



CITY OF
PORLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF FEBRUARY, 2014 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; Ben Walters, Chief Deputy City Attorney; and Jim Wood, Sergeant at Arms.

Item No. 143 was pulled for discussion. Commissioner Fish was absent and on a Y-4 roll call, the balance of the Consent Agenda was adopted.

Motion to reconsider Consent Agenda to allow Fish to vote: Moved by Fritz and seconded by Novick. (Y-5)

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

		Disposition:
133	Request of Lainie Block Miller to address Council regarding Benson Tech (Communication)	PLACED ON FILE
134	Request of Ibrahim Mubarak to address Council regarding R2DToo (Communication)	PLACED ON FILE
135	Request of Leslie Foren to address Council regarding Elders in Action (Communication)	PLACED ON FILE
136	Request of Stefan Karlic to address Council regarding Hayden Island and the Columbia River Crossing (Communication)	PLACED ON FILE
137	Request of Barry Joe Stull to address Council regarding the devil in music (Communication)	PLACED ON FILE
TIMES CERTAIN		
138	TIME CERTAIN: 9:30 AM – Partnership with Lines for Life to reduce suicide (Presentation introduced by Commissioner Fritz) 20 minutes requested	PLACED ON FILE

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<p>139 TIME CERTAIN: 10:00 AM – Presentation by Dr. Timothy Beatley on Biophilic Cities (Presentation introduced by Mayor Hales) 20 minutes requested</p>	REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION
<p>*140 TIME CERTAIN: 10:30 AM – Ratify a successor collective bargaining agreement between the City and the District Council of Trade Unions for the terms and conditions of employment of employees represented by the Signatory Unions of the District Council of Trade Unions for 2013-2017 (Ordinance introduced by Mayor Hales) 30 minutes requested</p>	REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION
<p>CONSENT AGENDA – NO DISCUSSION</p>	
<p>Mayor Charlie Hales</p>	
<p>141 Reappoint Deanne Woodring to the Investment Advisory Committee for term to expire March 13, 2016 (Report)</p> <p>(Y-5)</p>	CONFIRMED
<p>Office of Neighborhood Involvement</p>	
<p>*142 Authorize \$2,000 grant agreement with Neighbors West Northwest to provide real time translation to a member of Northwest District Association with a hearing disability so he may participate in meetings through June 30, 2014 (Ordinance)</p> <p>(Y-5)</p>	186454
<p>Commissioner Nick Fish</p> <p>Position No. 2</p> <p>Bureau of Environmental Services</p>	
<p>143 Authorize a contract and provide for payment for the construction of the SE Clinton-Caruthers System Improvements Project No. E08662 for \$2,480,000 (Second Reading Agenda 122)</p> <p>(Y-5)</p>	186457
<p>Commissioner Dan Saltzman</p> <p>Position No. 3</p> <p>Portland Fire & Rescue</p>	
<p>144 Amend Intergovernmental Agreement with the State of Oregon, Office of the State Fire Marshal, for Regional Hazardous Materials Emergency Response Team Services (Ordinance; amend Contract No. 30003647)</p>	PASSED TO SECOND READING FEBRUARY 19, 2014 AT 9:30 AM
<p>Portland Housing Bureau</p>	
<p>145 Approve, deny and terminate Limited Tax Exemptions for properties under the Homebuyer Opportunity and Transit Oriented Development Limited Tax Exemption Programs (Resolution)</p> <p>(Y-5)</p>	37056

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<p>*146 Authorize an agreement with Community Action Organization to serve as a lead agency in the Rent Well Tenant Education Program (Ordinance; amend Ordinance No. 186375)</p> <p>(Y-5)</p>	<p>186455</p>
<p>Commissioner Steve Novick Position No. 4 Bureau of Transportation</p> <p>*147 Authorize a contract with the lowest responsible bidder for the SE 122nd: SE Ramona to SE Holgate project (Ordinance)</p> <p>(Y-5)</p>	<p>186456</p>
<p>City Auditor LaVonne Griffin-Valade</p> <p>148 Approve Council Minutes for December 2012 - April 2013 (Report)</p> <p>(Y-5)</p>	<p>APPROVED</p>
<p style="text-align: center;">REGULAR AGENDA</p> <p>149 Authorize agreements to implement settlement in Wright et al v. City; declare property interest acquired through Station Place Lot 7 assignment of parking agreement as not needed for public use and authorize disposition through termination of parking agreement (Ordinance introduced by Mayor Hales and Commissioner Fritz) 30 minutes requested</p> <p>Motion to amend to remove emergency clause: Moved by Fritz and seconded by Fish. (Y-5)</p> <p>Motion to amend b. (iv) to add ‘collaboratively’ in finding a new site: Moved by Fritz and seconded by Saltzman. (Y-5)</p>	<p>PASSED TO SECOND READING AS AMENDED FEBRUARY 19, 2014 AT 9:30 AM</p>
<p>Commissioner Amanda Fritz Position No. 1 Portland Parks & Recreation</p> <p>150 Authorize commitment to fund operations and maintenance of the South Waterfront Greenway Central District improvements (Second Reading Agenda 130)</p>	<p>RESCHEDULED TO FEBRUARY 19, 2014 AT 9:30 AM</p>
<p>Commissioner Steve Novick Position No. 4 Bureau of Transportation</p>	

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151 Repeal TRN 8.05, 8.07 and 10.01 for inclusion in TRN 8.08 Encroachments in the Public Right of Way administrative rules (Ordinance) 10 minutes requested for items 151 and 152	REFERRED TO COMMISSIONER OF PUBLIC SAFETY
152 Adopt TRN 8.08 Encroachments in the Public Right Of Way administrative rules (Ordinance)	REFERRED TO COMMISSIONER OF PUBLIC SAFETY

At 11:10 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,
OREGON WAS HELD THIS **12TH DAY OF FEBRUARY, 2014** AT 2:00 P.M.

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

Fish arrived at 2:04 p.m.
Fritz left at 4:04 p.m.

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

	Disposition:
153 TIME CERTAIN: 2:00 PM – Appeal of SEIU Local 49 against the Design Commission's decision to approve the application of TVA Architects for the Park Avenue West Tower, a new 30-story mixed use building at 728 SW 9 th Ave (Hearing; LU 13-214772 DZM MS AD) 2 hours requested Motion to tentatively deny the appeal, uphold the Design Commission's decision, and approve the applicant's proposal with an additional condition requiring the applicant to submit a signed and recorded covenant for the transfer of 3:1 FAR from Park Block 5 to Park Block 4 prior to issuance of a building permit consistent with PCC 33.700.060.B. Prepare findings for March 5, 2014 at 10:00am Time Certain: Moved by Fish and seconded by Fritz. (Y-5)	TENTATIVELY DENY APPEAL AND UPHOLD DESIGN COMMISSION'S DECISION WITH CONDITION; PREPARE FINDINGS FOR MARCH 5, 2014 AT 10:00 AM TIME CERTAIN

At 4:11 p.m., Council adjourned.

LAVONNE GRIFFIN-VALADE
Auditor of the City of Portland



By Karla Moore-Love
Clerk of the Council

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

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

FEBRUARY 12, 2014 9:30 AM

Hales: Good morning, everyone, and welcome to the February 12th meeting of the Portland City Council. Please call the roll, Karla.

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

Hales: Welcome, everyone. We have a number of changes in the calendar this morning, including with the communications items. I understand that we have someone substituting for Ms. Miller. Teresa Rayford is here in place of Ms. Miller. Let's start with the communications items and then I'll go over other changes in the calendar because people not being here and things going back to commissioners' offices and such. So let's do communications first.

Item 133.

Hales: Teresa, come on up, please.

Teresa Miller: I'm Teresa Rayford. Good morning, Mayor Hales and the rest of the commissioners on the board. Hi, Steve. Hi, Amanda, Nick, and Dan. I'm here today because of course you know that I have been testifying and fighting for the rights of our youth in our community for over the last four years in regards to equity and access. I have never written my testimony. I'm going to read it today because I want to get this right because I have three minutes. Well, two minutes and 36 seconds. But Mayor Hales and Commissioners, I'm urging you to call on PPS to lift the artificial enrollment cap at Benson Tech as a matter of economic equity to give more students a career path to paid apprenticeships and to high-demand jobs in science, technology, engineering, and math. Benson Tech speaks to race, poverty, and middle class jobs. Lifting the cap is the quickest way to fix the income and equality, and to fix PPS' abysmal graduation rate which is the worst in the state. Washington is even doing a lot better than we are, and we know that as a nation. Benson has one of the highest graduation rates in the city compared to PPS, which has 67%. It has some of the best graduation rates for minority students and economically disadvantaged students. Though 70% of the students qualify for free and reduced lunch and many more are non-native speakers and first generation immigrants. Minority students are being denied an opportunity to study computer science and other targeted job creation areas in the Portland plan. And to keep them at lesser performing schools without marketable job skills or BOLI-approved apprenticeships, that is a crime. I believe that. Because we are dealing with it as a gang issue and it's an economic issue. Major manufacturers, including Precision Castparts, ESCO, Vigor, have all called upon the civic leaders as job issues to foster a skilled workforce in target job creation clusters. These employers are going out of state to hire skilled technicians for jobs that pay \$100,000 plus. Without an advanced degree due to lack of a skilled workforce, manufacturing is 28% of our state's GDP, and a rapidly growing sector with family wage jobs. PGE, NW Natural, Pacific Power, they have also called for the cap to be lifted to meet the workforce needs. These companies employ 8000 people with average salaries of \$80,000 a year. The city has an interest as a jobs interest to attract and retain businesses seeking a skilled workforce. Youth unemployment is at its highest since World War II and Benson is the career piece of the cradle to career. It provides relevant career training for target job creation clusters in the Portland plan including software, advanced manufacturing, electronics, and health sciences. Benson has capacity to serve 2000 students, yet PPS has artificially capped enrollment at 850. It's turned away hundreds of students and denied them a career path out of poverty. Where students used to

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study computer science and engineering, PPS is running drug rehab instead of computer science and engineering. These programs need to be relocated to empty buildings to free up the instructional space for high school and high demand STEM programs. PPS has two and a half years of high school and 80% of high school students unable to get a full schedule of classes, according to a complaint filed with the Oregon Department of Education. We are heading for a strike and that would move the city further from equity. It is time for an intervention to double down on programs that work like Benson Tech. Please exert leverage on the school board and find four votes to lift the cap as a matter of economic equity. Also, there are two events at Benson this week on the 13th and 14th, it's their 94th annual tech show. You have been invited before. I hope that you show up this time. Thank you.

Hales: Thank you. Would you please make a copy of that available to us?

Rayford: I've given it to the clerk, and she will make sure you have them. Thank you.

Hales: Great, thank you very much. [applause]

Item 134.

Hales: Good morning, Ibrahim.

Ibrahim Mubarak: Good morning, Mayor, Commissioners. I hope that you all had a good night's rest. And I hope that it was warm and dry and safe. What I want to bring to city council is -- you know what, I can't do this. I'm talking from my head. What's happening down the streets -- humans, the citizens of this city, they campsites, the homeless people are being swept. When they've been swept, their stuff is being taken. Their sleeping bags, their coats, their shoes, their prescribed medicine. And you, Mayor Hales, you can stop these sweeps. These sweeps are unnecessary. People are dying out there. From my knowledge right now, the count is five people died because of their sleeping bags, their tents have been destroyed by the police officers. When I read that Chief Reese said prosper Portland and you want to get rid of the houseless people, and went I talked to Sergeant Darby he said they would continue to sweep, that's ludicrous. That's absurd, man. People need a safe play to stay. I know that we see them on the streets, you all see them on the streets, and everybody else sees them on the sidewalk. But that's because they don't have enough affordable housing, enough warming shelters, enough shelters or enough Right 2 Dream Too. I'm coming to you as a member of Right to Survive, not Right 2 Dream Too today. And I told y'all I would be nice, but this is absurd when I hear that someone else, that two people died living on the streets. And the citizens and the human beings in the houseless community and the housed community depend on you, Mayor Hales. You just came back from South Africa. I hope you saw some things there that was astounding and that would change your mind about the houseless situation here. I appreciate that you allow Josh Albert to work with Right 2 Dream Too, to help it become permanent and stable, but we need to do something about these sweeps. So I'm asking you, if you can stop these sweeps until we can find a suitable solution where people can get off the sidewalk -- because when you sweep them, Mayor Hales, they have nowhere to go. Their stuff is gone. Especially if someone has mental issues and they prescribed medicine that's taken from them, and they act out of the way, they go to jail and you criminalizing people for exercising their human rights. And we have a right to dream. So don't sweep our dreams away. Keep us intact. Keep us on the street and work with us. That's all I have to say.

Hales: Thank you. Thanks very much. [applause]

Item 135.

Hales: Good morning, Leslie. Welcome.

Leslie Foren: Good morning, Mayor Hales and Council. I'm Leslie Foren, executive director of Elders in Action. We are honored to work with our council liaison, Commissioner Nick Fish, serving as the federally-mandated advisory council to the city of Portland. Since 1968, Elders in Action staff and volunteers have worked to help ensure that city services are age-friendly to our elder population and that city staff, its bureaus, and its community organizations are prepared to

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serve and engage this aging demographic. We are a nonprofit organization that receives funding from the Office of Neighborhood Involvement. ONI funds equate to 26% of our total organizational budget. We operate with a small staff of seven and engage over 180 volunteers. Today I wanted to share with you two brief examples of how Elders in Action provides a crucial link in the public-private partnership that is required for our community to thrive. Using our personal advocate model, we have developed a way for volunteers to assist the Portland Police Bureau elder crimes unit in serving the most vulnerable in our community. This collaboration is in spirit of the police bureau's commitment to working with community organizations in an efficient manner. We currently have two outstanding volunteer advocates who dedicate eight hours per week out at the elder crimes unit in southeast Portland. They directly work with detectives to make personal contact with older adults who experience things such as identity theft, fraud, and theft of personal property. Oftentimes, this is the first point of contact and an entry point for Elders in Action to reach out to individuals who might be in need. We greatly appreciate the leadership of Sergeant Tim Musgrave for his commitment and investment in engaging this community. We have also been working with Portland State University institute on aging, the City, and other community partners on the implementation of the age-friendly cities action plan that council adopted in October of 2013. The age-friendly Portland Advisory Council, which elders in action is a founding member, has prioritized three areas for its first year: employment and economic development, housing models for an aging population, and community awareness and engagement. Elders in Action is specifically focused on developing strategies to specifically engage older adults in an upcoming civic engagement project called What are Old People For, slated for later this fall. We're providing a framework for engaging the business community through our age-friendly business network in implementing important aspects of the plan around hiring older adults and highlighting the substantial contributions they offer to employers. The advisory council looks forward to reporting back to the full council later this year. It's a privilege to be able to share and highlight the work of Elders in Action with you today. I'm humbled every day by the staff and volunteers' commitment who ensure we all age with dignity. I extend an open invitation to all council members and their staff to utilize our services to access our volunteers. I know you'll be impressed and inspired with our work. Thank you.

Hales: Thank you. Questions?

Fish: Mayor, before we lose Leslie, I just want to offer a tangible example of what one of the services that Elders in Action provides to the city. And that is, they review our brochures and our written publications and give us advice as to how to make them more age-friendly. Leslie brought with her today one of the examples that -- our utilities offer discounts to older adults. What I learned last year is that the brochures that we had created as a city to explain the benefits were written in font that most older adults couldn't read. In fact, quite frankly, I couldn't read them. And the information was organized in such a way that it was bewildering. So we gave our brochures to Elders in Action and asked for feedback. And they came back with a laundry list of problems including the fact that we had as many as 12 different phone numbers that we were urging people to call without a single point of contact, they were not legible, that the information was laid out in a confusing manner, and on and on. This is an example of the partnership that we have with elders and I would urge all my colleagues to invite them in to help redesign your brochures and public communications. It's eye-opening when you get their feedback and realize that we've done a poor job communicating with a significant part of our population.

Hales: Oh, yeah, this is nice. Really well done.

Novick: Mr. Mayor, if I may add to that. Leslie, I wanted to state my appreciation for your participation in our advisory committee on transportation funding. And we'll really benefit from Elders in Action's advice on how to build an age-friendlier transportation system.

Foren: My pleasure.

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Hales: I appreciate your use of volunteers. You're a great advocacy organization. You're helping people with services but you're also giving a lot of people an opportunity to make a difference as volunteers, retired people who might have some time, or whoever. I think that's a hallmark of how you have operated. It's great. We appreciate it.

Foren: Thank you.

Hales: Thank you.

Item 136.

Hales: Come on up, Stefan. Good morning.

Stefan Karlic: Morning, Mayor Hales, city council. I'm a representative of the Hayden Island manufactured home community, Hayden Island livability project. I'm on the board of high noon. On behalf of the residents of Hayden Island, thank you for asking the Port the correct questions. And a special thanks to our representative Amanda Fritz. I was going to talk about jobs on the island that have been lost due to the Port's ambitions on West Hayden Island. However, that has been resolved for right now. And we are currently working with the Port to establish a trail on to the beaches of West Hayden Island. This is going through private property, and the Port is taking in \$25,000 to make this a safe area to get into, which brings up the question of public safety. It's not only for the people visiting, but anyone within a five mile radius of West Hayden Island. At the moment, hunting is allowed on West Hayden Island. The sheets are provided to give you the distance and trajectories and information on bullets and the consequences thereof. I'm asking that the mayor and city council approach the state and ban the hunting on West Hayden Island. The beaches are going to be open to the public, and if you see the graphs that I have given you there, I tracked a flight coming in on Monday on the Port of Portland noise management website. At the east end of the island, that as the planes come around Sauvie Island, the flight is at 2600 feet. When it comes across the river to the tip of the island, it's at 2100 feet. And the tip of West Hayden Island is 1900 and the east tip 600 feet. If you see those two pictures in there, that's pictures of air force -- one taken from my house as it was flying over. That was at 800 feet. The chances for an errant bullet to hit an airplane is a distinct possibility. And also, if you look at the map there, some of the bullets can travel five miles. That's 25,000 feet. There's a chance of someone getting hurt in Portland working on the dock side, Vancouver downtown, and all the way over to anyone on Marine Drive and also the residents on Hayden Island in the manufactured home park. Again, I would request that you take action to prevent the hunting on West Hayden Island.

Hales: I appreciate you bringing this to our attention. Frankly, I wasn't aware that hunting was allowed there. That's news to me. I appreciate you letting us know. It's obviously -- a lot of people within a few hundred yards of that island.

Fish: Mayor, I just was curious, since we have Mr. Karlic here, do you know who does regulate hunting?

Karlic: Fish and game -- the problem is that the Port doesn't allow hunting on the island itself. However, on the beaches, a boat on the regular high tide mark is controlled by Oregon Wildlife, Fish and Game, and other agencies. And trying to get an active response for actually who is responsible for that hunting license -- it's beyond our scope right now.

Hales: Well, thank you. Appreciate you bringing this to our attention. That really is concerning news and news to me that that was even legal there. I thought the Port, as you say, the Port has generally barred access to their property but the beaches are a different story. Thank you.

Karlic: Thank you. [applause]

Item 137

Hales: Good morning, Barry. It's an interesting topic that you have chosen.

Barry Joe Stull: It's Barry Joe, but that's OK, hardly anybody gets that right unless they have known me for a while. Sad to see Commissioner Fish leave here. I've got a college degree in music, and Fela says that music is the weapon of the future, which probably goes pretty far to speak why I

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have been so disarmed. I lost thousands of dollars' worth of musical instruments, my nonprofit affordable housing landlord filed an eviction case. It wasn't even legal to file in court. I know what filing a case means. My Supreme Court case 326 OR 72, 1997, defines the act of filing, so we know what the landlord wasn't allowed to do. But that's OK, we followed that up on the destruction of my goods. And decades of compositions, my legal research. I was appealing a felony conviction for possession of marijuana when I was protected under the medical marijuana act, which probably goes far to explain why these people are allowed to be criminals and continue to be. What we have here is a symbol, might recognize this, looks like a piano keyboard. I had one of those. Got thrown in the dump. But anyone, we look at this and we see a pattern of two black keys and three black keys and two and three. Well, there's only 12 different possibilities. So what I've done is I put the tri-tone, which is named the devil in music because it sounds kind of weird [sings] it's three whole steps. I put that right there in the middle so we can see that the pattern really is white key black key white key black key white key white key. Or as I teach my students -- do re mi fa -- and then the other one would be, la ti do. Each scale is made up of two halves. The devil tricks us into thinking this is actually two and three when it's really two and two and one in the middle that we skip over. So we have, in our western music, we have 21 names for 12 things so we can make 15 major scales. Sound like we're trying to make it easy? No, we're trying to make it hard. The reason is because music has power. It heals people. It's like housing has power to heal people, which is why you continue to deny both those things for me. So I broke it down and put it on this clock here and I start here with fat cats get drunk at Ed's bar, which is the order the way sharps appear and the way flats disappear. It's called the circle of fifths. So I start with f-flat at 4 o'clock and I go, fat cats get drunk at Ed's bar, here at 10 o'clock and I get to all the naturals, I get over to 4 o'clock, which was f-flat, correctly known as e. Also it has two names. Then I continue here with the sharps at 6 o'clock. Fat cats get drunk at Ed's bar. I have taken these 21 things and put them on a 12-hour clock. Made it simple. Now as soon as you all start asking honest and honorable, start prosecuting the criminals that I have given you the evidence of being criminals -- maybe things will get a lot better and maybe an angry mob won't drag you out of your houses and lynch you.

Hales: Alright. Barry Joe, thank you very much.

Novick: Mr. Stull? I just have to ask you a question that came to mind when I saw this item. Can you tell me what the devil is more likely to do on a given day, wear a blue dress or go down to Georgia? [laughter]

Stull: You know, the trick is that the devil -- many people would argue the devil doesn't actually exist. Now, whether evil exists, that's something we would have to really start to delve into. I think on that topic, the apartment I was evicted from is a five-plex. Affordable housing and it's vacant now. I told our housing commissioner in paper on December 18 it was vacant and I checked last night when there was snow on the ground, people were sleeping in doorways on my way to the MAX this morning and that five-plex is still vacant. 4066 NE Grand Avenue in Portland. I will give Karla the document that I scanned gave to the Commissioner Saltzman. But the reality is Commissioner Fish appointed that nonprofit affordable housing landlord to the fair housing commission. So we can't act like any of this is good and we can start acting like it's evil.

Hales: Thank you very much.

Stull: My pleasure. [applause]

Hales: OK. Let's take up the consent calendar and then I'll talk about all these items that are getting changed. First of all, I think we do have a request from Commissioner Fish to pull item 143 and place that on the regular agenda. Are there any other requests for changes to the consent calendar? If not then Karla, let's take a vote on the balance of the consent calendar.

Roll on the consent calendar.

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

[gavel pounded]

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Hales: We have time certains this morning and we're going to get to those in a moment. But, we have some other time certains that were on the calendar now aren't going to happen. Item 139, a presentation by Dr. Beatley is unfortunately not going to happen because he had to cancel his trip here due to weather on the east coast. So we will be removing item 139 from the morning calendar. Item 140, we're going to refer that back to my office because the district council of trade unions did not ratify that collective bargaining agreement, tentative agreement. So unless there's council objection we will remove those two items from this morning's discussion and refer item 140 back to my office. Then on the regular agenda, Commissioner Fritz has requested that item 150 be moved to February 19, and Commissioner Novick has requested that items 151 and 152 be referred back to his office. So if I have captured all those and unless there's any objection from the council, that's our revised calendar for this morning, which is of course now going to be a shorter calendar. But some of it remains and item 138 is before us now and we're very happy about that.

Item 138.

Hales: Commissioner Fritz.

Fritz: Thank you, Mayor Hales. Would you please come forward? So, 2012 the City entered into a partnership with Lines for Life, which was formerly known as Oregon Partnerships, to create a specific phone line for people struggling with mental health illnesses. And so we gave a grant to Lines for Life, and whenever we use public money for a specific purpose, I think it's really helpful to have a report on how did that go and what were the outcomes. I invited Judy Cushing, the former director of Lines for Life, to come and present to us this morning.

Judy Cushing: Thank you, Commissioner Fritz. Mayor Hales and members of the commission, I would like to introduce others with me this morning. Our COO, David Westbrook, who a number of years ago was actually the crisis lines director and came back to us more than a year ago as our COO. And I am thrilled also to introduce to you my successor, the CEO of Lines for Life, Dwight Holton, who will be speaking in just a minute. I want to thank Commissioner Fritz for her compassion and her stick-to-it-iveness and her leadership to help the city provide this grant to Lines for Life. You have been a tremendous partner, Commissioner Fritz, and thank you. And to Commissioner Novick, who has played a significant role. I would like to begin this very brief presentation by sharing a story. It was 1:26 in the morning and our crisis lines are 24/7. Our crisis response professional picked up the phone and a young woman was on the other end of that line. She had been walking back and forth on the Vista Bridge, this is prior to the barriers being installed, and she saw the Portland number, a Life Line number on the sign that said, let us help you cross this bridge. She was struggling. She was four days sober. She had had a breakup with her boyfriend. She was at the bottom. She just didn't want to go on any longer. She decided to climb up on the ledge of the bridge and swing her legs over the side. And she was sitting there and decided to call the number she remembered on the sign. That call rang into our call center. Our crisis worker picked up the line and listened to this young woman sobbing on the other end. She was so emotionally distraught and anxious, she just didn't think there was any reason to live. Our job on the line, our job on the suicide line, is to help callers find a reason to live rather than a reason to die. That night on that phone our crisis professional gently spoke with her. He listened. He helped her talk through her anxiety and her extreme emotional distress. He helped her begin to think about the reasons to live. What things were important to her? Her family. Other friends. And as he was talking to the caller, the young woman, our other team member called emergency medical services here in Portland who dispatched a team to go to the Vista Bridge. All of this is happening simultaneously as it does when a call like this comes into our lines. Thank goodness for your police and your crisis response teams. They came there very, very quickly at that time in the morning. Our councilor was able to keep the young woman talking, able to nudge her to swing her legs back over the bridge. And he literally talked and walked her off that bridge to the arms of a Portland police officer, actually. Some of you know that we have worked very closely with Portland police to train them in suicide intervention skills and

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crisis intervention skills, particularly around suicide. That woman was taken immediately to the hospital and entered the psychiatric ward that evening. She was treated, she was helped. She called us five days later in the car with her parents and said, thank you for saving my life, I would have jumped if it hadn't been for you. The reason I'm sharing this story is that the numbers you're going to hear about data around suicide are grave and they are serious, but every single number represents a human life. And we so often forget that. Lines for Life is in the business of helping people who are severely mentally distressed, who have suicide ideation and/or addiction issues. Often all three. We're a 20-plus-year-old organization and one of the buckets of our services are the critical suicide intervention services. I'm sorry to share with you this morning on some slides that we live in a state that has a very, very high suicide rate. We rank ninth in the country. We have a 41% higher suicide rate than the rest of our nation. You'll see some statistics around our crisis lines. A couple of things I want you to be aware of. You'll see them, the slide that has the Multnomah county callers on the Portland lifeline, which is the line you supported. Actually, that number is larger now. This is data taken last September to September, so it's larger than this now, but I have also -- that's almost 300 calls, now well over 400. But I also want you to see the data from callers of Multnomah County, meaning Portlanders who live in Multnomah County, but also there's bleed over into Multnomah County residents because you can't track calls by zip codes. You'll see that that number is over 4000. 4000 calls from the greater Portland area. That's a daunting and scary number. I want you to know that your investment in the Portland line is indicative -- and the larger number here -- is indicative of the problem. The reason the number is so small on the Portland line is that there's no advertising. The advertising is on a sign on the Vista Bridge. So the national suicide lifeline number, which these other calls come into from Portland area residents, that number is advertised pretty aggressively through anything from NPR to television to phone books, etc. So we come to you today with not only a report of the importance of what you have allowed us to do and the Portland line itself, but the grave, grave need to help people who are severely, severely in distress. We just want to save lives, and that's our job. Dwight Holton is going to speak about where we are, what we see going forward, and how we may be able to partner with the city in the future. I want to thank Commissioner Novick for his leadership on the barrier on the bridge. I know it's been a bit controversial or a lot controversial, but the fact is that if we can save one life, we can save many lives. There were a record number of suicides on that bridge in 2013. Thank you for helping us save lives, Commissioner Novick.

Novick: Thank you, Judy.

Dwight Holton: I think the main thing I want to emphasize is some hard data on the results of our collaboration. During the period we have worked together with the City, with the City funding around the Portland line, we have seen a dramatic increase in calls coming in from the Portland metro area on the two lines that reach us. If you compare it statewide, you see the difference. Portland area calls went from 2463 during October 2011 to October 2012 period, to 3296 -- an increase of almost 30%. Whereas statewide, the suicide prevention line numbers went from 12,620 to 13,759 -- a little less than 9%. I think that collaboration is a key part of our ability and effectiveness in reaching that additional 800 people during that period, that significantly greater growth. As Judy articulates so wonderfully, behind each of these numbers are people we are reaching. That's what we do. We think the collaboration has been effective so far. We hope to build on the collaboration with you and work closely with you on a couple different things. One would be looking at ways we can more effectively promote the Portland line. So far it's really these 300 calls, 296 calls -- and I think it's close to 400 if you look at the calendar year last year -- came almost exclusively from the number that's on the Vista Bridge. There's no other advertising that we know of. There may have been, but we haven't heard about it from you all. I think there had been a plan to do promotion that we had not actually gotten done with the city yet. So, one would be to look at efforts that are promotional so that to reach more people. And the other would be ways to expand

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our crisis intervention efforts with the city. And I think the third is to look for opportunities for better collaboration with the county. We had -- actually I joined a meeting long before I was associated with the organization with Commissioner Novick back in the fall. There are real opportunities to collaborate better, I think, between the city and county. We would like to be helpful in doing that.

Novick: Mr. Holton, following up on that. Of course the county has a mental health crisis line. You've got your line. This is purely anecdotal, but I have heard from somebody I know who has sort of tested the line that her experience was that the -- actually, I don't know how she would've known this latter part, but I guess in a combination of various conversations -- was that sometimes it took longer for you guys to answer the phone because you have less staff. My impression is once you do answer the phone you're able to spend more time with people -- that's the way you operate -- than the county does. That sort of makes me wonder, is there -- how could you better collaborate and share resources?

Cushing: Well, it's interesting. We have a small, small budget. We have two people working on our nighttime shift. And I believe as does the county. Our approach is just different. We're in the suicide intervention, crisis intervention business, meaning there isn't any timeline. As I say we have this incredible partnership with Portland police and our crisis response team. In fact, the person who runs our crisis lines used to run the crisis response team for Multnomah County for years. So we work hand in hand, we just have a different approach and are considered the experts even across the country in suicide intervention. So I think that there needs to be ways that we can partner more efficiently. I know David Westbrook can answer this better than I can because he's worked the lines and directed the lines for a long time, however, I think it's almost like having -- if one number is advertised as the place to go for suicide intervention, you do that. That's the place to go for certain types of mental health crisis so people who are in the system should go through the Multnomah County system. But we're everybody. It's almost like our military line. We are not just for the Oregon National Guard, we're for all services. So I think there should be a way we can collaborate there. Most of you know that we were in very, very dire financial straits last spring. We thought we were going to have to close the suicide line down and the county stepped forward with a one-year grant that has allowed us to retain our 24-hour line. We have 17,000 calls a year on that line. You can see that 4000 of those are coming from Portland. So it's a critical, very critical, critical service. You want experts answering the line.

Holton: And Commissioner Novick, we'll share with you -- we keep careful track of wait time data as well as a whole range of data that's really remarkable, I think. I would be interested to know -- I'm not sure the anecdotal evidence necessarily jives with the data around wait times.

Novick: The other question is just about that subject of one line. I think that -- having a distinction between a regular mental health crisis line and a suicide line, I don't know if that's ideal. I think it would be nice if there was one mental health crisis line, and if it was serious suicide issue, it would be passed on to you. If it's something else it would be passed on to other people in the county. I mean, I'm just rambling here.

Cushing: Your idea of one line is right on. And I think other cities have one line. I think there's a recent report out about the fractured system of lines around Oregon, and that's a bigger problem that should be addressed. However, one of the things we would not urge you to do is to have multiple places for people to call who are in suicide crisis. If they are holding a gun, if they are on a ledge, on a bridge, you want one number for them to call to do that intervention right then. That young woman would have jumped if she had had to make two calls.

Fish: Judy, do we have any evidence that people calling 2-1-1? We give that number out during emergencies. We say, call 2-1-1. Are people calling 2-1-1 seeking these services?

Cushing: I believe they do. And we are beginning to work closely with 2-1-1 to say the calls we get for food and shelter should be at 2-1-1. And crisis intervention calls should be with us. So yes.

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Fish: We are now in the habit of using 2-1-1 as the clearing house for all kinds of emergencies. So you may want to be thinking about how we don't create confusion inadvertently by using 2-1-1 and what happens if someone does call 2-1-1 and they are on the ledge. Are those calls routed in an effective way?

Cushing: Right now we don't have a way to warm transfer those calls. Warm transfer them to us and vice versa. That would be ideal. Know the people calling in to the national suicide line, 1-800-suicide or 273-talk, are calling because they are in serious trouble. And those calls -- we are the call center for the national suicide line. So that's what happens there. We could probably get you data around how many of the 2-1-1 refers to us, but people have to hang up to call us, which isn't ideal.

Holton: And it's something we're working to address.

Hales: Other questions?

Saltzman: First of all, I want to thank Judy for your long, distinguished career on behalf of people in crisis. And welcome, Dwight. I seem to recall when I toured your facility that you also handle Veterans Administration crisis calls.

Cushing: We do.

Hales: Are you still doing that?

Cushing: We are. And we are so proud to be doing that. We are the national backup center for the national VA line. We also have a dedicated military line for Oregonians. We have received well over 15,000 calls since that line launched. When we have vets on the line -- so it's a peer to peer line. We're exceedingly proud of the work we're doing there. Also know we just trained --beyond Portland police -- we have trained other police departments in the greater Portland area on dealing with veterans and working with veterans who are in crisis on the streets and need help rather than incarceration. They need other kinds of help. We're very proud of that work.

Saltzman: You started out with some pretty sobering statistics about Oregon being the ninth highest state in terms of suicides. I'm just wondering, you've been around this for your career. Is there a why? Why Oregon?

Cushing: You know, there's a confluence of ideas and interesting theories about that, none of them scientific. Lots of people want to talk about the weather but to be honest with you, the western states, several of the western states have higher rates of suicide and some of those states have much better weather than Oregon does. Minnesota has a high rate of suicide. I think Oregon is a friendly place for people of all types. And we do our very best to serve people who are in mental health crisis and are homeless and need help. And that is a wonderful thing. But it's also challenging for those individuals who are struggling with psychosis and depression and mental illness and addiction. Our system needs to be as robust as it can be to serve these people. That's part of our challenge here in Oregon.

Holton: The Department of Justice, when I was in the U.S. Attorney's office, launched an investigation into the statewide mental health system and reached an agreement short of litigation with the governor and the department of addictions and mental health. The first stage of that agreement was to take a look at data on exactly what's going on with respect to the state's shifting from institutionalization to community-based care. How that's going, if it's being funded adequately, etc. They recently issued an interim report two weeks ago, I think, which I can forward to you if you haven't seen it already. And while it's completely clear that the state is utterly devoted to getting this right, it's also completely clear that we're not there yet. One of the concerns raised was the fact that there are 47 separate crisis lines around the state. I think that the governor, I know from my conversations with him when I was a United States Attorney, the governor is looking to the CCOs to help fix this, to help be a part of the solution. We're working closely with him on it. But when you look at our suicide rate, our efforts to address our mental health system more broadly will help that. In the interim -- and beyond, frankly -- but in the interim especially, the need for the services that Lines for Life provides will be all the greater.

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Novick: On the explanations, am I correct that national statistics suggest there's some correlation between the availability of guns and suicide rate?

Cushing: Yes.

Holton: Oh, yes. Without a doubt.

Hales: Mr. Fish, did you have something?

Fish: There was one statistic here -- I think I did the math, it's something like 36% of the calls came from people 46 and older. Could you shed some light on just the correlation between the calls and age?

David Westbrook: Well, what I can say about that is -- and we'd be happy to send you a report from 2012 from the public health department -- but it did show that there's been a rise particularly in that middle aged age group, particularly of men, but also women as well. People frequently think about youth suicide. It's a very important topic to us. We run a youth line, and it's a leading cause of death for youth. However, the numbers are nowhere as great as older, middle to older aged individuals. Not very many things take the lives of young people. That's why you see it being the second leading cause sometimes the first leading cause.

Cushing: So one other factor here is that during the recession, we saw a tripling of our calls on our suicide line. And that age group continues to be the highest number of suicide -- have the highest number of suicides. There were several precipitating factors that we looked at. One was unemployment. One was, in Oregon, National Guard members returning from the war. Also the war itself precipitated some feelings among Vietnam vets and Gulf War vets about their guilt or having survived and brothers not, sisters not surviving. The economy, people losing their homes. People who had been middle class Americans all of a sudden finding themselves in serious financial distress. That also causing relationship distress. So it was like this snowball of things happening. That particular age group, Commissioner Fish, seemed to be hit hardest.

Fish: It'd be interesting also to look at the extent to which social isolation is a contributor. Commissioner Fritz runs our parks bureau and we are committed as a community to making sure those doors are open to older adults. We know that if older adults are isolated and don't have access to community centers, group activities, other kinds of things, it can lead to a whole host of bad outcomes. I want to join my friend Commissioner Saltzman in thanking you for your service and welcoming your successor. We had a great relationship with Dwight as a council during some tough times when he was the U.S. Attorney. And we have a lot of respect for him, and I think you made a great decision.

Cushing: We are thrilled.

Hales: I'm going to join my thanks to you, Judy, and that appreciation for Dwight. That partnership you've built with the police department is really important, that we continue on that. We're learning from each other. There have been some spectacular successes recently with our officers taking the help you've given them and intervening in a thoughtful, sometimes even creative way, like going downstairs to get someone a sandwich so he will come in off the ledge. There's been some great success but we still have a huge challenge. We lost 16 Portlanders last year to homicidal violence, 34, 35 to motor vehicles, and 114 to suicide. So we have a lot of work to do to keep trying to reduce that number because, as you say, each of your calls, each of the 9-1-1 calls that Chief Reese here and his team get is that moment of crisis. And we're handling those crises better and better, but we need a lot less of them. So thanks.

Holton: Mayor, you raise a really important point. Part of why I have been so impressed with this organization when I was with the Department of Justice is that we focus today on one of the important components of Lines for Life, namely the crisis intervention component, but what I've always been impressed with is that data and evidence and stories that come from the crisis intervention side of Lines for Life informs what they do on the prevention side. When I was a United States Attorney, when I was a prosecutor for 15 years, every story I ran into began with

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something -- or nearly every story -- that was preventable if we had intervened in substance abuse or family crisis or otherwise. And part of why I think Lines for Life is such a vital organization is it spans that gap from the crisis intervention to take what we learned there and apply it on the prevention side. And I look forward to collaborating with the city on that side of the organization as well.

Hales: Great.

Fritz: I just want to put up the number. I don't know if our friends at Channel 30 can get to that, but it's 503-972-3456. 97 2-3-4-5-6. And my understanding is that 98% of the calls that you get are resolved by your volunteers and staff. That you only have to call 9-1-1 in 2%, is that still running the same?

Cushing: That is correct.

Fritz: How many volunteers do you have?

Cushing: We have 120 highly trained phone counselors. When I mention volunteers -- volunteers to us are gold. We wouldn't be in existence without them. They're incredibly compassionate people. Every volunteer goes through 60 hours of training and commits to one year on the line, four hours a week. Many of those volunteers stay longer because they simply love the work and it's an environment where they know they are really, really helping people. We are ever so grateful, Commissioner Fritz, for our volunteers.

Fritz: I first learned about your organization and took a tour in 2009 right after the big freeze of 2008. And I said, well, what happened? Surely the volunteers didn't show up in the snowstorm? And not a single one missed a shift is my understanding.

Cushing: That's right.

Fritz: So people can rely -- if you wake up in the middle of the night and you're feeling awful and you're feeling suicidal, you can call that number and someone compassionate will answer. It's really important that we're talking about this issue. Part of the reason, I think, that we maybe we have a higher suicide rate is that sometimes we think it's not polite to talk about how bad we're feeling. Or the Portland way is to suck it up. But that doesn't work, especially when you're suffering from severe mental illness that needs medication as well as counseling. This number is available not only for people who are feeling suicidal or having other challenges, but for their supporters and their family members. So if you want to know how to talk to a family member who is feeling suicidal, you can call that number and people will help. Very happy that you mentioned the teen line, because that was one of the things I was most intrigued by, that you answer by text, that the volunteers there are peer trained teenagers or young adults and they are texting. Which, I think takes a particular skill. So I appreciate that. Then my final question is about funding. How much is government funding, how much is grants, and how much donations?

Westbrook: I would say roughly at the moment -- it varies. We're always seeking grants. Roughly, I would say half of our current funding is government contracts, grants, etc. Obviously, there's private donations. Then one of the efforts we have been doing recently, and this is to ensure our sustainability, is to begin contracts with other nonprofits who serve folks with mental illness, mental health issues, to take on their after-hours calls. And so we have been doing that for about a year and a half now and we're looking to continue to build that so that we're sustainable and so that we're not just reliant on grants.

Holton: As you know, Judy is a force of nature, and when I come and look at the most daunting piece of what David's and my task will be going forward, it's continuing to build that kind of support. So we appreciate the city's partnership significantly.

Fritz: I add my thanks to Judy for your service. I was reading the wonderful article in the Oregonian profiling you and learned you got involved as a Medford school mom because one of the kids was taking drugs. And it built from there and now you're a national force on this. I know you will be sailing off into the sunset and doing nothing. [laughter] I look forward to continuing to collaborate

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with you. One thing that was supposed to be the finale of your service was the gala that was going to be happening on February 7. Very glad that that's now been rescheduled for March 7. Wondering if people watching this presentation are thinking how can I help, how become a volunteer, how can I donate, how can they find out more about Lines for Life?

Cushing: They can call 503-244-5211, and our 15-year wonderful voice on the phone will pick up and get them to the right person. We welcome volunteers. We welcome people who may want to participate with us in other ways. I do want to mention that about our incredible team of volunteers, all of our volunteers are supervised by master's level counselors who are on duty at all times.

Multiple master's level counselors. In the crisis lines world across the United States, we're seen as a very robust call center but also termed a hybrid model because we utilize volunteers with experienced master's level counselors. We thank you so much for this opportunity to serve the city of Portland and the citizens of Portland. We would welcome the opportunity to continue this partnership, and appreciate your time this morning.

Novick: Judy, before you leave, I want to thank you for your years of service and thank you and David and the whole organization for working with us and providing amazing support on issues to do with the Vista Bridge, including at one point training volunteers who wanted to patrol the bridge before we had the barriers up. Thank you so much. And Dwight, welcome back to public service. I have nothing against big, fat law firms, some of my best friends work there, but I was curious how long you would last at a big, fat law firm. [laughter]

Holton: I'm happy to be back in public service.

Hales: Thank you all very much. Thank you, Commissioner Fritz. And Judy, good luck, godspeed, and thanks for all you've done.

Cushing: Thank you. [applause]

Hales: Let's now move to the regular agenda. I think we have precisely one item remaining because we moved the others off. 149, please.

Item 149.

Hales: Thank you. I just want to say that there's been a great deal of work put into this by people in the community, some of whom are here today, by Commissioner Fritz and Josh Albert on my staff, who unfortunately is still away, but who has not been away because he has a telephone and at all hours of the night in all kinds of time zones has been helping to bring this win-win solution together. So I really appreciate the effort that everyone's made to try to get to a good solution for a good community that needs a home. Bravo all around. Progress, more to come. Thank you for the work so far and for the commitments people have made today. Commissioner Fritz?

Fritz: Thank you, Mayor Hales, and thank you for your partnership. Normally Josh Albert at his office would be doing the staff report but since he's still on vacation, I'm going to let folks know what's going on here. I'm going to read the history leading up to this ordinance and what we're doing today. On December 10, 2012, the city was sued in a declaratory and injunctive relief legal action -- which I have no clue what that is, I'm sure the lawyers on this body do. But, it was important. In Multnomah County circuit court, the Bureau of Development Services assessed enforcement fines, penalties, and interest against the property at the northeast corner of NW 4th and Burnside. The owners, the rights, and the cossets have permitted Right 2 Dream Too to occupy and undertake rest area activities at that property for assisting houseless persons. On September 25, 2013, for the purpose of resolving the lawsuit without the need for protracted litigations, the parties in the lawsuit, including the City with the mayor's assent, executed a settlement agreement and mutual release. I signed to that on behalf of the city as the commissioner-in-charge of the Bureau of Development Services. In that agreement, the City agreed to undertake certain good faith efforts to assist Right 2 Dream Too in moving to a Portland Development Commission owned surface parking lot located adjacent to NW Lovejoy Court under the NW Lovejoy Street vehicle on-ramp to the Broadway Bridge, which is known as Station Place Lot 7, or Lot 7. Prior to finalizing this agreement and

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moving to Lot 7 as part of the public hearing process, we held a hearing on October 3 and Mayor Hales asked me, the staff, and Right 2 Dream Too to work with property owners known as the Pearl Group in finding an alternative location suitable for the Right 2 Dream Too rest area and its houselessness advocacy activities. We have been working since then to facilitate agreements amongst interested parties and to broker transactions to meet the intent and the purpose of the settlement agreement. What this ordinance today does is allows the Portland Development Commission -- or supports the Portland Development Commission entering into a purchase and sale agreement of Lot 7 to the Pearl Hotel Investors LLC, which is an Oregon limited liability company. Again, I have only a vague knowledge of what that means. A portion of the Lot 7 sales proceeds of 142,000 will be returned to the urban renewal district within which Lot 7 is located by law. Station Place LLC and the Station Place Tower limited partnership have a parking agreement on Lot 7. They have agreed to assign and transfer their parking agreement encumbrance to the City for a fee of \$50,000. So that's part of what the money coming to us today will pay for. Then the City also has an encumbrance on the parking agreement. In order to satisfy that termination, Pearl Hotel Investors has agreed to pay the sum of \$896,000. 50,000 will go to Station Place and the remainder will be used for funding an alternative site for relocating Right 2 Dream Too that is mutually agreeable to the City and Right 2 Dream Too. This funding may include but not be limited to the purchase or leasing of an alternative site, improvements to the site, operations. And Right 2 Dream Too will work with the mayor and me to identify additional uses for the money if there is any left. That's essentially what the most part of the findings in the ordinance say. The directives are that the mayor and I will work cooperatively with PDC so if the 4th and Burnside property should become a PDC-owned site, then Right 2 Dream Too will be allowed to stay at that site until the City finds a suitable alternative in partnership with Right 2 Dream Too. We direct the director of BDS to refrain from assessing new fines on that property and we permanently dismiss the fines that have accumulated to the point where the lawsuit was settled. We will also take reasonable actions in good faith to assist Right 2 Dream Too in finding a new site. I know this has come by quickly. I first learned of it less than two weeks ago, and I'm going to move to remove the emergency clause so there's more time to discuss things before the vote next week.

Fish: Second.

Hales: Any discussion on removing the emergency clause? Roll call on removing the clause.

Roll on removing emergency clause.

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

[gavel pounded]

Hales: Done.

Fritz: I don't know if anyone from the Pearl Investors is here, or if Right 2 Dream Too would like to make a short statement?

Hales: Anyone like to make a statement about this proposal? Come on up.

Moore-Love: I have a signup sheet.

Fritz: And then we'll go to the signup sheet.

*****: [Inaudible]

Hales: You'll get a chance. Go ahead.

Trillium Shannon: OK. Hi, I'm Trillium Shannon, I'm a board member and actually do my best to represent the people who do the real work, who are the dreamers. Many of them are here today and they work day in and day out to provide safe shelter to hundreds and by this time thousands of people who find themselves without safe shelter in Portland. We're ready to move forward with this. I thought actually there was a vote today. Did I miss something?

Hales: We're taking the emergency clause off so it won't be immediately effective.

Shannon: OK. So one of the really important things -- the board got together, I think I heard about this on Thursday, and then on Saturday we had an emergency board meeting. So again, very short

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timeline, the board of directors, including people who have disabilities, made the best of all efforts. Every single one of us got together in the middle of a snowstorm on Saturday and we went word by word through this ordinance. One of the things that is really important to us is that in B4, you add a very small word, and that is take reasonable actions to assist R2DToo collaboratively in finding a new site. If there's need for defining collaboratively, we would be happy to sit down and do that with you and do that. But throughout the process we've had a lot of frustrations being left out even up until recently when we're finding out what kind of real estate is being looked at, and not coming up with things that actually meet the guidelines that we've asked for. I find myself thinking that you might be better off hiring members of Right 2 Dream Too to do that search than an alternative firm, because we keep running into the same kind of problems and we really do have experts, the people who run Right 2 Dream Too are the experts. We have a lot of knowledge. We have people with vast amounts of experience, including people who have helped set up tent cities in Seattle, founders of Dignity Village, people who have lived day in day out on the streets. And we have a lot of connections in the community. So we are asking through this process we're willing -- I was in front of you not long ago pretty angry and upset because of the way the process has been going. We have all decided we would like to move forward. We would like to build trust. That trust isn't there yet but we're taking a leap of faith with this ordinance and we would really like to define what collaboratively working together means so we all have that same understanding. We do have a democratic process and that means that each and every Sunday, the dreamers get together and they have a mandatory meeting where everyone discusses issues. The board members attend and we need to be able to bring things back to our community. And then we have a monthly board meeting where we discuss things as needed when emergencies arise. We have a democratic and collaborative process within our organization, and I'm just asking that we define how our collaboration with the City is going to work. I also just wanted to mention that I do believe that if we could move faster to set up more models like Right 2 Dream Too, we would be seeing less people lose their lives as we saw over this past week with the extreme weather and people freezing to death and dying needlessly on the streets of Portland. I urge you to work with us and work with the community that wants to help you find solutions and the solutions do exist. We just have to be brave and we have to be the ones who are paving the way. I'm really happy about finally the council is recognizing the model that dreamers have worked so hard to make successful over the past two and a half years. [applause]

Saltzman: So is Right 2 Dream Too a valid Oregon nonprofit corporation? And 501c3 status?

Shannon: Yes. We are waiting for our 501c3 recognition. We have been a valid Oregon corporation since the beginning, and we expect, based on the letter we received from the IRS, to receive our confirmation this month. I know there's an expedited process if we're not hearing back from them, because sometimes it takes years. If we need to hear back from them in order to have access to these resources, that's one of the stipulations the IRS gives, is if you're waiting on a large amount of money and it's contingent on your 501c3 status, they will expedite that answer. So, we need to work on that. We would be happy to. As I said, we received a letter that puts the date sometime in February that we should be finding out about our status.

Saltzman: OK. Thank you.

Hales: Other questions? Thank you.

Fritz: Before we move to testimony, I would like to move that amendment to add the word collaboratively on page 3 of the ordinance, so take reasonable actions to assist Right 2 Dream Too collaboratively in finding a new site.

Saltzman: Second.

Hales: Any discussion? Then roll call on adding the amendment. Then we'll take testimony.

Roll call on amendment.

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

Hales: OK, then let's take the signup sheet.

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

Hales: Lightning, good morning.

Lightning: My company is Portland Lightning. My name is Lightning. Basically I do find it interesting you're removing the emergency ordinance. I think you've had ample time to review everything. I find that rather interesting because you normally don't do that. That's kind of catching us off guard here. You should have had a vote today and I find that rather interesting that you've decided not to do that. This has been a very creative deal put together, very generous deal, which ultimately benefits the homeless throughout Portland-Multnomah County. To all the parties involved, exceptional work, job well done. What has been demonstrated by pearl real estate developers, Homer Williams and Dike Dames, and the founder of Dignity Village and Right 2 Dream Too, Ibrahim Mubarak -- if I've pronounced that properly -- that through their creative efforts working together reducing homelessness can and will become a reality. Again, exceptional work. You cannot teach or be taught what is yet to be created. Now with that in mind I would like to present some of my ideas to reducing homelessness throughout Portland and Multnomah County. Pertaining to real estate developers in the community, when real estate developers create condominium projects from the inception, I would like to see them insert the language, 1% of the sales proceeds per every condo sale will be directed to their own foundation which they create and these foundations being created will be used in an effort to reduce homelessness projected out in the future. Again, that's every sale. You might have three sales in one year. We're talking millions and millions of dollars to be funded into your own personal foundations to reduce homelessness in the future. Again, this is 1% being deducted off a standard 7% brokerage fee which again is directed to your foundation to be applied toward future development projects for the homeless. We must begin developing micro apartments on a large scale which can run and operate more self-sufficiently. We must maintain a unit price of 75,000 or lower. We need an ample supply of these units at least up to 5000. In my opinion, more well-established foundations must offer funding to real estate developers to create, set up a payment plan. It must be provided to maintain a large supply of micro apartments. Mayor Charlie Hales, Commissioners, with your influence, please contact some of these established foundations and help facilitate creative financing possibilities for the real estate developers to develop more micro apartments. Thank you.

Hales: Thank you. Morning, Joe.

Joe Walsh: My name is Joe Walsh, I represent individuals for justice. We take the position of being excited about this deal. Normally we would object on the basis that the rich seem to be getting their way again. However, R2DToo the last few years has done everything right. Everything. They have not made one blunder that I know of. So I'm very proud of them. I don't speak for them. I only speak for individuals for justice. And our position is we want so much for the five of you to do this right. We do. And as much as I criticize you on other issues, on this issue with R2DToo I think you have done yeoman's work. You've done good stuff. But you're right at the pinnacle right now. It's really difficult to look at this and say, you know, this could be really good to everybody. This could be a win-win-win. We pray that that's true. And as I look at each one of you, you have the opportunity to become a national city council and do it right, and I think the recommendation that you seriously look at hiring some of the people in R2DToo -- because I know you know that I preach all the time, if you want to know what's going on, ask the homeless. So when you go forward with this, you have an opportunity to hire people that really need jobs. That are involved in this process. That's another win. So it could be a win-win-win-win. So think about that. I applaud you today on this issue. And I would like to thank all five of you for the work that you've done and the support you have given Commissioner Fritz. Thank you. [applause]

Hales: Thank you. Good morning. Welcome.

Barry Sutton: Good morning. There's plenty of room for everyone. There's a field between Washington – there's a field in back of Washington high school cut by bordered by 13th and 12th

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and Stark and Alder in southeast Portland, enough for everybody. There have been a lot of get over my fear here, I guess, something like that. There have been a lot of people that have been at St. Francis church, a lot of people on the sidewalks, everywhere around there. There's room for everybody. Maybe a third of it could go to R2DT and a couple thirds to the rest of the homeless people in Portland and other homeless people in Portland could be outstanding among a lot of the country -- a lot of the states that states would send people over here to look into it, what are you doing, how can we do this. It's a wonderful opportunity. I don't know that I want to mess it up by trying to explain this to all of you. It's a wonderful opportunity. A wonderful opportunity for the police to learn to relate to people other than in the oppositional manner just to help people along. I believe everyone has a right to just live. Not just go get a place and get a shave and clean up and then get a job. But just to live. And then if something arises in the future, then employment, stuff like that, but not make widgets or little things to take in money. Our life is more beyond that. I want to go to the Portland planning and sustainability department of the Portland bureau of planning. I believe 7th floor, Nicole, and possibly have her type a letter for the people in state council and the mayor about instituting emergency zoning. And then after that can be established, after people can move in there, then I'm sure that some zoning -- those people could be -- I don't know how -- their presence could be established legally. This isn't beyond. This is not beyond anyone here in the city council, and anyone here in Portland. It's very doable. I can't find words for it. This is a field that would take up many, many people, couple hundred people or more. This is exactly how the first Dignity Village was established. Father Mayo helped with \$40,000 for several months provided everything for them. This was cattycorner to St. Patrick's church.

Hales: Good. Thank you.

Sutton: It worked out except the land was owned by the department of transportation and they needed to move stuff in. I want to work with all of you, especially commissioner Fritz, whose field is owned by the parks bureau and is property of the city of Portland to establish this. It can be done. I know it. Thank you.

Hales: Thanks very much.

Sutton: You're welcome.

Hales: Good morning.

Hiram Asmuth: Good morning. My name is Hiram Asmuth. I'm somebody who works for filmthepolicepdx.com, we're a volunteer organization, we film officers in the course of action just to make sure that they are acting responsibly. It's also a defense for the officer, too, because often when somebody is being filmed, as they are being apprehended it kind of calms the situation down. To be perfectly honest with everybody here, I apologize in advance for not using platitudes when I refer to the sweeps, but it's a stark and cold-blooded irony in that you guys were just talking for about 25 minutes with somebody who is working on behalf of people who are calling on crisis intervention lines at the same time contributing to that very crisis with the nature of the way the police enforce homeless policy. You're talking about a situation -- [applause] I'm not homeless. I'm fortunate to not be. I'm fortunate to have skills that I learned throughout school that allow me to get a job and somehow keep myself off the streets. But there's plenty of people on the streets. There's only so many bridges, there's only so many shelters. When you take a man or woman's tent away from them, you're evicting them from their very house. You are repossessing their house, you are repossessing their possessions. You're taking their medicines. This is sickening. You want to talk about mental illness? What about somebody who needs those prescribed medicines and they don't have an ID? It's really difficult to get a freakin' ID here in the state of Oregon, I can tell you that from a firsthand nature. [applause] I had my wallet stolen a while ago. It took me six weeks. I had to communicate with my mom in Santa Cruz, California, get her to get what you call a certified copy from the hospital as opposed to an actual copy, which is what I had, and I thought that was fine. I was wrong. It took forever just to get an ID. Now, if I was homeless and I didn't -- god forbid,

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maybe I don't have my mom. Maybe I lost her. Maybe I don't have access to the place in Georgia or Tennessee where I was born and I need to get that ID and I lose my medicine because an officer of the law who is protecting and serving me is taking my medicine? Who is that protecting and serving? You, Mayor Hales, have the power to dictate police policy. There's this thing called an emergency clause. You collectively as city council can do damn near anything you want with an emergency clause. Where is the emergency clause for the homeless people in this city? Oregon is not friendly to the homeless population and Portland is a shining example of that disrespect. When you're talking with people for 25 minutes about how to treat crisis prevention and how to treat mental illness and you're disregarding the fact that you in fact are the propagators of said mental illness, I find that just disgusting, reprehensible, criminal, and prejudicial at best. What I'm asking you is to review the current procedures and policies, stop the fucking sweeps -- sorry -- stop the sweeps and stop this disenfranchisement of so many hundreds of people that are currently on the streets and in snow and dying because of your police procedure. Thank you. [cheers and applause]

Ibrahim Mubarak: I'm Ibrahim Mubarak. I just want to go off what everybody is saying, that the houseless people are the experts in houselessness. You all need to work with us more. We are not those houseless people back when your grandfather were. We houseless people, we educated. We're smart. We know our rights. We're attractive, friendly, and we love it, but we know what we are doing. We you need to partnership with us. Right 2 Dream Too gave you a recipe and you left out the main ingredient, and that was the houseless people. You need to put that back in there so we can collaborate together. Not just over email but meet face to face and talk. Then you really know how we want things done instead of guessing and keep coming up with strife. That's all I have to say.

Saltzman: I have a question for ya. So in the spirit of not keeping me guessing, I'm curious why the proposed settlement ordinance states that 846,000 must be spent on property within a 1.5 mile radius of the Portland building. My knowledge of real estate prices say that's going to be very tough to find something in that price. You're the one who has kind of espoused that. Why? Why 1.5 miles radius?

Mubarak: Because we want to keep it within the vicinity of the hub of social services, that's why. It's easier for people to get there. If you notice, people have a backpack, shopping carts, buggies, and they can't get on mass transportation with that on. And they don't have money. Now the bus fare is \$2.50 one way for about an hour. Some people don't work. Some people saving money to go to work. The farther you push us out, harder it is to get services.

Saltzman: I'm just thinking in terms of real estate prices. That's probably the highest priced real estate radius also.

Mubarak: Well, you can give us more money so we can stay in the downtown area. [laughter] [cheers and applause] We wouldn't turn that down.

Fritz: Mr. Saltzman, it's also where the zoning is appropriate for the use. That's part of it, too that most of the CX and EX zoning is in that area. The other part that we heard at the October 3 hearing was that people have jobs who stay at night in Right 2 Dream. And as we know, downtown is the hub for those jobs. Ibrahim said they need to be able to get there. It's very important to recognize it's not the same people living at Right 2 Dream Too for long periods of time. There's a lot of turnover, so people need to be able to get to the place to be able to get in line to get a shelter for the night, the same as other shelters.

Saltzman: Thank you.

Hales: Other questions? Thanks, Ibrahim. Thanks very much. Let's take the next group.

Moore-Love: I believe that's all who signed up.

Hales: OK. Anyone else want to speak? Then -- oh, come on up, Charles.

Charles Johnson: Good morning, Commissioners. Thanks for recognizing me. And for the record, my name is Charles Johnson. And I think it's important to address a core issue implicit in Commissioner Saltzman's question. Not so much the reason for the 1.5 miles, but what's happening

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within the 1.5 miles. And the reason is that this city council and the people of this city council has chosen to appoint to the Portland Development Commission are not interested in development as improving the general quality of society. The Portland Development Commission is a wealth transfer tool to pretend to develop the city of Portland while enriching the few and not creating good-paying jobs. What you need to do is have the Portland Development Commission come before us to talk about the actual properties that they have that doesn't actually require any money. I don't know what they are going to do with the Belmont goat land but that is not far from the other area of empty land that Barry spoke to about. It is time for this council that has appointed the members of the Portland Development Commission to make sure that they understand that their role is not simply to create lucrative deals that don't satisfy the people of groups like the Portland African American Leadership fund. You need to work more with the Portland Development Commission to make them develop livable, loving cities, not cities that enrich developers who have the right political connections. I know you sometimes do that. There is a project in St. John's that was small scale and has popular neighborhood support. But we cannot avoid the issue while we're making these negotiations with Right 2 Dream and making these settlements, part of the problem is that the Portland Development Commission is too focused -- I'm sure they have a charter that they think limits them in certain economic ways, but the fact is the way it is being used now is hurting citizens of the city and it's your job as elected representatives to make sure that they use it in the most conducive ways to improve the quality of life for all citizens, not just ones that can buy investment properties. As you know, behind the Nordstrom next to Directors Park is some property that was owned by rich people. And it was sort of dumpy for years and years. And those people never experienced the level of persecution that you give to the people that are swept from the streets of the city. So, let's at least be honest about the situation here in Portland. Thank you very much.

Hales: Thank you. [applause]

Fritz: That reminds me that I neglected to thank the Portland Development Commission for their role in this from the very beginning when they helped search for a suitable site and allowed the settlement agreement to move forward with Lot 7. They certainly took a lot of heat for that. They have been great partners for Right 2 Dream Too and for me and have been instrumental in getting to this agreement today. So I'm very grateful to Patrick Quinton, the executive director and to Scott Andrews, the chair. And just a factual information, they don't own the current Belmont goat site. They are allowing the Belmont goats to move to a site owned by PDC and Lents. So it's certainly been popular for the last 10 years to vilify the Portland Development Commission. In my workings with them, they have been honorable and have been part of this. I want to respond to Shannon and others who are questioning the removal of the emergency ordinance. I received a request at 9:00 this morning from one of my colleagues to remove the emergency ordinance, and as a courtesy I did that. I wondering, based on the discussion, whether any of my colleagues want another week or if you'd be ready to vote today.

Saltzman: I am the one who asked that the emergency clause be removed, and I do need another week. What I'm wrestling with, all due respect to the mayor and Commissioner Fritz, Right 2 Dream Too, Pearl Investment Group, PDC, but I think some of my questions have implied what I'm still wrestling with is, you know, \$846,000 is a lot of money. And I need more in the ensuing week, more framework and definition about how that money will be spent. Questions such as who would own the property if it is purchased. Does the city own it and give Right 2 Dream Too a perpetual use agreement or three-year renewable lease agreement or what? I guess I need framework and definition around that. And frankly while I said \$846,000 is a lot of money, it's a lot of money in every respect except one, and that is trying to purchase or lease property that is the most highly sought after property in the downtown core. I'm just not sure that \$846,000 is going to do that. And while you -- the response was we can always find more money and I guess that is where I start to also get worried. Because as housing commissioner, I want to make sure that we're not taking funds

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that we're investing diligently and of utmost necessity in affordable housing, I don't want to set up a dynamic where it's affordable housing money is bleeding over into Right 2 Dream Too to be quite honest. I'm just thinking out loud. That's why I asked the emergency clause -- I'm not prepared to vote for it today. I will wrestle with these questions and hopefully get more information and framework and definition about how the money why will be spent in the ensuing week and cast my vote accordingly.

Fritz: So the ordinance assigns the mayor and me to work with that, and though you said with all due respect, it doesn't sound like you trust us to do that. But -- [cheers]

*****: Go, Amanda.

Hales: Please. Continue.

Fritz: It's right, it's true. Right 2 Dream Too and I recognize that it's probably not enough money to do the things that we wanted to do. It's another step in this process. This ordinance is to accept the money that has been graciously donated in order to assist Right 2 Dream Too and so that the Lot 7 alternative becomes off the record -- I mean, off the table. So, that is what this ordinance is doing. It is implementing the settlement, it's declaring the property interest acquired through this surplus, and it's authorizing the disposition it needed for the parking agreement. Right 2 Dream Too and I would love to have a lot more certainty about what happens next, too. We're not going to have that between now and next week because this is not about the next step. This is about this step, resolving the lawsuit, resolving the settlement agreement, accepting this money, and then we will figure it out and if necessary, we will come back to council with whatever that next step is. Right 2 Dream Too has never taken any housing money or any tax money other than the \$1000 that was allocated to do the property search. They have -- that is part of their model, is that they don't rely on public subsidies. They provide shelter at no cost to the taxpayers and have helped hundreds of people be safe and warm. So, I think it's a model that I certainly support. It is not part of the housing bureau's mode with housing first, and I recognize that. It is the part of the solution. And I as the commissioner-in-charge of development services want a solution on this site. This afternoon, I will go to the opening of the Community of Hope, which is a new shelter for women and their children, organized by the Red Sea church that was very difficult to figure out through the zoning code how could this be allowed by right. And my brilliant staff in development services have worked with the community and it is a very supportive neighborhood who are saying, yes, it's not OK for women and their children to be out on the streets in this kind of weather or in any kind of weather. That is not who we are as Portlanders. We need to be looking at a range of alternative solutions. I recognize, Commissioner Saltzman, you're the housing commissioner, you are going to decide what to do with the housing bureau budget and make recommendations to council as part of the budget process. That's not what this is about. This is about the next step in this process of where Right 2 Dream too can exist legally. [applause]

Hales: Folks, please, let us continue our discussion up here. So, Dan, this is going to come back for a second reading next week. In the meantime, I'll try to make sure that you get answers to those questions from both me and Commissioner Fritz and from our staffs who have worked on this proposal. Those are legitimate questions about how the funds will be used. It is reasonable to raise them, but I think it is also reasonable to proceed. For everybody who may be wondering, this will come back for a second reading. That means that the council will vote next week. That does not mean that we will take public testimony or that we'll take amendments. The proposal that has been discussed by the council and as we've heard testimony on, we will get an up or down vote by the city council at our next week's meeting.

Fish: Mayor, if I can clarify for anyone watching, when we have an emergency ordinance, it requires a unanimous vote. When we take the emergency clause off and take it to a second reading, it passes with a simple majority vote. That is technically the difference. I think we are concluded on this matter.

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Hales: Give you a chance to speak on this, Mr. Kramer.

Mark Kramer: Mr. Mayor, members of the council, my name is Mark Kramer, I'm an attorney with the National Lawyers Guild, and I've been the attorney representing Right 2 Dream Too and the owners of the site on 4th and Burnside. I want to thank Commissioner Fritz and the mayor for your leadership in reaching this solution. It's a step forward. It's an important step forward, and in particular, we would not be here but for thinking outside the box, and that is what Commissioner Fritz has done and that is what your office has done in coming to this place. And in answer to Commissioner Saltzman's questions, that is why we inserted the word collaboratively with your office, Commissioner Fritz's office, and the mayor's office, about the most effective utilization of the funds. And that's what we intend to do in the future. So, I want to thank you for your leadership and for thinking outside of the box.

Hales: Thank you. And your old friend Ray Suarez says hello.

Kramer: Oh, thank you.

Hales: Second reading next week. [gavel pounded] Sorry, was there one more comment?

Novick: I was going to make one more comment but it can wait until next week.

Hales: We have an interest on the council in returning to one of the items in the consent calendar. If we're going to do that that will require a motion for reconsideration by someone who voted in favor of the consent agenda.

Fish: I was not able to vote because I was tied up, so we're just going to do a motion of reconsideration.

Fritz: Which item?

Fish: Whole thing. Just the whole thing.

Fritz: Oh. I move to reconsider the consent agenda.

Hales: Is there a second?

Novick: Second.

Hales: OK. And then do we need to take a roll call on the motion to reconsider? Karla, roll call please.

Roll on reconsidering consent agenda.

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

[gavel pounded]

Hales: Same consent calendar, Commissioner Fish wanted the opportunity to vote in favor of it. Now roll call on the consent calendar.

Roll on consent calendar.

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

[gavel pounded]

Hales: We are recessed --

Fritz: We still have --

Moore-Love: We still have a pulled item, the 143.

Fritz: We pulled 143 to the regular agenda.

Hales: Oh, I'm sorry, we pulled it to the regular agenda. I thought we pulled it period. OK.

Item 143.

Hales: Commissioner Fish, any comments on this before we vote on it? It's a second reading.

Fish: No, I was pleased though that we were able to pull it and have a presentation on the benefits of gray and green and the way in which the projects save ratepayer dollars. So, thank you, Mayor.

Hales: Yes they do. Roll call, please, second reading.

Item 143 Roll.

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

[gavel pounded]

Hales: And now we're recessed until 2:00 p.m.

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At 11:10 a.m., Council recessed.

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

FEBRUARY 12, 2014 2:00 PM

Hales: Good afternoon, everyone. Welcome to the afternoon session of the February 12th Portland City Council meeting. Karla could you please call the roll.

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

Hales: We have one item this afternoon. Would you read that, Karla?

Item 153.

Hales: Great, thanks everyone. This is a quasi-judicial land use hearing, and it's conducted in a very set and prescribed way. I will have the city attorney describe the procedural issues and how we take this up this afternoon.

Katheryn Beaumont, Chief Deputy City Attorney: Thank you, Mayor Hales. There are several announcements I'm required by state law to make at the outset of the hearing. They'll describe the kind of hearing we're having today, the order of testimony, and some guidelines for presenting testimony. First, this is an evidentiary hearing. This means you may submit new evidence to the council in support of your arguments. Today's hearing in terms of order of testimony will begin with the staff report by the Bureau of Development Services staff for approximately 10 minutes.

Following the staff report, the city council will hear from interested persons in the following order. The appellant will go first and will have 10 minutes to present the appellant's case. Following the appellant, individuals who support the appeal will go next. Each person will have three minutes to speak to the city council. Next will be the principle opponent, in this case, the applicant, who will have 15 minutes to address the city council and rebut the appellant's presentation. After the appellant, the council will hear from persons who oppose the appeal. Again, each person will have three minutes. And finally, the appellant will have five minutes to rebut the presentation of the opponents of the appeal. The council may then close the hearing, deliberate, and take a vote on the appeal. If the vote is a tentative vote, which is what I recommend to the council today, the council will set a future date for the adoption of findings and a final vote on the appeal. If the council takes a final vote today, that will conclude the matter before the city council. I'd like to describe several guidelines for those who will be speaking to the city council today. First, any letters or documents you wish to become part of the record should be given to the council clerk after you testify.

Similarly, the original of any slides, photographs, drawings, maps, videos, or other items you show to the council during your testimony, including PowerPoint presentations, should be given to the council clerk to make sure that they become part of the record. Any testimony, arguments, and evidence you present must be directed toward the applicable approval criteria for this land use review, or other criteria in the city's comprehensive plan or zoning code that you believe apply to the decision. BDS staff will identify the applicable approval criteria as part of their staff report to the council. You must raise an issue clearly enough to give the council and the parties an opportunity to respond to the issue. If you don't, you will be precluded from appealing to the land use board of appeals based on that issue. And finally, if the applicant fails to raise constitutional or other issues related to proposed conditions of approval with enough specificity to allow the council to respond, the applicant will be precluded from bringing an action for damages in circuit court. And that concludes the announcements that I'm required to make.

Hales: Thank you, Kathryn. Does anyone have conflicts of interest or ex parte contacts to declare?

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Fish: Mayor Hales, let me start. I am advised by the city attorney's office that having read the editorial opinion in The Oregonian on this subject, and an op-ed piece on this subject, may constitute ex parte contact. That may be a strict ruling, but that's the advice we got, so I'm disclosing that I've read both.

Saltzman: I have the same disclosure.

Fritz: I didn't read either, and I haven't met with anyone about this.

Novick: Same disclosure.

Hales: Pleased to say I have been out of town and haven't read any newspapers. But I have had occasional informal contacts with both SEIU and the applicant for this project on subjects other than the appeal and none of them, I don't believe, constitutes an ex parte contact on the appeal itself. Does anyone have any questions about the council's disclosures? Because it's important that we are an objective body, and we do this quasi-judicial decision making as opposed to the policy making the council does, we are supposed to be an impartial review body. So does anybody have any questions about the council's disclosures? If not, let's start the hearing itself and have the appellant's presentation -- I'm sorry, staff report first, and then the appellant's presentation. I won't jump the gun.

Kara Fioravanti, Bureau of Development Services: Good afternoon, my name is Kara Fioravanti, I'm BDS staff.

Fritz: BDS is the Bureau of Development Services.

Fioravanti: Thank you. I am going to start with a summary of the procedure for this land use review application that was submitted in October of 2013. There was a staff report recommendation issued in early November that recommended approval. On November 21st, there was the first design commission hearing. At that hearing, SEIU Local 49, which is the Service Employees International Union, testified and requested to keep the record open for an additional 21 days to submit testimony. During that time, several letters were submitted by SEIU and the applicant. At the close of the record on December 12th, final findings were prepared for the design commission recommending approval again. At the second design commission hearing, the commission adopted the final findings for approval. The approval was appealed by SEIU Local 49 on January 7th, and here we are today. The land use review application included several components. I will go through each of those. First a design review to review the new proposed 30-story mixed-use building, which is referred to as Park Avenue West Tower. You may have also seen it as PAWT. The tower is 460 feet tall, which is the maximum allowed by the code. There's two floors of retail at the ground level, 15 floors of housing within the body of the building for 203 apartments, and 13 floors of office at the top of the building. There's 259 below grade parking spaces as well. There were two zoning code standards not met by this proposed tower and they were requested as modifications in this application to the spire height and reduced loading stall size. Also as part of this application was the central city master plan, and I have a slide that goes into greater detail on this. Basically the request is to take the development potential of Director Park on that 20,000 square foot block and move almost all of it to this tower site so that the tower builds the full potential of the two blocks.

Fish: Can I just ask you, do you know offhand whether the 259 below grade parking spaces are connected to the parking below, Director Park, and then the other adjacent building?

Fioravanti: They are not.

Fish: Totally separate.

Fioravanti: Correct. And finally there was an adjustment request to allow parking access for this building from Park Avenue. The zoning for the site, which is two-block site, is CXD which is central commercial with design overlay. This site is within the central city plan district, the downtown sub district. And the approval criteria for all of the components of the application include the central city fundamental design guidelines for the design review, their zoning code criteria for the modifications and the adjustment, and then finally the master plan. Those criteria are also

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included in the zoning code, one of which requires that the proposal be consistent with the central city plan functional policies. And here we see the two block site with the streets indicated. This is the proposed building between Morrison and Yamhill, our two light rail alignments. And south of that is Director Park, which is bound by Yamhill and Taylor. SW 9th and Park straddle these two blocks, which are two skinny streets lining the park block central city. This plan real quick shows retail wrapping and facing Yamhill and Morrison. The main large lobby shared by both the residents and office users faces SW 9th. And finally, SW Park includes the parking access and the loading, which faces the Nordstrom loading across Park Avenue. I'm going to summarize a lot of the land use history that has happened on these two blocks over the years. Starting with 2005, which was the beginning of the two-block vision for this development. A central city parking review did approve an underground parking garage under Director Park that is connected to Fox Tower. In 2007, there were a few staff-level design reviews approving the small buildings in Director Park. Also in 2007, there was a type three land use review application that's very similar to today's. And that application was to review a 33-story tower, which you see here. Taller than today's tower. And that included retail at the ground level office and then condo units up at the top of the building. The requests were similar for the modification adjustments and the FAR transfer. Underground permits were actually issued for the building and construction did begin with the underground work back in '07. This land use review was superseded in 2009, which I'll get to in a moment. Also in 2007, there was a type three review to allow vehicle access within 75 feet of the MAX alignment. That remains in effect, and this current proposal takes advantage of that allowance. And then in 2009, there was a staff level design review approving minor design changes to the skin of the building, the 33-story tower. And then later in the year, when the economy went south, there was yet another land use review application to approve a much smaller building, a 26-story tower that included retail and office only. That application included modification adjustments and an FAR transfer allowed. That FAR transfer does have standing today and that 9.1 to 1 FAR transfer that happened is not up for discussion today because that's already approved. Another thing to note is that some of the structural work for this tower -- permits were issued for that. And that's why construction's beginning today if you have been by the site. One thing I neglected to mention, sorry. In that 2007 type three design review, that application was appealed to city council back in '07, by different people for different reasons, but city council did approve that request.

Fish: Could you clarify what you said a second ago, that there have been permits issued for some structural work. So, what does that encompass?

Fioravanti: The core of the building is under construction through permits, and I think it's the first 10 floors, I might be wrong, it might be 13 floors. But it's the core of the building, the stair and the elevator tower that is within the center of the building. That permit was issued. Because this 2009 design review still has standing.

Hales: That's never been rescinded. It's just still in effect.

Fioravanti: Correct.

Hales: OK.

Fioravanti: Real quick, the height modification was easily approved by design commission. The building itself does not exceed the maximum height. Actually touches it at 460 feet tall right here. The spire right here, it is allowed to be 10 feet above the height limit. It's 41 feet above the height limit. The loading standards also needed a modification request, it's a very efficient loading layout which works for this tall building, and that was easily approved as well through --

Hales: You mean it is smaller than we would otherwise expect?

Fioravanti: To be more specific, the requirement is for two loading spaces. What they proposed is one full size, which is very hard to see here. This is the full size. One substandard here. And then a dedicated trash. So the trash is extra beyond what code requires. It's these two spaces which kind of

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need to share the space. If a substandard truck is here, they could share it together. But if a full-size loading is here, the substandard space can't be used by another truck.

Hales: OK.

Fioravanti: And finally, all four streets on this block are designated as parking access restricted streets. So if this project wanted to build parking and have its own access point, we needed to process an adjustment for one of the streets to have that. Obviously, Morrison and Yamhill are not the streets to do that on, and Park was noted to be the best street for that. I'm going to dive in a little more to that FAR transfer request because it is a little confusing with a lot of math here. So, bear with me. The two sites are both 20,000 square feet in size. Both have a base FAR of 9 to 1, FAR is floor area ratio. That means nine times the site area can be built in square footage. That totals 180,000 square feet per block. If the projects achieve bonuses allowed through the zoning code, additional three to one is allowed. So each block has a maximum potential of 12 to one. Director Park achieved its extra three to one through bike locker and water feature. Park Avenue West Tower achieves the extra three to one by providing the housing that it does. The request is to take almost all of this development potential and move it to this tower. And a little history which I touched on early. In 2007, Director Park did receive approval to allow an 11.7 to 1 transfer, which the 33-story tower needed at the time. In 2009, that was revised and taken down to 9.1 to 1 transfer simply because the tower was reduced to 26 stories. As I mentioned, that remains in effect. So, 2.9 to 1 FAR does remain at the park site today. The current request for the 30-story tower, needs again the 11.7 to 1 transfer. So the request under this application is to transfer an additional 2.6 to 1 FAR from Director Park to the tower.

Fish: Can I ask you a very basic question on that? Who actually controls the FAR that is subject to transfer at Director Park in light of the fact that there was a donation of the land to the city for purposes of public park?

Fioravanti: That's a good question. There is a -- the ownership -- maybe the applicant could elaborate, but the ownership of Director Park -- of the block itself is a condo ownership, where there's two condos. One being TMT and one other being the city. I don't know how it was structured in terms of who owns what and who has control of what. What I do know is that TMT does have control and ownership of the underground parking. And I do know that the parks bureau maintains the park, but how that private agreement was structured, I'm not sure who actually owns the FAR rights.

Fish: Is that an issue before us?

Fioravanti: No. Before -- what we're doing is allowing the ability for the FAR transfer to happen. How it happens through the covenant that's required prior to us issuing permits is between the two ownerships, if, in fact, it is two ownerships. Maybe it is structured where it is just TMT transferring. But that agreement and those negotiations happened to create the covenant that makes the transfer after this land use review allowed the transfer to happen. If that makes sense.

Hales: I had the same question, thank you.

Fioravanti: OK. So, between design commission hearings one and two and within the past couple of days, the appellant provided several letters raising appeal issues. This slide attempts to summarize those. It's a very brief summary. To begin, the appellant contends the city erred by not requiring affordable housing as a component of the central city master plan approval. The appellant relies on policy 3C, the central city plan. Policy 3 is a housing policy, which states in the slide, maintain the central city status as Oregon's principle high density housing area by keeping housing production in pace with new job creation. The policies elaborated in ways which the policy can be meant through handful of further statements within the central city plan. 3C being one of those statements which goes on to say, further encourage the development of housing and wide range of types and prices and rent levels. Some of these statements don't apply to this project. Some of the statements are aspirational and intended to guide future city legislation in the creation of new

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regulations. 3C, in our opinion, being one of those statements. And all of the statements relate to the greater central city plan district as a whole. Not all the projects subject to the policies bear the burden of providing a variety of housing types but the central city does. This project provides 15 floors of housing for 203 market-rate apartments, and aids the central city in providing an abundance of housing types. The other statement was made that there is no evidence that the owner of Portland Parks and Rec will transfer the FAR. And I touched on this a little with your question, Commissioner Fish. This is a two-step process to transfer FAR. First, through land use review, you need to receive allowance from the City to do so. Then the private property owners negotiate, create a covenant, submit that to City and then we can release permits to build the extra transferred floor area. TMT is fully aware that they are required to create a covenant that transfers an additional three to one FAR to the tower. And another statement states that greater than three to one FAR transfer not allowed in downtown. The zoning code allows greater than three to one transfer in downtown through the center city master plan process. The zoning code states central city master plan allows flexibility in FAR transfers. Another statement made, the absence of affordable housing is inconsistent with the federal fair housing act and may expose the city to liability. We don't administer federal regulations and policies. We administer our own regulations and policies, which, in their formation, were informed by others. [beeping] I think I need another minute, if that's OK. Thank you. So, our regulations obviously were informed by others. We're also party to an adoptive fair housing plan, which commits the city to reducing and eliminating housing discrimination. This plan commits the city and other parties to address impediments to housing choice in a variety of ways, including increasing equitable housing opportunities as part of the comprehensive plan update. It's implemented through a myriad of city policies and not intended to apply to individual land use approvals for development projects. The zoning for this site is CX and that does allow a variety of housing types. And just a few recent central city projects providing affordable housing include Bud Clark Commons, Grays Landing, Pearl Court, and Station Place. There's another statement bringing to our attention there's a restrictive covenant on Director Park between the private parties that states development cannot occur on Director Park. That may be true, but it doesn't supersede the zoning code, it doesn't take away the maximum 12 to 1 FAR potential for Director Park. So, for zoning purposes, there still is a chunk of FAR that can be transferred. So this restrictive covenant doesn't take that away from the ownership. And finally, there were procedural issues raised by the appellant. We feel throughout the process, we've met our procedural requirements and those are noted in the final decision. I am not going to discuss the building because I'm out of time, but I know Bob Thompson will describe the building at its ground level and the tower design, and I will end with your council options. You could grant the appeal, and overturn the design commission's decision of approval which would deny the proposal. You could grant component to the appeal and add conditions of approval to the design commission decision of approval. Or you could deny the appeal and uphold the design commission decision of approval.

Hales: Questions for Kara? Might have some later, but I think you've answered them for now. OK. Thank you very much. And is there any other staff presentation from the bureaus or are we going to move on to the appellant? OK. So now we're ready for the appellant's case. Come on up.

David Noren: Good afternoon, Mayor, Commissioners. My name is David Noren and I'm a lawyer and I'm here representing the appellant SEIU Local 49. You should have with you this pamphlet with two minor exceptions, small exceptions, of material that was submitted earlier and I wanted to make sure that you had it as a hard copy if you had questions. These materials include material that we submitted to the design commission as well as a summary letter dated yesterday that outlines our principle arguments for you today. But before I get to those arguments, I would like to talk for a moment about vision. The city of Portland had a vision for the park blocks that goes back a long time. It was a really important vision. But as things have evolved, the mid-town park blocks developed, unlike the north and south, and our comprehensive planning has recognized that some

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development is appropriate in the mid-town park block area. But the way it was planned was for limited density and limited height there with -- as your planning staff has already summarized -- a 9.0 to 1 floor area ratio. Now the floor area ratio kind of works in tandem with height limitations but it's sort of separate. And part of what that 9.0 to 1 does is reduces the impact on our vision of the park blocks that stretches from one end to the other, so that we don't have a huge building in the middle of it. The comprehensive plan and the zoning code also limit what you can do to increase that to a 3.0 to 1 transfer. And the only way you can get beyond the 12.0 to 1 FAR is if you go through the master plan process. What the master plan process requires you to do is to look at your broader policies in the central city plan. That's what we're asking you to do today, to look at the broader policies concerning housing, to show some vision yourselves now. We have lost, irrevocably, when this unit goes in, when this project goes in, that old vision of park blocks extending that entire area without interruption, park blocks that are accessible to all public of all incomes. And what we're going to have there now is a tower with housing, with offices for the city's leading law firm, and commercial activity there. What we're asking you to do is show some vision when you're giving up this park block area, ask for a little bit more than what we're seeing so far. Ask for some affordable housing so that what's available to folks who work in the downtown area and can't afford high-end rents can also share in this project.

Fish: And Mr. Noren, before you continue. The packet you gave us of materials for this hearing has a couple of letters in it which appear to be from interested parties. They're in -- they're actually in Spanish, not English. For those of us that are no bilingual and may want to look at these, do you happen to have English translations?

Noren: Thank you for asking. My apologies. I mentioned there were a couple of items in the packet that had not been submitted already. These are the written testimony for two union members who intend to present oral testimony today and we provided them in part to this issue of translator. They will be presenting in Spanish with oral translation.

Hales: OK. Great.

Noren: And we will have those two union members and union staff person following me up here today. So, when we're looking at the central city plan policy to encourage housing in a broad range of prices and rents, the design commission said, well, that's only an aspirational goal and it's not something that an application has to address. And typically, aspirational goals, if you have a permit application, don't come into play. But this is an unusual situation in part because we have this master plan where we're basically saying, we will trump what's in your zoning code and we will allow you to do other things but only if you look at these broader policies. But also, and more importantly, the property that's being transferred off of block five does belong to the city, the 2.6 FAR that is being asked for is going to have to come from the city. And until the city says, yes, we will do that, until there is some evidence that that transfer is going to occur, the applicant really hasn't met their burden of proof showing that this 30-story tower is allowed. It's only allowed if that transfer occurs, and there is no evidence that the transfer will occur. All we've got at this point is a letter from the parks director saying, we're open to discussion on it, we're not going to object to the land use application. But the parks director is very clear that this is city property and we haven't agreed to anything on it. Commissioner Fish inquired, is the ownership of the FAR at issue in this case? And this is one point that I have to take issue with staff on. I feel it is very much at issue in this case. Even though the city's code does not require the owner of property to be a party to an application, I believe state law requires it, as I've indicated in my materials, but your code doesn't. It allows an applicant to submit an application on somebody else's property, and assert in the application that they're conferring with the property owner, and then the application just says it is up to the property owner to object or raise concerns and the city is not going to guarantee anything along those lines. Well here we have the City as the property owner and the City has not agreed to

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this. And we feel that until the City agrees with it, there shouldn't be any approval of this application.

Fish: May I ask you, counsel, if you know, what is the consideration that the City is receiving for the transfer of the FAR?

Noren: At this point, I don't believe any has been offered. I'm not aware of any that has been offered. And I think that's kind of up for grabs at this point. I know that the parks and recreation department would like to make use of any consideration that comes from that. There are probably other bureaus that would like to make use of any consideration that comes from that, whether cash or in-kind contributions. We feel that one of the things that you can and should ask for is consideration for that, and you're kind of wearing two hats in this. Because you are a property owner on the one hand, but you're regulator on the other hand. As a property owner, we think you should be asking for, as part of the consideration that you get for the transfer, some component of affordable housing. I agree with staff that's separate, but I don't agree with staff that that is irrelevant to what we're doing here today. Because until you've got that agreement or some commitment from the city that that is going to occur, we don't really know whether or not this project is going to happen. They haven't provided evidence that the project is going to happen.

Fish: Is it your view, just so I understand, that this is not covered under the prohibition against inclusionary zoning because the city is conferring some discretionary benefit to the applicant and therefore could condition the transfer?

Noren: I think that the City could condition the transfer – well, let me put it this way. I believe the City can deny the application because there is not evidence that the transfer will occur. I also think the City can deny the application because the applicant has not demonstrated compliance with the housing policy, if the council chooses to interpret the housing policy that way in this case.

Fish: Just to be clear, my understanding of state law is that we cannot compel a developer to put affordable units in their development unless it's condition on the conferring some benefit. We're prohibited from implementing inclusionary zoning.

Noren: And my opening remarks about the vision, I think, come into play here. There is a substantial benefit being conferred here. Start out with 9.0 FAR on that block. Under the zoning code, they could get 12. They're asking under the master plan to get almost 24. You don't have to give them that. If you're going to give him that, we're saying get some affordable housing in return. At least better variety in rents so that we are not making that an enclave for the wealthy there in the middle of the park blocks.

Fritz: This is a design review application. And what we heard from staff the negotiation about whether it can actually be done is a separate deal between parks bureau and the developer. What we are being asked to do today is review the design review. So unless there's something that is in the -- there's a more compelling case in the comprehensive plan and in the approval criteria that says there has to be some affordable housing, why isn't that the next part of it? And, yes, indeed, that they may be told no from Parks eventually and then they wouldn't be able to do this. But that's a different matter from whether this design review is approved.

Noren: Commissioner Fritz, design review is one component of this. And we're not here about design review. We're here about the master plan. It's the master plan that has to be modified. There was a master plan in 2007 for some transfer. There was a master plan in 2009 that is still operative that reduced that amount of transfer and now they're asking to change the master plan again and bump it up to the maximum that they can get out of park lot five. Now, the transfer to the city, the improvements that city made that created the bonus FAR, those happened after 2009. And you will see it at the end of the packet of materials here is the email from the director of parks and recreation, and attached to that is the covenant that details the status of the FAR on park lot five. And it memorializes the earlier transfer and recognizes that the city is committed to the earlier transfer of the 9.0 FAR but clearly reserves to the city's ownership the remaining FAR.

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Fish: Following up on what Commissioner Fritz said, and for the benefit of people here participating and watching, when you're finished and we have a chance to hear from other parties, one of the principle questions we have to ask every time we have a hearing is, what is the issue before us and what legally are we allowed to review? This question that is a very important question about making sure that we stay in our lane. It doesn't signal one way or another whether we think any of the other concerns that are being raised are valid or not. We have to be especially careful that we are focused on what we are allowed to by statute and are considering factors that are relevant to this appeal. And sometimes we find that there are hearings where issues are raised but they're really better raised in another forum. And we are bound ultimately by the directions we have by council and the guidance under the statute. That is the purpose of Commissioner Fritz's question and I will be asking similar questions to make sure that the issues that you're raising, whether they are meritorious or not, are appropriate for this forum.

Novick: Mr. Noren, along those same lines, is it possible that we could deny this appeal today but then if the city owns the FAR credits, subsequently say, if you want our FAR credits, you have to do the following things?

Noren: I believe that that's something that you could negotiate with respect to the consideration that you are going to get for the FAR credits. Deny the application today and I believe you have sound grounds for denying --

Novick: I said deny the appeal. Could we uphold the application and still subsequently have a negotiation over the transfer over the FAR credits?

Noren: I believe you will have to have a negotiation on the transfer of the FAR credits, yes, Commissioner.

Novick: What we do here today won't settle that issue?

Noren: I don't think it will settle that issue, but it will leave the public out of that discussion.

Novick: Thank you.

Fish: Why do you say it will leave the public out -- we represent the public, so why if the mayor and commissioner-in-charge of the bureau are engaged in that discussion, why does that leave the public out of it?

Noren: I should have chosen my words better, Commissioner. I greatly respect your ability, the ability of all of you to represent the public. The level of public participation would be different in that process.

Fish: That may be true.

Hales: Fair enough. OK Other questions before we let him proceed further?

Fish: We're not gonna -- the clock has been stopped every time we do this. So, you still have your time.

Noren: OK.

Hales: Keep going then, please, David.

Noren: With respect to trying to stay within the lanes, my letter of February 11th, which is in your packet of materials and it is three or four pages back is where my letter begins and it provides the best summary of our arguments at this point. That initial --

Fish: Raises a question in my mind, who are you representing here today?

Noren: I'm representing SEIU Local 49, and I have at the design commission represented Adela --

Fish: But you do not represent the housing land advocates.

Noren: I do not, no.

Fish: They have put in a statement separate also dated February 11th.

Noren: That's correct.

Fish: OK.

Noren: And I would say -- well, let me, if I could, just move on to this issue of fair housing act related issues. Because you did ask that I stay within the lanes and I want to explain why that

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element has been raised in my letter and why it is touched on in the letter from HLA. When we are talking about the choices you can make on this master plan application and how you're going to interpret your central city plan policy, which says encourage housing, what we're urging you to do is interpret that in these unusual circumstances where the city is a party to the transfer to say we have maybe a little higher standard for how we encourage it when we have this sort of an application. Now, the discussion from me and from HLA about providing affordable housing and removing barriers to fair housing is really context for that land use question: How should you interpret it? And our point is that when you are making a choice, whether to approve or to deny this, and if you feel you can make that choice based on the interpretations that are available to you, one of the things you should be looking at is, what are your other responsibilities as a recipient of federal funds to encourage the access to fair housing? And HLA's point is that you have these obligations. They've been identified, some of the concerns about access to housing in the downtown area have been identified in the documents that you provide to the federal government and your identification of barriers to housing. And, so, just in terms of context, you should give some thought to, if we don't make that choice now to require some affordable housing here, or at least deny this application and go into negotiations and do the best we can on it, then at some point down the line we are going to look back over our shoulder and say, I wish we'd have done that. Because at some point down the line, as the federal government ratchets up its review on how jurisdictions are complying with the fair housing act, they're going to be looking at how do you do land use decisions. That's one of the things they can and should look at under the fair housing act. And HLA is saying and what we're saying is in terms of context, you have an opportunity here. And we're urging you to take it.

Fish: Just to be clear, there's no question in this case that there are no federal funds that are being invested in this development, correct?

Noren: That's correct.

Hales: Well, this will be a question that we are going to want to pose to staff as well. You're making an argument, if I paraphrase it, that the plan policy that talks about a diversity of housing choices should be applied to a particular building, rather than to the net effect of multiple applications across the central city. I believe that's a novel proposal. In other words, I don't believe there have been any previous master plan cases in which an argument was made that the diversity of housing choice goal had to be accomplished in an individual building. Which is what led, I believe, to Commissioner Fish's question about why we get around the state prohibition against inclusionary zoning in this case, if we followed your rationale. But, you know, it would be possible -- that's a question I want to pose to you as well as to staff. You are going to have to make the staff that we cross the rubicon here and say, OK, now we're going to start imposing the diversity of housing choices requirement building by building.

Noren: Mayor, I'm not aware that anyone else has raised this argument on master plans, and the reason we're raising it is precisely because the city is in effect a party to the transfer. They own the FAR that is going to be transferred that is necessary for this project to occur. And so, it's not just an applicant who is coming in with a project that we're talking about complying with the policy. It's the applicant with its project and the city as the owner of this FAR.

Fish: Just to be clear, because I think you stated it very nicely, in your view, if there was no transfer of FAR from Director Park to this development, then you would not have an issue, correct?

Noren: Well, I'd have tough sledding, Commissioner, if I made that argument. But, yes, that's correct. I think that would be a very difficult argument to make.

Fish: But we, in turn, would then be clearly bound by what is existing zoning and ground rules for that site. Your hook, at least in your argument to us right now, is that the city is engaged in a discretionary act of transferring something of value to this project and from that it has the right to establish conditions for that act?

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Noren: Yes. Two points though. One is that there's the discretion with respect to your proprietary role as the owner of the property and how you're going to negotiate that, and then there's the discretionary role you have in interpreting the plan provision. And I'm making both arguments. I'm making the argument that, from a regulatory standpoint in interpreting the plan provision, you could say that under the facts of this case where the city is a necessary party to the accomplishment of the project, we're going to interpret this housing policy more broadly and -- or I should say perhaps more stringently -- than we would if it were an individual applicant. When the city is a party to it, when the city has to be there to make it happen, then encouraging a range of rents and prices takes on a different meaning.

Fish: Just to be clear, Mr. Noren, when you say affordable housing, what are you referring to and what's the mix that you believe the city should be considering?

Noren: I think that the city needs to -- I don't have a number to offer you. I'm not going to propose, for example, that it be something that would qualify for private activity bonds. I think it's something that needs to happen in a discussion with the folks at the city who are best equipped to analyze what's out there in the vicinity for affordable housing and what the needs are. Our members, particularly janitors and security folks, are making in the neighborhood of \$20,000 to \$30,000 a year. Other folks at \$40,000 a year, maybe a little more than that, I think they're squeezed out by this sort of project and there's limited availability downtown for those folks as well. So, it may be appropriate -- the standard is -- we'd like to see affordable housing but what the policy says is a range of rents and prices. And we don't have a number for you today. What we're saying is that you need to do something to provide the greater range of prices and rent. And we would be happy to work with the City to help come up with some numbers if we move in that direction.

Hales: OK.

Noren: The last point I'd like to make, and you will hear a little on this related to this from Gricelda, has to do with the procedural issue of who hears the master plan in the city of Portland. I have some technical legal arguments. I understand staff doesn't agree with them and I assume the city attorney probably doesn't agree with them either. But I think that they're valid arguments to be raised about who should be deciding master plans if what you're looking at is the broader comprehensive plan policies rather than architectural standards. Because your design commission is industry insiders, and they do a great job of looking at architectural issues. Our point is that they are not the ones who should be looking at the application of comprehensive plan policies.

Hales: We interrupted you a number of times. If you have other points you didn't get a chance to make that you want to sum up, please go ahead.

Noren: If I could just very briefly on the design commission -- and having spoken some of affordable housing -- while we were at that hearing, we watched the design commission take a project through hours of grueling discussion about whether or not they're supporting affordable housing project could occur. The federal law requires you to do an analysis of impediments to affordable housing. I just think it might be helpful if somebody has a word with the design commission about how they approach some of the hearings. Because that wasn't right, the way that hearing went that night.

Hales: Thank you. Other questions for Mr. Noren? Thank you very much.

Noren: Thank you.

Fritz: Mayor Hales, before you move on, I'm going to see if your memory is any better than mine. It seemed to me that while I was on the planning commission and you were the commissioner-in-charge here that we had a tax abatement project in, I think it was Old Town, where the planning commission was encouraging the affordable housing and the not affordable housing to be mixed and the applicant chose to have an affordable building and a not affordable building, does this ring a bell with you?

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Hales: Right.

Fritz: And I think the planning commission and I think the council upheld that no we couldn't in fact even with a single project with a tax abatement require that it all be mixed up. I think -- and that was a long time ago for those of you --

Hales: Yeah, I mean, I wasn't thinking of that specific case. That is why I was raising that question. This would be a new policy. Granted, you made an argument there is a special hook in this case. I get it. But if that would be a new policy to say whether on a district or building basis we're going to start requiring a certain performance level of affordability in a building, as a condition of approval.

Fish: Of course, I'm reminded that on certain of our tax abatements, you're only eligible for them if you meet all of the criteria and 20% of the units are set aside. But that's a specific program. If you choose to --

Hales: Discretionary.

Fish: The developer gets to choose whether that is a good deal in order to get a 10 year abatement on the property taxes. But you go into the relationship knowing that that is what you want to do and then there are conditions.

Hales: OK. Great. Now we will take supporters of the appellant in order. And I think you have a sign-up sheet.

Moore-Love: Yes, we do. I show three people signed up. I will go with the first two because I believe they need the interpreter to have a seat.

Hales: Come on up, please. If you need another seat, just grab one and drag it up.

Adella Maza: Good afternoon, Portland City Council, and Mayor Charlie Hales. My name is Adella Maza. I am a member of SEIU Local 49. I am an immigrant from Guatemala. About 30 years ago, I moved from Portland seeking a better way of life. I work two jobs in Portland city center. In the mornings, I work at a hotel downtown. I help with the breakfasts there. At night, I work as a janitor for ABM cleaning buildings. I live in Gresham. I used to live on 15th and Hawthorne. But even though I work two jobs, I could not continue to pay the rent to live there. I moved to Gresham because it's a place that is cheaper. I know that the majority of my coworkers that work in the hotel and janitors cannot afford to live there either, in the Portland city center. They have to continue to live on the outsides, traveling from places like Gresham, Hillsboro, and Aloha. I earn for myself, my daughter, and my grandchildren. Based on my income, I have to make difficult decisions paying rent, food, buying materials for school, and for my grandchildren. Working at night in the city center means that I have to sometimes get out at 2:00 a.m., and at that time, or at that hour, there is no transportation. I live outside the city. If a co-worker does not take me to work, I have to wait until 4:00 a.m. to take the first train that goes out. I have to wait in places like Subway because there are no other places that are open. Every night, there are other workers like myself that leave work and there is no transportation. I see them suffering out in the cold. In some occasions, I have been in scary situations while waiting for the first bus services. If workers like myself could live in this Portland city center, it would have an enormous impact for us and our families. We need a city that's just and equitable for all, not only for those that are fortunate. We look for support from the city council to help us construct a city where the people have access to good jobs, health insurance, and accessible housing. The people that work and workers with low income deserve to live close to where we work. The Portland city center should not only be for the rich. And I ask in the name of the families that are workers through Portland, through the city of Portland, that Portland can make sure that this building and others similar to it can have accessible housing. Thank you.

Hales: Thank you.

Gricelda Tellez: Good afternoon, members of Portland City Council and Mayor. My name is Gricelda Tellez. I work as a janitor in a building, an office building in the city of Portland. I work for a company called Township United. I live in Beaverton and I have to drive all of the afternoon to the Portland city center to clean offices, as well as my coworkers. I have two children, 16 and 17. I

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have lived in Portland during my 13 years, and I moved here to Oregon to find a better job and better salary for my family to live here. I'm a member of the SEIU Local 49. My coworkers and I are here because we believe in better employment and accessible housing for all workers. We believe that this building cannot be constructed without accessible housing for those that work with a low income that work in the Portland city center so that they can live close to where they work. Many of my coworkers attended the Portland commission design meeting on the 21st of November. I requested time off from my second job as a cleaning person in a hotel, and I directed myself to the Portland city center for the meeting. Our understanding was that this meeting was going to be where we could understand why the city was going to permit this building of this size to be constructed without accessible housing. We also wanted to support our union that was going to be talking about our worries. In attending this meeting, we were hoping to be able to send a message to our commissioners that this subject was important to us and so our voices would be heard. When we got to the meeting at 1:30, they told us that the project that they were going to be talking about was not going to be discussed until two hours later. We found out that they did not speak about the project until almost 8:00 p.m. that night, six hours later. We could not stay for the meeting that day and we had to go back to our families and go to work the following night. The process with this commission design limits unjustly the capacity for the workers to participate. If it weren't for the work with my union in this, I don't have an idea how my voice and the voice of other workers with low income would have been heard. If the city is going to approve projects that affect the options of housing for the workers with low incomes in Portland, then the process to approve those projects should be established in a way that the affected, especially those that could see themselves affected negatively for lack of accessible housing close to where they work, could participate. We ask that the accessible housing should be included in this project. Thank you.

Hales: Thank you very much.

Fritz: Could you translate for me, please. I'm in charge of the bureau that does the design commission. I'm sorry it was so difficult, and thank you for trying to testify. The people on that commission are also citizens, volunteers. And there are so many applications coming in that they had many, many more meetings and very long meetings to try to get through all of the work. So, it is very difficult, but I'm sorry you that you had a hard time. Thank you for being here today.

Hales: Thank you. OK. Next person.

Moore-Love: I show one more person. We kind of had a mix up on our labels, on our testimony sheets. Is there is anybody else in support?

Hales: Anybody else that is going to speak in support of the appeal? OK. Welcome.

Felisa Hagins: Mayor Hales, members of the commission. For the record, my name is Felisa Hagins. I'm a registered lobbyist at the city of Portland and I lobby on behalf of SEIU Local 49, which is 10,000 health care and property services members. And SEIU is the largest union in the state representing 65,000 members of the state of Oregon. Most of those, like most of the state of Oregon, live in the metro region. And close to the city of Portland. I'm not going to read through my entire testimony. It's been provided to you along with other information. I'm here to urge the City to deny the Park Avenue West Tower redesign on the basis that it lacks affordable housing and contributes to the growing income divide in our city. We believe that this divide threatens the fabric of who we want to be as a city and the foundation of our sustainability policies that we have been working diligently to move forward. SEIU believes that the city has to be inclusive of all its citizens, and the average Oregon family should have the opportunity to live in the city's core. We believe this has been part of the decisions the city has made in the past when it comes to the outlook of the aspirations for land use that it's put into the policies. The average family in Oregon earns roughly \$43,000. And rising housing costs are pushing these families further from the city core. As as you can see from the chart on page 2, most of SEIU 49 members and SEIU 503 members make less than \$69,000 a year. And if you look forward to the rest of the maps, you can see the vast majority of our

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memberships are moving out of the inner city core based on the unaffordability. We know this specifically because over the last 10 years, I've run voter registration and information for our members and have actually seen the migration from the inner city districts to the outer edges. I know that many of the councilors here are familiar with the issue given their previous history working with other commissions, such as housing, parks, and partnership with the county and also the work with the schools. The Park Avenue West Tower as currently designed will not benefit the average Oregonian, our community as a whole. It is designed for the needs of the upper income brackets and draw a further divide in the city. Because the city is part owner, by not providing median income in the downtown housing core, we think there is an opportunity here. I want to say, I understand that we're asking you to do something new. I think that that point has been made and reiterated by each of you. I also understand that some of the goals outlined that the design believes are aspirational. But I want to be clear that you have an opportunity today to put in place something, to go back and have a discussion, to make your aspirations a reality by denying the appeal. Thank you and I'm happy to answer any questions.

Hales: Thank you. Questions? Great. Thanks very much.

Hagins: Thank you.

Hales: Good afternoon.

Mark Medina: Hi, my name is Mark Medina, I'm a member of SEIU Local 49. I just want to say the reasons why I moved to Portland. I came from Los Angeles over a year ago. The main reason was the idea of Portland. I went back to LA on vacation and talked to a lot of friends, musicians, artists, graphic designers. They talk about Portland in very glowing terms. They have never been here. Yet they love it. If it wasn't for the fact that the immediate following question after, how is Portland? How is life up there? And my answer being, it's great. The immediate question is how is the rent? That's an opportunity cost. Me and several friends up here have been thinking of opening up a bar. It's a business. It employs people. We are saving up money for it. That's an opportunity that would have been lost had I come up here and said it is not possible to live up here, it's too expensive, it's not feasible. I'm young, and there's a lot of people that I know that are very young. At some point we are going to be paying for the social security, paying for the retirement of a lot of people who are later in their years. You need more people, you need more people to come up here and to sustain this community. It's important to have this city continue to have that same drive that makes people want to come up here that makes the city more youthful, support itself. All you have to do is look at Japan right now and see exactly what a society that ages but doesn't help more people want to come to its shores. On top of that, Geoffrey West, a physicist from London, did a great piece in The New York Times where he work living in the city center increases productivity by 15%. And that's been reproduced in economic studies afterwards. It was a fantastic piece. It shows that living in city makes people more productive. The idea of Portland, a bike friendly city, a city that is supposed to be green and has very progressive roots, is a city that should not want people to look at the city center as an Athens that they can't touch. That you can only visit but simply can't live in. It's important to want people to come here. It is important to want to keep the idea that Portland is somewhere to come to and to want to be in. I met a lot of people, talked to a lot of people, friends, other people that I have just seen on the streets, they talk about Portland as a great place to live. I don't see a lot of people rushing to Indianapolis. I don't see a lot of people rushing to Biloxi. I see a lot of people coming to Portland. And to continue that, you want to have an environment that is conducive for people to move up here. Affordable housing does that. You want to have artists, entertainers, graphic design majors, you want to have people with interesting ideas that makes this city a place to want to be, and you have to make it affordable for people to have that drive to come up here. Not just people that have done it, have the income, and can only afford to live somewhere with higher prices. You want to have a diversity, and to get that, this would be a huge benefit.

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Hales: Great. Thank you very much. Thanks. Anyone else who wants to speak in support of the appeal? Then we will hear from the applicant, please.

Vanessa Sturgeon: Good afternoon, Commissioners and Mayor Hales. I just want to briefly say that I think one of the worst things that --

Hales: Put your name in the record, please.

Sturgeon: Oh sorry, Vanessa Sturgeon, TMT development. One of the worst things that can happen is that the project stalls again. It's a \$175 million project with almost all local vendors, almost all local jobs, and they're union jobs. And so of course, we saw what it was like for four years when Park Avenue West languished, and now I think one of the worst things that can happen is that the project stalls again.

Robert Thompson: My name is Robert Thompson, I'm a design principal with TVA Architects, a project designer on the project. I would like to talk for a minute about what was brought up earlier as it relates to vision. I think what's important to understand is in the year 2000, we were underway with the design and development of part of the Fox Tower. And I think what was interesting, I was standing with Mr. Moyer on the corner, and at that point in time, park block 5, where Director Park is right now, was slated for an 11-story parking garage. And Mr. Moyer said, you know, we have to find something better for the downtown central city than another parking garage. He stepped up, paid top dollar for that piece of property at his own cost, built the parking garage below grade, donated the park, that piece of property, to the city for a park that would go in perpetuity for the life of the city for the people of the city of Portland. He also bought block 4 to the north. Paid top dollar for that. He also bought the rights to develop the properties as it relates to the allowable FAR that he was entitled to. To do that, one of the things that we looked at is what could we give back to create a more livable, viable city center. And in doing that, again, his generosity in terms of transferring and working with city to transfer the FAR that he purchased which was up to a 12 to 1 FAR on the Director Park site, over to park block 4, where Park Avenue West is right now, was a very generous move. I understand at this point in time that the city owns the FAR. But I think what's important is that Mr. Moyer paid top dollar for all of that FAR, and out of his own generosity for the people of the city of Portland, donated that to that property to the park -- I mean, to the city. This is a view looking at Park Avenue West right now. Just so that I can introduce the project very quickly to you. This is a view where Starbucks is, looking to the north, so we have Director Park in front. One of the things that's important is that we want to create a very vibrant, energized, active downtown here. Just going back through the history quickly on this, there are three towers right here that you see. And Kara talked about this earlier. The one on the left Park Avenue One. And in that we had 33 stories, of which the top 10 floors were very high end condominiums at that point in time. At that point in time, the design commission approved the project unanimously and we went ahead with construction on it. Unfortunately, as we all know, the economy came, crashed, Mr. Moyer then removed the top 10 floors, took the condominiums out. We converted the project to a 26-story building, went back through the design review process, received unanimous approval. Then when the economy stepped up, we came back. What we're asking for is simply what we had originally, and that was the FAR that Mr. Moyer was already given as a part of Park Avenue West One so that we could come back and add back in the -- not affordable, the market rate housing of 15 floors at the bottom of the building. He doesn't have to provide any housing. And I think what's great here is for us, the richness of this project and our ability to continue to really look at what the core values of what the central city plan is trying to do, to be able to bring over 200 market rate housing units back into the heart and core of the city, we think is -- makes this project so much richer than it ever was before. And that is what we are really excited about.

Fish: Can I ask you one question? That slide, if we could go back one. It is not unusual to see the housing above and the office below. According to your diagram, it is the other way around, right? What's the design behind that?

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Thompson: When we were working originally with the prime tenant on the building, which is Stoel Rives, they're taking the top nine floors of the building. When we were working on Park Avenue West Two, they had those nine floors. So in order to activate the project, as we know, they are the key tenant that has enabled this project to move forward, they continued, obviously, to want to have the top floors of the building. So we reserved those floors and kept the office portion on the upper 13 floors.

Hales: While we've interrupted you, from a design case standpoint, I will ask the same question of staff, and when Mr. Noren comes up I will ask him in his rebuttal to address this as well. Would it be possible to construct a scenario in which this building were built without housing and still transfer the FAR?

Thompson: Yes.

Hales: By meeting the comp plan policies in some other way?

Thompson: Yes.

Hales: So, the fact that the building has housing in it was not in and of itself pivotal to the design case.

Thompson: No.

Hales: In your opinion.

Thompson: In my opinion, it wasn't. We could have 100% office on this site but we chose to bring housing back in because housing we feel obviously enriches significantly that district.

Hales: Thank you.

Fritz: And when you gave -- when Mr. Moyer gave the park block, was there at that time an agreement that all of the FAR that wasn't needed for Director Park would go to the adjacent building?

Thompson: Yes, I mean if you look at park block one -- I'm not sure what the legal agreement was. When we did Park Avenue West One, we had, based on the design, the ability to build 12 to 1 FAR on both blocks. That's basically 240,000 square feet per block. Park Avenue West One is 474,000 square feet. So, we in a sense used all, 100% of the FAR to build Park Avenue West One at 474,000. We left 6000 square feet on where Director Park is in order to cover the square footages of the above-grade elevator, pavilions, and the restaurant that is there right now.

Fritz: And I have Director Abbâté and the city attorney to confirm that later. My question for you is if the ownership had stayed in the same place, could you have chosen to then just put all of the FAR on one block and leave the other one for a field?

Thompson: I don't understand the question.

Fritz: Maybe it's a question for staff. If the ownership stayed in the same ownership with TMT, could you choose to put all of the height and FAR on one block -- and Mr. Pfeiffer is nodding.

Hales: If they got master plan approval.

Thompson: Subject to the master plan approval.

Fritz: I see, thank you.

Fish: That's assuming Mr. Moyer had not agreed to create the park. In other words, if he had purchased the lot and had not done the park he could have --

Fritz: That was my question.

Fish: I'm just making sure I understand -- he could have transferred the FAR?

Steven Pfeiffer: Or even if Tom built the park, he still would have the access FAR to transfer, subject to the master plan.

Fish: You'll clear that up when you get a chance. That is a question that I think we're a little confused on. So we're gonna need your view on it.

Thompson: I want to take five minutes and run through the building so that you're aware. We know where the site is right here. Again, looking at the site plan right here, Park Avenue West located on the right-hand side. You can see Directors Park there. I think the beauty of what is going on here

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with the development of this tower, with the Fox Tower, with the paramount hotel to the south, you can see, again, the richness of the retail that is being brought into this district, the restaurants, the theaters, the energy, the public amenity in the form of a park. It's spectacular in terms of what it is doing to help revitalize and energize the central core of downtown. As we were saying before, the building is 30 stories in height. It's going to consist of a glass curtain wall with a composite aluminum exterior skin, the combination, the aluminum being the light and the glass the darker blue-green color. This is a view looking at this west elevation to the left and then the Morrison Street elevation to the right. The building will be very vertical, very slender in terms of how it's perceived from the park. And again, we are dealing with a half block here. The building will be perceived as a very -- almost a point tower in its character. This is the ground floor I wanted to show you. One of the unique things we're doing here, much like we did when we designed the Fox Tower, is that we're looking for two floors of retail. Portland traditionally only has single level retail on most of their developments. So one of the things we are trying to do is to get Portland to continue to look for retail opportunities that bring energy and excitement and life if you will to the building -- I mean, to the street, to the central city with this kind of an approach. What we have here on the lower level of these elevations are over 35 feet of vertical height of glass. Even taller than what we have on the Fox Tower right now. So, this is a view looking at the east side of the elevation where we have our loading -- our garage entry to the right. And, again, that 40-foot podium that creates the base of the building, and, again, the view from the Morrison side. All of the way around the podium, the base of this building, it is going to be very transparent, very open. It's going to be very alive, very bright, and, again, as I say, bring a lot of energy to the street. This will be the west elevation at the base, where we're bringing in the primary entry lobbies to both the apartments and to the office tower. Again, this is a view looking from the Fox Tower looking to the northwest. So, to the left you can see the height of the glass in terms of the scale of the people right there. The Directors Park is to the left. So, again, also coming in with a building that is very -- designed in a way that has a very, very defined retail base, a very defined midsection to the building, and a very defined cap to the building. This will be a view looking to the northeast. The office lobby and the apartment lobbies would be to the left, if you will. And, again, this would be one looking toward the southeast off of Morrison Street. So, again, rather than all of the energy simply being toward the park, the nice thing is that we feel this project will help spur and continue new growth and development in the central city district. And a view from the other corner. This is a view of the project for the skyline looking to the west. You can see Nordstrom's in front, with the Fox Tower to the left. So it kind of gives you a sense, a feel of the scale of the project. And, again, this is just a quick view of looking at the project on the skyline. You can see on the lower one, the project from the left, the tower from left, it's just to the left of the Fox Tower as seen off the Vista Bridge, and the one up above, you can see the Fox Tower and it's just to the right. I think one of the things that was important to Mr. Moyer in the design of this project is that everything that we did looked to create a new district, a very vital district, bringing retail, bringing life as far as housing back into the central city, and coupling that with office opportunities. So, the beauty of this building, it's truly a mixed-use building, which again, it's a unique building type for the city of Portland.

Hales: Thank you. Questions for Mr. Thompson? OK. Steve.

Pfeiffer: Steve Pfeiffer, I'm a land use attorney with Perkins Coie in Portland. 1120 NW Couch, 97209. And I'll speak to some of the legal issues and of course answer some of the questions some of which have come up already and some of which may still come up. There's, aside from no small amount of frustration, there's a lot of aspects of this from a simple compliance with applicable land use law that are unusual. First of all, the primary issue before you that's been presented already and was presented to some degree in front of the DRC, is a legislative issue. It's not your typical quasi-judicial land use case for two reasons. Number one, it's not a substantial evidence case. We're not arguing about how many trips are generated, or those kinds of things. And secondly, we don't seem

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to be arguing about whether the applicable criteria have been shown to be met by the applicant and now on appeal by the design commission. That is typically the focus of a quasi-judicial case. And with some irony that I would not, there's a lot of aspiration attached to this appellant and the related appeal issues, certainly their primary appeal issue, and it's exemplified in many ways. But it's their repeated use of the word of what the council should do, not what the council is required or prohibited from doing in this case on appeal of review. It's what you should do. And I'm not saying that the legislative housing mission that they've proposed and the importance of that to this council and the city as a whole isn't important, but I am going to suggest very clearly that it's not the proper place unless it's embodied in an existing criteria which implements an existing acknowledged comprehensive plan in the same way that the design guidelines and other criteria that are applicable to the central city master plan are in place. It's not a novel thought. It is well-established in this case that your review, as was the commission's, is premised upon whether the applicant has demonstrated with substantial evidence that the criteria have been met. Not whether they've met the criteria and then something else, and then some pressing social need or other thing. In fact, the law is very clear that if that demonstration is made, the council, as with every other city council, must grant the permit and approve whatever the pending land use is. The other notable thing in this case, and like many of the other ones you see, if you were doing a comp plan amendment or a text amendment, you'd have the statewide planning goals and a wide range of increasingly broad state statutes to comply with. In other cases, you well know, where you're interpreting other than your own code, you're due no deference in the courts, [indistinguishable] included, can substitute their judgment. In other words, you don't have as much authority to interpret. That is not the case as when in this instance, virtually all the criteria that are on the table. The adjustments, the mods, the design reviews, the central city guidelines, and the master plan criteria are creatures of Title 33. They're creatures again of this council's making, and law has been very clear for years now -- 20 plus -- that you are entitled originally by case law and now by statute, to extraordinary deference. You have flexibility. You have significant flexibility on how you interpret phrases. But, what I would suggest is, with regard to the key issue before you, which is the affordable housing, extent which you could find a criteria with which to link an obligation to require affordable housing -- I think your flexibility ends. The language policy 3C uses the word encourage. That is notable and LULU uses that phrase in the cases we've cited when we have affirmed, as we have in this case, both your staff and city attorney, that this is an aspirational policy. You're not the only plan in the state with aspirational policies. They are, as Kara pointed out, for guidance. The word, encourage, is the first thing that LULU points to in the cases we cite as to why that is not a mandatory criteria or even a criterion that you can use. It's a legislative direction to you, and your programmatic and land use planning. It's appropriate. Now, the question may very well be -- and you would have to resolve it, I would argue, in another day and another forum with a much broader conversation -- is whether that should be implemented. Strike the word encourage, and instead say affordable housing shall be a component of all new residential development in central city, and put that on the criterion before the design commission or the hearings officer, when they review. That will come before you if this discussion continues. But I don't believe that this discussion can do anything more than underscore the point.

Fish: Counsel, this will not be the first hearing that we have allowed great latitude to the parties to make a record. You've represented some clients that have been given a lot of latitude to make a record, and then we've been reminded at the close of the evidentiary hearing that we have a narrower task. So, we appreciate your admonition. But there's still the -- it would be helpful for me just to hear you address what I guess you would call a bootstrap argument of some kind, about the nature of the FAR transfer and whether that gives us an additional role either in this hearing or as my colleague, Commissioner Novick suggested, in some other form.

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Hales: And let me tag onto that. The heart of the appellant's argument here is that the master plan approval and the City's involvement in that transfer allows us to pose a different standard. In this case, in some free-standing design approval that might otherwise be bound by--

Pfeiffer: And, Mayor Hales you used the term that's a novel argument. I could not be that benevolent. I actually think that they're posing onto you a very illegal concept that a long range of cases have said you are not free to utilize, which is to make up, essentially, standards after the fact, outside the code, and impose them to the applicant's surprise late in the game. There is a consistency requirement that's embodied throughout Oregon land use law, and it's programmatic and site-specific, and you are bound, as we know, by the criteria in effect.

Hales: Does that apply to the master plan approval?

Pfeiffer: Absolutely. To every discretionary land use approval, including master plan approvals and comp plan amendments. So I'll leave you with my limited time answering both of those points with two points. There are really two issues that I see and you both alluded to them. The number one issue is what does that policy require of the council and the commission, or even allow. And contrary to what you've heard, I do not believe that there is any defensible scenario where you could rely on that clearly aspirational policy, encouraging a range of affordable housing, on this record, as a basis to acquire -- in this case, or frankly, in any other, and I find it odd that it hasn't come up yet, but it is here now. You don't have the authority, I would argue, and I think that both your staff and the city attorney is saying the same thing, to impose an affordable housing obligation under that criterion. It is applicable to the extent it's applicable at all. It's an encouragement, and I, actually -- what LULU would say is that it's not applicable because it's aspirational. So, I don't think that you can get there on that policy, and there's not a lot more that I can add. With regard to the covenant. The covenant, as Kara points out, the process in Portland is well-established and frankly very clear. First, you seek an entitlement for the transfer of FAR. In the central city, and in the central city alone, you can transfer across a right-of-way. That's what's happened in this case. You ask for the land use authority, and we believe, for the reasons we noted contrary to the appellant's argument, that authority is vested clearly with the design commission. It's always has been your interpretation and still is, and again, that's in our written materials. You seek the entitlement. If you seek the entitlement and receive it, then you will pursue a covenant with the willing buyer and the willing seller. If you don't get the entitlement, you are not going to do that. So, why logically, as the code suggests would you require a covenant to be in place before you even have any indication that you've got the entitlement? 33700060, and it's well established, sub b, as Kara pointed out, has a sentence in it. And the last sentence is, essentially, that the covenant shall be in place before the building permits are issued. That comes on after the entitlement process. So, simply put, if this appeal is rejected, the entitlement is affirmed, we have the authority to transfer, it's now incumbent upon us to negotiate a covenant. To the extent the city owns the FAR as opposed to a private party, it's a willing buyer, willing seller transaction. If we don't get it, then we don't get to implement the FAR. The place for you to include any specific compensation --because for whatever reason, the location of the park, the sending site or for other reasons, including affordable housing -- is not in the entitlement process where you really don't have that discretion. Nor did the commission. But, at the time you negotiate the transfer of the FAR, to the extent that the city owns that FAR. But, to then go to their next point, and I will leave it at this, to suggest, well there's something unique here, you get to read that policy C3 very differently because the FAR is being provided by the city. The equivalent would be to say, because the property was purchased from PBOT as remnant right-of-way, we get to turn the code inside and out, and read into it standards for review of the subsequent development on that property that is very different because it's got a different basis. I don't think that exists. So the short answer is, the code is clear, there is no requirement that the covenant be in place now as prior to the land use. But, if you want the authority, as I believe you have, when you enter into that transaction, that's the time and place to make these considerations.

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Fish: You could not have been clearer in what you just said, but, is that your phone?

Pfeiffer: Unfortunately. I really thought I had it off.

Fish: You could not have been clearer in what you said, so, what is the status of the covenant?

Pfeiffer: Oh, for the extra, for the last FAR?

Fish: What's the status of that?

Pfeiffer: And because -- the clock is off. Here's what I can tell you about the FAR. Vanessa was directly involved. And before I forget, it occurred to me as I walked up here, this project has been to LUBA once, and one of the issue was the legitimacy of the FAR transfer. Tower number one in 2007 actually went to LUBA, and it was affirmed to your credit. So, this has been debated and dealt with to a lesser degree somewhere else. What happened with the FAR, as I understand it, Vanessa can correct me, and I know Harry is here from the city attorney's office, who was directly involved for parks. Prior to the property being sold -- block five to the city, or donated to the city or parks, there was at least 8.9 FAR that was transferred or severed from that property and retained by Tom Moyer, and that became part of proposal number one. The property was then transferred. And the reason it's a decimal point is because as one of you noted, there is a building there that needed .3. So, they kept that much, took the excess, and Tom kept that because he wanted to take that development and increase for the reasons that Bob notes and the application presents, a bigger building on the remainder of block 4. Then, the garage was built. And with that came another, and Kara can correct me if I am wrong, but with that, I understand, came another 3.0 FAR because of the bike parking. Now, I wasn't involved, and I've heard some people think that FAR that came with the bike parking was still reserved as part of the earlier agreement back to the Marilyn Moyer Trust, to Tom. Harry, I just chatted with, and he's of the mind that 3.0 FAR wasn't reserved in advance, and may actually very well still sit with the parks property. Either way, that extra FAR transferred under this approval comes from TMT to this project, or it comes from the park to this project. And I think that it absolutely is capable of being transferred. Now, I got to correct myself in response to your question, both Commissioner Fritz and Commissioner Fish, I, loosely off the top said if Tom had owned both blocks 4 and 5 and he wanted to transfer the FAR because he'd never donated the park to the city he could do so through the central city master plan process. Kara reminds me there's a phrase that implies pretty clearly -- but it's not as direct as it could be, but it's there-- that an FAR transfer under central city master plan needs to be from one ownership to another, not within a single ownership, which would make my answer incorrect. But the whole point, even my incorrect answer, is academic because that's not what happened. That's what I know. And I know both Vanessa has a perspective, having been there, and I know Harry does, too.

Fish: So your understanding as of this hearing is that Mr. Moyer or his successors or whatever has at least the .9, and there might be a question about the .3.

Pfeiffer: I think that the only thing that I personally have an open question on, Commissioner, is who might own the 3.0 that is going to be transferred pursuant to this approval. The ownership question just simply means whether Vanessa negotiates with herself or Vanessa negotiates with Parks. But either way, the authorization would be in place if this approval is granted and the appeal rejected, and the time and place for that covenant to be recorded is not now, there's no legal efficiency to not have it in place now, but prior to the issuance of the building permit for the component of the building that requires that FAR.

Fritz: I'm going to need more clarification from staff, from Tara and possibly from the city attorney, Harry, has something to say because it sounded like what you just said if it's in the same ownership, it can't be transferred by --

Pfeiffer: But it's not. So it'd be a moot point. It's Parks ownership -- the sending is Parks, the receiving side is TMT.

Fritz: Not if Vanessa is collaborating with herself.

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Pfeiffer: When I said that -- what the code means, the ownership refers to the ownership of the fee interest, which clearly is in Parks. There's no doubt that Parks owns block 5. The only question might be of whether as part of that conveyance there was a reservation back to TMT for the FAR which is --

Fritz: I will get clarification from staff. Thank you very much.

Hales: Other questions? I believe that there was a request that we take a break.

Fritz: I really request that we don't. I have to get to a ribbon-cutting.

Hales: All right. Can we soldier on?

Fish: So we can keep going, but for those of us who need a compassion break, we're just going to walk out for a minute. Come back.

Fritz: If we could do that, I'd really appreciate it.

Fish: I don't want to leave if we've got staff.

Hales: Commissioner Fritz's clock is ticking to get to another appointment.

Fish: Are we going to have staff come up?

Fritz: We're going to have supporters --

Hales: Do we have supporters of the applicant, if any, here?

Moore-Love: I have two people on the sign-up sheet.

Hales: Come on up.

Bernie Bottomly: Good evening.

Hales: Almost.

Bottomly: Almost? Well, we're getting there. Bernie Bottomly with the Portland Business Alliance. Here to speak on behalf of the project. Appreciate the opportunity to be here for a somewhat unique hearing, from my perspective, I don't think that I have ever been here for one of these. From the Alliance's perspective, we think this project is one that supports the vitality of downtown, and I think the past approvals of the design commission and this council, indicate that it is the kind of project that we would like to see in downtown. It stands on its own merit. I think even without the discussion about housing, we would see this as something that the city should approve and should support because of what it does for downtown. It fulfills the kind of vision that downtown has had embodied in it in the 2035 plan, and in the cct&p, in the retail strategy. A whole host of city-adopted strategies that call for this kind of development in downtown, and recognize that this is the kind of development that downtown needs to be vital. We're very excited about having the additional housing in downtown. It's something that we have advocated for a long time and our research around the country, and up in places like Vancouver, B.C., show that having residential development in the city core is something that really vitalizes the neighborhood and supports a lot of other activity, retail and so forth. With respect to the issue of the FAR, I'm no expert on that, so, I'm not going to speak to it, but, as I say, I would be comfortable arguing that the city should support that FAR because of the history of the project and because of what the project is going to do for downtown, and not encumber that discussion. I think as Mr. Phifer said, I think the rules of the game are clearly in front of you in terms of the appeal, and I think it's without merit. Beyond that, I think that FAR transfer should not be encumbered by the city or leveraged by the city for something other than the benefit of the project itself, and the construction of the park, which are huge assets to the city. Finally, I would just say, while I'm very sympathetic to the argument about the additional affordable housing, it's an issue, workforce housing is one that we argued for consistently over the years. I think that we have to sort of recognize the elephant in the room. The only reason that argument is being raised in this forum is because SEIU is angry with TMT development. They wouldn't be here or advocating for this issue but for that. And I would hate to see the machinery of a process, which is designed to allow the public access to these decisions to be hijacked for a political vendetta and have the city to be a party to a shakedown. We're not New Jersey. Thank you.

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Fish: Can I just address that point for a second? I have attended a lot of these hearings over the years, and quick frankly from time to time, my colleagues and I have concluded that the position of the appellant did not lack -- did not have merit. And sometimes, it's because a neighborhood group wants to stop a certain kind of development or has a different view, and ultimately, at the end, because we give people a broad latitude, we make a decision about what's the applicable law and what our requirement is. And if we are wrong, we're overturned. But basically, I think we have a pretty good track record of following the law and doing fact-finding. And generally, I try to be somewhat agnostic about intent. I find in politics, when you get involved in questioning people's motives, it doesn't take you very far, positively. And so, I accept that people have rights to bring appeals. And we have a function to perform, if we think the appeal lacks merit. And I just want to say, and I hope this does not become a regular feature of our hearing, I don't find the argument that, as you say in your testimony, this is political and economic extortion, helpful to revolving the question that's before us. And I am loathe to get into the question of motivation. If someone has a legal right to bring an appeal, whether it's an appeal of a police misconduct case, a land use case, or whatever, if they fall within the rules, we are obliged to hear it. I think we have a good track record of sifting through what comes before us. But I am not sure that it's very helpful to make these kinds of characterizations, because I think it tends to inflame the process, and ironically I think it tends to make it more political. So, just my view, as a decision-maker, I find more persuasive some arguments that this beyond our authority or council previously said this would be the first time this has ever been interpreted this way. But, I think we have a pretty good track record of being able to separate out the issues. And I just -- I personally am uncomfortable when we get into imputing motives.

Bottomly: Well, it's not your characterization, it's mine, so I fully own it. Thank you.

Hales: But would probably be good not to repeat it. OK, next.

Willy Myers: Good afternoon, Mr. Mayor and Commissioners. My name is Willie Myers, I am the current executive secretary treasurer of the Columbia Pacific Building and Construction Trades Council. We remember when this project was stopped in 2008. And the added chill that it brought to an already spiraling downward economy, into our industry. The construction industry was in a free fall. And we did not know where the bottom was going to be. Well, we found out. It was the worst recession in U.S. history in the construction industry, since the Great Depression.

Unemployment for our members averaged at 35% for five years. Some of our locals reached as high as 60% unemployment. Some of our members were unemployed for more than a year, and some have lost everything they worked their entire lives to build up. Their homes. Their marriages. Their life savings. The working men and women of the Columbia Pacific Building Trades support this project moving forward. Now is the time to put our members back to work. And our members just want a chance to go back to work to pay their taxes to support their families and their communities. More delays to the project are unnecessary and costly to the citizens of our great city. We urge you to allow this project to move forward.

Hales: Questions for you? Thank you very much. Anyone else?

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

Hales: Mr. Noren, you have an opportunity for rebuttal. Come on up, please.

Fish: Mr. Noren, just by way of guidance, this has been a really good discussion. And I think both sides have been clear about their positions, so, maybe if you could focus on something that you don't think the record is clear on, or that you think we need an additional clarification, but, there's no need to rehash any of the arguments in the record. I think both sides have done a good job of making their cases clear.

Noren: Thank you, I will try and do that. I do intend this to be rebuttal and not rehashing things. I want to respond to some points from Mr. Pfeiffer. There was an inquiry about could the FAR transfer occur if we weren't doing the deal that we're looking at here. His initial response was yes,

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you can under the master plan and, and I made a note, no, you can't because it has to be between different parties. Well, let's leave that aside for now, whether there were different parties -- whether there were closely related organization and whether that meets the standard for the master plan. The more important point is, they get 3.0 FAR for this tower because they are putting housing in it. If they don't have housing in this tower, they don't get the 3.0 FAR bonus on block 4. Not block 5 but block 4. So without housing, this project doesn't happen. That's part of the reason we're saying to you, you should require -- if they are going to get all of this additional height and FAR, then housing is an essential element. They get 3.0 on block 4 because of their housing. So, it wouldn't happen without housing. You strip it out, they don't get The 3.0 FAR bonus. Mr. Pfeiffer spoke about interpreting this planned provision, and that it has never happened before, and he spoke about the idea of consistency. I would submit that we do have an unusual situation here. The concern with consistency can and should be addressed by the unique facts of this case that we have talked about. That the city has a proprietary role, as well as a regulatory role. And finally, I would like to emphasize, again, this is a land use case, interpretation of your standards, and substantial evidence. This is a substantial evidence case, and this is the single, simplest way to deny the application, and that's to say, the applicant has not shown that the transfer will occur, and without that FAR transfer, the 30-story building is not allowed in this zone. There has to be substantial evidence that the transfer will occur. By the applicant's argument, if you don't have an owner involved, and consent from the owner, evidence that the owner is going to allow it, by the applicant's reasoning, someone could come in and apply for a development on another person's property, get a conditional use approved, not even get the owner's signature or consent from the owner or anything else, get an approval. The owner could show up at the hearing and say, I'm not going to let this happen. I don't want this to happen. The applicant is saying, if the application meets the standards, the city would have to approve it, that would leave the owner having to go to LUBA and argue well, no, I don't want this to happen. This will never happen, LUBA. That doesn't make any sense. If you've got an owner who is not consenting, if you've got a need for proof that the project can happen, as we do here, and there is no proof that the city is going to make that transfer, then you lack substantial evidence for that vital component of the project. And that's the basis for denying this. I think a simpler, legally more defensible basis than your interpretation of the housing policy, and I have addressed both these in my written materials. But this really is a straightforward substantial evidence case. If the city has not consented to the transfer at this point, there is no evidence in the record that the transfer is going to occur, and therefore the applicant has not demonstrated that they can meet the FAR requirements.

Hales: OK, great. Questions? Thank you very much. I think we do have questions from staff, right?

Fritz: Yes, if I could have Parks staff, the city attorney, and Kara come up, please. I guess comments on what you've heard so far, and particularly about the transfer of the FAR.

Harry Auerbach, City Attorney: Thank you. I'm Harry Auerbach from the city attorney's office. I just want to be sure that that the council and the record is clear about what the status of the property of block 5 is, and what the status of the FAR respecting block 5 is. I don't have anything to say about what you can do with it, what they can do with it, that's for BDS and Kathryn can help you on the land use issues, but I can tell you --

Fritz: Put your name in the record, place.

Auerbach: I'm Harry Auerbach from the city attorney's office.

Fish: Harry, let me just caution -- we don't need the history here, we just -- the question is, what's the status of the covenant?

Hales: What's the current status?

Auerbach: First of all, I want to make sure that we're clear, the property right now, block 5, the city owns the fee, subject to TMT's easement for the garage underneath. There is -- we have been negotiating about turning it into a condominium, but that has not happened. There is no

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condominium. We own the fee subject to the easement for the parking garage. Before the Moyer Trust donated the property to the city, the -- Mr. Moyer transferred, or, withheld the 8.7 FAR. So, in its native state it had 9 to 1 FAR. .3 was reserved for the park improvements. And before we ever got the property, Moyer took the 8.7 off of it. So, we got it with the .3 FAR. During the course of construction, bonus FARs were earned. By incorporating the teacher fountain, we got a water feature bonus of .5 to 1. Sort of ironically, when TMT built the garage and included bicycle lockers, that earned another 2.5 to 1 bonus, but that belongs to the city. So the city, because we own the fee, and they have only an easement. So in the current state there has been -- we consented to the transfer of 8.7 from Fox Tower to West Park Avenue LLC in 2001. And as part of the amended land use covenant consenting to that transfer, the parties, including Ms. Sturgeon, recognized that nothing in this covenant affects any FAR bonus attributable to the construction of the water feature on park block 5, or any FAR bonus attributable to the construction of the bicycle lockers under the surface of park block 5. The city of Portland will continue to own the bonus FAR attributable to those elements.

Fritz: But the 8.3 is already gone.

Auerbach: The 8.7 is gone.

Fritz: 8.7. What's left under discussion -- is the 3?

Auerbach: What's left under discussion is the three bonus FARs because the .3 that otherwise was on the block has to stay there for the improvements that we built as part of the park construction. The restaurant buildings and such.

Fritz: And we own that.

Auerbach: We own that.

Fritz: Mike Abbaté, the director of parks, has there been discussions as far as how that transfer would be made and what kind of consideration we might get for it?

Mike Abbaté, Director, Portland Parks and Recreation: We have not been approached, no.

Auerbach: Parks has said that it is willing to have those negotiations, but so far, nothing.

Fritz: 8.7 has already been assigned to Mr. Moyer, his trust, or whatever.

Auerbach: Correct.

Fish: There may be some discussion in the future about an assignment of something beyond that, that --

Auerbach: There are 3.0 bonus FARs on block 5 that parks does not anticipate it will need for development, and therefore, is willing to consider transferring, but so far, there have been no negotiations about that.

Fritz: And Kara, that three FTE -- FAR it's needed for the proposal?

Fioravanti: Yes, it is.

Fritz: And usually that would be done at the building permit stage. So if at the building permit stage they didn't have that, then they would have to do what they already have approved now.

Fioravanti: Correct.

Hales: Could you respond to Mr. Noren's statement that without housing this project could not happen?

Fioravanti: The -- that's not true. The applicant would just need to restructure how they achieve 3 to 1 bonus for the Park Avenue West Tower. They could do it in a variety of ways. There's about 25 different ways in the zoning code, including eco-roofs, bike lockers, our water feature retail, which they are doing already, roof gardens. So, there's a variety of ways where they could absolutely achieve 3 to 1 if they were not doing housing and get that 3 to 1 another way.

Hales: Could you also respond to the assertion that there has to be evidence in the record that the transfer of FAR is going to occur before the entitlement is granted?

Fioravanti: No. I believe that 33700006 is very clear that we need that prior to the building permit.

Hales: Other questions?

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Saltzman: I have to ask one clarifying question, we talk about prior to the building permits, hasn't construction resumed, and the building is being built?

Fioravanti: Yes. But, we have not permitted this floor area that hasn't been transferred yet. We've only permitted about 10 floors. And the next step would be the 26-story tower, which has the FAR within that 8.7 to 1.

Saltzman: So the third version, Park Avenue West 3 --

Fioravanti: Needs the additional 3 to 1.

Saltzman: Needs a building permit.

Fioravanti: Yes.

Hales: OK. Any other questions for staff? Then, any instructions from the city attorney other than if we make a decision it should be a tentative decision awaiting findings?

Beaumont: That's correct. Just one other thought to throw out to the council. While Kara is clear that the code requires the covenant transferring the FAR before the building permit could be pulled for the additional that's needed, if the council wanted to, the council could also include a condition of approval that reiterates what the code requires.

Hales: Say that again.

Beaumont: The council could also impose a condition that simply reiterates what the code requires, which is that a covenant for the additional 3 to 1 FAR transfer shall be in place before a building permit is pulled. It's not necessary -- the code already says that, but if you wanted to impose that, I believe the applicant would not oppose that.

Hales: OK. All right.

Fritz: And we would vote on a tentative motion today?

Beaumont: Yes.

Fritz: OK.

Fish: Council discuss before we make a motion?

Hales: Please.

Fish: Because I know there is something that you want to cut the ribbon on, Commissioner. I want to run the clock here.

Fritz: In ten minutes in St. John's.

Hales: Do you have a helicopter? [laughter]

Fish: First of all, I think that this has been a terrific discussion and if the applicant is willing to accept that condition, I think that we should grab it and incorporate it into our action. And while I appreciate the discussion about affordable housing, and the creative legal argument, I'm not persuaded that it falls within the scope of our authority for this proceeding. My inclination is to make a motion to deny the appeal and uphold the decision to approve the tower with the condition that has been agreed to by the applicant.

Fritz: Second.

Hales: OK. With that condition?

Fish: With that condition that has been agreed to by the applicant.

Fritz: Well it's in the code.

Fish: So it re-states the code.

Hales: OK. Further discussion on the motion? Make a tentative decision with findings to come back in say three weeks. OK. Roll call.

Fritz: Well, I appreciate SEIU for bringing this discussion forward and it is an important one as to how we get more affordable housing and more housing that folks like the people we heard testifying can afford to live in and not have to commute in from Gresham and Beaverton. So thank you very much, it's been a very helpful discussion. The decision has to be made on the approval criteria in the code, and I appreciate the staff helping us understand what those are and how this all these words

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like FAR and other things that are very difficult to muddle through. I support the design commission's recommendation and so, I vote aye on the measure.

Fish: I, too, want to say that I've appreciated this hearing and the record that we have made. And I agree wholeheartedly with many of the concerns that have been raised about having affordable housing in the downtown core, that it's accessible to working people. And I believe that that the city needs to continue to make investments in that kind of housing, whether it's through our 30% set-aside or federal funds or any discretionary funds that we have. I believe that has to be a priority. And I think I appreciate the opportunity to have this broader discussion, and the time taken by folks to come out and offer that view. I am also persuaded, however, that we are bound by the code and by the guidance that we've been given and by the evidence in the record. I believe that based on the directions that we have given the code and the evidence, we have only one option in this hearing, and that in no way diminishes from the importance of the issues that have been raised, which I believe from a policy point of view, that conversation should continue beyond this hearing, and I hope that it becomes a cornerstone of how we address the affordable housing agenda of the city this spring and into the next year. So, thanks to everyone for their time. I thought that the discussion, particularly from the two lawyers, was extremely informative. My own sense is that one lawyer had a slightly harder case to make, and I appreciate that since we are in somewhat new territory, both lawyers did a very capable job helping the council understand your positions and making a record. So I appreciate that. Aye.

Saltzman: Well, I guess, you know, we have to use our head and our hearts at this job, and my heart certainly agrees with the sentiments expressed by SEIU and its members about the need for affordable housing in our inner city and indeed throughout the city. We are undergoing one of the largest multi-family construction booms that we have seen in recent years and part of my dedication as housing commissioner is working hard to make sure that we get some affordable housing in all the new development that is occurring here, not simply market rate but that we get affordable housing, too. And we do have incentives and we do have tools and we do have just straightforward job owning with developers to see if they can get interested in some of the tools we have. So, I very much agree with the need that we want to have Portlanders being able to live near where they work, to be able to afford to live in the central city, but my head, I guess, gets dashed upon the rocks of things like FAR and Title 33 point whatever. And I find myself sort of brought back to the crushing reality that, you know, we have to support a process and a code and a master plan and ultimately a land use code. That this project has played by the books. And it is an attractive project, I want to say that, too. An attractive aesthetically, and also from the economic impact it's having. And I am happy it has housing, albeit market rate housing. There is nothing wrong with more people living downtown. So, I guess I have to go with what I, you know, feel that I have been duty-bound to uphold, and that is our land use code and our city code, and I don't find that the appeal rises to the point that I could support it. So I vote aye.

Novick: It is extremely difficult for me to be in opposition to SEIU on anything. I mean, my father worked for SEIU, my brother worked for SEIU, I bleed purple, and I will go with SEIU to protest buildings that don't hire union janitors, and I will lobby with SEIU on inclusionary zoning. And it's, also, is interested in the idea that really the hook here would be in return for -- which would be outside the context of this discussion -- the rational hook would be in return for the FAR, the developer might agree to give -- to provide affordable housing. It seems like that's a discussion that's yet to be had, although I'm sure in this case, TMT would say that they gave the city the park land, and therefore, for the city to try to extract a commitment in return for the FAR -- I mean, I'm sure that they would have some thoughts about that. But, it does, as my colleagues have said, does seem in this case, based on the rules, we have to reject the appeal. So, I vote aye.

Hales: I going to join my colleagues and support the motion. Let me add a couple things because I agree with all the statements that have been made. As the presiding officer of the council, I laid out

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all that gobblety gook at the front end, but actually it's a lot more than gobblety gook, and that is the deal is, under the Oregon land use scheme, we adopt rules, and then we enforce them consistently. And if we don't enforce them consistently, the City gets overturned because this is a quasi-judicial proceeding. We get overturned by the land use board of appeals. I am very proud of the fact that in the ten years that I was on this council before, that didn't happen. We didn't get overturned. And the reason that we didn't get overturned is that we wrote down the rules and tried to follow them consistently. And I hope that it is of some comfort to SEIU, because everyone up here agrees with the issue of affordable housing and the need for more of it, and I don't blame SEIU at all; for using every forum, including this one, to raise these issues and call us to care more and do more. But, it's in everybody's interests that we do justice here in this chamber, and justice is, you follow the rules that you write down to the best of your understanding. And that's what the staff recommendation in this case was and our citizen body made the same recommendation, the rules as we have them mean this appeal needs to be denied, and that the rights that have been conferred on this development stand. Aye. [gavel pounded]

Hales: Thank you all, and we'll come back in three weeks.

Fish: Do you need to pick a time, Mayor?

Moore-Love: Yes.

Hales: Set a date?

Beaumont: Yes, we need to set a date and time.

Moore-Love: We have March 5, we could do the morning. Commissioner Novick will be absent that week.

Hales: March 5.

Moore-Love: At 10:00 a.m.

Hales: OK. That works. Thank you very much, and we are adjourned. [gavel pounded]

At 4:11 p.m., Council adjourned.