legal opinion that -- or a language on this, I think you have -- has anyone prevented you from offering that up? Because this has been noticed. You are saying that you have a different legal view or an attorney might have a different legal view. Has someone prevented you from sharing that with us? Because the reality is we had some ambiguity in the legal opinions we had last time, which is why we encouraged people to get in a room. They weren't contradictory. People were reading things differently. We got everyone in the room together to work that out. Absent a charter change, I invite you to tell us how you would address this particular change, because it is not -- I don't read it as a quote, unquote, dilution. I read it as someone in good faith trying to reconcile some legal obligations that we have -- we are required to follow the law, we did take an oath -- in getting to a reform. Now, if you have a different view, I would be open to reviewing it, but I think to say that it is watered down and then say well you have to change the charter to fix it I think is not particularly fair to the auditor. If you have another way of getting there, I think you should put it in the record.

Handelman: I disagree it is not fair to the auditor. I think it is unfair to the people of Portland who keep suffering from police abuses to say you are not willing to put forward a charter change. Why don't you, as a city commission, put forward a charter change and let people vote on it. That's what you can do.

Hales: But that's a different proposition.

Fish: That's a different matter.

Handelman: But that's what you can do.

Fish: But you didn't raise that question when it was originally proposed. In fairness, you said it has been watered down. It has not been watered down because we have taken off the table the opportunity to do a charter change. You used the words it has been watered down. I'm just asking you to explain to us, not just rhetorically, but substantively, how this is watered down. And I don't read this particular change about, in the first bullet point here, as a watering down. I view it as working within the confines of the legal requirements that we're required to operate.

Handelman: Commissioner Fish, another member of this esteemed body, when talking about Dignity Village many years ago, said, I'm not -- people say it could be me or my children in Dignity Village. It's not going to be me because I have money. What I hear council say because we're not the one suffering the abuses, we're not going to take the steps necessary to hold police accountable.

Fish: Dan, that's not fair.

Hales: No, that's not --

Handelman: But that's what I'm hearing. To a person who experienced brutality or other misconduct and they go and file a complaint and they say, alright what happens now? And the IPR is going to have the officer ask questions but they can't do it unless the commissioner of police or police officer tells them to answer the questions. They're going to say how is that independent? That's why it is watered down. In the old version, IPR was moving towards independence.

Hales: Well, I guess we're having a debate with you, Dan. And we appreciate your willingness to do that. Let me explain where I'm coming from with this, and I think it is similar to Commissioner Fish. Regardless how you want to characterize the change of wording from the last version to this, or in what we discussed this morning, my goal is to have policies and ordinances that we can enforce and where the City of Portland doesn't get rolled in some subsequent proceeding. So, that's why whatever the law or the code is, I want to make sure we're clear on where we stand, that we're on good footing. Because I'm not interested in a rhetorical victory. I'm interested in actually being able to enforce our discipline requirements when they're appropriate. That's maybe why we're having this disagreement. I don't know. But that's where I'm headed.

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Handelman: Well, I appreciate that, Mayor. But again, my comment about facts on the ground is something that I think you need to take seriously. The discussion we had this morning around the police association contract was that the judge will look at it and say, wow, you just signed this four-year contract, I'm not really going to mess with that. You know, whatever you did, I don't want to deal with it. The community had no say in that. The community had no say in the DOJ agreement before it came before you. This is something we have an ability to say something about. And the judge, if he sees, oh, well they just changed the ordinance around this, well, let's not tinker with it then. We've seen that happen again and again and again over the years. And it's time to put the brakes on it, let us have a say in front of the judge, maybe they'll change the agreement or order you to change the agreement, I don't understand how it works but we'll find out tomorrow. And then, let's move forward together on it.

Hales: Alright, thank you. Debbie, welcome.

Debbie Aiona: Hi, I'm Debbie Aiona, representing the League of Women Voters of Portland. Any decisions on the proposed changes to the IPR and Police Review Board ordinances should occur after the completion of the fairness hearing. The potential exists that the judge overseeing the settlement agreement will make changes to some of the provisions after hearing the public's concerns. Furthermore, as we stated at the October hearing on this issue, the police oversight stakeholder committee recommendations should be revisited, and if appropriate, incorporated into city code along with those required by the settlement agreement. It is disappointing that, although the settlement agreement calls for IPR to conduct meaningful, independent investigations, a police bureau representative will need to be present at IPR interviews in order to compel officer testimony. And I am going to take the sentence out that's coming next because we had this discussion about why you feel it's important to go the direction you are going, but, on the compelling testimony, we would like to see the City do some thinking about ways that we could change this over the long haul so that IPR can be truly independent. Many in the public have a desire to see IPR routinely conduct truly independent investigations, especially now that it has adequate staffing. The proposed IPR amendments include 180-day time frame for investigations, as required by the settlement agreement. One of the outstanding issues that should be addressed is the unrealistic 21-day timeline for Citizen Review Committee appeals that will fall within those 180 days. In anticipation of the imposition of the shortened appeal window, the CRC recently has made attempts to speed up the process. This has meant extra meetings and less time to review case files. Two of the newer members resigned, citing an unmanageable workload. We fear it may become difficult to involve citizens from diverse backgrounds if the workload becomes too great. Furthermore, a shorter timeline may jeopardize two of the most effective additions that have been made to the process, the case file review, and the appeals process advisor. The case file review occurs after CRC members have read the files and before an appeal hearing is scheduled. At the review, the CRC discusses questions or concerns it has about the investigation and decides if additional work is needed. Resolving these issues before an appeal hearing has resulted in more successful outcomes. Appeals process advisors are former CRC members who are available to assist appellants or officers in understanding the process and presenting their cases to the CRC. With such a short timeline, it will be difficult, if not impossible, for the APAs to schedule sufficient meeting time to effectively advise the appellant or officers. As you can see, there are many issues that still need to be addressed. We encourage you to take a comprehensive look at the IPR ordinance after the fairness hearing takes place. Thank you.

Fritz: A couple of questions.

Aiona: Yes.

Fritz: So I'm not -- I understand that folks would like the direct asking of questions. But, it seems to me that both the current process and the proposed is rather like a child in the middle of a divorce. Please ask your father where the child support check is, but, if the message gets to that person, and they then fork over the check, that might get the job done. So, I understand the philosophical

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disagreement, but, if both now and under this proposal, the officer is required to answer IPR's questions, why is that a problem?

Aiona: I think it's, you know, there is the feeling the people want the IPR to be independent. And actually carry out independent investigations. You heard Kayse talk about we want the I in the IPR. And even if it's just a perception, I think that it makes people and -- I can't say that I have suffered from police abuse, but, I think, I am putting myself in those people's shoes, it's difficult. But, my understanding and what I hear is people who have had those encounters are uncomfortable with having the police continue their involvement in a case once a complaint is filed. And this continues that practice. I realize now it will be reduced from what it has been before. But I think ideally, we would like to get to the point that IPR could really do an independent investigation.

Fritz: Thank you, that's helpful. So, this proposal says that right at the beginning of the hearing, the police bureau representative or the commissioner's representative says that you have to answer all the questions, rather than the continual back-and-forth.

Aiona: Yes.

Fritz: Thanks, that's helpful to me. My other question is about my proposed amendment that would, essentially, set 129 days for the Independent Affairs and the Independent Police Review to do their work. If we were able to encourage complainants to then appeal on day one, that would, essentially, give 50 days for the CRC to do its work. I think there is unanimity on the council that 21 days is unrealistic. And I am interested to hear that Commissioner Novick made another run at it because I had tried at least twice before it was adopted and got the same answer, we still have the same answer. But do you feel like moving the administrative portion of it back will at least help?

Aiona: Well, yeah, anything will help. I just -- like I said, just watching the CRC in the last three or four months trying to speed things up -- it really is taking a toll. And I know you used to be on the planning commission, and you know how much work you had to do for that. And I feel like the CRC really even takes that up a notch, and with this compressed timeline, it seems it will be hard to find people who have the capacity to do that work, especially people who have jobs and families.

Fritz: I just had my last meeting with Rochelle Silver who has been my liaison. She's term limited out in February and my understanding is that almost all the members are currently lawyers. So, we have a lack of diversity of backgrounds of folks on the citizen commission, and hopefully with the latest recruitments, we can get other folks. But you are right it, takes a lot of time. I appreciate the dedication.

Hales: Thank you very much, Debbie. Thanks. Good afternoon.

Brian Barnett: Good afternoon Mayor and city council. I am Brian Barnett, with the freedom socialist party. So you might suspect what I'm going to say. But, I appreciate that you are facing some very complex issues. And Dan has raised some of them. And I know that as you move toward a resolution, or solution, you are facing, what gets left out? Is the community going to be happy with what is resolve? I think the community is pretty confused overall because ever since I became aware when the Kendra James incident -- since then, I have just seen the same process go on and on and on without -- and the impression is that IPR is just a marginalized, ineffectual group, and unable to really carry out their intended and the work that they put in. So the Reverend Haynes and Kayse talked about independence, and that's an issue that I know is difficult to deal with within the law and within the constitution that you all have to deal with. But I propose that it's a simple solution. The civilian police review board should be totally independent. It should be elected. It should have no direct connection or controls from city hall, or the police. And they should have the power to discipline police. And they should -- it should be composed of a wide variety of people from all the communities of Portland. That's my position.

Hales: Alright .Thank you very much. Thank you all.

Handelman: Can I just -- one more thing, just to clarify with Commissioner Fish. The reason we didn't talk about the charter change last time was the IPR assured you and the public that the city

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attorney had told them that they could compel officer testimony the same way the BHR could. So, we've been talking about the charter change for many years. We didn't bring it up last time because we took them at face value that that's what was going on with that.

Fish: And Dan, I think you make a very valid point. And as you remember, I was confused about the legal guidance because I was trying to get clarity about what can we and can't we do. And the problem is if we go down a path that we know will not withstand legal scrutiny, we're not providing a benefit to the public. When we take actions and then can't deliver, we create even more cynicism. So now that we have clear legal advice about what we can and can't do, this seems to me, within the law, a reasonable work-around. Your opinion that we ought to change the charter, is a way that would get around this problem. I get that. But for the purpose of what is before us today, I don't view this as a watering down, I view this as reconciling a law and the goal of compelling people to give answers before the IPR. And if short of a charter change, you think there is a different and better way of doing it, I would be interested in seeing it.

Hales: Thank you. [applause] Good afternoon.

James Kahan: Hello. With you permission I would like Sylvia to follow me since we are a team.

Hales: That's fine.

Kahan: Thank you. My name is Jim Kahan, and I am -- I have talked to many of you before. I don't know you, Commissioner Fish, but I know the rest of you. I wrote to you when you made your first meeting. And Commissioner Fritz, thank you for having the decency to reply to me. The rest of you, I would have liked to have heard something. I am going to confine my discussion. I wrote something, it should be before you. I've been listening, it's getting changed on the fly. I really want to talk about investigations. So I will leave off the cute stuff and you can read it and laugh at it privately. I think -- and this is, as I say, emerging, that the PPA, Copwatch, and you guys missed the point when you talk about investigations. And all this legal discussion about constitutionality etc., this is the point. And the point is that IPR should not be a disciplinary body. It's a fact-finding body. And when it finds its facts, it's presented with an issue, and it either says well, there is no problem, or there might be a policy problem, there might be a training problem, there might be a behavior problem, it might be all three. We're going to get to the bottom independently of what the problem is. And in order to be independent, an independent body needs to be able to look where the evidence leads it, not impeded by vested interests. So, I agree with Dan that you have a watered down version, because what if the police liaison officer says no? What's going to happen? Can't do the investigation. If, however, the investigation itself is forced from a disciplinary body, it may make recommendations, as the national transportation safety board makes recommendations but they can't enforce their recommendations. The IPR can make recommendations but they can't enforce their recommendations. That's left to other people. Let's make the Independent Police Review and independent police review and stop playing 1984 with words. I think that will get us around the legal problem. That's my point. I'm going to leave it right there.

Hales: Thanks very much. Good afternoon.

Sylvia Zingesser: Good evening, or good afternoon Mayor Hales and commissioners. My name is Sylvia Zingesser, and I represent the national alliance on mental illness for Multnomah County. And I left you with a letter that I dropped off in October because I was unable to stay to testify, and we, we stand by what's in the letter. I see that things have changed, that things have been worked over, so to speak, I don't want to use the word watered down. I do believe that IPR needs to have the ability to really compel testimony from the police officers. I happen to be on the training advisory council, so I'm on a couple of committees for communication, and for use of force. And my other concern is I would really -- no one talks about it when they come here, about the piece that the union is really a key component to this and has to come before the union, it has to be approved by the union. And I'm hoping that the PPA will allow some of the community to sit and talk with them and

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see if we can't come to some kind of agreement where we can compel investigation, compel the officers to talk about what has happened, when things happen. And --

Fish: Sylvia, can I ask you one question? It has been a long day of hearings.

Zingesser: I bet it has.

Fish: And I want to make sure that I track what's in your letter because you say -- and I guess this goes back to the fall.

Zingesser: It goes back to the fall, yes.

Fish: You urge that we accept all five of the recommendations.

Zingesser: Right.

Fish: And we have a grid that has four. What's the fifth not before us, or what's the fifth that she is referring to that -- there is four different changes in the grid.

Zingesser: I don't remember what those are, and I don't have those before me.

Fish: When staff comes back we'll ask them because I want to make sure that that we match up all five that you are urging us to support.

Zingesser: Okay.

Fish: Thank you.

Zingesser: You're welcome.

Daryl Turner, Portland Police Bureau: Good afternoon, again. I am Officer Daryl Turner, President of the Portland Police Association. I sit here today nearly two months after IPR introduced the original ordinance in October. Although IPR has revised its ordinance, the three points that I will raise before you -- the three points I raised in October remain unresolved. First, IPR's proposed code changes trigger a number of collective bargaining issues that must be addressed before the City may implement the code changes. And these mandatory subjects of bargaining include discipline, job security, and minimum fairness. Under our contract, the parties are required to sit down and bargain over these code changes. I certainly hope that the City adheres to the bargaining obligations. To help you better understand the City's bargaining obligations, I have brought copies of a letter, which I actually e-mailed to you. So you got e-mailed the letter as well as my presentation today. That detailed what I believe are the City's bargaining issues and before you can -- for legal -- from our legal counsel. Second, in the past, the City has implemented new practices and procedures without first coming to the agreement with the PPA over mandatory subjects. The City's approach has consistently resulted in unnecessary litigation and disagreement. Collaboration is important. This morning, with the ratification of our new collective bargaining agreement and the DOJ settlement, we saw fruits of collaboration. This morning, I also expressed to you my hope that the City would work collaboratively with the PPA as the city considers law enforcement policy changes. Unfortunately, the revised IPR ordinance is not the result of that collaboration with the PPA. In all my meetings with IPR staff regarding this ordinance, IPR has presented its ordinance as a done deal. There has been no room for negotiation, there has been no bargaining over these mandatory subjects, issues that must be addressed before the City may implement the changes. Collectively bargaining is a process of working together and an agreement where both party's interests are addressed. Until bargaining has taken place, these IPR code changes should not and legally cannot be implemented. This leads me to the third point. City council should think long and hard about whether these proposed IPR code changes are a good policy for the Portland Police Bureau. Currently, IPR is a very visible, and a disciplinary process. It has an unprecedented level of involvement and access to the police bureau affairs. IPR's proposed code changes will upset this delicate balance by empowering IPR to essentially take over the police bureau's duties and obligations and a discipline process. Discipline of employees is a core function of the police commissioner, the police chief, and the police bureau. This ordinance is a first step towards taking that discipline out of their hands. The current discipline process also is a long and winding multi-layered process. Adding an additional layer to the process will only add more complexity and delay.

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Currently, the Portland police -- currently, when a Portland police officer acting in good faith and with intent of fulfilling his or her duties becomes a subject of an investigation, he or she faces an unprecedented level of scrutiny. The officer may face criminal investigation, inquiries by the district attorney's office, and an investigation by the internal affairs, and an in-depth review by the command staff, the police chief, and the police commissioner. We understand that this long and winding road is not the exception to the rule, it is the rule. Now the officer will face yet more inquiry into his actions. This time, an IPR investigator. Due process is a core right of any public employee. A key aspect of due process is a fair and timely investigation. I fear that this added layer of IPR investigations will undermine timely due process. In conclusion, I do not believe these IPR code changes are good policy for the police bureau and its discipline process. Even if you disagree with me to the policy point, we should all agree to respect and adhere to collective bargaining obligations. Thank you.

Hales: Daryl, I will not ask you to put on a legal case because you may or may not do that later, and your lawyer would write the arguments. But, you raised some points here that I just want you to try to elaborate on for our understanding. In what way do these changes further -- we have an IPR today.

Turner: Right.

Hales: In what way do these changes further inject the IPR into the discipline process?

Turner: At the infancy of the discipline process or interviews, that's the infancy of it. Obviously, that's the IPR's job to do based on the code changes, not the Portland Police Bureau's Internal Affairs investigation division. So that obviously starts the process. It goes up the chain, obviously, and once it gets up the chain, to the chief, and you, the police commissioner, make a final decision on discipline based on the beginning -- of all parts of the investigation, including the beginning.

Hales: But they find facts. They either find facts or they don't. So --

Turner: Right. Well, what they are going to do, basically -- from what these code changes said, there's going to be transactional immunity, which means the IAD investigator will be in a room, they will go ahead and give the officer the admonishments and they sit like a potted plant in the room while the IPR investigator asks the questions.

Hales: Well they don't sit like a potted plant, they deliver the admonishment and tell the officer to answer questions.

Turner: Right, that's what I mean, and then they just sit there and don't ask any questions.

Hales: They have done their job. Again, this is a fact-finding process.

Turner: But it's part of the discipline process and that's what we assert -- whether we agree or disagree, it is part of the discipline process, and it's the beginning of the discipline process, which then will have an end result somewhere down the road where the chief of police or yourself together make a disciplinary decision based on that investigation.

Hales: We will have to agree to disagree, because I think discipline ought to be based on facts and who they come from doesn't change the color of those facts. Then secondly, you said that there is a due process challenge raised here. Again, what role change do we have in the IPR process here that threatens due process for the officer?

Hales: Again, there are several. But the main one for me, at least -- what our legal counsel obviously -- is again, the fact that the IPR investigator -- part of that process is there used to be an Internal Affairs division interview, and obviously review by several layers of command staff that go up. IPR now, the way the ordinance changes look, will do the same thing but it's coming from IPR, from an independent source. So, we'll have to take another level of review with internal affairs, also. So, it is layered again. Or, it's a possibility that the internal affairs does an investigation, and they find -- it would be unfounded, exonerated, anything but sustained, and IPR may say we don't agree so we are going to conduct our own investigation. That's one of the things that --

Hales: That's why they call it independent. Yeah, I mean --

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Turner: That's another layer for officers again. Where the way it is done now, an IPR investigator and an IA investigator both in the same room, both conducting the investigation. The IPR investigator, number one, can oversee as a watchdog type to make sure that the IAD investigator -- which I know will not happen, but if it did -- wasn't leading someone down the rosy path by asking leading questions, as opposed to asking questions that are fact-finding. The IPR investigator has the ability to do that right now so that would change. So, those layers would change, and that would be the problem for us.

Fish: Can I just say something here, Mayor? My feeling was this morning with the collective bargaining agreement and the DOJ settlement, we made progress. I appreciate your right to reserve on these issues and say they raise legal issues and have your right to challenge them. But it seems like all your concerns are focused on compelling the testimony, not on the other items there before us, is that fair?

Turner: That's for right now. There's other items, too, but that would be the number one item for us, the main item.

Fish: You are not waiving anything.

Turner: No.

Fish: But you're saying that of the major issues before us, that's the one that you are highlighting?

Turner: Yes.

Fish: The others about the chief being required to provide a rationale, release a certain information, and how we deal with the time line -- I take it those don't raise the same issues of the duty to bargain?

Turner: Because they are mandatory subjects of bargaining, although the main subject for us is the compelling of officers to interview, does not mean that we don't look at the other ones. There are a lot of moving parts to it. Those are the ones that we want to address because part of that bargaining is sitting down and collaborating together to make this agreement, to make these changes, if there are going to be changes, to make those changes agreeable to both parties. So it's not just those, but, that's the main issue for us. But not the only issue.

Hales: Wait a minute. Let me make sure I understand one point if I can jump back in, Nick. And that is, I hope you are not holding the establishment of the timelines is a mandatory subject of bargaining.

Turner: No, no. Not at all. What we're saying is things outside of the DOJ agreement, things that were outside.

Hales: Thank you. I remember this morning, it wasn't that long ago.

Turner: That's why I say that is not the only one, there are others. But it's not anything that we have agreed to in a DOJ settlement, no. I'm sorry, I should have clarified that.

Fish: I am trying to translate this point, am I'm not arguing it.

Turner: No, we will leave that for another venue.

Fish: For another venue. But what you're saying is that we may end up adopting these code changes. You may end up taking the position that because the City hasn't bargained with you over them, they are unlawful. In which case, you would have the right to file a complaint, and have a hearing, these could be put on ice, and at some point, if your position prevails, we would be back to the bargaining table with an order to negotiate, and these things would not be -- the challenge pieces would not be in effect, that is, that is --

Turner: That could happen.

Fish: That is a potential outcome.

Turner: Yes, it could happen the other way where they say --

Fish: And your view, I don't want to ask you an unfair question, but, had you been engaged -- you said that you were not engaged in the bargaining -- do you have a philosophical objection to these changes?

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Turner: Yes.

Fritz: If you could just recap for me. I missed the beginning of your testimony, you said there was three unresolved issues. There was discipline, job security, what was the third one?

Turner: Minimum fairness.

Fritz: Minimum fairness. And what do you mean by that?

Turner: Minimum fairness, it means that -- part of that -- obviously for the officers is their right. Part of that is their right also, to be able to -- mandatory subjects of bargaining -- sit down and part of that is us to work together in collaboration, on this, on these code changes. Obviously, for things that will benefit both sides. We want to make sure it is beneficial to everybody, not just to one side, and we believe that right now it isn't.

Fritz: So, when we're in collective bargaining, there are restrictions on the involvement of various people, because if we are not entitled to be at the bargaining table, then we're not involved in bargaining. Now that we've settled the collective bargaining agreement, would you be willing to sit down with a group of folks and see if we could get to something that would be more --

Turner: Of course. That is our primary goal. It's not to stop the code changes but have some collaborative input into those code changes.

Fritz: And we could get to it relatively quickly, right?

Turner: I'm at your behest.

Fritz: I remember in 2010, we delayed for two weeks. And we made over 100 amendments between the first reading and second reading and got down to just one issue that the police association was thinking of grieving, and I think ended up not. So, that's already set the precedent that we could do it relatively quickly.

Turner: Right.

Fritz: And if we were all trying to get to something that we felt was --

Turner: Right. After the holidays.

Fritz: I was thinking that, too.

Fish: In fairness to the president of the union, I just want to say that, I think that I heard you say fairly clearly, that you just philosophically do not agree that IPR should be able to compel officer testimony. So we could have that discussion. Theoretically, we could spend six months talking about that. But you've also set as a policy matter you have a principled disagreement with that. So I'm not sure what the --

Turner: As it reads right now. There is, obviously, ways that we may be able to sit down and we may be able to work that out. But, I can't, obviously, I'm not going to negotiate right now, and tell you yes or no.

Fish: No, and I'm not -- you have every right to your position. But, if you start from the premise that we should not be able to compel testimony, you know, I'm not sure if we could bring in effley bailey, and I'm not sure if we're going to negotiate to resolution on that. The question is whether we have to bargain or not. I mean, that's the legal question. It sounds like you will test that, and it may mean this is going to be put on ice for some time.

Turner: Well, we don't have to test it, we can sit down and have that conversation. That's not what we're saying, we're saying we need to be part of the process, and we were not part of the process. If that means that we have to go as far as testing it, then yes. But, I'm open to sitting down and collaborating with the parties involved and seeing what we come with.

Fritz: Let me ask you the same question that I asked Debbie Aiona of the League of Women Voters, this change seems very small to me, why is it important to you to keep the current system rather than the proposed change?

Turner: Because we think it's fair and equitable. Because like I said, IPR still has a stage to be able to -- and I hate using the word watchdog but I will use that word for clarity -- watchdog over all

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internal affairs investigations. I have no problem with IPR sitting in, asking questions, being involved in every internal affairs investigation. I have no issue with that.

Fritz: So the problem with the police or police commissioner's representative at the beginning of the hearing saying you have to answer, rather than saying to every question, you have to answer? What's the philosophical --

Turner: Well, they don't say every question you have to answer. They actually are involved in the investigation. They are involved in the -- they ask questions just like the IPR investigators are allowed to ask questions.

Fritz: So why is this change so significant to you?

Turner: Because it's compelling officers -- it's garrity questions, and again, I don't want to go into the legalities of it, but like I said, part of it is that we didn't have any input, and maybe we could have come to something that would have worked for everybody.

Fritz: So after the holidays, let's have that discussion.

Turner: I am truly open to it. Whatever anybody calls me, I'm there.

Zingesser: I have a question. Can community members be involved?

Hales: That's why we have hearings, but sometimes we need to negotiate.

Zingesser: No, but I mean --

Fritz: I'm thinking we need discussions with community members. If somebody like Kayse Jama, who has been involved in this for as long as four administrations, as he said, I think he has some good advice to give. The NAMI Multnomah also has a lot of experience. So maybe -- we can't convene the community advisory board required by the Department of Justice until we have hired the community liaison group, so that's the way that has to work. So, we can't convene the community advisory board but we could have an ad hoc group to look at this particular proposal and what else might be done while we're waiting for the rest of the Department of Justice settlement to happen. And I would certainly, if I'm involved, which I am leaning towards hoping to be --

Zingesser: I would like to be, involved, as well.

Fritz: Thank you, Sylvia.

Hales: Thanks very much. Ok. Next three.

Joe Walsh: I took a shower. My name is Joe Walsh, I represent individuals for justice. And I am very, very tired. I think the president of the union is right. I think you have a problem with -- when you are a union representative, it is not your choice to represent people, it is by statute. It's by federal statute by the department of labor, and I know you know that. It's mandated that you have to represent your employees. What does that mean? It means that you don't mess around. You represent them as far as you can represent them. And you fight for them as far as you can fight with them. So, a lot of his testimony has value. And you should listen to it because an employee being cross-examined by an independent review board has a right to union representation being present. What does that mean? Is he a potted plant, like we like to use? No. The union representative, if he hears a question that he thinks could get the employee into trouble, he'll end the session. Because you have this very sharp, almost razor-like ledge that you walk between the civil and the criminal. And when you deal with police officers, it crosses over. It used to cross over in our federal sector all the time. A fight on federal property is different than a fight on a street. So, it's very, very precarious for the president of the union to have one of his union representatives in the room with a guy that may end up being criminally charged if he answers the question. So, what does the union rep do? Does he say, that's it? So, it's very complicated. Your independent review board must be independent. But there was one part of the testimony today that really intrigued me when somebody said, it's a fact-finding group. That's what they should be doing. Now, the question is, when they get all the facts, who do they turn it over to? And I object to the chief. Because if the chief sits on top of the pyramid of the discipline, you always have at least an image problem. And if he changes one thing that the IPR represents, you have another image problem. I think it should be you. I think it

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should be the commissioner. I think the IPR should report to you, and not the chief. As much as you can get the police department out of this system, you must do that. Because the more they are involved in this, the more it's my buddy that you are asking me to put on the street. He has two kids. It's my buddy. It's gotta be independent and it's gotta answer to you, not the chief.

Fish: Joe, I appreciate you wearing your IBEW hat on how you balance these rights because I think that you're right. But I'm not sure it matters -- the distinction you are making about being fact-finding -- I'm not sure that matters and I will give you an example. When the Congress hauled Oliver North to testify, that was fact-finding.

Walsh: Wait, wait I have to get some oxygen because you are spitting right now.

Fritz: Can I get it for you?

Walsh: I'm good. I think.

Hales: You have our permission to bring that with you in the future.

Walsh: It goes with me everywhere.

Fritz: Our encouragement.

Fish: The only point I wanted to make is, I'm trying to understand the distinction like fact-finding. So, when the Senate compelled Oliver North to come and testify about his misdeeds, and he said, you can't make me incriminate myself, and they said you will answer the questions, and he did.

Walsh: Yes.

Fish: A federal judge threw out his conviction.

Walsh: Yes.

Fish: Because he had been compelled to give testimony against interests. In a fact-finding setting, in a forum.

Walsh: It's a little more complicated. It's called use of immunity.

Fish: There's immunities that can be given here, but the question is, is the IPR the right entity.

Walsh: Oliver North was a really strange case. Because they did compel them to say things -- use of immunity has limitations on it. If you grant full immunity, he would have went to prison, or no, no, he could not go to prison because he gave him immunity. What normally happens is they say, we will -- DAs do this too -- we will give you immunity, now you have to answer the question. So, there is no possibility of criminal charges, you have to answer the question.

Fish: So, how does the IPR give immunity?

Walsh: I'm saying the IPR should only do administrative investigations, and you have to keep the investigations separate. So, if there is a criminal investigation, surely, internal affairs should do that one. But, if there is an administrative investigation, it should be completely separate, the IPR should turn around and say, here's what we find. The question is, who do you give it to? And my argument, again, is it should be to the commissioner. Because that makes them independent of the police, and that's your vulnerability that the people out there look and say, okay, who are they answerable to? They are answerable to you. Not to the chief of police. Nice guy. But you have got to get them out of the system. As far as the investigation goes.

Fish: Thank you.

Walsh: I know it's a little complicated. Think about a charter amendment, too.

Hales: Thank you. All right. Thank you. Anyone else that wants to testify?

Moore-Love: That's all who signed up.

Hales: And do we have further questions for staff, anyone? Then, the question now is, where and how do we schedule this. And I think that we might need the auditor and Constantin here for that.

Griffin-Valade: Can I get Constantin and the two folks from the attorney's office address a couple of matters that have come up. My plan is to bring this back to council for second reading on January 2nd.

Hales: Second reading is one of the options.

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Fish: Maybe I can just kick it off. This is a fascinating hearing. We have a bunch of people testify that this is watered down, doesn't go far enough, doesn't get it true accountability. And we have other people testifying if we proceed with the package in front of us, it's likely to be stalled in administrative proceedings and court fights over our ability to do even this version. So, we're not ultimately the final deciders on that. But any guidance you would like to offer us on the question of our authority to make these changes?

Amberg: Do you want me to go ahead? Well, we've taken a pretty careful look at this, and in our opinion, the City does have the authority to go ahead and make the changes. There is case law under the state of Oregon employment relations board which confirms that generally an employer -- how an employer conducts an investigation is a management right, and management gets to decide how they are going to conduct that investigation. There are some fundamental fairness issues that are involved that could trigger a duty to bargain some of those issues. But, in this particular case, who is asking the questions of an officer, in our opinion, is not one of the fundamental fairness issues that triggers a duty to bargain. The real key, and this addresses -- I wanted to address an issue raised by the National Lawyers Guild attorney -- the real key in terms of the bargaining, is who -- in terms of discipline for an officer failing to cooperate with the investigation or failing to answer questions, is who has the authority to compel that officer to answer those questions? And again, in our opinion, under the case authority, garrity in other cases that have followed, that has to come from someone who has discipline and discharge authority over that employee. And that's the problem under the way the current system is currently set up here in the city of Portland with having IPR purportedly compel that testimony. But the way we've structured this is not a fundamental change. First of all, we believe it's a management right to decide how the investigations are going to be conducted, whether it's by IPR or by internal affairs. Also, under the current code, IPR has the authority to conduct independent investigations. Now, the structure of how that's done has obviously has been addressed in these code changes, but, so --

Fish: So if we believe it's a management right and we don't have to bargain, we don't have to bargain. Is there a downside in having the conversation that the union president has invited and that Joe Walsh testified to? Or is it -- does our having this conversation somehow concede that we don't have the management right?

Amberg: Well, I'll just say in my personal perspective, I don't think that there is generally ever a harm in sitting down and having discussions. There are issues out there, whether you are formally engaged in bargaining or having the discussions with them about the impacts of these changes, I think that that's helpful, any time that you can -- the more discussion you can have the better to understand different perspectives on how this applies.

Fish: I would say particularly since this is a complicated area. I mean, we are hearing from everyone testifying, this is complicated. They are trying to get their arms around it. I just wonder, between now and whenever we take this up again, if there is any harm in having those conversations. I don't know whether they will change Mr. Turner's view of it, but is there any harm in having those conversations?

Amberg: I don't see any harm in having those. Now, there may be a dispute over what those discussions are, whether the union is saying, we'll we're acknowledging that we're engaging in bargaining or we're saying no, we're not engaging in bargaining, we're just having a discussion. But, you do get into those disputes sometimes. But, generally, I don't see any harm in having those discussions, at least from the legal perspective.

Severe: As an IPR representative in this as part of the auditor's office, we're not in a position of trying to bargain for the City. But, I'm quite willing to have a conversation with Daryl Turner or whoever represents PPA or PPCOA members between now and January 2. Our goal in trying to craft these code changes was trying to have that median point between the extremes that we have heard today. So that these code changes are watered down, they are minimal, to, this is a

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fundamental breach of the city's obligations. What we have tried to do is, basically, meet our constitutional obligation as a governmental actor that we're providing these officers with adequate notice that provides them constitutional warning about the interview that's going to proceed, and provide them notice that they are going to be compelled at a 48 hours. And at the same time, meet the community's expectation that we are, actually, an independent office, that we are part of the auditor's office, that we are going to do independent investigations when we feel that we need to and not avoid an independent investigation because the process within our city code is so cumbersome that it creates a perverse disincentive to doing that. The consequence of us waiting for the two extremes to come at some sort of median on their own is actual complainants right now who we feel that we could do a better job by them by these particular code changes, worked with the city attorney's office, and do that better. I think sometimes, we get into a position of the perfect being the enemy of the good. I think that these code changes set a foundation for us, moving forward. If there are other conversations that need to happen about setting us forward, about what we need our oversight system is to look like and who partakes in that, I think that's a conversation that we are willing to have. But we should not mistake all the different people that testified today that they will come to agreement, whether it's two weeks from now or two months from now. Or even two years from now because the same issues that we had in the 2010 stakeholder conversation are very similar to what I've heard this afternoon. So, our goal is trying to have something that is legally enforceable, and at the same time, move the city forward.

Fish: And I appreciate that because we have some history with that. You know, over a year ago, voters adopted a set of reforms that applied to our police and fire pension system. They have not been implemented. They are tied up in litigation over whether the City had a duty bargaining over them. It's a year later. So, this is an important issue to put on the table because what we hear consistently is, reform now. So, if we don't get these issues right, it has the effect of stalling change and reform, and I would argue -- my guess is that even some of the folks in this room that think that we have not gone far enough would be especially disappointed if even these reforms could not be implemented. And that's the dilemma.

Hales: Ellen, do you have any guidance for us?

Osoinach: I would just say two observations from having participated in this process. The auditor and IPR Director Severe have been very articulate in explaining the intent behind these amendments. And that was particularly helpful when talking to the bureau about these changes. And the bureau coming to support these changes. So, I do think that there is value in explaining that to the PPA to the extent that they feel like they have been shut out, and they don't understand. I definitely think there is value in that. And as you pointed out, Commissioner Fish, the thing to balance is whether or not those talks will result in such delay that there is no value in having them. And, I think that that's a dilemma that, you know, that you all will have to figure out if it's worth the delay to engage in those kind of conversations.

Fish: We knew this morning that if we did not accept the terms of the negotiated contract, we were looking at the possibility of a one-year delay because of the alternative process which ends in interest arbitration with a winner and loser. So there's trade-offs on both sides.

Hales: I'm interested in having some of those conversations take place. But, that doesn't mean that we cannot keep this on the calendar. Right?

Fritz: Well, as Office Turner pointed out, some of us are not going to be here for the next week or more, so setting the expectation that we can convene citizens as well as staff as well as myself, in the next week before January 2, is, I think, unrealistic. I am wondering if -- there are a number of provisions to the changes that we have heard no testimony against. The concept of the duties of the Citizen Review Committee, the number of folks on the review committee, the expectations for them. I'm just looking through the packet here, and there's a number of elements that are completely non-controversial, and which we could easily move to adopt on January 2. There are others that I

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think would benefit for some more conversation, for some dialogue, and looking to can we get to at least more understanding. Because what I have heard, particularly about the compelling testimony piece, neither side is happy with it at this point. So, that's -- if we can't get -- there just doesn't seem like there's been enough discussion of understanding the other points of view that are involved and looking at are there other options.

Fish: In light of that, can I make the suggestion that we just keep the current schedule for a second reading, and then, prior to the second reading, we decide as a body because we still have, as a body, have to decide this question. Do we go to a vote, do we carve out a piece that we believe is ready to be voted on, or do we delay it further? But, at least have the control date in two weeks so that we can have some certainty in that decision-making.

Hales: I think that's possible, but remember, the 2nd is our next meeting, period.

Fritz: Right. So the first is a holiday. So there's the Monday, which I guess we could all get together and figure that out. But, I have my son coming home from Chicago, and I intend to spend time with him over Christmas. I know, it's selfish, but there we are.

Fish: What's your suggestion for a date?

Fritz: Beyond the 2nd.

Hales: That would be the 8th.

Fritz: The 8th to make a decision on what parts are non-controversial.

Fish: Use the 8th as a control date.

Fritz: Right.

Fish: And by the Friday the 3rd, see if we can get a consensus on how we are going to proceed.

Fritz: Right.

Fish: I would second that.

Hales: Let's give that a try. So we will schedule this for second reading on January 8th. And --

Fish: Can we time certain on that, Mayor?

Hales: Why not, I think that we should be able to given it is three weeks away, are there any available, Karla?

Moore-Love: Yeah, we can move you to -- about how much time do you think it might take?

Hales: Give it an hour plus.

Moore-Love: Okay. Let's do the 3:00 time certain on the 8th.

Hales: 3:00 on the 8th. Thank you all. And that is the conclusion of that.

Fritz: Can I just clarify? It would be the continuation of this hearing because we might be amending it.

Fish: Second reading, but we can -- that gives us the option of passing a portion, all of it, or continuing the hearing.

Fritz: Do we have to take testimony on amending it to take some pieces out?

Ian Leitheiser, Deputy City Attorney: I think that probably depends on the scope of the amendments, I mean, it's going to be up to you whether you want to do -- whether you'd actually be, I guess, continuing this to deal with the amendments or actually having a second reading.

Fish: We have a second reading and we just only adopt a portion, it seems that there's no prejudice there, it's within our right.

Leitheiser: It is, and I presume that would involve introducing amendments in advance of January 8th.

Fritz: Thank you. I think that's good.

Hales: Thank you all very much and we are adjourned. [gavel pounded] We are adjourned until January 2nd. Happy holidays. [Clerk note: Meeting was recessed until Thursday, December 19 at 2:00 p.m.]

At 4:25 p.m., Council recessed.

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

DECEMBER 19, 2013 2:00 PM

[roll call]

Hales: Thank you all. So let's start with time certain item 1210.

Moore: Do you want to also read 1211?

Hales: Yes, read them together. Sure.

Items 1210 and 1211.

Hales: Commissioner novick.

Novick: Thank you, mr. Mayor. Again, what we're doing today is 1211 will extend our current policy on parking for people with disabled placards until july of next year. But 1210 we would accept a series of recommendations that are fairly detailed for which then pbot would spend some time turning into a detailed program that we would enact next year. Right now as you know, people with disabled placards receive from the state can park all day for free at city metered spots. I think that fact is something of an historical accident stemming from I suspect people's belief at some point that when you're talking about people with disabilities you're talking about people with wheelchairs, maybe they can't reach up and put coins into these tall meters. But it's an historical accident which I doubt that if you'd asked people with disabilities they would have thought made a great deal of sense. I think if you ask people with Disabilities, are you entitled to free parking, other people pay for, most would say, well, no, but we are entitled we think to some consideration. To some extra time to complete certain tasks, to some effort to make sure we don't have to walk too far to get to a given destination. We have come up with a set of recommendations we think addresses those real needs. While ending the policy of free all day parking. One issue we have with free all-day parking is that the purpose of these time limited metered spots downtown is to create a certain degree of turnover in the downtown area. And give a lot of people a chance to come downtown and do something that might take an hour or two, like shopping. What we find is that there's a fairly large number of placard holders who are parking all day downtown, and that reduces the number of spaces that are available for shopping. Now, as we'll hear in a few minutes, we're going to make provision for some people to continue to park all day downtown, but we suspect the adoption of these proposals will result in reducing the number of people who do that, and freeing up some space for shoppers. So what we're proposing to do, one is right now we have hardly any spaces that are actually reserved in the downtown area for people with disabled placards. So we're going to reserve 30 of them for people who have the wheelchair placard, and we're going to reserve another 50 for people who have any kind of placard. And we're going to do some research and see if there's spaces where some people with disabilities access services where it's particularly important to have some of those spots. We're also going to provide that although everybody needs to pay at a meter with the exception I'll get to, people generally will need to pay at the meter whatever the meter allows you to pay. If you are at a spot that is an hour or 90 minutes or two hours, but you have a placard, you're allowed to stay for a total of three hours. And that was a result of discussion with people in the disabled parking task force and the disabilities commission who said we need some extra time sometimes. And we had some back and forth, and we came out with three hours will be the time that everybody gets. So you pay for the 90 minutes or whatever the meter says, but you get to stay until three hours is up. Then -- now, by the way, in terms of having people with the placards pay

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something, this is consistent with what a number much other cities around the country are doing. A number of other cities like arlington, virginia, Washington, dc, raleigh, north carolina, Oregon city, Oregon, have said, we're going to start having people with placards pay. Something we're doing that I think -- i'm not sure i've seen a precedent for is, we suspect a large number of people who are parking with a placard are commuters who work downtown. And we thought there could well be there's a fair number of those people who don't have a garage space provided by an employer, might not be next to a smart park or other downtown garage, and for whatever reason, can't practically use tri-met. So what we decided we would do is establish a permit for people in that category to pay a monthly fee which would be equivalent to what you pay for a garage in that area, and to park on the street. Basically if you come to us and say, here's -- I work downtown, here's why I can't use tri-met, don't have access to a garage, we'll essentially sell you a ticket in sort of a floating garage. That I think will be unique to Portland. It will be interesting to see how many people take advantage of that, and that might set a precedent for other jurisdictions. We decided to do something -- by the way, that means two things. One, it means you don't have to be -- if you've got that permit you don't have to be running back to your card to fill the meter, it also would be a significant discount from if you simply paid the metered amount all day long. On a monthly basis if you had to fill the meter at \$1.60 an hour, it would be something like \$270 a monthly space is in the 170 range. We decided to make the same provision for people who live downtown. And again, don't have access to parking of their own. They too will be able to buy floating garage spaces. We also decided we're going to make a special provision for people who live in subsidized housing downtown, and obviously by virtue of that, they're income limited. We decided for at least -- until 12-20-15 we would allow those people to continue to park for free. While we do some research into how many such people there are and what their circumstances are. Nicole cheron with oni focused particularly on that aspect and she'll give a better explanation of what exactly we have in mind. So those would be the major elements of our plan, and we're pleased we've had the endorsement of the disabled parking task force, many of whom have worked on these issues for a number of years, and we really appreciate their dedication and their creativity. And the endorsement of the commission on disabilities, but again, we appreciate their attention and their commitment and their creativity. And we've also appreciate the investment of the Portland business association which has an interest in this, and they have a representative here today. And with that, I think i'll turn it over to sara schooley from pb0t.

Sara Schooley, Parking Policy Analyst, Portland Bureau of Transportation: Good afternoon. My name is sara schooley, I work in the parking operations division at the Portland bureau of transportation. I'll walk you through the program this afternoon. I think commissioner novick did a good job of giving you a broad overview of the different parts of the program that i'm sure many of you know about. But i'll go into a little more detail about the different parts of the program and kind of why we developed those parts as they are. So one thing I really want to repeat that commissioner novick said, the endorsements that we've gotten from the disabled parking task force and the Portland commission on disability, and also the knowledge that we gain from them in putting together this proposal. It's been a long process, the task force has been meeting for about five years. So it's really exciting to come to something that they feel comfortable endorsing and going forward with. I also want to provide a little context about why we're doing this now and what other regulations we're falling under. So a big part of the reason why we even have to think about putting together a disabled parking program is because of state law. So as some of you may know, the disabled parking placards are a state of Oregon thing. We don't have much discretion as to who does or does not get a placard, that's all through the Oregon dmv, but what we do have regulation over is the privileges that can be given to those with placards. So in 2007, there was an Oregon revised statute, 811.635, that's also widely known as senate bill 716, how it's referred to mostly around here, and it was passed by the state and it separated disabled parking privileges into two

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categories depending on the type of placard. So there's wheelchair placards, and then there's nonwheelchair placards. And what the senate bill 716 did is it removed all flexibility in what a city could do, or what a jurisdiction could do around wheelchair placards. And so if somebody has a wheelchair placard the state mandate they're allowed to park without payment and without time limits. That is something the city cannot do anything about. As for other placards --

Fritz: just to clarify, that's at any meter right? Not just at the 50 set aside.

Schooley: Correct, that's any meter. As for nonwheelchair placards, the state gives jurisdictions the ability to decide what privileges to give those placards. And so as we go through the program today, you'll see that distinction that what we're really applying the program to is the nonwheelchair placard. I think that's an important clarifying point for the community and for the council to know. The other part of why we're going forward with the proposal today is actually a time line issue more than anything. And so once senate bill 716 passed in 2007, the cities were given this permission to create something if they wanted for disabled placards. As a city what we continue to do was extend our presenate bill 716 privileges. And our current extension expires december 31st of this year. And so we were put in a spot of reextending those privileges or creating a program. So that's what created the time line and the urgency and putting the program together now. So with that i'm going to jump into the program and really want to reemphasize this was -- helped put together by the disabled parking task force and pcot. There's two parts of the presentation and kind of the package you're getting today. First is a resolution. And so this resolution is to accept the program recommendations and direct pbot to develop and implement the program starting in july. The second part is to extend the current policy through june 30th. And commissioner novick talked a little bit about this, and that the six months beginning next year will give pbot the ability to put together this program after getting your approval and your comments about the program. And those six months also gives us time as a bureau to do more outreach. We have done some outreach, mostly through pcot and the disabled parking task force but we really like to do a lot more and want to make sure the council is on board before we go out too much with a program. So the next thing I want to show you just for clarification purposes, once again, is where this program would apply. So we're only talking about metered areas. So this map shows the different metered areas. We have the downtown west side central downtown area, the lloyd district, we have a couple streets a couple blocks in central eastside that are metered and an area up at ohsu that has meters. And so this program would only be applying to these metered areas.

Fish: What's the red line?

Schooley: The highways. So the purple lines are what you're looking at. So what's within the purple areas are the metered spaces. And it's also important as we look at the part of the city that are metered, what the purpose was of us putting meters there. Just a little language from our transportation system plan is when we talk about putting in meters, what we're looking for is creating an on-street parking system that's managed to support economic vitality by encouraging parking turnover, and improving circulation, encouraging use of off-street parking, maintaining air quality, and promoting the use of alternative modes. And so what we're really looking at at those areas within the purple lines is creating short-term turnover parking. And as commissioner novick said, the current use of many disabled placards is limiting the abilities for folks to have that short-term commercial parking.

Fritz: What's the area detached area in the bottom left corner?

Schooley: That's ohsu.

Fritz: Oh, right.

Schooley: There's just a couple meters up there. This next slide shows the problem that I think as a bureau we have a lot of problems that come to us and we really look at what's the problem before we try to solve it. We need to know what the problem is. And this map really shows us some different components of the problem. So the map with the colors on it, that was from a survey that

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was done this past september and what our parking enforcement staff did is walk the blocks, like they normally do, and counted the number of placards that were displayed in vehicles on those streets. And as you can see in the darker areas, there are some areas particularly these downtown blocks surrounding city hall, that were in the 30 percentile range. So one -- almost one in three spaces were taken up by somebody with a disabled placard. Some may be short term parkers. What a lot of our enforcement see assist more longer-term or commuter parking. So we have that really strong density of disabled placards in the central city and then in other areas, it's still a significant number that maybe limiting accessibility for those that need short-term parking and also limiting accessibility that -- for those that need that front row parking that we would want a disabled parking program to support. There's some call-outs on the slide I think are important for setting some context. One is the pop-out bubble that surrounded in blue, and that looks at the placard history. And so these numbers are the numbers we have from when we started doing the counts, which are aligned with when senate bill 716 was passed in 2007. Our first count in 2007 we saw about 600 placards on the streets. And in september of this year, we saw over 1,000. And so that number of placards is growing tremendously, well, we assume it's also the number of placards, but even fits not the number of placards, the use of placards is growing downtown at a very significant rate. And these are total placards, so this is the number for normal disabled placards and wheelchair placards. The table at the bottom shows the difference between the number of nonwheelchair placards and wheelchair placards. So you can see the big difference there in that there's only 21 wheelchair placards that we saw in the street. But over a thousand placards total. So those wheelchair placards are very small portion, and we'll talk about how we're going to continue to provide accessibility or improve providing accessibility for the wheelchair placards.

Fish: I have a pet peeve as my eyesight keeps deteriorating. So this -- what you're directing us to on the screen I have a fighting chance -- dan and I are both --

Schooley: they're pretty tiny.

Hales: That makes at least three of us.

Fish: We ask this of all the bureaus, when you give us the backup power point, and most -- a lot of bureaus don't, so thank you for this, because we get to make notes, my request in the future is if you could blow up the pictures on the backup. Because even if we did it -- I know it might violate our paper policy, but if you can go ahead and blow it up as big as you can, so people like me can read it.

Novick: My apologies, commissioner.

Fish: I have one question off this slide. When you did your surveys of placard, this doesn't tell us whether the -- does this data tell us whether the person works in the area or is visiting, or is just that there was a car with a -- it's just a point in time.

Schooley: It's just a point in time. Just that there's a placard being used. With the different types of placards, the only difference that you can visually see in placards is between wheelchair and nonwheelchair and actually the main difference is that they're a different shade of blue. So you have probably seen both of them on the street, but can't tell the difference, the icon, the decal is the same.

Fish: Thank you.

Schooley: You're welcome. So i'm going to start diving into some of the details of the program, but as I go through the different parts of it, I really want you to continue to focus on the changing objectives of our disabled parking program. As commissioner novick mentioned, before the first wave of how can we provide accessibility for those with disabled placards came around costs. So we were looking at free being the key to accessibility. What we have seen from the use, the very high rate of use on streets is that free actually isn't providing that spatial and that locational accessibility that we were hoping for. That a lot of those blocks, a lot of those places people need to get to are blocked off most of the day by those with disabled placards so others with mobility issues often can't get that front row service. So we're switching our strategy from free being the main point of any program, to how can we get the location to be the priority of our program. So as we go

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through the different parts, hopefully i'll be able to explain how we've made that transition with the different parts of our program. So first i'm going to start with the wheelchair placard holders. Also how commissioner novick described the program, we have categories of users that we're talking about here. And as I go through the different parts of this program, I think it's important to note that these categories aren't exclusive of each other. So folks might see themselves falling into more than one of these categories. And if so, we encourage the person to figure out which either individual or multiple categories apply to them and they can choose which piece to use when they feel that it's appropriate. And they were also a way for the city staff and the task force to identify who are the users of our downtown parking system and what would we need to do to make the parking system and downtown accessible to them. So this first category that we looked at were the wheelchair placard holders. As I mentioned before, senate bill 717 prohibits the city from allowing -- from -- if somebody wanted to pay they can always pay the meter, but from mandating that they pay or that there's a time limit in metered areas. But what we are doing here is we're looking to add at least 30 on-street designated wheelchair placard parking spaces. Commissioner novick alluded to the fact there's very few disabled parking spaces in the metered district, there are about five. So very small number of spaces reserved for those with disabled placards. When we're talking about wheelchair placard holders, often times they have some more restrictions as to what is a convenient place to be parking. And so by designating spaces, we can get those spaces that work best for wheelchair van and for accessible vehicles. So those spaces would usually object the right side of the road, and then at the front or the end of the block to allow that access to a curb ramp. And the number 30, that really came from the 21 that we saw when we did the survey, so we bumped up that number of spaces. I could see this number changing because the privileges of the placards are going to be changing, so some folks who have a nonwheelchair placard might go to get their wheelchair placard when the program becomes instituted. So we can always change that number 30, but we're going to start there.

Fish: How would someone visiting Portland who isn't a regular commuter, how would they learn where the dedicated parking is? Is there some best practice in how it's branded?

Schooley: So I don't know of any practices, best practices, the signs do look different. So there is different signage for wheelchair placard only parking, versus disabled placard only. And so there would be the visual signage there. I think as far as general communications, whether it be something on the city's website saying this is where the spaces are, we haven't delved into that, but that's a possibility.

Fritz: Do we have a plan for how we're going to advertise the rest of the program to out of town visitors?

Schooley: We're looking at what's going to be happening in the next six months. We really tried to get the word out through the task force and through the commission on disabilities, but part of the reason for that six months is figuring out our best communication. This part really is the wheelchair part of the program. Because as I said before, they were set as a distinct group by senate bill 716. So these next sections i'm going to go over apply to nonwheelchair placard holders. And we have a couple different components of this program. One that commissioner novick alluded to, parking for three hours or less. And so in the discussions that we had with the task force, a big part of it was looking at our downtown meters and saying, if we have to pay those meters, it's just not enough time for us to complete our errands or do whatever we need to do downtown. And just as a little reference, most of downtown, i'll go on to the next map, that most of downtown is under three hours. So as you look at this map, the green and the yellow are the one-hour and 90 minutes, and then the three-hour is the blue. You can see most of downtown is covered in those hours. And so if somebody, for example, really wanted to be here around city hall, they would have to go a couple blocks away before they found that three-hour meter. And so what the task force recommended is that three hours is a pretty good time period for somebody to complete a shorter errand that they

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would probably be completing if they came to this area of downtown. So what we would -- what we're proposing is that in a meter that is three hours or less, the individual would be able to pay the meter for the maximum time allowed, and then be able to stay over that Maximum time up to three hours. If that individual is parking at a 90-minute meter and they only wanted to stay for one hour, they would only have to pay for one hour. But if they wanted to stay over the time limit allowed by the meter they would be paying the maximum.

Saltzman: You could pay for three hours and stay six hours?

Schooley: No. So you would pay the maximum that the meter allows, and so if -- you're talking about the three-hour meters?

Saltzman: Right.

Schooley: So it's up to three hours.

Saltzman: If you park at a three-hour meter, that's the maximum you can stay.

Schooley: Yes. That's correct. So if you look on this map you can also see there are black lines and also some purple red lines, and those are five-hour meters and 11-hour meters. So with those meters you would pay for the amount you were actually staying for.

Fish: Since have you this map up, can I just pose a question that is not direct directly germane to this? As we were getting up to speed on these issues, we had someone raise another issue that is pretty interesting, which is, what -- how we deal with a situation downtown of people who are coming downtown at the end of the workday, to come to a meeting, so they're coming to a community meeting or council meeting, and they come and park at 5:00, and as your chart shows, even in areas where you have to pay only until 7:00, most -- the bulk of the downtown is one hour or 90 minutes. So the question came up, is there some way for us to do variable pricing so someone who parks at 5:00 at the end of the day who's clearly coming for an after-hours meeting could get the benefit of paying through 7:00, so they didn't have to feed the meter in the middle of that meeting. I don't know what that data is and how many people fall into that category, but someone raised it and I thought it was an interesting question.

Novick: It is an interesting question. Right now our meters are set up to -- there's a specific amount of time, you pay that time. But I think that -- as we go out to buy new meters, one answer to that might be for some people, technology where we can allow people to pay for more extended period of time through their phone or through other -- these other gizmos that Sara will talk about.

Fish: I think because as you mentioned, part of the principle is to get turnover, and we want to encourage that, after 5:00 there might a different equation. For that person coming to attend a meeting, if there was flexibility allowed them to get -- max out to seven, and not have to feed the meter, I would be interested in knowing whether that's possible and what the pros and cons are.

Schooley: a little side note, that's possible through programming, but it's not necessarily part of the issue. But there are cities that do that with their meters.

Fritz: To clarify, the current policy you are allowed to feed your meter and stay longer?

Schooley: No. You're not currently allowed to feed the meter.

Fish: That's the problem. You're in the middle -- you've come downtown to go to city hall, after an after-hours meeting you fed the machine, you have to come out, get --

Fritz: You're not supposed to stay in that spot.

Fish: That's my point. You have to get in your car, move a foot and feed the meter again. Those are not people trying to gain the system, they're people who have other reasons to come downtown than shopping or whatever. I'm not trying to get the council to support this idea, i'm just -- I understand I have at least one no vote, but -- [laughter] i'm interested in learning more.

Schooley: We can follow up.

Fritz: It's important for people to know the rules, having got a ticket for moving on a one block in a two-hour -- you know the two-hour permit meters, moved the car just like I was supposed to but it turned out it was on the same block face so it didn't count.

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Fish: Not only do you have to move your car, but you have to put the sticker on the sidewalk side not the other side.

Fritz: I knew that one.

Novick: That actually is very important because if people put in the driver's side that means the -- the meter officers have to walk into the street and that's dangerous. There's actually a reason for that.

Schooley: Learning all sorts of stuff from you today. I'm going to draw you back into this map. Looking at the time limits, the difference I want you to see here is what would happen with this three-hour limit. So right now we have this splash of different colors downtown looking at the different time limits, and what that would turn to is this map, where the green is the up to three hours. So what it does basically is make the whole downtown, at least three hours. And we feel this with the support of the commission and the task force is adequate time in most cases for folks to do what they need to do downtown. But there's always folks that this won't meet their needs. So we have a couple of other options for them, which I'll go into next. So the first -- the second part of the -- what option does we have for all disabled placard holders is to allow parking for over three hours. So currently with our meter programming limitations, we aren't necessarily able to do this sort of programming at the meters. But there are alternative Payment technologies that would allow us to do this. So one is pay by cell, which some cities have, you pay using a cell phone application or by calling in. But another one that would probably be more quick to implement are in-vehicle meter. There's a picture on the slide, it's the yellow kitchen timer looking thing. And basically what it is, it's a plastic card, plastic machine that you can either put on your dashboard or hang in the window, and it allows you to precharge it. So you can charge it online, just put -- pay for the amount of money when you put it in the car, and you leave the car, you press start, when you come back you press stop. And then that charges you for the amount of time that that vehicle was parked. So what parking enforcement would do is they would see there's a valid disabled placard hanging in the car, and the in-vehicle meter was running. If those are shown together it would show the person was paying for the time they were parked. The key to the in-vehicle meters is that we wouldn't necessarily set a time limit. So if somebody needed to park for five hours, they could use one of these in-vehicle meters, all we would have to see is it was still running. That encouragement and incentive for turnover would be that if the meter is running, the person is paying. And so they still have that incentive to have short-term Parking if they can, but they have that allowance if they need it to park longer during the day. And the last part is the 50 designated spaces. This goes back to the same principle I talked about with the wheelchair spaces. In that we're trying to transfer from free to location. And that's front row seat when talking about accessibility. And so we're looking right now at putting up 50 designated spaces for disabled placard users, once again this number is variable, it can go up if we find there's more need for it. But right now we would be looking at starting with 50 of these designated spaces. A key part, so there's no confusion on these spaces, is if you were using them with a nonwheelchair placard you would still need to pay. It just allows you location preference that those without a placard would not be able to get. I'm going to dive into two other groups of those that would have nonwheelchair placards. One being employees and one being residents. So with employees within the meter district, what we propose is that there's an employee permit and so as commissioner Novick specified, we realize if somebody was to pay the meter on street for eight to nine hours a day, that it would be more expensive -- it would be more expensive than parking in a garage or lot. And really what we're encouraging people to do in order to stay with our central City parking management plan is that on-street parking for short-term, we would prefer the commuters end up in lots or garages if they can. And so what we're doing with this employee permit is we're allowing folks to park on street if they purchase a permit, but we're putting that financial incentive in place by making it comparable pricewise to lots or garages, so people choose

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that if they can. And so once again we're allowing that accessibility on street, but we're encouraging through the financial part, through the price for people to go off street if possible.

Saltzman: I'm getting lost here. Under the employee permit, you would pay what you would pay at a garage.

Schooley: Correct. So we --

Saltzman: How is that an incentive? I'd rather take a meter right in front of my office than park two blocks away in a smart park garage. How is that an incentive for me to keep these parking spots not being tied up all day by employees?

Schooley: Part of the incentive is that you're not actually guaranteed a spot. You're still hunting for a spot on street versus in a garage if you buy --

Saltzman: If you work downtown you usually get there between 7:00 and 8:00 and you usually get first call of the meters.

Schooley: You could.

Saltzman: I really -- I think this is not intending the desired effect.

Novick: What we struggled with was for people who tell us they work downtown, to explain why they can't use tri-met, and explain they don't have access to one of our existing garages or employer provided parking, we wanted to put those people in no worse position than people who don't have mobility issues and can park in one of our garages. So you're right, there might not be a huge incentive to park in a garage instead. We do think based on the experience of other cities that once you say that people have to pay something, there will be a certain number of people who conclude they actually can take advantage of another option, that they can park in a garage that's near them or even that they can take tri-met. We don't know what the result -- there's been a fair amount of discussion, is there fraud in disabled parking. And I think that there are some people who tempted by the lure of free parking, do, for example, borrow their grandmother's placard. And people like that might be able to take transit downtown and having to pay 170 a month will make that decision for them. There will, however, be some people who really, they need to park downtown, they don't have any accessible garage and they're willing to pay the permit fee. This will be something of an experiment. I think that we'll free up a significant number of spaces because they think there's a significant number of people who really do have another option. For people who don't have another option, we didn't want to put them in a worse financial position than somebody without a mobility disability who can park in a garage.

Fritz: I think as we move to move to implementation we're going to need to look at our city employees, because somebody in that position would go from having free parking to having to pay monthly garage fees, which is more expensive than the employer assisted transit pass. So I think we're going to need to look at whether there's an additional something for city employees to make it fairer.

Novick: I think we could look at that, but I also have to say that I don't think there's any way to come up with something that is going to satisfy all the concerns that we have. I think no matter how we slice it, there's going to be somebody who thinks there's something unfair about what we do. I think this just moves us closer to fairness than what we have now.

Saltzman: I think this is going to open up sort of a bigger loophole with the disabled placards. We're going to see all the block faces you outlined in red, clay street, jefferson street, instead of being filled with disabled placards at 7:00 in the morning or 8:00 in the morning, they'll be filled with employee permits. So that's really going to work counterintuitive to everything we're trying to achieve with central city parking circulation. But I don't want to debate it, I'm flagging that.

Novick: Understood. I will say in the other cities that have started charging for disabled parking, even when they've done something like and there are cities that have said you can park for twice as long that's on the meter, once you have it be not free, a significant number of people somehow find some other thing to do.

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Fish: What is the monthly charge?

Novick: We would have it be equivalent to a garage in the area. So something like -- in downtown the normal monthly fee is something like \$170 a month.

Schooley: We currently do survey to figure out lot and price -- lot and garage prices for our smart park garages, so that part of methodology wouldn't be new for the garages. But I think there's also two other parts to think about when considering how many of these permits are we actually going to see and how attractive are these permits. So there's two parts of it. One as commissioner novick noted, there will be an application. So it will be something where you actually have to physically come to the city, fill out an application and answer questions and be -- and have that disabled placard valid with you. So I think there's a component of going through that effort that some people will say, I might as well just go to that garage a couple blocks away. The other part of the employee permit, we've done this with past permits through pbot, is that they're only valid for a certain geographical area. So an employee permit would only be valid for what we're proposing right now is a three-block radius from the work site. And so what we're saying is we're issuing you this permit so that you can park close to where you work. That's the purpose of this. And so the person isn't necessarily getting a permit that allows them to park everywhere for free in the city. So there's still a limitation between this permit and what the disabled placards currently allow. I'm going to move to our last category, which is for residents of the meter district. We are proposing there's a resident permit, which would be quite similar to the employee permit, so it would be the same thing, where they would come downtown, they would give us their address, just like if they were applying for an area parking permit, but the difference here between app and this sort of permit is one, it would once again, like the employee permit, be at a cost at -- at or similar to neighboring lots or garages, to incentivize using those. In an application we would be asking them if they're housing unit provide parking, so what we're trying to do here is say, if you have parking, please use that over on street for Long-term parking. And then once again like the employee permit, we would be having a geographical limitation. So you would just be able to park within that three-block radius. With the resident permit, I think it's important here to note that people can fall into more than one category. So if somebody lives downtown and they use their car every day to commute to someplace, say they go to beaverton every day for work, they might decide it's cheaper for them to come back home from work, pay one hour on the meter every night, and just go that route instead of going for the resident permit if they get home at 6:00, they just have to pay until 7:00, they're done for that day. So we're offering these different options for people to choose from. The second category for residents is for those in subsidized housing. As we delved into this program, we really came to note that we didn't know too much about the disabled placard users who live in subsidized housing downtown, in the metered district. And we didn't want to start stepping on toes or start putting in a burden that just wasn't -- that wasn't needed and that also we shouldn't be doing here as a bureau or as a city. And so we've extended a window of a year, so for those that live in subsidized housing downtown that have a placard, we would be issuing free permits that would be valid until june 30th of 2015. And what this allows us to do is figure out who is this population, where do they live, what are their concerns, and give us an idea of what problem we're actually trying to solve. Because right now we just don't know who would need the accessibility at these -- at the subsidized housing residence and what sort of accessibility they would need. So we have this year to get in line.

Fish: When we talk about subsidized housing, are we including both buildings that are subsidized by the county, the city, or home forward as well as people who have things like section 8 vouchers and who are dispersed, so anyone that has a unit that has some kind of government subsidy would be eligible?

Novick: I think that what that was our intent but I don't know if we specified it.

Schooley: We did not specify it in the proposal. But I would agree that that was our intent.

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Fish: Whether you're a discrete unit in a building or have a subsidy, I assume you would be limiting this to people who are in housing subsidized below 60% mfi?

Novick: Actually, I should have asked you or commissioner Saltzman that question. Is there -- are there -- is that what most of it is?

Fish: If -- since you're building in time to build this out, I think this would be a good question for Tracy Manning, just to define the universe with the city and the county. Particularly since you'll be monitoring this, building and programs, but you might want to consider a cap, and depending on how you want to target this.

Schooley: Thank you. I wrote Traci's name down. So those are the major parts of the program, and we'll welcome questions a little bit later. I wanted to before I hand over the microphone to some of our stakeholders that have help put together this program, talk a little bit about the next step. As we mentioned before, education campaign, we were hoping that we would start it after getting your comments and your approval of the program, so that will begin in 2014. As for in-vehicle meters and permits, we're looking at April or May to start issuing those for use in July. So that April-May window gives us enough time to get them out to folks. Hopefully get that word of mouth out so people can tell their friends and family about the different parts of the program. The next point is that the program goes into effect on July 1st, so July 1st is when enforcement of the program would begin. In talking with our enforcement staff, the idea isn't if you have a placard on your car July 1st, you don't have your in-vehicle meter or you're still going with the same rules we have now, you wouldn't get the big ticket right away. We would be using that first window of enforcement time as an Education period as well. So if we pull up your license plate and it shows you've never gotten a citation for misuse of a disabled placard under the current program, you would get a warning plus education materials. If it's your third time and we've put in our notes that you've had the warnings, you have education materials, that might be a different story. But we are looking at that first month or first couple of months to continue education as we also start the enforcement. And last point I think is really important and was an important point that the commission on disability and the task force wanted to see. And that's a review of the program after one year. As commissioner Novick stated, not many cities have put together such a holistic program. I think we're going to be in the forefront in the nation on this program. But part of it is that we don't know how a lot of the park will work, or if they will, if they will provide that accessibility. So this review of the program over that one year with the task force's help will get us to the point to see whether this program is achieving the goals we were hoping for. And so we would probably be reporting back to you on this program in mid 2015 to see if there's any changes that we'd like to see as well as hopefully by that time we would have a better idea of what sort of program we might want to put in place for those in subsidized housing. So that's -- this is a time line that we're looking at. And with that, unless there's any immediate question, I was going to turn it over to some of our helpers.

Fritz: I'm a little concerned about asking to you come back in July, if you're going to be implementing in July, it would mean we might miss some of the data from May and June because it takes a while to compile, analyze and get the report. Just a friendly amendment suggestion to have the report come back in August or September on the first year, rather than within four weeks of the end of the first year.

Novick: I would be happy to make that change.

Schooley: Thank you. So with that I'm going to introduce two folks that have been on the task force for the last five years, I think you both have been with us five years, Nicole Cheron, and then also Lisa Frisch with the Portland Business Alliance. They have been instrumental in putting together this proposal and prepared a little bit of testimony to talk about why the proposal makes sense for them, and talk about the unique parts that apply specifically to them and their stakeholders.

Nickole Cheron, Disability Project Coordinator, Office of Neighborhood Involvement: I'm the disability coordinator in ONI. What I want to bring to your attention is a little bit about how and why

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this is so important. And i've been involved for five years, and -- it's a long time we've been trying to come up with something. This has really been the first proposal that we've come up with that everybody could get on board with. And so you're going to hear, as other people talk today, about senate bill 716 again. And what's interesting is that sb 716 pushed our hands at coming up with a solution. But the truth is, we were going to have a parking problem regardless of what the state was saying. A unique thing happened in 2011, every day of that year, every single day of that year, 8,000-plus baby boomers turned 65. And they are a generation that is 79 million strong. That's a quarter of the u.s. population. So why that is interesting is that statistically when people reach the age of 65, 50% of them will have some sort of disability. And so we're seeing this large portion of our population, they're reaching an age, and that in conjunction with the fact that physicians all across the u.s. are very -- not unrestrictive about giving out disabled placards, especially in Oregon, when you look at that dmv application, there really isn't much to kind of hone in on who really needs it. So a lot of people are able to get these placards. And as sara showed you in the data, from the time we started, to now, we have seen the steady increase. So this is going to be a crisis for us regardless of if sb 716 came about. And personally, being involved the whole time with this proposal, I think there's a really good job of focusing on opening up accessibility versus focusing on who gets the privilege or not. But I do think that's a larger issue for the community which isn't really what we're talking about here. What we're really talking about is how do we create turnover so people who need the accommodation can have it. My concern was we do have people that live on fixed incomes downtown, and there's probably a handful of them that really do rely on a vehicle, and they probably don't have a wheelchair. So we really want to make sure that those people don't fall through the cracks. And I think that if we look at this proposal more as a pilot project, that we've got something that is really good, and we should put it in place, see what we learn from it, and then we visited and come back and make those changes to make sure that we are accommodating everyone, I think this is a good start. And I just wanted to, when you talked about the visitors as someone who visits, a lot of other cities have a sticker on the meter that says here's how the disabled parking works. And we can very easily just have a phone number with a hotline they could call that would explain. Because it is a little challenging. There's a lot of different aspects to it. I think that would help those -- that is something we have talked about and is a concern for everyone.

Lisa Frisch, Retail Program Director, Portland Business Alliance: Good afternoon mayor hailes and commissioners. My name is lisa, i'm the retail program director at the Portland business alliance, and a member of the disabled parking task force. In the nearly six years the committee has met, the use of disabled placards in parts of downtown has grown from 20 to nearly 30% in some areas. On many streets downtown including around this building, you'll see vehicles displaying placards all day, thus limiting turnover. As you know, parking availability downtown is a sore spot. For the past six years, lack of parking availability downtown has ranked in the top five factors that need improvement in our annual survey. That's a survey of all 4500 businesses in the central city. Parking availability doesn't just affect retail business. It affects all businesses and services that sees visitors during the day. That includes doctors, therapists, lawyers, accountants, and other professional services downtown. Downtown should be easy to navigate, and easy to find parking. Parking prices should be equitable amongst all visitors. The hundreds of parking garages and lots we have downtown should be utilized for all-day parking, leaving on-street spaces for short-term visitors. The misuse and abuse of parking placards hurts everyone, including people with disabilities that need to find nearby parking. We feel the proposed program will address this problem by allowing people with disabilities to utilize on-street parking with generous time accommodation for up to three hours, and additional technology available for those that need to park close to their destination for more than that time period. In addition, the dedicated designated on-street parking to those with disabled placards will ensure access to those who need it most. Getting here has been quite the journey. I'd like to thank my fellow members of the task force many of

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whom are here today, for dedicating nearly six years of their time to working together to find solution to this problem. It's been a pleasure to serve on this committee. Finally i'd like to thank commissioner novick for his thoughtful leadership on this issue. Thanks to the Portland bureau of transportation staff. We are presenting to you today a very clear and equitable solution that will provide accommodation to those who need it, while working to stem abuse and misuse of parking placards downtown. Ensuring everyone better access. Thank you.

Fish: One other question, in light of your testimony, lisa, what is the current penalty for fraudulently using an accessible permit?

Schooley: I'm going to defer to Nolan mackrill, he's our parking enforcement manager.

Nolan Mackrill: Nolan Mackrill, pbot parking enforcement. For a person who's unlawfully using a disabled placard, with the bail for that is \$720.

Fish: Just since the public who is watching this might be interested in knowing, what constitutes unlawful using?

Mackrill: Using the placard that is not issued to you, we can verify that by looking at the placard and your i.d. or driver's license and compare the two. You're using permit that's stolen, been replaced, or using a person's placard that has deceased.

Fish: Rough terms, how many citations do we issue a year?

Mackrill: Last fiscal year we wrote 186 of those citations.

Novick: The thing is, commissioner, it's really difficult thing to enforce, because the period of time during which people will actually be right next to their cars, you can check to see if it's their placard is a tiny fraction of the time the car is there. So unless you have an enforcement officer who happens to be there at exactly that time and has some sort of suspicion, you won't know.

Fish: The point is, i'm glad it's as substantial a fine as there is. I find increasingly downtown that i'm -- I find it -- trying to calculate in my mind the number of dollars we could charge someone for some of the stuff I run into. The person that blows by the stop sign, does a u-turn in the intersection, and is on the phone. I secretly -- I wish I had an app how much that would costs. I'd go knock on their window and say, you can pay a thousand dollars or wise up. I'll take 500 now and 500 later.

Hales: You don't want to try that though.

Fish: I did try that the other day, mayor. And I got a certain finger pointed in my face when I suggested a person might slow down. It's good to know we assign a big fine. That's a substantial fine. I would think particularly someone who is using a placard of a deceased person, we might build in an extra fine for that person. That seems particularly egregious.

Novick: I think there was one instance, Portland or somewhere else, there was a woman who used the placard of her deceased husband and she said it made her feel closer to him. Which i'm sure that's the way she felt. We really don't know how much abuse there is. It's hard to even hazard a guess. There could be a lot of people who are using their grandmother's placard, there could be few. I think what this program will do will be to sort that out because people who are using their grandmother's placard they're not going to be able to verify they qualify for on-street monthly permit, because in order to do that they'd have to prove it really is their placard. So this -- some people in the disabilities community have said to me you're making it sound like all of us are cheating, and that's not our belief or intent at all. We really just don't know.

Fish: To that point, steve, we have a substantial tax abatement program in the city, and by law we're required every year to verify people still have eligible. That's not because we believe that everybody participating is cheating, it's just that we're required to verify that there's an eligibility requirements that are met. So one should not cast dispersions without data. I appreciate your comments.

Schooley: So with that i'm going to introduce two more folks up to the table. One is joe vanderveer, who has always been on the disabled parking task force for the last at least almost six years, and then the other, Suzanne stahl, who is a member of the Portland commission on disability. And also the chair of the accessibility and built environment subcommittee who is really our main

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group that we kept going back to when creating the task force recommendations. So sue has been instrumental in putting together these recommendations.

Joe VanderVeer: I'm Joe Vanderveer, I've been on the disabled parking task force since 2008 and I'm the chair of the disability commission for the city. As an advisory body charged with representing all Portlanders with disabilities, our commission has struggled with the pending implementation of sb 716, more than any other issues that's come before us. This law divides people with disabilities into two groups. Those who use mobility devices and those who don't. And we are ideal logically opposed as a commission to the disparate treatment this law prescribes. We would strongly prefer to see all people with disabilities treated equally, however we also respect the city's need to manage its on-street parking resources, and we realize the city is bound by the provisions of sb 716, and fulfilling that obligation. If implemented as written there's little question that on-the-street parking accommodation changes, specified by sb 717 would negatively impact the ability of people with disabilities to participate fully in our community. We appreciate the extensive work that went into this resolution, to mitigate the impact of implementing sb 717 and we commend the disabled parking task force, commissioner Novick's office, and pbot staff for their efforts to develop ways of maintaining the accommodation for those who -- for those most affected by these changes. The commission on disability regrets that it has become necessary for the city to make such changes, to its parking accommodation policy, but since we also feel that the city has acted in good faith to preserve the accommodation as originally intended, we support this resolution as a reasonable path forward where no perfect solution exists. We welcome the opportunity to continue to work with council and pbot staff as this resolution is implemented to monitor its impact and make further changes as needed to ensure the continued full inclusion of people with disabilities in our city.

Hales: Thank you.

Suzanne Stahl: Before I start I feel a need to address Steve's comment that disabled parking is a historical accident. I believe that disabled parking does have a purpose and it is no accident. With that being said, my name is Suzanne Stahl, and I'm a commissioner for the Portland commission on disability, and chair of the subcommittee accessibility in the built environment. I have worked extensively with pbot on the creation and review of this program, but today I want to speak to you as an individual. I have a mobility handicap, and have enjoyed parking for free in the metered district downtown. When I first heard about the changes involving the disabled placard parking program, I was up in arms. How dare Portland take away my privilege to park for free. I am on SSDI, and on fixed income and I cannot walk long distances, which limits my parking choices. I felt the city was unfairly taking advantage of me and my situation. Then I heard stories and observations about people blatantly misusing disabled parking placards. People that are perfectly mobile would park on the street, hang the placard, and run into an office or store. I have heard of marathon runners who, after the race, get in their car, take their parking placard down, and drive away. These people are -- these are -- are -- people usually park on the street longer than the time allowed, rather than using a parking garage or public transportation. Their misuse is taking away parking that I need, parking that is close to the stores and the offices I need to get to. Then I started thinking, it's not the city that is taking advantage of me and my situation, it's these people. The plan that pbot has created does not only -- does not limit my choices, it expands them. Not only will it discourage misuse of placards, it will keep street parking rotating at a reasonable pace. This plan will also make sure that there is more disabled parking where it is needed by reserving spaces and offering permits. I am excited to see how closely pbot has worked with the disability community and listened to concerns. And I look forward to working with the city to ensure this plan is a win-win for all parties involved. Thank you.

Hales: Thank you.

Novick: Thank you so much.

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Hales: Ok. So do you have other invited testimony, or it's just open to public testimony at this point? Ok. Thank you very much.

Novick: Thank you so much, sara, thank you jill.

Moore: We have six other people signed up.

Hales: Good afternoon. Welcome.

Fran Gardner: Good afternoon, commissioners. My name is fran gardner, I apologize, I don't have prepared remarks, and i'm afraid I might be a little -- can you hear me ok?

Hales: Yes.

Gardner: I might be a little bit -- well, dispersed in my comments. I have ms and have had it since the mid '90s. I don't fall into the wheelchair placard category, because i'm not disabled enough. However, I do have quite a bit of trouble parking. And the idea that you can park close to city hall, I don't think the problem is placard holders, I think it's all those police cars. I didn't see a lot of handicap placards, i'm parked five blocks away, and i'll probably have to call my husband to give me a ride back to my car. I wanted to make a comment about the history of this program. I think we're actually going backwards in time a little bit, when the ada went into effect, the city of Portland created a whole bunch of disabled spots that were dedicated for disabled people. There was like one per block, and they went largely unused, and the whole idea of adding the parking -- free parking permits, I think was to make that more flexible. And so now we're going back to, it sounds like we may end up having a lot of spaces that don't have anybody in them, and tends to make drivers who aren't disabled a little bit irritable. I also want to mention as an aside that I actually got a ticket in arlington, virginia, a couple years ago because I assumed because Portland's program works so well for me, that everybody who had disabled parking spots had the same program. I parked in a disabled spot, didn't plug the meter and got a \$30 ticket. I understand the issues of people not being able to park. When I was employed I worked for 34 years for what used to be "the Oregonian," this program was extremely helpful for me, and I did want to give credit to commissioner Fritz for pointing out that the cost of this program even for somebody who is employed is going to be more than most employers set aside. Is that my time?

Hales: Go ahead.

Gardner: It's more than most employers are presenting to help people with their commute. It is virtually impossible for somebody in my condition to ride tri-met because everybody has to stand up, if I ride my scooter. So -- And I think the last thing I wanted to mention is that if we're riding -- 186 citations for \$720 that's nearly \$800,000 if i've done my math right. It's not like this is costing the city as much as maybe as you think it does. I guess the last thing I wanted to say is that I think the problem is that people are using the permits and we have a lot of people parking downtown all day who don't -- who shouldn't be. But it's kind of punitive for those of us who actually do have mobility issues to be having to pay as much, especially if -- especially if you're somebody who works downtown full-time. Thank you very much.

Hales: Thank you. Good afternoon.

Chuck Frayer: Good afternoon. I'm chuck frayer, I live in vancouver. I'm a person who works over in the edith greene building right now. I am an accessibility -- I hate to use the word "expert," because that means I know a little bit more than others. But I was in a car accident in 1970, and so I have been around since before the invention of curb cuts. And so I want to take you and let you think about something a little bit differently. My world is universal design. And looking at -- as a matter of fact I was on a commission for the americans with disabilities act way before it was even -- it got started. I was -- I happened to be working back in d.c. at the time for the u.s. Forest service, and I was asked to be on this commission. So as a designer, I always go back to expectation. If you are charging for something, then there's an expectation of what that -- of what you're getting for that money. As a person who sits in a wheelchair, I want to make sure that when i'm paying that money, that i'm going to be able to get from point a to point b. Now then, that means also that the parking

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space has to go on me for you to call it a disabled parking, it has to meet certain guidelines and standards, design. It also means that you have to have an access route from point a to point b. Now then, that takes us around to grade with the steepness of the access route is, from wherever the disabled parking space is, to wherever you're going. That includes curb cuts. So you can see where i'm going with this. Not too many places in this town can you find -- also in the design of where a design parking disabled parking is, it cannot be any more than 2% one way or the other. I'll put lots of money down that you can't find something like that in this town. All i'm talking about is starting to open up a huge, huge legal can of worms. This -- bringing this up for you to think about, because I haven't heard anything about that. And this whole deal of being able -- an expectation of paying for something, think about it. You pay for something, there's an expectation that comes along with that. And with that, then, by golly, I better be able to go and get from point a to point b, or else I am not going to be a happy camper. And therefore, you know happens with happy campers, and so i'm just bringing that up for you to really think about, because I haven't heard anything about all of this.

This is a wonderful concept, and I would label it as a pilot program. I wouldn't -- because you got lots and lots -- all I heard was lots and lots of unknowns. And this is a very complicated, lots of pieces and parts to this program that you're talking about. Who goes -- I wouldn't know living in vancouver, what to even go and do. I wouldn't know. So thank you, and I just wanted to come over across over here and see what this is really all about.

Hales: Thank you. Appreciate that. Hope you like that remodeled building. It looks pretty good from here. That's another story.

Framer: Yeah. We'll talk about that later. [laughter]

Hales: Thank you.

Bernie Bottomly, Portland Business Alliance: As someone who worked in that building more than 20 years ago, I can tell you any change would be an improvement. Mayor hales, bernie bottomly, I want to add my endorsement of this change to those that have come before. And also my appreciation for commissioner novick in his work on this as members of the disabled parking task force have mentioned more than one time, it has been a long slog, and I want to compliment them. It's been a difficult conversation as you can hear from just a description of the program and the issues that are raised, it's not an easy equation to solve for. I spent a year in a previous life writing the elderly and disabled transportation plan for tri-met, and so I understand just how difficult it is, because it's hard to imagine when you're putting together an ordinance or rule that meant to apply to everyone, what every individual circumstance is likely to be for each person, and different levels of ability they might have. That said, I think this is a great start, and a tremendous effort to try to address as many of the issues as you can when you're writing a rule that applies to everyone. I think the fundamental issue, commissioner novick touched on this, is that right now the differential between what you pay if you are paying full freight to park in downtown and what you can do as a holder of a disabled placard is so great, that there's just too much of an incentive to try to tweak the system to get around corners of that system. And what the research has shown is that in other cities when you put a price on that, what's free now, it really changes the dynamic. It doesn't solve every particular individual circumstance, but it really does change that dynamic to one where you're really getting folks to think about, ok, is this the way I want to approach it, or is there a different way to approach it? And I think it really does take those folks who are not outright abusing the system, at least wishing around the edges, takes them out of the equation. And it frees up those spaces not just for folks who are retail customers, but it frees up those spaces for folks who have disabilities, and are trying to get to the retail establishments downtown as well. So we're fully in support and appreciate all the work that has been done on this.

Hales: Thank you. Thank you all.

Hales: Good afternoon. Welcome.

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Tamara Kennedy Hill: Hi. I'm tamara kenndey hill, with travel Portland. Also here representing the downtown market initiative, focusing on downtown vitality. Mostly we're here to support the proposal being presented, and add a little bit to what -- [inaudible] the downtown marketing initiative did a survey preholiday around people that are coming into the downtown area, and one of the things we found was the number one deterrent for those coming into downtown for nonwork reasons was the lack of parking availability. So we want downtown to bring vibrant attraction for Oregonians and visitors as well as provide access to those that need parking, we support the recommendations and the proposal from the task force, we feel that the recommendations will allow people that need access to street parking, wheelchair placards will ensure those who need access most will have access to those. As well as provide a more equitable solution. We feel this proposal does that, and we also want to support any communication for outside visitors coming in on whatever regulations are -- or solutions are addressed. Thank you.

Novick: Thank you very much for that offer. Thanks.

Richard L. Koenig: Good afternoon, my name is Richard L. Koenig, I've been in front of you folks before. Is there fraud in disabled parking? That's an excellent question, commissioner. I wish to give thanks to the task force on their six years of working on this project. With that said, I'd like to know whether they were fully informed. Because agreements that are made without all the facts on the table are problematic. I'd like to ask Sara Schooley -- is that you? Whether the task force members were fully informed of the following -- and I'm urging everybody here to take just the notes, just the part that involves the numbers. Here's the first number -- OAR, Oregon administrative rule 735-016-0020, subsection 7. That one says operating motor vehicles means, or operating motor vehicles in Oregon means, physically operating vehicles for business purposes. Did the task force become informed of ORS 801.305? That was a bill that was reenacted into law in 2007 that defined highways as open to the public, including disabled members of the public, as a matter of right, right. Were the task force members informed of ORS 803.040? If this state has issued title, the vehicle shall remain titled and subject to all of the provisions of the vehicle code. If the state, that means a lot of times they are, but frequently they're not titled. Did the task force become informed of the legislative binding that is made under the authority of cities at ORS 221.485? Cities are delegated the regulation of for-hire vehicles, for-hire vehicles, and the owners and operators thereof. And there is no other power of the city to regulate vehicles, by the way. The city of Portland's ordinance that supports this line in the state law -- can I take the time to --

Hales: Just try to sum up.

Koenig: Right. I got three Portland city ordinances here. Title 16.20.550, travel lane parking permit. In that it describes the protected class as being for the protection of the public. Under title 16.20.560, it describes the regulated class. The firm or similarly situated individuals. And then at 16.20.012, this is the key language, this is the key language. It says, except as specifically directed by the authority of this state, or this title, or when necessary to avoid conflict with other traffic, it is unlawful to park or stop a vehicle that is required by state law to be registered, that is not registered. That means that there are a lot of vehicles that don't have to be registered, and they belong to the public whether we are or are not disabled. And I really recommend that the task force get involved in the legislative process and put together a bill that provides for specific relief for disabled public members. Thank you.

Hales: Thank you. Thanks very much. Good afternoon.

David Miller: Good afternoon, mayor, council members. I'm David Miller, government relations director for Oregon Paralyzed Veterans of America. Also a member of the United Veterans Groups of Oregon. Let you know that those members are real quickly -- discuss the Air Force Sergeants Association, the American Presidential Award, the American Legion, the Amvets, Disabled Americans, Veterans, the Korean War Veterans, the Marine Corps Elite, the Military Order of the Purple Heart, Noncommissioned Officers Association, the LPVA, the Veterans of Foreign Wars, I always forget the

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last one. The Vietnam veterans, who could forget those. Vietnam veterans of America, those are the groups of UVGO. I was emailed from sara and it was bypassed through Shoshanah because the commissioner novick was inquiring if the working it out some information if different groups could possibly be effected. Well the everybody knows what goes on basically in portland the rest of the state follows. Everybody kind of watching to see how portland handles this parking issue. And I don't have the time today to go through everything but as a collective and living downtown myself, and living in a permanent area by the ballpark, where there is a ball game, our parking, street parking rates go up. Then, we're talking about another cost going up. So, a ball game park, for over three hours, could be quite expensive, if you are in that district of town. I don't know how is that affects other districts and towns, i'm just sharing what that would be to me, if I was parking on the street. The three different parking signs, would be disabled, and then wheelchair user, and then van user. Or van accessible. Those three are confusing to even me, you know is, where do I park. But, the information I was getting back, when I put the email out to the group, asking for their input, the main question is, the questions were, what the main request was, that if this was to happen, that the wheelchair loading areas, in or, i'm not going to go through the pages, of the ors statute, but I will leave that, with the clerk, and let her send that, you know, but, of having the, the items, dropping of the, lift, to where, you know, you might have the space, you could have a light pole, you could have newspaper stands, and you could have whatever there, but, to park closest to the curb cut, would be pretty much the corners of every street, in the downtown area, was, what was suggested. That seems to be the most cluttered areas in downtown, as well. It's understood by everybody in the group, that we're just responding, that it is something that needs to be addressed and many are business people, with disabilities, as well, and they understand the need to have a turnover for the revenue, as well as the city turnover revenue for parking. The issues right now, as they stand, is an opportunity, to be a pilot program, to build from, is pretty much what was understood, in discussion, it will be more -- better addressed of a study project, or pilot project, than to put it something that's etched in stone, try to fix it as you go along. I review the 2009, the 2009 group, that many of the folks sat on with the parking task force, as I was reading through here, and there is some really excellent, you know, suggestions by the group, that never have transpired as far as i'm aware. It was split to a minority and a majority group, of opinion. Many of these would have answered the questions here today. If some of these would have been looked at and studied then. I don't think you would have that big of a problem. I just think have a study group, sorry, have a study group and a task force really take heed to what these folks are saying, and do some really good stuff right here, and I will leave this with the clerk, and there is some issues with the ors. They are a bit more beyond just the obstruction of the curb cut, that were addressed, that were selected, picked out, that I will leave, you know, with the clerk.

Hales: Thank you very much. Thanks a lot. Appreciate it. Appreciate you coming, all three of you, thanks. Do we have others signed up?

Moore-Love: That's all.

Hales: Anyone else that wants to speak?

Fish: Commissioner novick, since we're doing council discussion, in light of that testimony, in the, the provision in the proposal that has the 50 designated spaces, what I would urge, as you identify those spots, we do have a number of programs, and specific facilities within the areas that you are covering, that do serve veteran. The veteran's service center in old town/chinatown, programs that serve, I believe, some disabled veterans, so that's, I think, what we received, is, is an opportunity to, identify some specific areas where disabled vets use services as a guide post for where we do designated spots.

Novick: Exactly.

Fritz: And I'm assuming you are going to work with the commission on disability to identify the best places?

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Novick: Absolutely.

Fish: I appreciate the testimony.

Hales: Other questions or council discussion before we vote on the resolution?

Fritz: I would like to propose my friendly amendment, and that is to change the last be it further resolved. Instead of at the end, saying, that the report will be back to, in july of 2015, to change it to by september 30 of 2015.

Hales: Will that work.

Novick: Sara, do you think that's ok? Does that work?

Fish: Is that 2014.

Hales: 2014.

Fritz: 2015. It's what it says. It's a year after. This is the last be it therefore resolved, and it talks about having community input into their report, so first union, you need a year's data and then to get time to assemble that, and --

Hales: You are saying september, so you have a year of elapsed time. And then some time to study it.

Fritz: You have a year and then three months later you bring the report to council.

Hales: Okay. I see that. Sounds like that's acceptable, and that that will be changed in the text of the resolution, and that will be the timetable that we operate on. Ok. Thank you. Roll call, please.

Moore-Love: Is there a second?

Novick: Second.

Hales: Roll call on the amendment.

Novick: Aye. **Fritz:** Aye. **Fish:** Aye. **Novick:** Aye.

Hales: Aye. [gavel pounded]

Hales: And on the resolution, itself.

Novick: I really appreciate everybody's testimony today. I really appreciate the work of the members of the task force. I really appreciate sarah's work on this issue, and I appreciate the work of the, of the members of the, of the commission on disabilities and, and i'm just -- I mean, as we said, this is -- there is no perfect answer to these issues. This is going to be a little clunky. What I am satisfied is, is that we have done as much as any other city has to think of the possibilities and be as fair as possible to as many people as possible. So, I very much appreciate the council's willingness to entertain this, this somewhat innovative proposal, and I vote aye.

Fritz: When I first heard about this, I was going through the same stages as Suzanne schooley did. It was awful and then got to this is wonderful. I really appreciate the work of the commission on disability. Your endorsement was the turning point for me. And commissioner novick, you have 60 days, where many others have tried and, and not done so. This is, in a sense a pilot project so we can see how it works, and you and your staff have been able to answer every one of my questions, and those that I have seen from the community. And as was noted, not everybody is going to be entirely happy, but a way to move forward and to address the problem that was identified of people who are not suffering from a disability or, or needing to use the placard, using those spaces, and stopping people from, who need them from parking there. So, thanks to pbot staff as well. Aye.

Fish: We have had a long week of council proceedings, and I have now discerned a common theme in all the work we've been doing, which is people have come before us, and said, in essence, the solution is not perfect, but it is, represents substantial progress, and we will monitor and see how we can enhance it over time, and I think that increasingly, by the way, that's something that, that happens a lot in Portland, and i'm beginning to wonder whether that happens functionally in Washington, d.c. But, if this was an easy issue, this would have been resolved earlier than six years, and I, too, want to thank commissioner novick for, in his, actually, he's only been the commissioner in charge now for less than six months. For five months. Four months, and a half --

Novick: 5 and a half.

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Fish: 5 and a half months.

Saltzman: Sold. [laughter]

Fish: What took so long, steve? [laughter]

Fish: But, I think you crafted a very thoughtful solution to a very complicated problem. You have made it clear this is a pilot, and we will come back and monitor and modify as necessary. So thank you for your leadership, and thanks to the task force, and the commission, and everyone who testified today, and i'm very pleased that we're able to make progress on, on a complicated and challenging and, and heavily regulated area, which is probably why there's been so much difficulty nationally finding the right balance, and I think that commissioner novick, you may have found that, so thank you. Aye.

Saltzman: Well, I, too, want to thank commissioner novick for his leadership. I think that this has been too long in coming. And I mean, anybody who works downtown, can simply walk down major streets, and see the blocks filled with disabled placards and wonder, what's really going on here, and I think, you know, without, with few exceptions, there is too much gaming of the system going on here, and this will end that. And that's a good thing, and it's, really -- a lot of good work here, and a lot of good balancing, but I think that that's over and above what this is about, is making sure that people who don't need disabled placards are paying for parking. So, thank you. Aye.

Hales: Bravo, this is, an attractable problem that's been around for a while, so, thank you, commissioner novick, for your leadership, and pbot for great work -- working with the disability community and your own task force patiently coming up with a creative solution to a really intractable set of problems. So, as has been said by the members of the council, this is progress, and in a difficult situation. Where we do need to make sure that it works in practice, I have no doubt that will be the case under this same team's careful supervision. Thank you. Aye. [gavel pounded]

Hales: We'll take the second Item, which is just an emergency ordinance roll call.

Novick: Aye.

Fritz: I really like it when i'm early in the voter poll and we have two things to vote on because I can add the important people in my second set of thanks that I should have thanked in the first set. And that includes Nickole Cheron in the office of neighborhood involvement and Patrick philpott who helped staff the office of equity and human rights disability commission work, and sara hussein in my office, who is no longer in my office, she's with the office of neighborhood involvement, but who worked on this in a previous iteration, aye.

Fish: Let me also add, sara schooley, for an outstanding presentation, very clear and this is not -- this is not an uncomplicated issue, so, thank you for the clarity and the, work on your presentation. And your team. Aye.

Saltzman: Aye.

Hales: Aye. [gavel pounded]

Hales: We're going to take a momentary break but before we do, it's particularly fitting that, that we have representatives of the disability community and our transportation director, and some smart group advocates in the room because I would like to take a moment of mayoral privilege, if I might and, and in an unplanned and unofficial special order of business send the city of Portland's commendation to the city of cincinnati. And here's why. Cincinnati has come to Portland to study what we've done in terms of smart growth and transportation. Quite a few of those cities have gone back home and tried to do things differently. They are building mixed use development in salt lake city, of all places because people came to Portland and got some good ideas and inspiration, cincinnati has struggled to build a streetcar project. You would not believe the trials and tribulations it has been through. It was subject to a city-wide vote that would prohibit cincinnati from spending a dime on rail anyhow and anywhere with the coalition supporting the measure that you would not believe, which consisted of libertarian party and the naacp. Try to wrap your head around that, and fortunately, that failed, a governor got elected who did not like rail transportation,

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and pulled the state funding out of the project, and most recently, they elected a new mayor who campaigned against the project and threatened to pull all the funding. And this afternoon, was the federal deadline for the city of Cincinnati to say, to fish or cut bait, and by, by a 6-5 vote, two hours before the deadline, the city council approved it going forward. So, I would like to say, from the city of Portland to the city of Cincinnati, one we commend you for moving forward. And two, we applaud your citizen activists for keeping a good idea alive under fire for a very long time. And working for a better future for your community. And we would like to send you a Holiday welcome and greeting from the city of Portland, and welcoming you into the family of streetcar cities. So, let's hear it for Cincinnati. [applause] thank you, we'll take a recess. We'll take a brief recess and come back for our final item.

Hales: Ok, item 1212, Karla.

Item 1212.

Fritz: It is my pleasure to introduce the budget and staff implementation report for the city-wide tree project. For multiple reasons, one, I am now in charge of both parks and the bureau of development services, and so, I'm the lead for the council on this project and, and the second of all, because I helped get it going as a community activist back in 2005 when the southwest neighborhood joined with first east Portland than with many neighborhoods city-wide to ask the city to do this project. So that citizen led effort, which we will hear about in a moment, resulted in the adoption of the city-wide tree policy review and regulatory improvement project. Quite the mouthful, in city council, in April of 2011. The project was accepted for funding by council in February, in 2007-8 in response to the community concerns about how the city regulates its trees. Primarily the lack of regulatory consistency and predictability, and poor customer service. And in May of this year, council voted to extend the effective implementation date from July 2013 to January 2015 due to the budget constraints. Council led by commissioners Fish and Saltzman, then directed staff from the development services parks and environmental services to return to council in December of 2013 with a budget and staffing implementation plan for the tree project. So, here we are today. In response to the staff from the three bureaus have been working diligently over the last six months to ready the city for successful implementation of the new multi-bureau program. The presentation you are about to hear lays out the budget and staffing needs, which is the focus of today's discussion. We begin with opening remarks from the directors of parks, development services and environmental services. So if you could please come forward worthy directors. After that, we'll have a short technical presentation, and then two panels of invited testimony, and then open to citizen testimony, so thank you, everybody, for being here, and we appreciate those of you who have been able to stay due to the delay. Director Abbaté.

Mike Abbaté, Director, Portland Parks and Recreation: Mike Abbaté, Portland parks and recreation, and as you know, Portland parks and recreation is responsible for managing the city's urban forests. The new tree code, unlike the current code, is responsive to public demand for, really, three things. First, the improved customer service infrastructure, so a one-stop shopping by adding expert staff with knowledge, of both trees and of the code. And number two, to make sure that, tree preservation and increased enforcement capabilities are in place for the city. And thirdly, that there is more understandable and consistent regulations. And these new regulations will ensure that Portland's urban canopy will be protected and continue to grow over the future. Much of the city's urban forest is comprised of residential trees, in fact, we anticipate approximately 135,000 new residential households in the next 20 years. And these new regulations will ensure that the city's forests, are protected today and into the future. The urban tree canopy is valued at \$5 billion, as a city asset. And the citizens of Portland get about \$38 million of benefit from trees every year, and those are, are wide, wide ranging, they include cleaner air but also include increased property values, increased profits for retail businesses, reduced stress and improved human health for those

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living near trees, and reduce storm water management costs. With that, I will pass it over to my colleague, paul scarlett.

Paul Scarlett, Director, Bureau of Development Services: Thank you Mike. Good afternoon, paul scarlett, bureau of development services director. First, I am pleased to be part of this process and to express my support for the report. I first want to thank a key staff person, mieke Keenan who has been responsible for helping to develop and carry forward the code, or the council note from last time. For today. And she works closely with mike hayakawa, and together, along with the land use staff, and working with staff from the Bureau of, of parks and recreation, and jenn cairo and others, and bes. There's been great collaboration in working out some of the details part of this report. And the report includes information that will be shared with you by mieke and jenn. That speaks to, to some of the regulations provisions that will allow for development services to require more trees preservation. And for development projects. The amendments to title 33 will focus more on tree preservation and actually, will allow for more robust planting of higher quality, larger trees, and as part of land divisions and also, as part of the land use review, it will be in lieu of the land use reviews, you can improve and, and compliment the, the urban forest with these types of trees, through tree preservation and in lieu of long, lengthy and costly complex land use review cases. So it will be more straightforward, like commissioner Fritz I was involved in the early conversations, around streamlining the various tree regulations that exist in a variety of codes. Certainly, pleased about the portion of the tree project that was adopted and went into effect. We're focused now on phase 2 and, and in getting that adopted, hopefully in january of 2015, but, the involvement of the bureau of development services, with bes, and with parks and recreation, this is a very collaborative process, and we're more than happy to be part of it, and looking forward to a successful outcome. Thank you. I will turn it over to dean.

Dean Marriott, Director, Bureau of Environmental Services: Good afternoon, mayor haes and members of the council. Dean marriott, environmental services director. And we have a lot riding on this, because, because when commissioner Saltzman helped to make the decision for properly sizing the combined sewer overflow tunnels, we consciously counted on the use of green infrastructure, so that we could properly size those tunnels, and not overbuild them, so we saved rate payers over 100 million in properly sizing those tunnels. And we rely on green infrastructure to manage storm water. And trees, the urban tree canopy is part of that green infrastructure. In the past five years, we planted over 32,000, trees in Portland in order to help achieve that storm water management goal. And to help keep the willamette and the columbia slough and the columbia clean. I really want to recommend to you this report because I think that it helps us make sure that we properly manage the existing tree canopy that we have. So, that we're not spending money to plant new trees and yet, ignoring the existing tree canopy. So, I think that it serves the community very well. And, and my colleague, mike, mentioned the benefits to energy, air quality, and property values we wholeheartedly endorse that. And I recommend this report to you. Thank you.

Fish: If I could make a comment, the -- I started my history on this project on this began with parks and has extended to bes, and who knows, paul some day, we may be working together. And, and, but, -- what you just said, dean, I hope is stated and restated, every time that we talk about the green infrastructure because one of the most important things that I have learned in a very brief period of time that i've been at bes, is that we assume the environmental benefit says of the green infrastructure. We assume things like clean air and clean water, shade, temperature, livability and, and all the things, we often leave lead with those arguments, but what you just said was, in the cso program, we save money because of investing in nature. I believe the most effective way going forward for us to talk about the investments of green infrastructure, may not be leading with the environmental piece, because everyone is going to put a different value on that. In terms of the short-term and long-term, but begin with the return on investment. Because that's our strongest case. That harnessing nature saves money over the traditional technology. And everybody can value

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that environmental piece differently. And so, I hope that that becomes a recurring theme when we talk about the green infrastructure because frankly, it's the part that sometimes our critics don't fully understand. And if I'm a rate payer or a taxpayer, and you said that I can save money by using the green infrastructure, I didn't care about the environment, I would still be -- I think I would be a supporter, and we need to keep -- we need to come back and continually highlight the fact that, in the long run, it saves us money.

Marriott: Good point and I am glad that you emphasized it because that's why I mentioned that it was, was an important decision years ago, when we properly sized the tunnels and we're proving every day the investment of green infrastructure saves rate payers money.

Fritz: \$100 million in rate payers money, and to emphasize not a penny of the money is proposed to be spent in the implementation of this project. It's our general.

Marriott: That's great, thank you.

Abbaté: So, I would like now to ask our interbureau project team to come to the table, jenn cairo, our city's urban forester, and roberta jortner, the lead planner from the bureau of planning and sustainability and leading off mieka Keenan, the citywide tree project coordinator from the bureau of development services.

Hales: Good afternoon.

Mieka Keenan, Program Coordinator, Bureau of Development Services and Portland Parks and Recreation: Good afternoon. My name is mieka keenan and I am the program coordinator for tree code implementation, and I work for both the bureau of development services, and Portland parks and Recreation. Helping the bureaus get ready for a successful tree code implementation. We are here today to present the bureau's implementation staffing and budget plan as directed by city council this past may. Since the project adoption, in 2011, the bureaus have been working diligently at setting up the necessary procedures to administer the new regulations, including but not limited to computer programming, new applications, and new application requirements, and all of the various work flows and processes that need to be in place to make sure that we have a seamless and integrated implementation. The staffing proposal today is based on these code requirements, as well as public expectations for customer service. This proposal meets the minimum staffing requirements for successful administration, of the new codes. A lot of work has gone into creating the budget. Both when the project was adopted and by the special project manager who evaluated the tree code implementation requirements. As directed by council, the bureaus have evaluated the initial estimates, and updated the budget projections based on current cost. And that's what we're presenting to you today, and also, what is included in the report. Both bureaus will continue to work with their budget advisors from their bureaus, as well as the city budget office, in refining their estimates. And will come back during the regular budget cycle for, the final requirements. We are here today to ask you to accept our report, but before we get into, more of the details, roberta jortner from the bureau of planning and sustainability will give us a brief overview on the history, purpose, and highlights of the tree project. Roberta?

Roberta Jortner, Bureau of Planning and Sustainability: Thank you. Good afternoon. I am going to start with the impetus for the tree project or the problems that we're trying to solve. As commissioner Fritz described, community dissatisfaction with Portland's tree regulations is longstanding. And residents are concerned primarily about lack of protection for trees and loss of trees in the new development, inconsistent regulations, and confusion about tree permitting requirements, difficulty finding the right city staff to go to with questions and complaints, and lack of enforcement. Developers don't like the existing rules, either, they characterize them as rigid, unpredictable, and ineffective in obtaining the desired results. Staff are frustrated because the rules are spread between eight titles, and they are full of gaps and conflicts and ambiguities. And as mentioned, another influence on the project, was the growing awareness of the benefits of trees, that director abbaté alluded to. And I think it's recognized that although the city, unlike many others, is,

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actually, holding fairly steady on the overall tree canopy, and some parts of the city canopy is going down and in others, it is going up, and there are major disparities in the tree canopies across portland neighborhoods. And this came up during the hearing, that trees are an equity issue, and particularly in infill development, and we're expecting considerable growth as the director abbate referred to. New regulations provide a basic safeguard and also a mechanism for regenerating the urban forestry over time as the city grows. In addition, the 2009 climate action plan and the 2012 Portland plan calls for enhancement of the urban forest, and stronger tools. And as commissioner Fritz alluded to, the city-wide project was initiated in response to the community concerns and in 2007, the city council adopted the city's first urban forest action plan that called for a comprehensive project of the tree regulations, and concerned citizens approached council during that budget cycle and council agreed to fund the project. Planning and sustainability was tasked with leading the multi bureau effort and worked closely with the development services, parks and bes throughout. And brought in transportation and water along the way as needed to deal with infrastructure issues. Community participation was really at the heart of the project. And began with the project scoping, a public process and continued with the convening of a diverse and very lively stakeholder group representing neighborhoods, home builders, industrial and institutional uses, watershed council, arborists, friends of trees, audubon and others. In over eight months, this group devoted collectively more than 1,000 hours to help shape the proposals. Staff attended dozens of meetings in the community, as well during this period and to the end of the project. The initial proposals were vetted by staff and the stakeholders at the planning and urban forestry commissions, this was preplanning sustainability commission in early 2009, and the commissions provided feedback and support to move forward, and that's when we entered into the code drafting in earnest, and working with the bureaus to estimate costs, fiscal impacts and staffing needs. The proposed draft was published and the planning commission and urban forestry commission held an unprecedented joint hearings and i'm serious, we had 18 people, that we were listening together in one room, as more than 70 individuals, agencies, and organizations provided testimony. In over a five-month period the two commissions worked hard with staff to address the concerns raised directing changes to both strengthen and simplify the code and to reduce costs. That was a primary goal of the commissions as they worked to, to make it work. And they also wanted to make sure the code was compatible with the city's development goals. And chris smith from the planning and sustainability commission will be addressing this in his remarks. The city council kicked off their public hearing to consider the joint planning and urban forestry commission's recommendation in february of 2011. Council heard two hours of testimony in support of the proposal, but also, heard some concerns and outstanding issues and they directed additional revisions and adopted the package unanimously on april 13, 2011, with broad-based support from home builders, Columbia corridor association, neighborhoods, audubon and any many others. And you are familiar with the phase implement --

Fritz: I want to interject, to me it was very similar to what we did on the earned sick leave, that we had a primary hearing that took a lot more input and made a number of revisions between the council hearings, so it's analogous to that process, a lot of vetting of what the policy should be.

Jortner: Right, there's a check sheet that the council went through, and one by one, through 20 different decisions that the council had to make. That was enlivening. And you are familiar with the phased implementation proposal and the current effective date. So, finally, you know, what was adopted. What are the highlights of this package? First, a suite of customer service improvements, including we improved online permit tracking, and a new tree website and this will allow the public to access tree permit information and other program information more readily. And a new single point of contact will provide a one-stop shop to, to respond to public inquiries and complaints. The tree project package also features a new consolidated tree code, title 11, trees, and they establish the regulatory framework with public and private property, and in development and non-development situations. New tree preservation and planting standards will apply on the development sites, and

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on infrastructure projects, they will apply through existing building permit processes and will not trigger additional reviews. They provide flexibility allowing developers to pay a fee in lieu of preservation or planting and the city can use the revenue from these fees to plant trees within the same watershed and can focus on tree deficient areas to help with redistributing the canopy and addressing the equity issues that currently exist. New flexible criteria, as was mentioned, will improve the quality of tree preservation and land divisions and the code provides more options for root protection on the development sites, which will, you know, give developers more choices while hopefully encouraging more trees to be preserved. When a property owner wants to remove a tree and there is no development on the property or they can, they can -- a standardized tree permit system will replace the current piecemeal approach. Tree removal permits will be required based on the size, health, and the number of trees to be removed rather than the type of the property the tree is on. Confusing single family exemptions will be replaced by a simpler system that applies uniformly city-wide, and the system will allow removal of most trees with a simple basic tree for tree replacement, with additional mitigation required for removal of very large healthy trees or multiple trees. And the new code updates and standardizes enforcement procedures. So, in summary, the adopted package addresses most of the key concerns that were raised during the process, both in terms of the things that Portlanders wanted the city to address, and issues and concerns that came up along the way. However, we know that the system will need to be tested and will likely need to be tweaked in the future as we learn more. And as we monitor and now I will hand it over to jenn.

Jenn Cairo, City Forester, Portland Parks and Recreation: I am jenn cairo the city forester and the city's nature manager for community gardens, horticultural services and urban forestry for the parks bureau. And what i'm going to present today is some of the steps that we have taken to date, to advance the new code goals, in spite of the delayed implementation, and also, some information on the staff positions needed to implement the new code. Here on this slide you will see some of the key accomplishments towards new code implementation to date. I'm going to highlight a couple of these, those being the housekeeping amendments have been completed, these made clarifications to the adopted code, also the online tree pruning permits have been up and running for several months now, and are performing well. Through this system, property owners are able to instantly self-issue tree pruning permits for simpler pruning needs at their convenience, rather than going through an application and issuance process with the city offices, and the last one I highlight is among the processes developed to support new code implementations, is a monitoring or a program evaluation plan, which will help us to evaluate how well we are meeting the new code goals in order to make adjustments as needed and appropriate. Lastly I would say that in this interim period development service and is park staff has been working hard in collaborating closely for about two years now to achieve these and other implementation steps. This type of collaboration also advances the new code intention of creating a consistent tree regulation program that fits together seamlessly, regardless of regulating bureau. Onto staffing needs. One of our objectives in understanding the staffing needs for the new code included meeting the basic project goals that you've been hearing about, from roberta and others. Those include improved customer service such as faster permit and information turnaround times, clear, public information and simpler processes, and more protection of existing trees and the public benefits that they provide to us all. Especially from larger trees. And also, consistent predictable requirements that are better enforced. So, the staff recommendations being presented are derived from those initial projections, included when the tree project, in the tree project, at the time of coded option in 2011. When the code was adopted, the bureaus were directed to review the budget assumptions and needs as they got closer to implementation, based on their then deeper understanding of the new requirements. The project presented in 2011, project needs presented in 2011 were based on analysis of permit volumes over three years, and the time and staffing needs to accomplish specific permitting processes. For example, the time needs for staff to travel to an inspection location. How much time that staff would need on-site to perform between

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inspection duties, and how much time would be needed to perform plan reviews for development plans, and similar. And this resulted in the amount of staff needed for a permit process that was then extrapolated across permit volumes for a year, we use the same method again, the same one used to create the 2011 numbers, applied to last year, 2012's permit volumes to ground truth basically what the staffing needs would be. Planning and sustainability has assisted with this, as have the finance managers from the bureaus involved and the city budget office has been comfortable with the methods used. Our goal throughout has been to determine the minimum staffing needs to effectively apply the new code, and meet the tree protection smoother regulation and customer service goal demands. The result is minimum staffing needs that are largely consistent with those initially projected. In addition, what we'll present to you today are the estimated costs, which now include direct and indirect costs, and the changing cost between the 2011 recommendations and now while the initial cost estimate included salaries and benefits only. Mieka will speak more to this shortly. Lastly, please note that we are reporting today, only estimates that will be further refined during the regular budget cycle, and the bureau's implementation team will continue to work closely with the city budget office, and the finance managers to complete the budget work. Sorry. Hang on one second. I will present the specific staffing needs for the new code now, please note that none of the positions requested are management positions, supervision and program management needs will be absorbed by existing staff. The first position to discuss is the single point of contact as we call it. This classification is a development services technician II. These folks will be supervised by urban forestry but located at the development services center in order to have these staff available where customers come for most of their other city permit needs. The staff -- basically the one-stop shop for all things tree. They are the front line staff for all tree related questions. They'll be the first person in most cases that the public interfaces with regarding any tree related questions, and including permit processes, regulations, and costs. They will bridge the gap between the development services, and urban forestry in terms of the tree requirements for development permits so that residents and property owners will not have to ferret out such information on their own. They will issue some types of simple tree permits directly, and be responsible for doing the initial view of reported violations such as checking, existing permits and permit history to see if an activity reported is, indeed, permitted or not. The original staffing proposal assumed that other unspecified staff who work on other tasks would assist with these duties. To provide effective and quicker customer service, however, means that these need to be dedicated staff, both zoning code and tree code requirements, how to issue permits and understand something about tree management and have basic tree knowledge. Workload also significantly exceeds the capacity of one full-time employee. For example, their daily tasks will include calls and email volumes that we estimate will be around 170 per day, and that's something that they have to receive and respond to. This is approximately what the urban forestry office alone currently handles on a daily basis. And that often requires more than one position, one person to receive and respond to those inquiries. Added to this function are other necessary and distinctive tasks, such as the basic permit issuance, website maintenance, and serving as a resource and coordination point for bureau staff on the requirements. Given these needs, two, two of these positions are needed, this is one more than was initially proposed in 2011.

Fritz: You currently get 70 calls a day to urban forestry?

Cairo: On an average, 70 calls and emails per day. And if there is a storm, we get more.

Fritz: And if we are protecting more trees or doing more, it would increase?

Cairo: It could go up. Another distinction to be made, that's what we track at the forestry office, so if these folks are going to cover those sorts of inquiries, as well as those received by the development services for the development type of situations, it would be more. Tree inspectors are supervised by urban forestry but those responsible for trees and development situations, will be located at the development services center. And these the staff will inspect development projects,

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when tree preservation is required, and this includes things like root protection and investigating tree health and seeing if there is consistency with the approved site plans. Tree planting for on-site trees and street trees, when five or more trees are required to be planted, will also be checked. And they will be looking for things like tree species, tree locations, and consistency with site plans. Staff will respond to reported violations for development projects such as trees removed or damaged that were to be retained or if protection zones have been removed or relocated. We are requesting one additional inspector based on our 2012 permit levels and the tasks required to complete each permit process. Our assumptions are the same as in 2011, and that is that each will receive one inspection, although some will receive zero inspections, and others will have up to four inspections. Especially if there is a reported violation or concern. So, our estimates indicate that we need 2.4 tree inspectors to fulfill these tasks. But we'll be evaluating that after implementation, and are only requesting two. Title 11 regulation expands the situations where a tree permit is required, currently, a tree removal permit is needed under a limited number of situations, depending on the zoning and lot size. Increases, the new code will increase the number of regulated properties by about 35%. That indicates new additional work for some staff. More permits, potentially, but hopefully, not many. More violations and more enforcement actions. This means additional time for tree inspectors to review capital projects but also includes, excuse me, additional time for tree inspectors to review capital projects under the regulations, and there is additional processes in that, as well. So, this request remains the same from the initial estimate in 2011, of 1.5 positions. Last, two more positions, the city planner 2 is responsible for tree preservation and planting requirements, for more types of development projects, currently, most tree planting requirements are associated with new single family construction. The new regulations require tree preservation and planting for more types of development projects. And land use reviews require planners such as the city planner 2 to review tree requirements during their review. This is a new requirement. There are new tasks that will add time to each review and the additional planner will absorb the added time for permit reviews keeping review times efficient for people who are applying for permits. 1.5 city planners 2 positions are required to review the additional regulations from the tree code, and zoning amendments. So, that remains the same as was projected in 2011. And last but not least, there is also a temporary position that will exist only for a fiscal year, and that is the program coordinator. This would disappear after August 2015 and the program coordinator is the person who really oversees implementation of the new code. And, that is Mieka's position currently. They will be assisting with hiring and training staff, developing the remaining bits of the outreach plan and then implementing that so people are aware of the code, and how it affects their business and their properties. And will help bureau's transition to new regulations during the first six months of implementation. Again, the staffing levels recommended here are the minimum needed to apply the code, and it's important to understand that the new tree code creates new work to be done which requires some new people to do it.

Keenan: Thank you, Jenn. I will go through an overview of the budget summary.

Hales: Maybe, just a quick question there, if I could jump in, and that is, maybe it's more of a question for Paul after your presentation, but, so we have gone to a great deal of trouble to have our inspectors be cross trained and do multiple things. Some of us remember when there were plumbing inspectors and mechanical inspectors and structural inspectors and electrical inspectors and we have one person doing all that for residential construction why are we abandoning that principal here and having dedicated inspectors when we have proven the ability to cross train people to do multiple things. You can save that question for later if you want Paul but I'd be interested in hearing that. I was not here for the original discussion about this ordinance, but, just as a matter of principle we have tried to combine disciplines rather than separate them.

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Fritz: I think that's a good question, the fact that we started an hour late, what I would like to do is, is certainly air the questions but not the answers and then get to citizen testimony and then staff will come back.

Hales: Good suggestion, and I will abide by it.

Fritz: Thank you.

Keenan: So, I am going to review the budget summary for the first year of implementation, and as well as the second year of implementation, and ongoing. And I am going to explain this chart, a bit, so, in the left-hand column you will see the positions that jenn just explained. And the column next to that, fte, the full-time equivalent position, and that's how many staff are proposing to fill the positions, and you will see the general fund and request for year one, and the general fund request for year two. And, and the speeds that will cover part of the project cost that is will start in year two. And, and you should note that, that the first year of implementation is prorated because the project is going to be, to be in effect for six months, and, and january through june, and consistent with what was adopted in 2011, or proposed in 2011, I should say, we're asking that the general fund support 100% of implementation for those first six months, and year two, and thereafter, fees will pick up approximately 50% of those costs. And so, you will see in year one, we're asking for 8.5 full-time equivalents. And two of those positions are temporary, and as jenn had mentioned, the program coordinator position is a temporary position and will go away in year two, and also for public outreach, we're requesting .5 of an fte to make sure that we can do a broad and robust outreach plan, and that will go away in year two. And you will notice that the costs are higher than what were estimated, and at the time of project adoption, that's for a few reasons. First and foremost, it's because we're asking for two staff, as jenn explained, one for a tree inspector and one for a dsc tech 2. And employee costs are much higher today, than they were in 2011, and we have included the growth rate, and those projection, so, the numbers you see are what the, what we're anticipating employees will cost in 2014 and ongoing, and we have been asked by, by our budget advisors to, to include indirect costs. And, and as well as the direct costs above and beyond just, just salary and benefits, so this includes rent and, and insurance for employees, as well as comcast and bts expenses and, and that, that rate, which is different than, than the cost of living increased rate has also been included. We are asking for two additional cars for the inspectors, and the two additional employees above what was asked for, for in 2011. So the next steps for Implementation, we're requesting funding be available for july 1st, 2014, and the reason we're asking for it for 2014, july 1st, is so staff has the money in the bank so we can start recruiting the necessary staff, and get the staff trained for, for a january 1st, 2015 implementation. We'll be hiring staffer in the fall and, and in the winter. Especially for the development services, tech 2, that fogs is going to take some time to get hired and trained up. We'll learn the zoning code, as well as the title 11 code requirements. So, we recommend that, \$350,000 in general fund one-time, as for fiscal year 2014 and 2015 be provided, and approximately, \$430,000 on, ongoing for 2014 and 2015, as well. And these are estimates, and the bureaus will continue to work with their budget directors, as well as the city budget office, to refund these estimates during the regular budget process. This concludes our presentation, if you guys have any questions.

Fish: Before we lose this panel, can I ask you and commissioner Fritz a procedural question? I'm beginning to feel like a trail blazer in the back-to-back road game. My mind is getting mushy but I want to understand, we're being asked today to accept this report. Which is to receive it. The report has recommendations as to staffing and funding, and we have received some communication from the public saying it's either not enough, or it's too lavish. Technically, what we're doing is hearing testimony today on the report, but my understanding is the decision-making doesn't occur until we go into our next budget cycle, and then, we'll do the hard work of drilling down, looking at what the available resources are, the color of money, and how much we want to invest, so, there is really, and

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it has two bites at the apple, accepting the report today which has a recommendation, but then the deliberative part of our budget process, looking at tradeoffs and sources of money. Am I correct?

Hales: That's correct. Neither of these bureaus nor any other can prescribe the budget process but they can make recommendations, and they are doing so. And we accept the report, which contains their recommendations but that does not automatically budget anything.

Fritz: Exactly, and the report is responsive to your budget note, and commissioner Saltzman, in saying, bring it by december 13, that's what we are doing. What I would like is for you to air your questions, without getting answers for them right now, we can certainly, if the council is not, comatose on the floor by the end of the hearing, get staff back to answer the questions. Or we can bring that back into another setting, as I said, I want to get to the citizen testimony and I want to hear the testimony.

Fish: The questions we'll put on the record, but technically, we're not here to debate people's individual preferences, of more money or less. We're here to be sure that we understand the rational for that, and that will inform our budget discussion.

Hales: And I think in terms of being humane I would rather pose questions and get them answered later. Including my own.

Fritz: Does anybody have questions that they want to put down right now?

Hales: I guess my, my -- it would also apply to the other costs like vehicles and all the rest, that, you know, duplication of administrative infrastructure, versus combination, so, we can talk more about that.

Fish: My question is, you have four current and former parks commissioners here, and in the privacy of this room would you rank them in terms of effectiveness? [laughter]

Cairo: I plead the fifth.

Fritz: It's a good point, commissioner Fish because I think that we need to stop here and thank Hannah kuhn, your chief of staff, but who was the architect of bringing this, the first set of recommendations, and i'm particularly pleased that this is set mirrors what hannah's group had put forward, but then updates them in light of the current budget.

Fish: Thank you for saying that. And i'm especially appreciative that hannah has served under three, I think, three or four different mayors, and she's almost becoming the institutional memory in this building, and i'm honored to have her on my team so thank you.

Fritz: We've got quite a bit of institutional memory here too. Thank you very much for your presentation. And it's now my pleasure to introduce our two panels, and the first are commissioners. Chris smith of the planning and sustainability commissioner. And mike houck, planning and sustainability commission, and meryl redisch, the chair of the urban forestry commission. Thank you all for being here and for your patience.

Chris Smith, Planning and Sustainability Commission: Thank you, I am chris smith, a member of the planning and sustainability commission. When we started this, this project, I was on the, the planning commission, and not the planning and sustainability commission, and we did this project before we combined the two commissions, and commissioner houck joined us at that time. And yeah, and as roberta pointed out, this is a unique process. We had several joint meetings between the planning commission, and the urban forestry commission, as we work through this. This is an incredibly complex set of issues because of the organizations, that have a hand in this and because, - - because until we do this project, it was sprinkled all over the city's codes, so, it is very important in unifying that. We heard from a large number of individuals, and institutions, at the time that we did the project. There is a clear consistent message from neighborhoods that they were concerned about loss of trees, due to unregulated cutting, and to cutting occurring in situations where enforcement resources might be difficult to rally to prevent it, and we heard from the developing community that they wanted more clarity and certainty in the code than they enjoyed under the old code. So, we were very pleased to put this to council, three years ago, and have it adopted. And, you know, I play

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a liaison role between the planning and sustainability commission and the budget advisors so I was also on the other side of difficult choices about what could be funded and not, and certainly, understand the choices to delay implementation due to fiscal constraints but we're now in a better season fiscally, and I think it's very important that we take the time to look at this. This is, a -- an infrastructure system, and we sometimes tend to think of trees as an amenity but they are part of the infrastructure of the city, and this plan, which very consciously sets out to, to increase the tree canopy in the city, is really about building infrastructure in many ways, and it is foundational to a lot of our other plans, and I will, I will pass the baton to my fellow commissioner who will tell you about that.

Fish: Chris, can you and you one question, one criticism raised this week was we're regulating with too heavy of a hand, and there are other priorities for our General fund, and we should scrap this program all together, do you have a comment?

Smith: Well, I guess my first reaction is, I would not care to go and redo the 18 months of work that we did to develop this plan. But, I think like any other piece of infrastructure, it requires investment. And, with trees, that investment tends to, you know, generally, occurs with individual property owners, and I think that we owe those property owners clarity and certainty about how that will work, but, I don't think that we can relieve them of that burden any more than we can relieve them of the burden to maintain the sidewalks.

Novick: If I may, since I was not here for the 18 months, chris, could you elaborate and respond to what I think was the Oregonian's editorial board argument that's, basically, if somebody wants to cut down a tree on their property and replace it with a flower garden why should they not be able to do that?

Smith: Because, I think that is the core of the argument. For the first time we're regulating trees, in people's backyards, other than in sensitive places like environmental zones, it is a change in philosophy. But, I think it comes from the recognition that, that tree provides a service, not just to that property owner, but to the whole neighborhood, and indeed, in some ways to the city, in terms of what it does for, you know, air quality and capturing storm water, and a whole host of benefits so that people have talked about it. Cutting down your tree, doesn't just impact you.

Mike Houck: I actually around, I think it was 20 years ago, I was on the advisory committee, that advised the city regarding the cso program, and it's interesting this morning, I was on a conference call with folks, on a panel back east, specifically, talking about Portland's green infrastructure program, and there was an epa rep and, she went on and on about how Portland is a model for the nation, with regard to green infrastructure. 20 years ago we could not get epa to really allow the city to implement a lot of green infrastructure, I reminded her of that. We'll have an interesting conversation back east in a few weeks. Commissioner Fish, stole my testimony. I have three words for the editorial board of the Oregonian, and anyone else who criticized this program --

Fish: There are family and children watching. [laughter]

Houck: Return on investment. And I think that that is what we need to lead, lead with. The city's urban forest, \$5 billion capital asset and one of the most important components of the city's green infrastructure provides multiple functions, and you have heard about them earlier, including, including what we now refer to as eco-system services, which really means bottom line. Where the city is more economically healthy than it would be without the green infrastructure. In addition, the Portland plan, specifically, calls for funding the tree program, and establishing the urban forest canopy as one measure of success. The draft comprehensive plan also calls for protecting, managing and maintaining a healthy urban forest canopy as one element of the healthy connected neighborhoods and design with nature. The city and county climate action plan and draft plan and preparation strategy recognize an expanded healthy urban forestry canopy as a critical tool to address climate change. Both from a mitigation and adaptation preparation perspective. But absent all of the myriad of reasons you've been given, I will go back to roi, this is one of the best triple

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bottom line decisions you could possibly make, a healthy, thriving, urban forest improves ecological and human health importantly, and is an investment that will literally grow over time. Thank you.

Meryl Redisch: Good afternoon, and thank you for giving me the opportunity. As chair of the urban forestry commission, I want to express the views of the commission, and that is that we unanimously support the implementation of the plan, and here's why, you heard, of course, a lot of the reasons, and I was -- I was part of the work session and part of the engagement process, and from my view, there was unprecedented support, from a spectrum of Community activists to developers, homeowners, arbor care professionals, and I think that it would send a terrible message to people who put in thousands of hours to either testify or give input, and help craft a document that protects a \$5 billion asset. Commissioner Novick, you asked about the private property piece, and one of the things that I haven't heard yet is the following case to be made for why a regulatory approach in permits are necessary and permits help track the trends that are happening. So, it's a tool to use from the agency's standpoint, as well as from professionals, and people who care about, expanding and increasing our canopy, about what is happening to large, healthy trees on both public and private lands. And the unintended consequences that happen when we lose big trees. Shade. Wildfire habitat. Storm water management. Carbon sequestration, so I look at it as a tool to help us track what's happening on our landscape.

Novick: Just to play devil's advocate, it's not just a matter of tracking, right? You also, if you cut down a tree, you are supposed to plant a new one, right?

Redisch: Correct.

Novick: So you are not allowed to say, this used to be a place where a tree is and now it will be a flower garden for the rest of my life.

Redisch: I'm not sure that I understand --

Novick: It's not just about tracking but has substantive implementations.

Redisch: Sure, and the other point that I want to make is that it does not preclude homeowners from cutting down trees. People can -- it does not necessarily mean that people will not be able to cut down the trees, it provides a review and a way for once again, the city to, to look at what is happening on, on the landscape.

Novick: But if it's a large enough tree are they not required to replace it by planting another tree?

Redisch: That is correct.

Fritz: Or to pay the city in lieu. If you do want a flower garden you can go there but you're going to replace the values to the community that you cut down.

Novick: Again, just to play devil's advocate, there is a lot of things that people can do with their own property, and their own families have an impact on society at large. For example, if you feed your kids a lot of junk food, they are likely to wind up unhealthy, and drive up everybody's health insurance premiums, but we haven't yet started prohibiting people from feeding their kids junk food. So, how would you draw that distinction?

Redisch: Maybe we should invite former mayor Bloomberg to Portland, and --

Fish: No, but I think Steve raises an interesting point. We don't allow people to do bonfires in their backyard. We don't allow people to store hazardous materials in their garages, we don't allow people to, to take fats, oil and greases and dump them into the, the stream. And, and, so, it's -- I suppose, from one view of freedom and, and from a libertarian point of view that says property rights trump community rights, there is a principled argument to be made hands off my tree, but if we view the tree as having a larger community benefit, like clean air, clean water, storm water management and other things, here, we're treating it sort of like our health and safety codes with structures, a live structure, similar to an inanimate structure. I think your point has more, as a devil's advocate, has more currency around the question of is the regulatory footprint reasonable? So, I think that we have to monitor, we're not trying to create an onerous set of burdens.

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Smith: I think it's worth pointing out that it's a fairly large tree before we look at the regulatory footprint and there was a debate about how big of a tree that would trigger it during the original adoption, and we settled on a larger radius than what we started with. So, it's not like we have not looked at where that threshold should be.

Redisch: We compromised quite a bit on this. And just --

Fish: Put your name for the record.

Meryl Redisch: I am meryl redisch.

Hales: We know who she is, we know who you are.

Redisch: And just to, to follow up, I wanted to, just underscore the implementation of a new code will require clear and compelling communications plans that focuses on the positive attributes of how this works, why it was done, and how it will benefit the community. And, the urban forestry commission welcomes the opportunity to help deliver that message. We greatly appreciate staff at parks, development services and, and the planning and sustainability bureaus, for all their good work, and we thank you for your expression of sincere support, last year, and we look forward to that support again.

Fritz: Thank you very much, I appreciate this.

Hales: Thanks for your many hours of volunteering.

Fish: Do we get to fuss over you later? Is there something later in the calendar year that we get to fuss over you?

Fritz: Our second panel, is bob Salinger here.

Hales: He is.

Fritz: He's on the tree project stakeholder discussion group. Scott fogerty was not able to stay but susie peterson is representing the friends of trees, and greg schifsky, one of the first who start warts who started this project from southwest Portland is also joining us.

Bob Salinger, Conservation Director, Portland Audubon Society: Good afternoon, mayor hales and members of the council, I am bob salinger the conservation director for the Portland audubon society. I am also on the parks board and the budget committee, as well. And i'm here today representing the audubon. And both jim labbee and I served on the tree advisory committee, on behalf of audubon, we were one of the groups that advocated for that committee starting back in 2005. We've been talking about this for a long time. And it was a long, inclusive, good process. There was a lot of stakeholders at the table and, folks supported moving forward on this, and so it was exciting when it was eventually ratified by council. We're here to strongly urge you to accept the report today, and to implement this plan. We consider this package a critical part of the green infrastructure. Every bit as important as planting trees, putting in eco-roofs, building green streets. And this is a \$5 billion asset, as you already heard and we need to take care of it, we would not put in a sewer and then ignore it. This is, this infrastructure needs to be treated like any other infrastructure, and we need the mechanisms to educate people about how to take care of it, and how to protect it, and we need regulations to ensure we continue to increase our canopy and not decrease it. As I said, I think taking care of our trees is every bit as important as planting them and, and it's all the more so, because this is an asset that increases in value over time, and unlike a lot of assets, that deteriorate, a tree provides a more and more eco-system services the longer it's in the ground so that investment pays back more and more of the longer that tree is there. And we need to, not just plant them but make sure that they survive, and provide us the benefits, that's when we get the return on investments over time. And it's long been recognized our code is insufficient, confusing, contradictory and inadequate. You will see some rhetoric out there about what is the concern. Our tree canopy has increased over time. Everything is fine, don't worry about it. In fact, that's not the case. It has increased. But if we want to get to our target of, of 33% canopy at the rate that we're going, it would take 160 years. So we're increasing, but we're on a very slow trajectory, and our trees are getting narrower, and more columnar, and we're losing our big trees. So, the trees that

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really provide the greatest eco-system values, the best return on investment, are slowly being replaced by smaller trees because we don't have an adequate system in place to teach people how to take care of them and what to plant. As Chris has noted, we need trees like any other infrastructure, so, I would just end by noting that this plan was, was supported by a broad array of stakeholders, not just the environmental community and neighborhoods but also the development community, they wanted a plan that was clearer, less confusing, so, with that, I really do hope that we move forward and implement this. The last thing I have to say is addressing commissioner Novick's comments and question, if we are going to get to that target of 33%, it is going to happen across the entire landscape, it cannot be just in the public right-of-way but involve people's backyards, we're all stakeholders and we have a vested interest in making sure that our green infrastructure is adequate, that's what protects our great infrastructure and keeps that value in place, as well so I think that we have a role to play, one other point that I think is important to take into account is a lot of times the trees were put in at the condition of the development but when that development turns over, and becomes just a, basic, private lot, somebody can turn around and cut those trees down, so, we don't have a system in place that protects that investment, that's sometimes is required over the life of that investment. So, there are a lot of reasons, very legitimate reasons to say that private property owners really do have a responsibility to protect, maintain those investments. And contribute to the overall health of our landscape. And I would emphasize the fact that they do not have to plant another tree in that exact same spot. They can put it into a fund to plant elsewhere, so they can put it in their garden but they have to do some mitigation. We thought that mitigation was too low, frankly. That was one of the contentious issues, and it was substantially weakened to make sure it would not be onerous on people. Beyond an unreasonable level, so thank you.

Fritz: Thanks for being here, Bob. Susie.

Susie Peterson, Friends of Trees: I am Susie Peterson, and I am with Friends of Trees, and Scott Fogarty was hoping to speak tonight, and so what I'm reading is what he has written. So, pretend like I have shorter hair, a deeper voice, and some of these points, I know have already been touched on tonight. But, I don't want to cut corners on what I promised him I would read, so I will just go for it. Good afternoon, Mayor Hales and Commission members, I am Scott Fogarty and I am the executive director of Friends of Trees, and thank you for the opportunity to share some thoughts on the consolidated tree code and for taking time to recognize the social and economic values of trees. And the important role that they play in the community, I participated on the stakeholder committee, that review this issue over the last 3.5 years, overall I believe that a uniformed application of regulations is needed to address multiple issues, with regard to trees, and overhaul support, the city tree project. City-wide tree project. And I'm speaking on behalf of our organization, and for the trees that have no voice. Friends of Trees serves a variety of roles in planting and protecting trees, including taking a lead on watershed health improvements, recruiting volunteers, and sponsors, and educating the public about the values of trees, and helping to influence tree policy at the local, state, and federal levels. Trees are a \$5 billion asset of the city and provide watershed health eco-system services that compliment traditional infrastructure services, and provide collateral benefits. Among an array of benefits, trees clean our air and water, and absorb toxic particulate matter from roadways, and increase our property values, and sequester carbon dioxide, and mitigate urban storm water, and reduce the urban heat, and increase the energy efficiency in our buildings, and reduce the neighborhood crime, and provide wildlife habitat and improve our quality of life and the livability of the city. Trees are recognized for their value, and play a role in the success of many city plans and programs including the Portland watershed management plan, the urban forestry plan, and the comprehensive plan and the climate change action plan. Yet today, protection for our urban trees is inconsistent at best. Dramatic increases in tree planting efforts over the past decade are undermined by lack of protection and mitigation requirements for trees on much of the landscape. Confusing and contradictory regulations, lack of education, educational outreach resources, and insufficient

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enforcement capabilities. As older and larger trees are being lost we are increasingly replacing them with smaller and more columnar trees which provide fewer eco-system services. As the old proverb states the best time to plant a tree is today and the second best time was 30 years ago. The proposal being brought forward today will create clear, simple, consistent and comprehensive protections for our urban trees. In order to achieve environmental and livability goals of the city we cannot just plant thousands of trees, we must also have stronger regulations in place for the preservation of trees. Friends of trees believes that if we are going to shoot for a 33% canopy cover goal as outlined in the urban forest implementation plan, planting trees alone will not achieve that goal. Not only should we plant trees, but we must also preserve and protect to a reasonable level and to the best of our ability, all those big, old trees that also make up a great percentage of our current cover. These propositions are not mutually exclusive, and compliment one another to reach the canopy goal. We applaud the city's efforts to plant more trees, and we do need more, but we also need to preserve existing trees on private property, and not just on street right-of-ways. And in doing so, we continue to recognize the many environmental, economic, and social values provided to us by trees. Let's see. I skipped over that. Regulation and enforcement are necessary to protect the assets of the greater Portland community, and that is a last resort. Mitigation in the gentlemen proximity of tree removal is necessary. Mitigation requirements must be structured so the value of the tree removed is taken into consideration. And the mitigation is directed to a specific, discreet fund to plant trees or to help enforced regulations. And absent this, there will continue to be a lack of transparency and accountability, friends of trees truly appreciates the city efforts on this topic and strongly encourages this opportunity to implement equitable, fair, and strengthen uniform code regulating trees in the urban settings. The first step needs to be preservation of big, older trees, to keep our canopy growing. And which is consistent with several regional plans and supports, continued investment, in our urban forest assets. In closing we support the proposed code changes, and encourage funding the program to implement them. Thank you for your time and effort on the issue.

Fritz: Thank you very much. Greg.

Greg Schifsky: I am greg, and mayor hales, and welcome. And commissioners. I was one of, I think, many residents in southwest Portland that, that did kick things off. About this tree issue thing. And we were not alone because at the same time, we discovered all around this city, coalition, people in coalitions everywhere, thought the same thing. They were losing the giant fir trees, which you alluded to, which say this would represent one of those guys, I know you like my tree models, I didn't bring them. In the beginning, of the history of this, is what, what i've been asked to present, and roberta, has laid out, I think, a great history, some of the names that are worth mentioning are amanda, herself, and convening the committee, and bonnie mcknight, southwest community members, and members from all over the city, and myself, margot Barnett and john gibbon and is leonard gard. And trees, what are they? They are biology, and what are we? We're biology. And we take four things, we like good food, we like good, clean air, and water, and a safe cultural pleasant place to live. So do trees, they are no different, so we have got to take care of them. A great deal of research in learning has been taking place all along the way since 2005, when we first started this effort, to bring this tree policy forward, and I do, wholeheartedly support the budget for it. And, every 10 years or so, every decade, new things are learned about trees. And isotopes are one thing that trees due to talk to each other, and they release them. They can tell when they are under attack by insects, we know, that they maintain watersheds, better than if they weren't there, and so, it's, it's critically important that we have them. I was interested in these big trees long ago, i've been working in the landscape industry for 40 years or so, i'm retired, and I watch these big guys fall down, and the city will replace them with little guys like this. And say in 20 years, maybe they will grow up to be this tall depending on the species. If you leave this big guy in place, the value that it's providing today, is incredible. And in 20 years, it's going to add another big giant value to us. And we are a region, we are in one of most beautiful places on the entire world. And if

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you think of it in terms of Portland being in this region, we shed water to the willamette, to the columbia, to the ocean, and fish run back and forth, and we're species, and other species, live here, and species we cannot see, and only except under a microscope, and we need to take care of them. So that's why i'm really in favor of this new tree policy, which does simplify things for people like myself, and i'm a homeowner, and other neighbors and developers. And I am thankful that the developers, actually, came along to the stakeholder meeting for the 18-month period, that bds convened because they provided some, you know, good information because they got their feet on the ground and they know what's going on right then and there. And so, there is all kinds of energy, and thousands of hours of labor that went into this tree policy. And, it would be really nice, if you guys lived up to the word, sustainability. And kept our trees, especially in support of these big guys that we have all around.

Fritz: Thank you very much. And that's a nice segue, I have one more person I would like to bring up, justin wood, from the homebuilder's association, who I did not ask previously, but, the home builder's association, was a remarkable partner as we were developing the policy so I want to give justin an opportunity to give their perspective.

Fish: Are you here with your father-in-law?

Justin Wood, Portland Homebuilders Association: I am. Good afternoon, mr. Mayor and commissioners. I am Justin wood, and I am with the Portland homebuilder's association but I am also an infill builder here in Portland. Let me start out by saying that i, along with several of our members were involved for several years in the formation of this code. I do believe that the current rules and regulations in regards to the development are spread across different bureaus, code books and zoning regulations. Both new home construction and land divisions are subject to confusion, and lack of flexibility. This current tree code does a good job of consolidating the process, and providing a single source, and point of contact for issues related to the trees. And I feel staff and the stakeholders involved came to a good compromise on many of the issues that this code wasn't -- the code was developed at the end of the day as one that is fair and we can live with, it does ask the private homeowners to give consideration to tree preservation, just as builders and developers. Is this code perfect? No, I think we need to go into a tree code like a pilot program, and council and staff need to realize that we may find issues and imperfections with this code, and have the willingness and flexibility to adjust the code as the need arises. The issue that I wanted to bring up today is the one in the budget, and implementation. And for a code that's goal was to streamline the process, the cost and the level of complexity with which the implication, with which is, implication is proposed is concerning. The initial proposals from staff, when we were evaluating the tree code, estimated the need for 5.5 full-time employees, at a cost of approximately \$350,000, and the proposed budget is asking for 8.5 full-time employees, at a cost of somewhere in the neighborhood of 830,000. And not only is there an Increase of three employees, but the increase per cost for employees is more than 50%. And I understand from staff that this cost per employee in the initial review was incomplete, and did not consider all costs like cars and rents and various other things, but I do question the need for the three additional employees. I would also contend, for example that, we do not need two full-time inspectors. As you pointed out earlier, mayor, currently, bds inspectors conduct general planting requirements now, and while we may need a designated inspector from our preservation requirements I would argue most people can count if there is five trees on a site. And regarding fees, when this code was drafted the estimated cost for a building permit was to be approximately \$60, that fee has grown to a \$735 fee for plan review which is reasonable close. Plus a \$95 inspection fee, for tree planting and another \$95 if you preserve the tree, and that needs to be inspected. So what was once a \$60 fee is \$265, if you built a house and preserved the tree with the increase of over 400%. I don't want this code to be thrown out and for us to start this process over again, but I do ask council to ask staff to reconsider the staffing needs, the

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proposed cost, and to please bear in mind this code may not be perfect, and be flexible as the need arises, thank you.

Fritz: Thank you very much. Appreciate you being here.

Hales: Great. Is that all your Invited testimony?

Fritz: It is. So if you go to the signup sheet. Thank you.

Fish: How many people signed up?

Moore-Love: Seven people left. The first three, please come on up. Are John Gibbons, and Arlene, and Dave Warrington.

Hales: Mr. Warrington, are you here?

*******:** He left.

Hales: Calling the next person.

Moore-Love: Bryan Burch. And followed by Jeff Fish. And Barbara Quinn.

John Gibbon: Mr. Mayor, I am John Gibbon, and I am going to give some remarks from SWNI, and then a few of my own, and I will, ask the council's indulgence, and I will stay and ask questions, but I had a 4:30 p.m. meeting, and I'm not sure that I'm not part of the quorum, so, as soon as I can leave, I would appreciate the opportunity to go. First the remarks from SWNI. Miss Fitzgerald left her written remarks, but I just want to read over them. The SWNI board met briefly last night and discussed the proposal, or I'm sorry, met last night and briefly discussed the proposal before you today, SWNI is supported, the strengthened tree policy in the past, and we've been concerned about the loss of trees, due to infill development over the years, and initiated the discussions that led to the city-wide tree program adopted in 2011. Every tree removed impacts our neighborhood sense of livability, new developments, especially in areas, with large trees, tree lots that result in fewer trees, and more, more impervious surface negatively impact storm water management, in the most storm water constrained area in the city. We also need the city's technical assistance, such as when we are dealing with downed trees during wind and ice storms, and other natural disasters. However, what I heard from the board last night, were concerns over the cost of the program, and the bureaucracy to run it. We have not reviewed the implementation plan in detail and I cannot provide the specifics today other than the SWNI board's request to keep any fees to individual homeowners as low as possible. It's important to maintain strict requirements for new development and have developers to support the program. But, please, keep the costs low when no development is proposed. And, of course, just having heard, Mr. Wood comment, I certainly understand that cuts both ways. I hope that the timing of this report today will allow us time to review the implementation plan in greater detail. And I am sure that from what I've heard from you that the budget process will do that. But we would have to get started on that. Now, onto my own remarks. I live in an area which, where the city tree restrictions were imposed with our 1970's area PUD, and early 1970s year PUD, and our HOA has, administered that system with a basic cut one, replace one policy since then. And I can tell you, Commissioner Novick, that is -- does not mean that we, my wife and I -- we have removed larger trees, and I know that that's going to offend some of my colleagues back here, from SWNI. Or, I mean -- yeah, from SWNI, but we still plant flowers, and we still grow trees, and we replaced every tree with something maybe more appropriate to the size and, and that's one of the important things that I want to stress to you, about this tree policy, and I think that's an important reason that we want to implement this tree policy. Because quite frankly, with what was done in precisely in the 1970s, I have spent more than 10% of the purchase price of my property in getting trees out that don't fit the, the -- didn't fit under the code as we would implement it. And I have had to remove big trees, within five to six feet of my home, and those are trees that we have all decided will be removed almost of right under this new code. And the other thing that I think that this new code will do, is prevent that from happening in the future. Because as we bring experienced people on to make decisions about development, they will be able to say, not so many trees, let's put them in the right place, and let's do it right, and get some infrastructure that will, will -- tree infrastructure that will

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survive, and be a benefit to people, and not be a cost to people. So, i'm in favor of getting this program going, and I know that it's costly, but, I mean, I paid for the cost of a bad program for the last 20 years, where I have lived, and if we don't get it fixed, there is still going to be that problem. Thank you and if you have any questions, I will take them and if not I will head to purb.

Fritz: Thank you for staying and for your service on purb.

Arlene Kimura: Good afternoon, mayor, and commissioners, and I am Arlene kimura, I am a resident of east Portland. We are on the side of town where trees are going, and one of the things that I want to ask council to consider, is that we have many development patterns that happen where the trees are cut, and they go oh, there were no trees on the lot. So, inspection and enforcement is critical for us, and the budget may be, may have to be tweaked in terms of the recommendation but I want to urge you strongly, that we do need inspectors and we do need an enforcement mechanism. Otherwise, we continue to lose our tree canopy, and as someone else pointed out, the \$5 billion investment is going to rest on a 15-foot decorative tree, as opposed to a, a 200 feet noble Fir or anything like that, it becomes critical, and we don't have an urban canopy and we're not building them on street trees. Thank you very much.

Hales: Thank you.

Bryan Burch: I am bryan burch, and I would like to point out that the opportunity we have here, is not just a regulatory at one point but an educational one and as a member of the education and outreach committee on the urban forestry commission, my, our goals are to reach mostly children, at a young age, and to educate them about the value of the trees, that we plant with them on their schools, and on the street trees, and I think that's important for the commission as a group, to accept not just the regulation, you know, the regulation aspects of this proposal, but to think way ahead at the educational opportunities, that we will be implementing by bringing students into the reasons, all the reasons that have been outlined here, in council, about why trees are, and why we put them where we do, and how we do it and so, I would just like to emphasize that, as an educational opportunity, to our youth, making this investment not just for this year or next year, but, for 30, 40, 50 years from now, is crucial. And I also want to take a crack at your question, mayor, why can't the other inspectors make these kinds of inspections, and I think simply, it's for the same reason that I don't think that I would have my accountant cut my hair. I think that trees are not like pipes. They are assets, but they are not -- they grow, they are an art form onto themselves, and so, I think having these inspectors specifically for trees is an imperative, as well. Thank you.

Hales: Thank you, thanks very much. Good afternoon.

Jeff Fish: Good afternoon, mr. Mayor and commissioners. I am jeff Fish, 1834 southwest 58 avenue, Portland, Oregon, and I am a builder, have been for 40 years in the city of Portland. And I sat on the tree stakeholder's committee, I am also vice chair of drac, and speaking of that, we had a preliminary report regarding this issue, and from staff and drac met today but we did not talk board of directors, and they have not taken any official stance on this. I, for the most part, am interested to see this go through, and I was out of town when it went to council two years ago, and I think, and I believe in most of the budget items, I do believe that there is some opportunities maybe to save a bit of money, and I am one of those that believe, as a couple of people spoke here about, the multi-hat inspector and I did talk prior to this meeting, to jenn cairo saying that her concern is most of the time the trees by bds inspectors don't get counted and in november mine got counted because we missed one and had to put one in to get final. I think that for me, as far as just having to put five trees in, or four trees or something like that, I think that they could be inspected by bds inspectors, and we have, we do an inspection, and we have codes that we have to call in, whether it's framing, plumbing or whatever, and I think that when the inspection process is done, you can go ahead and code which one has to be done. If it's a simple inspection, the building inspector can go out there and count the trees, and he can do that, and if it requires some sort of mitigation because you have done a land division and environmental, touch on the environmental property, it may be coded

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differently so it has to have the inspect ever come out from the urban forestry. And we're talking about canopy, and yes, we want canopy but we have to realize in this city, that we are, we are intensifying daily, and we're one of the densest cities of our size in the nation, so, you cannot say -- you cannot have your cake and eat it, too when you are trying to densify and put more buildings on properties, so, and we get compared quite a bit, our canopy against other cities, well, if we get compared against austin and atlanta and places like that, where they are building on 10,000 square foot lots, and last year we build on a 1600 square foot lot and there is a difference of what kind of trees you can save. Also, being revised that the public has different perceptions, we finish a project in may, and a house with an adu, and in which we saved a 4-foot diameter oak tree, and we had to set the house close to that, and we sold the house, and the home inspector cited us for the house close to the tree, and long story short, I had to write a tree warranty. To keep the tree for the buyer, the realtor was concerned for her young client, that tree is going to fall down, and I basically, wrote a tree warranty saying that we would take the tree down in a year if it died. So there is other aspects that we have to deal with out there, and even if we try to save a tree. And let me take a couple of quick looks, and I think that's for the most part, the issues that I wanted to bring up. I think that in the long run, we may have to look at this and tweak some things to make it work for both sides. I think that over all, the stakeholder group came out fairly good for both sides of the table if you want to say that the people want to save every tree versus the development communities that know what we can save and can't save. So, thank you.

Hales: Thanks.

Fritz: Thank you, jeff, I apologize I didn't call you earlier. I couldn't see you behind the other folks there, so as a member of the development review advisory committee and the stakeholder committee, thank you very much for your work on this project.

Hales: Please. Go ahead.

Christopher Maschiochi: Mayor and council, thank you very much, you guys have had a long day, so I will be brief. Christopher, I am a resident of hazelwood, and I want to thank the people who put these codes together because not only was it a tremendous amount of work but it kind of represents the kind of thinking that, actually, drew me to Portland in the first place. I moved here because there is the most sustainable place in the united states. And to me, one of the most beautiful, and the beauty of this place is largely tied to the canopy that we have. And I would say that there is a real value, it might be hard to quantify but as a part of Portland's identity, this canopy, is extremely valuable. I live in hazelwood. I bought a house in 2006, in an area, about six or ten blocks square, and that is, essentially, a douglas fir forest. These are 100-foot tall trees, and my neighbors tell me that when they bought their house 20 years ago, it looked like bright wood. And I loved this place so much, but in the six years that i've lived there, I have watched at least a dozen enormous douglas firs just cut down. This is all on residential property, where these codes will make a huge difference, and in east Portland, you know, we're a place of potential that's waiting to happen. And we have the least amount of developed parks, the most school children and that canopy is a huge part of our identity, specifically, in that area. And so, it's very, very important to us. So, that's the main thing, I just wanted to share that, and, you know, and hopefully, these will be implemented because I think that there is an urgency to do so.

Hales: Thank you. Thanks.

Barbara Quinn: Good afternoon, thank you for having me, I am barbara quinn, and I am a st. John's neighborhood activist, and chair of friends of Baltimore woods. Thank you, amanda Fritz, for taking the lead and showing the courage and leadership on this project. I appreciate it. It's good to see this go through, finally. The updates started as a grassroots movement among Portland residents and because we have, as a community, we value trees. And I think that we value them as habitat, as ascetic amenities, as he mentioned, and also, as signs of a healthy urban eco-system. Many residents appreciate the fact that large trees take hundreds of years to mature, especially things

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like native oaks and recognize that that's a value that we want to protect. The new code does not prohibit landowners from removing trees, it just simply requires that they mitigate by planting something else. So, I think that's a good compromise and acknowledges the wider community valuing of Trees, that is healthy and truly grassroots Portland as commissioner Fish said. And we can't do whatever we want on our prior to property, if we do things that affect the air quality or that affect the groundwater, that's a wider community value that we need to protect, so, if we recognize trees, as something beyond just a particular landscape, part of someone's particular yard, which I think that we do here I think the community, the wider community does, I think that we should try to protect them better. In answer to the Oregonian editorial, I'd like to say I'm proud to live in a city that has a long range vision. And is courageous enough to see that and a healthy urban forest is a good thing. I am proud to be here. Thank you.

Hales: Thank you, and thanks very much.

Moore-Love: That's all who signed up.

Hales: Anyone else who wants to testify? Ok. Thank you all very much. We have a motion, I think, in order to accept the report.

Fish: So moved.

Fritz: Seconded, and if everybody could put your questions on the record, and we'll make sure that we get them answered before the next discussion.

Fish: Would you extend the -- in case that we have questions, that go beyond the record today, we just -- can we --

Fritz: Of course. This is the beginning of the discussion about what's next. But, it would be helpful, and for those who have been here, and stayed, thank you very much. If you could put your records, as part of the, your questions as part of the comments, that would be helpful.

Novick: Well, I think that, I mean, the elephant in the room is the cost, and we learned yesterday, that we're going to have is the projection is, is about, about \$5.9 million more in ongoing money and the next year, and \$3.3 million in one-time money beyond what we had last year, and factoring in, increased costs. And, that means, that however you slice it, \$781,000, is going to be a significant chunk of either those amounts combined and I know that I have got concerns about funding a west side disaster, recovery operational site. Sorry, it's the end of a long day, and I am confused about my own project. And I know commissioner Saltzman has concerns about the long-term funding for the fire bureau and as commissioner Fish was saying, the other day, we could spend that \$8 billion, or \$9 million six ways through Sunday pretty quickly. So, I think that we have all got a long road to hoe in terms of coming together with the budget to fund this or any of a number of other priorities. But I really appreciate this is not an issue that I was involved in before, I really appreciate the clear presentation, and all the work that you have put into it and I am pleased to accept the report. Aye.

Fritz: Again, thank you to staff and to everybody who has turned out the week before Christmas to, to support this process and indeed whether pro or con I heard overwhelming support for the underlying policy, and that, I'm glad that two years later we're all looking at it and thinking, yes, this might work. And we did not come up with anything so far, that I think that we need to change. Obviously, we will bring back changes as we move into implementation. Assuming that the council chooses to implement, in retrospect I wish that commissioner Fish and I had put this in, into our list of things that should have gotten ongoing funded, when we did our budget note, with the money from housing and for housing that went into this year's budget calculations. I put in \$450,000 for the office of neighborhood involvement's graffiti removal, and mediation programs which had been one-time funded and which were ongoing funded in the budget, and I think that, this project is equally significant and in fact more so than those two pieces of urban living, which I think are very important. The parks budget committee has considered this item, and recommends, and what I think is in the record, recommends funding for the package, as a multi-bureau effort, it's not just parks, it's not just development services but affects transportation and environmental services and water. This

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is, this is us who we are, and this represents multiple commissioners, working on this project since 2005, and in fact, three mayors. Since 2005. We worked together to come to a proposal, and we will be looking at the budget, and what we can do about it. The devil doesn't need advocates, and I am asking you to be on the side of angels or perhaps the side of the lorax because I think that we already regulate trees on private property in the environmental zones, and we prohibit cutting of trees in protection zones, which are in private property, we reduce the cutting in conservation zones, and this project to me takes it one step further. Recognizing that every tree inside the city of Portland, affects our air sheds, our watersheds, and the quality of life, and as we heard from the residents of hazelwood in east Portland, it affects the character of the neighborhood, and it affects the property values, your neighbor's tree may affect your property value. And that's important. We have a climate action plan that we adopted unanimously, and which we have shown extraordinary gains in our air quality compared with other jurisdictions. Nation-wide. And which we need to continue to pursue, the concept of getting to the urban forestry canopy, target in 160 years, is not acceptable. Because if we don't do this project, we're not going to get there anyway. So, I think that that's very important to note. We have the current code doesn't work, and it creates problems, it's more, more costly for developers and others than this proposal, in many instances. This code brings together eight different titles, and will make it work, and yes, there is the sticker shock, I think, it's what's investing on, one of the things that we all as Portlanders, whether you are a far right or far left, we care about trees, and we care about the quality of the air that we breathe. So, again, thank you to all of the staff, especially mieka, jenn, and roberta for testifying today, and patti howard on my staff has done extraordinary work, the directors and my colleagues on the council, commissioner Fish carried this project before me, and commissioner Saltzman has been integral to it, and this is about all of us, and it's important that we continue to make it about all of us. Aye.

Fish: This is our last council meeting in 2013, so I want to begin by wishing my colleague and the members of the public here a healthy, happy, and joyful holiday season. We'll not be reconvening until January 2nd. Charlie, welcome and congratulations on your first year on the council, any regrets? [laughter]

Hales: No.

Fish: And to commissioner Fritz and your comment about the budget note, I appreciate that because I think that maybe we both underestimated the power of a budget note because some very important council priorities were funded, and even though they created a structural deficit, we made the other tough choices to honor those. And so I think that we learned about the power of a budget note. We've been at this tree code thing for quite some time. And I go back to 2011, and was proud to be part of a council that unanimously voted to adopt a comprehensive tree code. Which, at the time, was enthusiastically supported by a wide and frankly, somewhat unconventional range of stakeholders from neighborhoods and environmental advocates, and even home builders. Which I think is a testament to how much time went into crafting it and, and the reasonable balance that was achieved. Due to budget restraints, we have had to delay implementation a couple times and last year, faced with another resolution delay implementation the council asked, that this report be presented and to give us a proposal for staffing and funding. And, today, we have it, and thank you to the staff, and to the folks who worked so hard to bring this forward. I appreciate your good work, and in preparing this report, and your good faith effort in estimating the workload that will result from implementing the new code. And as a former parks commissioner and now as commissioner in charge of the bureau's environmental services and water, I've become well educated on many of the benefits of trees for our bureaus, for our neighborhoods and yes, for our planet. And trees make Portland a special place and deserve our full attention. And to quote Mike Houck, and he has stuck it out for an entire afternoon. Trees provide, a terrific return on investment. We have heard testimony from ardent advocates who have guided and had supported the tree code project from the start, from the southwest hills, and through to today. And many of them are urging us to finally put

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our money where our mouths are, and just do it. Two special advocates, who have been mentioned, margo barnett and bonnie mcknight, who cannot come here today in person but did send letters of testimony, have suggested that we could launch implementation with potentially a lower level of funding than recommended today. Regardless of how we come out, margot and bonnie reminded me the original proposal brought forward in 2011, with the blessing of both planning and sustainability commission and the forestry commission did recommend a more modest budget. And the proposal before us today would support a higher level of service, with more inspectors, and more staffing for customer Service, which are very good things. I support moving forward with implementation, expeditiously on the tree code, and but like all my colleagues, I want to pause to consider this funding proposal within a larger context of our budget, and the tradeoffs that we'll have to make this spring, and we will learn this spring, after five years, whether it's harder to craft a budget based on cuts, or spreading around new investments. I think I know the answer to it but we'll find out. So with that in mind, I want to thank everyone who has worked so hard to bring this report forward, and thank you for your good work, and I vote aye to accept the report, and look forward to the debate to follow, and I also add my voice of thanks to hannah kuhn, who has been sort of the steady person in this debate. And who keeps us focused and has been provided enormous support to me, in her capacity, both as a staff member and my chief of staff now, so thank you, aye.

Saltzman: Well, thank you for this great report, and, so I want to thank the three bureaus involved, parks the bureau of development services and bureau of environmental services, and for the good staff work. I think it's really -- it's heartwarming to just see the, the cross-section of support, once again, restated for a comprehensive tree code and the city of Portland. Something that was recognized in 2011 and adopted by the city council, and now, we're just moving forward with some of the steps of the important implementation of a comprehensive tree code and I do think that we'll have to scrub the numbers throughout the budget process, but, overall there's been a lot of thought into, a lot of thought by the planning and sustainability commission, urban forestry commission and the bureaus about what it's truly cost to implement this code effectively. So, I think, that these numbers look good but they have to withstand sort of all the other competing priorities with the council but one way or another there will be minimum staffing, enough to get this code up and running, fully, as, as it needs to be, so, i'm strongly supportive of implementing this code and making sure it has the requisite amount of oomph behind it to make it happen.

Hales: Thank you, commissioner Fritz and all the members of the council that have worked on this project, as well, as staff and the community and, I obviously, share the goals, that we have, about improving the canopy, and keeping Portland green and sustainable, but, I will, of course, exercise my prerogative in producing a mayor's office proposed budget of holding every bureau's feet to the fire about exactly how much we have to spend to accomplish each of these and other goals. I am a little worried about sticker shock, you know, there was an old traffic safety Commercial series that always had the tag line, joe was right. Dead right. And I don't want us to be dead right with our larger community outside of the circle in this room that all share this agenda. When we implement this code. So, the cost to the citizen, and the ease of application of the code is very important. Think about historic preservation. We all share the goal. And we found out that there is a sticker shock point in which a lot of our fellow citizens who share that goal bail out and say, never mind. I don't want to be in a historic district because it cost too much to participate, and commissioner Saltzman, you came up, and along with the bureau of development services with a good solution, to that problem. So, cost matters. And, of course, available dollars matter, as well. And so, we're going to continue to sweat the details and, and ask the questions about exactly how much will it cost to do this right. And even while we're all committed to doing it. And finally, just want to say, as we close out this good hearing, and thank you all for sticking with us, and doing this work this afternoon, that this council has done a great deal of good work in this room over the course of the year, and which commissioner novick and I have joined you, to do this work together. And we have

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made major reforms in how we police the city, and we did address the worst budget in memory, and maybe in history and we have built new parks, and new streets, and new partnerships and, and grown the economy of the city. A great deal of good work in this room this year, and I want to thank you all, as colleagues, and partners in that work, and to all in the community. You have made it possible. It has been a good year, and next year bodes to be a better one, and it might be more difficult to deal with the problems of a rising budget, and a stronger Portland, but I will take them. And I will take them as opposed to what the other choices are, so, thank you for a great year, and happy holidays to you all, and because of where christmas falls in the calendar, and where new year's falls in the calendar, we are, indeed, adjourned until january 2nd. [gavel pounded]

Hales: Thank you.

At 5:35 p.m., Council adjourned.