



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17TH DAY OF DECEMBER, 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; Ellen Osoinach, Deputy City Attorney; and Wayne Dykes, Sergeant at Arms.

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

COMMUNICATIONS		Disposition:
1294	Request of Lightning - Rethink Lab to address Council regarding mission statement pertaining to Lightning Healing Man (Communication)	PLACED ON FILE
1295	Request of David Murphy to address Council regarding Oregon drainage doctrine (Communication)	PLACED ON FILE
1296	Request of Katherine Smith to address Council regarding Portland and Tigard Police (Communication)	PLACED ON FILE
1297	Request of Peter Hybertsen to address Council regarding the City fair wage policy and living wage for workers in Portland (Communication)	PLACED ON FILE
1298	Request of Kelly O'Hanley to address Council regarding Portland's role/actions with regards to climate change (Communication)	PLACED ON FILE
TIMES CERTAIN		
1299	<p>TIME CERTAIN: 9:30 AM – Accept report from Portland Community College on the current work of Future Connect (Report introduced by Mayor Hales) 15 minutes requested</p> <p>Motion to accept the report: Moved by Fish and seconded by Novick. (Y-5)</p>	ACCEPTED
1300	<p>TIME CERTAIN: 10:00 AM – Extend to December 31, 2015, the Council-approved list of companies, the debt securities of which the City shall not directly invest its cash assets (Resolution introduced by Commissioner Novick) 45 minutes for items 1300 and 1301</p> <p>Motion to add “contributes to human rights violations” to the list of objectionable practices and make corresponding changes in item 1301: Moved by Fritz and seconded by Novick. (Y-5)</p> <p>(Y-5)</p>	37101 AS AMENDED

<p>1301</p>	<p>Create the Socially Responsible Investments Committee charged with recommending corporate issuers in which the City shall not directly invest its cash assets (Resolution introduced by Commissioner Novick) Motion to add to resolved paragraph, page 2, public members “who are reflective of the diversity of the Portland community”: Moved by Novick and seconded by Fritz. (Y-5) Motion to designate seven public members and delete “at least” and “up to nine”: Moved by Fritz and seconded by Novick. (Y-5) (Y-5)</p>	<p>37102 AS AMENDED</p>
<p>CONSENT AGENDA – NO DISCUSSION</p>		
<p>Mayor Charlie Hales</p>		
<p>1302</p>	<p>Appoint and reappoint members to the Public Involvement Advisory Council (Report) (Y-5)</p>	<p>CONFIRMED</p>
<p>City Budget Office</p>		
<p>1303</p>	<p>Adopt the Budget Calendar for FY 2015-16 (Resolution) (Y-5)</p>	<p>37100</p>
<p>Office of Management and Finance</p>		
<p>*1304</p>	<p>Pay claim of CenturyLink in the sum of \$56,677 involving the Bureau of Environmental Services (Ordinance) (Y-5)</p>	<p>186927</p>
<p>*1305</p>	<p>Pay claims of Cartmel, Fast and Bulebar in the total sum of \$72,208 involving Bureau of Environmental Services (Ordinance) (Y-5)</p>	<p>186928</p>
<p>*1306</p>	<p>Extend contract with StellarRAD Systems LLC, for an additional two years in the amount of \$125,000 per year for a total not to exceed amount of \$1,125,000 for the Integrated Regional Network Enterprise (Ordinance; amend Contract No. 41090) (Y-5)</p>	<p>186929</p>
<p>*1307</p>	<p>Authorize Intergovernmental Agreements with Portland Public Schools and the Centennial, David Douglas, Parkrose, Reynolds and Riverdale schools districts for use of Arts Education and Access Fund revenues (Ordinance) (Y-5)</p>	<p>186930</p>
<p>1308</p>	<p>Extend term of franchise granted to MCI Communications Services, Inc. to build and operate telecommunications facilities within City streets (Ordinance; amend Ordinance No. 170954)</p>	<p>PASSED TO SECOND READING JANUARY 7, 2015 AT 9:30 AM</p>
<p>1309</p>	<p>Extend term of franchise granted to Sprint Communications Company, LP to build and operate telecommunications facilities within City streets (Ordinance; amend Ordinance No. 172141)</p>	<p>PASSED TO SECOND READING JANUARY 7, 2015 AT 9:30 AM</p>
<p>1310</p>	<p>Extend term of a franchise granted to NewPath Networks, LLC to build and operate wireless facilities within City streets (Ordinance; amend Ordinance No. 180376)</p>	<p>PASSED TO SECOND READING JANUARY 7, 2015 AT 9:30 AM</p>

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Office of Neighborhood Involvement		
*1311	Accept and appropriate a grant in the amount of \$50,000 from and authorize an Intergovernmental Agreement with Multnomah County for the East Portland Action Plan at the Office of Neighborhood Involvement (Ordinance) (Y-5)	186931
Commissioner Steve Novick Position No. 4 Bureau of Transportation		
1312	Authorize an Intergovernmental Agreement with the U.S. Department of Agriculture for Wildlife Damage and Conflict Management (Ordinance)	PASSED TO SECOND READING JANUARY 7, 2015 AT 9:30 AM
Commissioner Amanda Fritz Position No. 1 Bureau of Development Services		
*1313	Adopt the State of Oregon 2014 Editions of the Oregon Structural Specialty Code, the Oregon Residential Specialty Code, the Oregon Energy Efficiency Specialty Code, the Oregon Plumbing Specialty Code, the Oregon Electrical Specialty Code and Oregon Mechanical Specialty Code (Ordinance; amend Titles 24, 25, 26 and 27) (Y-5)	186932
Commissioner Nick Fish Position No. 2 Bureau of Environmental Services		
1314	Authorize an Intergovernmental Agreement with the Oregon Department of Transportation for the operation and maintenance of the I5 at SW 26th Avenue Water Quality Facility (Second Reading Agenda 1269) (Y-5)	186933
Water Bureau		
1315	Authorize an Intergovernmental Agreement with Multnomah County Department of Community Justice in the amount of \$200,000 to conduct general heavy brushing work (Ordinance)	PASSED TO SECOND READING JANUARY 7, 2015 AT 9:30 AM
1316	Amend Intergovernmental Agreement with the Regional Water Providers Consortium to extend the expiration date to June 30, 2020 to provide staff support services (Ordinance; amend Contract No. 50880)	PASSED TO SECOND READING JANUARY 7, 2015 AT 9:30 AM
REGULAR AGENDA Mayor Charlie Hales Bureau of Police		

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<p>1317</p>	<p>Amend a grant agreement with Central City Concern to increase funding by \$136,955 for transitional housing for chronic offenders identified by the Service Coordination Team (Second Reading 1277; amend Contract No. 32001079) (Y-5)</p>	<p>186934</p>
<p>1318</p>	<p>Amend an Intergovernmental Agreement with Multnomah County to decrease funding by \$136,955 for transitional housing for chronic offenders identified by the Service Coordination Team (Second Reading 1278; amend Contract No. 30004147) (Y-5)</p>	<p>186935</p>
<p>Office of Management and Finance</p>		
<p>*1319</p>	<p>Adjust application of City Protected Sick Time for City casual employees (Ordinance) 10 minutes requested (Y-5)</p>	<p>186936</p>
<p>*1320</p>	<p>Ratify a Letter of Agreement between the City and Laborers' Local 483 that adjusts the application of Protected Sick Time for Seasonal Maintenance Workers (Ordinance) (Y-5)</p>	<p>186937</p>
<p>*1321</p>	<p>Ratify a Letter of Agreement between the City on behalf of Portland Parks & Recreation and Laborers' Local 483 that adjusts the application of Protected Sick Time for Seasonal Park Rangers (Ordinance) (Y-5)</p>	<p>186938</p>
<p>Commissioner Steve Novick Position No. 4 Bureau of Transportation</p>		
<p>1322</p>	<p>Amend Code regarding Publication Boxes (Ordinance; replace Code Chapter 17.46) 10 minutes requested</p>	<p>PASSED TO SECOND READING JANUARY 7, 2015 AT 9:30 AM</p>
<p>1323</p>	<p>Approve use of the Portland Bureau of Transportation's rule making authority for modifications to TRN 10.19 for regulation of Above Ground Structures (Resolution) 10 minutes requested</p>	<p>CONTINUED TO JANUARY 7, 2015 AT 9:30 AM</p>
<p>Commissioner Nick Fish Position No. 2 Bureau of Environmental Services</p>		
<p>*1324</p>	<p>Authorize a contract with CDM Smith, Inc. for professional engineering services for the Combined Sewer Overflow Transients Relief Project No. E10490 for \$624,992 and provide for payment (Ordinance) 7 minutes requested Motion to add emergency clause to address pressure safety issue: Moved by Fish and seconded by Fritz. (Y-5) (Y-5)</p>	<p>186941 AS AMENDED</p>

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1325	Amend contract with Natt McDougall Company for additional compensation to resolve final contract claim for the Guilds Lake Pump Station Improvements Project No. E08877 for \$661,902 (Previous Agenda 1285; amend Contract No. 30002577) 7 minutes requested	PASSED TO SECOND READING JANUARY 7, 2015 AT 9:30 AM
Water Bureau		
1326	Authorize an Intergovernmental Agreement with Tualatin Valley Water District and the City of Tualatin in the amount of \$300,000 for construction of new piping and meter on the Washington County Supply Line (Ordinance) 8 minutes requested	PASSED TO SECOND READING JANUARY 7, 2015 AT 9:30 AM
1327	Authorize a change order for Powell Butte Reservoir 2, Phase 2 project at a cost of \$1,600,000 (Second Reading Agenda 1287; amend Contract No. 30002100) (Y-5)	186939
1328	Authorize as surplus the City-owned Sandy River Conduit 2/4 Bridge and authorize the Water Bureau to proceed with the sale, donation or recycling of the property (Second Reading Agenda 1288) (Y-5)	186940

At 1:24 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17TH DAY OF DECEMBER, 2014 AT 2:00 P.M.

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

Commissioner Saltzman arrived at 2:05.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Lisa Gramp, Deputy City Attorney; and Greg Seamster, Sergeant at Arms.

The meeting recessed at 2:16 p.m. and reconvened at 3:33 p.m.

		Disposition:
FOUR-FIFTHS AGENDA Mayor Charlie Hales Portland Development Commission		
1328-1	Open and close public hearing on Proposed Urban Renewal Area Amendments and postpone first reading to January 29, 2015 (Report)	PLACED ON FILE
1329	TIME CERTAIN: 2:00 PM – Create the Portland Street Fund and establish a non-residential transportation fee to fund Portland's street maintenance and transportation safety needs (Previous Agenda 1271; Ordinance introduced by Mayor Hales and Commissioner Novick; amend Code Chapter 7.02 and add Code Chapter 17.21) 1 hour requested for items 1329 and 1330 Motion to adopt December 10, 2014 amendments to add “Home-based business” definition to Exhibit A and amend Exhibit D fee schedule to include exemption for home-based businesses grossing less than \$50,000 and a cap on the fee for small businesses grossing less than \$50,000. (Y-5)	CONTINUED TO JANUARY 8, 2015 AT 6:00 PM TIME CERTAIN AS AMENDED
1330	Establish a residential transportation income tax to fund Portland's street maintenance and transportation safety needs through the Portland Street Fund (Previous Agenda 1272; Ordinance introduced by Mayor Hales and Commissioner Novick; add Code Chapter 5.76)	CONTINUED TO JANUARY 8, 2015 AT 6:00 PM TIME CERTAIN
1331	TIME CERTAIN: 3:30 PM – Amend Building Demolition Code to require notice and delay for all single family residential demolitions in areas with a residential Comprehensive Map Designation and make other changes (Ordinance introduced by Commissioner Fritz; amend Code Chapter 24.55) 1.5 hours requested Motion to add finding #12 to direct Bureau of Development Services to continue working with Development Review Advisory Committee on this issue, and report to Council by June 30, 2016 with an assessment on the outcomes of these code changes: Moved by Fritz and seconded by Saltzman. (Y-5)	CONTINUED TO FEBRUARY 12, 2015 AT 2:00 PM TIME CERTAIN AS AMENDED

At 6:13 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF DECEMBER, 2014 AT 2:00 P.M.

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

Commissioner Saltzman left at 4:55 p.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Kathryn Beaumont, Chief Deputy City Attorney at 2:00 p.m.; Ian Leitheiser, Deputy City Attorney at 3:37 p.m.; and Jim Wood, Sergeant at Arms.

Motion to hold a meeting January 8, 2015 at 6:00 pm for Street Fund, and a meeting February 5, 2015 at 5:00 pm for Joint Terrorism Task Force: Moved by Fish and seconded by Fritz. (Y-4; Saltzman absent)

The meeting recessed at 3:20 p.m. and reconvened at 3:37 p.m.

		Disposition:
1332	<p>TIME CERTAIN: 2:00 PM – Consider proposal of Mark Edlen for Demolition Review approval and the Bureau of Development Services staff recommendation for denial for the demolition of the Buck-Prager Building, a contributing resource in the Alphabet Historic District, built in 1918 to allow for the construction of a 6-story apartment building with below-grade parking on the west half of the block at 1727 NW Hoyt St (Previous Agenda 1290; Hearing introduced by Commissioner Fritz; LU 14-210073 DM) 1.5 hours requested</p> <p>Motion to tentatively uphold Historic Landmarks Commission decision and Bureau of Development Services staff recommendation and deny the application. Prepare findings for January 7, 2015 at 10:00 a.m. Time Certain: Moved by Fritz and seconded by Fish. (Y-4; N-1 Novick)</p>	<p>TENTATIVELY UPHOLD BUREAU OF DEVELOPMENT STAFF RECOMMENDATION AND DENY THE PROPOSAL; PREPARE FINDINGS FOR JANUARY 7, 2015 AT 10:00 AM TIME CERTAIN</p>
1333	<p>TIME CERTAIN: 3:30 PM – Amend accessory short-term rentals regulations to allow multi-dwelling structures, multi-dwelling development, triplexes, attached duplexes, manufactured dwellings and houseboats; establish fee for accessory short-term rental permits in multi-dwelling structures (Ordinance introduced by Mayor Hales; Second Reading Agenda 1247; amend Title 33) 1.5 hours requested for items 1333 and 1334</p>	<p>PASSED TO SECOND READING JANUARY 14, 2015 AT 10:45 AM TIME CERTAIN</p>
1334	<p>Amend Transient Lodgings Tax to add definitions and clarify duties for operators for short-term rental locations (Previous Agenda 1293; Ordinance introduced by Mayor Hales; amend Code Chapter 6.04)</p> <p>Motion to accept amendments in Revenue Bureau memo dated December 16, 2014 to more broadly describe what “accepting payments” means and clarify that the names and addresses of Host information provided by a Booking Agent to the Revenue Division is considered to be confidential: Moved by Fish and seconded by Fritz. (Y-4; Saltzman absent)</p>	<p>PASSED TO SECOND READING AS AMENDED JANUARY 14, 2015 AT 10:45 AM TIME CERTAIN</p>

At 5:05 p.m., Council adjourned.

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LAVONNE GRIFFIN-VALADE
Auditor of the City of Portland

A handwritten signature in blue ink, appearing to read 'Karlh', positioned below the name of the Auditor.

By Karla Moore-Love
Clerk of the Council

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

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

DECEMBER 17, 2014 9:30 AM

Hales: Good morning, everyone. Welcome to the December 17th meeting of the Portland City Council. Would you please call the roll, Karla?

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

Hales: Welcome, everyone. We have some communications items up front, and then some time certain Council discussions, and then the rest of our agenda. If you are here to testify on a Council calendar item, our process is you just need to give us your name. You don't have to give us your address. We typically limit individual testimony to three minutes. We ask that if you agree with one of your fellow citizens, feel free to indicate physically but not vocally, because we don't want people to feel intimidated when not everybody in the room agrees with them. So, everybody gets their say here, and we ask you not have vocal demonstrations in favor of or in opposition to your fellow citizen. If you're a lobbyist and you're here representing an organization, you are required under our code to disclose that, so please let us know. With that, before we begin, are there any requests to remove items from the consent calendar? Don't think so, OK. So, we'll deal with that when it comes.

Item 1294.

Hales: Good morning.

Lightning: Good morning. Actually, I represent today Lightning Humanitarian PDX, and my name is Lightning. One of the things that I wanted to discuss is Police Chief Reese mentioned a project in San Antonio. It's a large homeless campus, sits on 35 acres, approximately 1000 units. And their thinking is that this is a great plan to have something like that -- kind of a campus type style -- to where people on the sidewalks or throughout the community that are homeless can actually go to this location. The 1000 units that they have are drug-free, and they also have alongside the facility to where people with addictions can also stay there, too, but they're outside now. I like the overall concept. And again, I've mentioned Wapato, which is a facility with 18 acres that we spent \$50 million on. I think this would be a good project to look at -- what they are doing in San Antonio and also look at Wapato. One of the concerns I have on their plan is that with people with drug addictions, they want to have them, actually, outside in a separate location. I talked to Multnomah County Health department on this, and I want a little more research, what is the best treatment for people with drug addictions? Is it having them outside or in some form of housing? My belief is housing is healthier. I want this to be looked at a little bit closer. There is also recently a development project they're talking about doing in northwest Portland to demolish a building, and a lot of the people against having the building demolished were saying that they have enough units over there. Although there were people around the building that are currently sleeping outside we're going to demolish. Our focus when we're looking at these type of developments is the people outside need to be in housing. That is a state of emergency. We need to develop more units. And until we can have people get up and testify and say, we have nobody out along the sidewalks, we have nobody along this building, we have nobody down the street that is homeless, we need to build more units. We do not have a surplus of units at this time. All the data states otherwise. Our vacancy factors are falling below 4% to 3%. That is not a surplus of units. We need to continue to build more unions. We need to continue to house people. Every project out there must be looked at to benefits the overall community, and the homeless population must be looked at first to decide

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what we're going to do with some of these properties. In my mind, it overrides everything else. We need to get the homeless into housing. Thank you.

Hales: Thanks very much. [applause]

Item 1295.

Hales: Mr. Murphy, come on up.

David Murphy: Thanks for having me, guys.

Hales: You bet. Good morning.

Murphy: I'm sure you guys are well aware of the situation, southwest [indistinguishable] number one with the drainage problem. We have filled drain pipe and water diversion by one of the neighbors. I forgot to give this to you. This is one of the pictures of the waterfall that we now have in the backyard. I've had to take the back patio up three times now from all the mud and debris, and lay everything back in place. Now, my proposal is to do a temporary drain. It's pretty simple. I used to be in cement masons union, done a lot of drain work, stuff like that, probably cost about \$1500 to do a temp drain, and one of the homeowners is willing to put up the money to do it. We could do it with a work group. Take maybe a weekend. Temporary perf pipe and just a catch basin until the City has money to actually to a permanent fix on the job issue the budget constraints and whatnot.

Fish: Sir, where is the water coming from?

Murphy: It comes off Terwilliger Park. There's a path up there right by OHSU.

Fish: So, it's coming through the park onto your property?

Murphy: Yeah, it comes down the park and there is an unpermitted driveway at 239 SW Whitaker. So, I what we get -- I have an engineering report here also from a PE. This is a map of the area. What we get --

Hales: Stormwater off the park, onto the driveway, and onto your property.

Murphy: Yeah, and it's called an accelerated sheet run-off. The water accelerates down the hill, goes to a focal point, comes on the southwest trail number one. It's turned the trail into a ditch. The steps are undermined. Ken Griffith, who is a housing inspector that specializes in drains, has also diverted the water and pointed it at three neighbors' properties.

Fish: Mayor, which bureau do you think has the primary jurisdiction on this?

Hales: Good question. Because of the situation. I think --

Fish: The park, you've got some runoff -- is that maybe a building code issue?

Hales: It's probably all three. I would think if it's storm drainage per se, it's probably BES first.

Fritz: Well -- Mr. Murphy, if you would like to stop by my office, it's on the far right corner over here, Jasmine Wadsworth is my constituent services specialist, and she'll help you figure out who can help.

Murphy: Right, right. Because basically what I have got to do is a civil suit against Ken Griffith. He has sworn at some neighbors.

Fritz: Thank you for bringing it to our attention so we can help.

Murphy: Yeah, yeah. This guy is bad news.

Fish: Sir, just one question, it is titled Oregon drainage doctrine. What's the significance of that?

Murphy: That's civil law doctrine of drainage. Many of the states adopted the civil law of drainage.

Fish: And that means?

Murphy: Do you have --

Fish: Just in your own words, what does that mean?

Murphy: Basically, what it means is the upper landowner cannot divert or accelerate, dam, all kinds of different things with water -- can't divert the water, can't accelerate water. And the lower landowners have to do everything in their power to take the water, which has been done. I have four different French drain systems at 3339 SW Barbur Boulevard. And it still floods out the back patio. It's above and beyond what would be considered normal. I mean, we live in Oregon, it rains.

Hales: Right. And you've got clay soils and all that to deal with.

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Murphy: Yeah, that's part of West Hills silt. FEMA has done a -- back when we had the '96 floods, they did a big survey. And Todd Lofgren -- there's been another Portland survey done.

Fish: That's Portland Parks and Rec.

Murphy: Yeah. Everybody knows that West Hills -- that is considered a landslide area. We're looking at a situation probably not as bad as Burlingame slide, but same situation, same hillside.

Hales: OK. Well, we appreciate you bringing this to our attention, appreciate Commissioner Fritz volunteering her office as a starting point. As Commissioner Fish noted, there are multiple bureaus involved here. City parks, city streets, there's drainage. So, Bureau of Development Services is the permit shop, so it makes sense for her staff to start trying to resolve this with you. Appreciate you letting us know.

Murphy: Yeah, and that's one of the main pathways for OHSU students and staff off the number 12 bus line. Probably got 150 people a day up and down, maybe more.

Hales: Thank you very much, appreciate you bringing it to us.

Murphy: Thank you guys.

Fritz: Mr. Murphy, I'll give you this, and if you take it back to Jasmine, she'll help.

Hales: Alright. Let's take 1296, please.

Item 1296.

Hales: Good morning.

Katherine Smith: Good morning. My name is Katherine Smith. Dear Mayor Hales and City Commissioners, I am here testifying again because Portland police officers -- especially Sergeant McCormick, Police Chief Reese, Commander Day and others -- will not stop some Tigard cops from shooting me daily, 22 to 24 hours a day with microwave weapons, ultrasound weapons, voice-to-skull weapons remotely. And they still tell me they are shooting my son with these weapons when he's sleeping to give him cancer. Sergeant McCormick has been taking my reports of evidence and hiding them from the police officers I addressed them to so that they will not do anything to stop these assaults. That is the suppression of evidence and facilitation of murder. He still tells some Portland officers to intimidate me with arrest if I don't go report it only at 9:00 a.m. on Fridays. Those cops are covering up for these assaults because they don't want the public to know they and other cops have these kinds of weapons they use -- usually, remotely -- to harass and intimidate black male, incriminate and do violence to people. So, they don't want any court cases about them. As I have said before, there are hundreds and hundreds of people, including kids in Portland that those eight to 10 Tigard cops shoot with these weapons remotely. A simple response such as tell internal police review, call Project Respond, or report this to Tigard police, doesn't pressure or stop those cops. They must be investigated thoroughly and arrested. It's Portland police's job to stop those assaults because those Tigard cops mainly shoot me in Portland. Police Chief Reese retires soon. It will be good to not start off the new Police Chief Larry O'Dea's tenure with the Portland police attempted murder conspiracy investigation or a charge from the Department of Justice or the District Attorney. Police tell Police Chief Reese, McCormick and Commander Day they must stop these assaults. I have given them enough evidence to prove it. You are their boss as the Police Commissioner. You can make them stop these assaults, death threats, and murders. Those Tigard cops told me they are using voice-to-skull weapons and distraction devices on you remotely, Mayor Hales, to distract you and influence you to not do anything to stop these assaults, including, they said, they're not letting you talk to Police Chief Reese about this so as to get you in trouble or to make it appear you're ignoring my request for help or to make it appear my reporting isn't credible in spite of the details that I have said about it and the hundreds of visible burns and scars that I have on me, and that I've shown to Portland police. To end, I have a few websites here on these papers that I will give her to give you all that talk about the secret meeting at Johns Hopkins University that Janet Reno -- the Attorney General, at that time -- had with the Pentagon, Department of Justice, law enforcement, and weapons experts in 1993 to discuss

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and decide to give these kinds of microwave ultrasound voices, voice-to-skull, mind control weapons to police officers.

Hales: Alright, Katherine, we'll try to get you some help. You take care.

Smith: OK, and I hope you will look at these.

Hales: Alright, take care. Karla, let's take the next item.

Item 1297.

Hales: Good morning, welcome.

Peter Hybertsen: Hi there, I'm here from 15 Now Portland. Mayor Hales announced recently that equity will be a top priority for our next budget, and I am here to say that unless every single worker employed by the City and its contractors is paid \$15 per hour -- which is closer to a living wage -- then our next budget will not meet this goal of equity. Commissioner Fritz has said that the cost of doing this could be close to \$3 million a year. That's just less than 1% of the City's general fund budget and one-tenth of 1% of the total budget. So, I am actually very skeptical of any claim this is that the City cannot get this done. Multnomah County and Home Forward have both taken action recently to pay all their workers at least \$15 an hour, and I believe the City can as well. I also want to say that framing this simply as an expense implies that there is no broader benefit to the City paying better wages to the workers. This money is not going to simply disappear into a black hole somewhere. The workers who benefit from this are likely to spend their extra wages locally, which will help our local economy. And also this would likely save the money on turnover costs for year-round workers and attract motivated and better employees for seasonal work who are happier to be working for you since they are paid a decent wage. This is not just a cost, it is an investment. Commissioner Fritz has also said it would be preferable to create a few full time jobs and to pay all our wage city workers better. While we would certainly like to see more full-time jobs as well, this goal should not be promoted by minimizing and dismissing the people who are trying to get by on less than a living wage. This does not promote equity. We need both a better deal for those at the bottom, and more new full-time jobs. It's really all well and good for City Council to use this rhetoric of equity, but we really do need you to put the money where your mouth is on this. The city council has shown little political will to dedicate even a tiny fraction of our resources to concrete progress on poverty wages. Meanwhile, we continue to absorb the costs of a brutally violent, unaccountable police force, which has routinely abused the rights of people of color, homeless people, and in general those who are most marginalized by poverty. Apparently, this has just been the cost of doing business, and that is why we now have people have our streets on a regular basis. And I will just close by saying that it is time for you to start taking real action to get your own house in order and show that equity is going to be more than just a buzz word around here. Thank you.

Hales: Thank you. Thanks for your advocacy. [applause]

Fritz: So, since Mr. Partridge testified last week, I've had some more conversations with the City Budget Office. Another issue that was brought to my attention is that should we increase all wages to \$15 an hour, we would then have an inequity with equal pay for equal work. That we currently have a structure of wages within the City that folks doing more complicated or various different categories or classifications of jobs voted on and agreed on in union contracts would then need to be paid more because they're doing a higher classification of work. So, I've asked the City Budget Office to estimate the cost of improving the wages to \$15 an hour for the lowest paid, because then there would be a ripple effect throughout the rest of the system. The other -- you may not be aware that last year, the council invested a million dollars in converting 20 seasonal positions to full-time positions. Since I've been in charge of Parks, we've created over 40 full-time union jobs, which I am very proud of. And we'll continue to do that. Our Budget Advisory Committee in Parks is looking at the equity issues and the wise use of resources. Since the ongoing resources have pretty much already been spent several times over by the council in our intention for next year, the mayor has directed in his budget directions that any proposed increase in bureau funding would be offered

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with a commensurate cut. So, that's the discussion that the bureaus are having, because -- as we're finding with the street funding discussion -- it's really hard to raise all the revenue. There is a set amount of money, and we try to spend it wisely. So, I encourage you to participate in the Parks public meeting on our budget. It's in January. I forget the date, but it's early in January, and that's where the hard discussions have to be made.

Hales: Yeah, as Commissioner Fritz keeps focusing on this issue -- not just because you've been doing a good job of advocacy but also because there is a number of positions in the Parks Bureau. There are other positions in City government that fall below the threshold, but the big number is in Parks. So, it's a challenge. Thank you. Thanks very much.

Item 1298.

Hales: Good morning.

Kelly O'Hanley: Good morning. My name is Dr. Kelly O'Hanley, and I'm here not to testify in the normal sense, but rather to pose some questions to you, members of the city council, regarding the proposed propane terminal that would be located across from Hayden Island. I wonder, do any of you have reasons to question the scientific findings of the international panel on climate change? Namely, that climate change is real, caused by human activities, and progressing rapidly. If you do accept the science, do you agree that real solutions must be on political and not individual levels? And as elected officials of a leading U.S. city, what do you see as your moral obligations regarding this threat? As you made clear, on January 13, the city Planning and Sustainability Commission are considering a change of the zoning code that protects the environmentally-fragile riparian zone as the Port of Portland's Rivergate terminal, with the view to allowing a terminal for propane -- also known as liquid propane gas or LPG -- which is a by-product of environmentally destructive fracking. The Commission's recommendations will need to be accepted or rejected by you. What are the benefits to Portland were it to serve as a conduit for LPG? Short-term tax revenues and a few permanent jobs? Given the threat of climate change in the arc of history, how much importance should be placed on these? Are these our 30 pieces of silver? Some elected officials are said to embrace LPG because it is less bad than other fossil fuels. Is that the standard that we should aspire to? Some argue that LPG is a "bridging fuel" quote unquote, that can serve as a substitute fossil fuel energy source. However, this argument would hold only if worse fossil fuels were being dismantled, but such is not the case. LPG is simply an additional carbon fuel. On another note, do you have concerns about the effects of idling diesel locomotives on the air quality around the would-be terminal and the impact of the poor air quality on nearby residents? Do you stand by your statement made this October in connection to the approval of your climate change preparation strategy when you said, quote, "reducing carbon emissions remains a crucial component of climate change preparation work," unquote. Can you imagine Portland leading the way towards a green economy? If not here in Portland and the Pacific Northwest, then where? Maybe China? Will they pull ahead of us in the green economy -- or maybe Germany? Are you prepared to help Portland live up to its national designation as a climate action champion? If so, say no to a propane terminal being introduced into Portland and to our city serving as a fossil fuel corridor. I believe such a decision would make a huge statement about Portland's core values. Such a stance would help draw dynamic, progressive young people and businesses to our city. That is the Portland and the future that so many of us want to help build. Please, lead us there.

Hales: Thank you very much, thanks a lot. [applause] OK, let's move onto the consent calendar. Again, I don't think that there are any requests to withdrawal items off the consent calendar. So, let's take a roll call on that, please.

Roll on consent calendar.

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

Item 1299.

Hales: Alright, let me get to my Council calendar here. So, I think we have a panel here this morning to provide this report. We have Pam Blumenthal from PCC, along with Marion Levitan,

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and Josh Laurie, and Marius Ibuye. So, we're welcoming this group to tell us about the progress of a great program in which the City of Portland is a partner. And really appreciate the good work that you've been doing and looking forward to hearing how well it's going. Pam, welcome.

Pamela Blumenthal: Thank you. Thank you, Mayor Hales and City Commissioners. I apologize, our board member Kali Thorne Ladd is supposed to be here today, and I'm representing her. She unfortunately is ill. But on behalf of the PCC board of directors and our Portland Community College President Jeremy Brown, I want to thank you for allowing us to share an update about Future Connect. Four years ago when we started the Future Connect program, we had hopes and dreams about how this type of program could impact the young people of our community. I don't think that we could have imagined that in a short time, Future Connect would come to serve as a local, state, and national model for access and success for low income, first generation college-goers, and it all started here with your support. This fall, we welcomed our fourth cohort of 350 students, and our impacts and outcomes are improving each year. You should all have in front of you a report. There is a document from our foundation, as well as this document. Looks like you're going to get those. We put this together so that you will have a better idea what's new, what the trends have been in these three years, going on four. And also, some photos of our students. And as you can see, our retention rate, which is the second page of the -- has the graphs on it -- has been increasing each year. The key piece to that is the retention rate. This measure gauges engagement and completion. Students who are retained are of course more likely to complete. As you can see, our retention rate is at least 70%. This fall was 82%. So, the student who started last fall were retained on average 82%. This is compared to 20% at Portland Community College for similar students who are low income first generation and do not receive the supports of Future Connect. As you know, Future Connect is not just a scholarship program, it is a support. And it is that support that is making the difference. Our impact is much greater than just the students who end up in our program. Each year, we are reaching hundreds of students in high schools, many of whom who would not otherwise see college as an option. Your investment and vision has created regional and national impact. As you know, the cities of Hillsboro and Beaverton are now supporting Future Connect and investing. This is their second year, and we are hoping that will continue. Last year, we received funding from the State of Oregon, and there are plans to request more funding for Future Connect this coming year. Last week, our programs were highlighted at the reengagement convening and people were very impressed by the model of Future Connect. People from around the U.S. were especially impressed with the commitment of the City and your engagement with the success of our young people. This past fall, we received a grant from the Ford Family Foundation to explore how the Future Connect model can work in rural communities. PCC is committed to Future Connect and to the partnerships that we created through the unique and successful program. We hope that we can count on your continued support as we evolve and expand this life-changing program. The PCC Foundation has done an incredible job matching the investment made by you, the City of Portland. Marion Levitan, our vice president of our foundation board, will now tell you more about that.

Marion Levitan: Good morning.

Hales: Good morning.

Levitan: As the vice president of the PCC Foundation board of directors, and on behalf of my fellow board members, I thank the City of Portland for its vision and its investment in PCC's Future Connect program. The City's investment in Future Connect continues to be a catalyst for philanthropy at PCC and throughout the region. Much of our ability to raise money comes from the ongoing leadership and support that we have received from the City. Time and again, we have seen family foundations, business leaders, and individual donors step forward to grow and sustain Future Connect. Since its inception, private contributions from individuals, businesses, and foundations have totaled nearly \$1.5 million. During the 2013-2014 fiscal year, we raised \$355,000 from private donors. Each individual, business, or foundation that donate recognize the value of the program not

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only to the students involved, but also to the community and its businesses. Additionally, your leadership motivated the cities of Hillsboro and Beaverton to partner with us in 2013-2014. PCC has now launched this life-changing program in their communities. Thanks to a recent planning grant -- and this was mentioned by Pam Blumenthal -- from the Ford Family Foundation, we plan to replicate the Future Connect program model in rural areas throughout the region. That's a good thing. Our ongoing success with Future Connect stems from your leadership and your support. For that, the foundation is grateful. We look forward to continuing this innovative and valuable partnership with you. Thank you.

Hales: Thanks very much. Good morning.

Joshua Laurie: Good morning, Mayor. Good morning, City Commissioners. I'm Joshua Laurie, I'm the program manager. I'm lucky enough to work with all the students every single day. And I can tell you four years ago, we started this program with three staff -- myself and two coaches. In that short four-year time, now we have 10 staff. We have six coaches who are working with students on the campuses; we have one outreach and recruitment specialist who is out in the high schools, connecting with students early on in their junior and senior year; and we have an MSW PSU student working with students to help with the cultural transition from PCC to the four-year universities; and we have a VISTA AmeriCorps member working to develop work study for our students out in middle schools and high schools in the region. So, the program is not just growing in staff but grown in capacity as well. As you can see on the last two pages of your handout, we are not doing this work on our own. We continue to build partnerships that expand support to students beyond what we are able to do ourselves. One thing we realized early in Future Connect is that there are tremendous amounts of programs, schools and community-based programs, who are already forging the relationships prior to graduation. All we are trying to do is build on that. We're not trying to have the student adapt to any program, but rather, flex the system to help support the student transition. So, to highlight some of those partnerships -- you can see on our last couple pages there -- we have several partnerships, I would just like to highlight a few. One is that without any additional dollars, we are able to increase our internships for our current students through a partnership with WSI. So, current students who then go into college are now connecting to internships in their freshmen year at college that really reconnect them to what they are doing in the classroom.

Fritz: Tell folks what WSI stands for.

Laurie: WorkSystems, Inc., I'm sorry, I have so many acronyms. Our collaboration with PPS -- Portland Public School District -- to earn the gear up grant for the next eight years as well is key. We are now providing leadership training at PCC for students who graduate from specific clusters to then return to their middle schools and high schools that they came from and mentor young students who are first generation and low income. So, we're not just helping students to educate themselves about how to access college, but how to change their community. Another one is our focus on connecting with local nonprofits such as Carpe Mundi. We since have sent 25 students to study abroad for free. So, students who otherwise were contemplative of college are now representing not just PCC, but Portland all across the world. And they're earning 24 PSU credits while they do it. And finally, our work collaborating with multiple partnerships to develop and maintain long-term supports for the highest-need students. Specifically, our work with PACT, which is Portland Accesses College Together, in conjunction with All Hands Raised moving the needle on how students access college and our work with New Avenues, Home Forward, and doing the new doors and college avenues specifically centered on supporting foster care students. These partnerships are what make the program strong, not just the program itself. It's our ability to work with what resources we already have in Portland. As the program manager I feel proud of the work that we are doing is only made possible by the students' grit and determination. One of those students who I feel epitomizes that is Marius here. Four years ago, I was able to -- in this very room -- award Marius a Future Connect scholarship. It's been such a short time that Marius has made me

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more proud to be not just a program manager of this program, but also a Portlander. So, I would like to introduce Marius Ibuye, who is one of our great students.

Hales: Good morning, welcome.

Marius Ibuye: Good morning. Again my name is Marius Ibuye, and I first want to thank you for the support that the City has provided. The support has helped me tremendously to the point where words cannot express my gratitude. I graduated from high school in 2011, while in the youth summer connect program at the Bureau of Transportation when I first heard about the Future Connect scholarship. I could have gone to any university of my choice, but I had really no idea of how to do that -- admission, financial deadline, all these things. I worked with my high school counselor, but frankly, I'm not sure that he had an idea of who I was or what I was capable of. So, I choose PCC because it was close to my house. This was a great idea. When I got into college fresh from high school, nothing made sense. I knew I wanted to be a pharmacist, but I didn't know how to get that. I remember it was only after my first meeting with my career coach that the path to pharmacist became clear. My coach researched prerequisites for pharmacy program at Oregon State University because I told her that's where I wanted to go, and handed it to me. It was this moment that I felt empowered. I began taking these classes, but at some point, I started having the sense of being overwhelmed. Science classes with long hours and labs and the part-time job filled my plate. My coach was there to encourage me and inspire me. She made my learning process easy by checking in with me on a regular basis to make sure that everything was going well. With all the support I received from Future Connect, I was able to finish my prerequisite and transfer to OSU with the Ford Family Foundation scholarship, while I am getting ready to graduate in July with Honors Bachelors of Science, pre-pharmacy option with a minor in health management and policy. My plan is to attend grad school at Pacific or Oregon State University. My goal is to practice as a pharmacist and eventually join the board of pharmacy where I can be able to participate in decisions that affect pharmacies on a regular basis. This is the evidence that Future Connect, to me, is not just a program name, but a reality. They have opened the doors of opportunities that lead to future and guided me through them. Now, I am walking in with confidence, believing that I am heading to a future that was thought of when the program first started. A large part that I want to leave you with is that while this program truly helped me to create a community for me, it's also working with my siblings who are now in Future Connect as well. My young sister and brother are here this morning, and they are in the 2012 and 2013 cohort. One could say that I am an ambassador for the program.

Hales: That's great, thank you very much. Appreciate hearing about your progress. That's great.

Ibuye: Thank you.

Hales: Questions for this panel?

Fish: I'm looking at your excellent brochure -- what's the overall budget for the program now?

Laurie: It's for all three regions. We're about 1.1.

Fish: 1.1 million.

Laurie: Yeah.

Fish: And the City last year chipped in \$432,000?

Blumenthal: Yeah, 420.

Hales: 420, I think.

Fish: And we will have the chance to take that up again in the next budget cycle, no doubt.

Blumenthal: Yes, we had a three-year MOU but we were negotiating the budget annually. So, this the last year of the MOU, and we'll be discussing re-upping that.

Fish: And I noticed in the write-up of Daisy, who had her story and your stories in the brochure. It refers to the Oregon Leadership Institute at PCC's Rock Creek Campus.

Laurie: Yes, OLI.

Fish: Tell us about that.

Laurie: Well, I think the OLI program is specifically out at Rock Creek to work with young Latinas and Latinos coming from the Hillsboro and Beaverton district areas. And so, they do some early

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intervention with them over the summer programs. It's not a program that I'm specifically responsible for, but once again, it kind of speaks to -- how shall I say -- we basically try to find any resource that makes sense. In our mind, I don't care really exactly what you want to do, but whatever your passion, your purpose, is we'll find it -- so if OLI sticks with you, perfect, we'll find that resource.

Saltzman: You mentioned focusing on foster youth or former foster youth. Could you elaborate?

Laurie: So, with your office specifically, Commissioner Saltzman, we actually were working in concert -- about two and a half years ago, there was a symposium at PSU on supporting foster care, and it was supposed to be a workshop conference. From that small workshop conference, there was about five groups of us -- Home Forward, a representative from your office, New Avenues for Youth, PCC Future Connect -- we came together -- and REAP I think was the other one -- and what can we do from this, what actionable item could we do? Since then, in the last year -- and I think I spoke to this last time we did a report -- we were able to have a house in southeast Portland for young females who are exiting the foster care system, as long as they are in college. So, that house now has four students in it. And we do some of the college advising specifically around that, and their rent is subsidized through Home Forward. Thank you, specifically --

Saltzman: Thank you.

Hales: Other questions or comments?

Fritz: I have a comment for Marius. I don't know if you remember when you accepted your scholarship here in this chamber, I talked about the investment of the taxpayers of Portland and your education, and the taxpayers believe in you. So, I wanted to thank you for coming back to tell us that indeed that investment is paying off, and that you're on our way to becoming a pharmacist. It was much appreciated you bothered to come today.

Hales: That's great. Thank you. Others? Thank you all very much. Appreciate the chance annually to get a glimpse at how well the program is working. It's great to have both the statistical data about how many students you are reaching and what's happening, but also to get an individual report from somebody who is succeeding, thanks to this program. So, good luck to you in the next stage of your academic career, Marius. We look forward to you being part of the pharmacy community in Oregon.

Ibuye: Thank you.

Hales: Well done, thank you.

Blumenthal: Thank you so much.

Hales: Would anyone else like to comment on this report?

Moore-Love: We have two people signed up.

Hales: Good morning.

Charles Johnson: Good morning, Commissioners. For the record and to jog your memory, my name is Charles Johnson. I was hoping that even though they're recovering from finals' week, more of the students involved in this program at the Portland Community College could come out and let us know about the real impacts and the struggles that students -- especially students facing poverty or institutionalized prejudice because of their minority status -- could face. It is good to see this good chunk of money, but I think especially young people of color -- young Black and Latino, Latina men and women -- while they're glad to see a substantial investment in here, they also lose confidence in the city government when they open up The Oregonian and turn to page 10 and find out about the 312 dollars you used to fly 24-year-old men from New York here to meet women off of Craigslist. I think that sends a horrible, confusing mixed message to this entire community that 312 of public money goes to bring a 24-year-old Black man who we should hope gets involved in the city and University of New York, to come here and dabble around with some exotic fantasy our police people spend 1000 text messages on to bring a guy from Queens, New York, to Portland, to meet a woman who may have been racially profiled as a description of a non-white woman or tried to lure a Black man here with the description of a fake white woman on Craigslist, and then we

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actually this fly this horrible victimizer here and waste the time of the human trafficking unit on crap like that. Even our judges voice skeptical comments in The Oregonian, and people participating in future connect are not stupid, they can connect the dots and see where our community's values are when things like that happen. I definitely want the human trafficking unit to get money and to fight the exploitation of Latina women who are brought across the border, people from Eastern Europe, but they cannot feel like Future Connect is a program that's really there for them when it's balanced with stuff like that on page 10 of The Oregonian where you shock the minds of women like Kasia Rutledge at Lewis and Clark's Law Project. I hope that some people in the Future Connect will be engaging with their society, because it's not really my place. Maybe Black and Latina women feel protected and served by this kind of an entity. If they feel outraged, I hope after the 14th when slots are available to comment here at City Hall, they will come forth and ask why Mike Gallagher sent 200 text messages back and forth to New York so the public funds could be spent on a \$312 airline ticket. We would much rather have those man hours go into protecting real women and people at risk here in Portland, and more of that human energy going into programs like this awesome Future Connect program so that 24-year-old men are channeled into constructive things instead of getting a lifetime sex offender status, which probably won't apply in New York because of the crazy way this prosecution was done. Thank you.

Hales: Thank you. Anyone else? Alright, then let's have a motion, please.

Fish: So moved.

Novick: Second.

Hales: Further discussion? Roll call, thank you.

Item 1299 Roll.

Novick: You know, every once in a while you hear that the City of Portland should focus just on the core services that it provides, and that we should spend all of our money on parks and housing and police and fire and not get into other stuff. And the truth is that we spend an overwhelming amount of our money on police, fire, parks, housing, basic services; but I challenged the people who say that we should limit our spending to the services to look at Future Connect and say, this is a frivolous use of taxpayer money. Thank you very much to the presenters. I think this is a great improvement program. I am pleased to vote aye.

Fritz: Thank you, Commissioner, yes, I am very proud this is one of my pet projection. And I'm wearing PCC blue in your honor today. I have in my office a sign that says Keep Calm and Create Opportunity from the fundraiser last year. I am very proud. This is one of the things that Sam Adams, when he was mayor, prioritized. And frankly, I was skeptical when he said that he was going to be putting that amount of general fund at a time that we were cutting everywhere else. But because he was the mayor --- and he had a plan for how to support students. As you said, it's not just the scholarship, it's the whole wrap-around service, the mentoring. And yesterday, in the Portland Development Commission's report, we heard that education is probably the single biggest factor in whether our economy flourishes or not. And everybody needs to profit and be a part of that. This program makes sure that everybody can. And I'm so proud to be associated with it. Please keep coming back, giving us your annual report. Please keep inviting me to your kick-off events and your graduation events. Please bring the students here to get their certificates, because it's so important that the citizens of Portland understand that these are the kids that they're investing in. And again, thank you to the taxpayers of Portland who are investing in this program. It's going to pay off in so many ways. I believe it is in the ongoing funding, but don't let that take away from the need to keep coming back and giving us the report. It brings joy to my heart, it's good for us to know that we invest in important things that may not show right away the benefits to our economy, to our city. When you hear folks like Marius talking about the difference it made in his life and his family's life, it certainly pays off right away. And I'm also very proud that Portland Parks and Recreation partners with our summer youth program so kids who go through the GRUNT program or other internships with Portland Parks are also eligible to get the Future Connect scholarships.

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And that, also, provides a school to work channel for us in Portland Parks and Recreation, and we appreciate that partnership. Thank you very much for coming. Aye.

Fish: Thanks to our friends at PCC for the presentation. And we wish Marius the best of luck, although I hope I have limited contact with him in his new profession. Mayor, thank you for bringing this forward. Commissioners Fritz and Smith, thank you for being champions for this program. And I'm delighted to be reminded by reply friend Commissioner Fritz that it's in our budgeted with ongoing funding, which means perhaps the only administrative act is to renew the contract, which I'm sure that you will get the full support of this council. So, thank you. Aye.

Saltzman: Thank you, Portland Community College for proving to be a reliable investment partner. It's very impressive when you have increased the retention rate of students from 20% for ordinary students -- which is too bad, I mean, it's too bad we're only retaining 20%. But with Future Connect, that's boosted to 80%, so that's impressive -- or 70%. Either one is very impressive. So, keep up the good work, and keep those students engaged and being successful. Aye.

Hales: A couple of these were mentioned, but it just so happens that in the last 24 hours, Council heard a presentation about the future of our economy, and educational success -- as was mentioned -- is the key to that. I visited a program out at the Oregon State Penitentiary here in the city out on Sunderland Road called the Social Ignition, teaching entrepreneurship skills to inmates -- along with Rachel Wiggins and others. And I was just blown away by the positive attitude, the serious intent, and the entrepreneurial zeal that these young men had -- not so young in a couple of cases -- who are looking forward to being back out in society and trying to make a contribution. In all three cases, the same thread weaves through, which is if we really focus on education and if we have unusual partnerships, we get great results. And it's going to take that, because we have a lot of kids to reach. So, this program is doing a great job. It's reaching a lot of young people and giving them access to opportunity. We're not there yet, as the kid in the back of the car is often instructed. We've got a long way to go before we can reach all of our kids with this kind of opportunity. But I really appreciate what you are doing. I appreciate hearing from the students -- as Amanda said, bring more. It's great. And we thank you very much for your part of this partnership. Aye. Thanks a lot. OK, let's take the next time certain item, 1300. And read 1301, too, please.

Item 1300.

Item 1301.

Hales: Commissioner Novick.

Novick: Thank you, Mayor. I'm pleased to bring toward these two resolutions today to continue our work to incorporate our city's values into our city's investments. Last October, Council unanimously approved two resolutions that for the first time contemplated assuming some social responsibility for our investments. One of those resolutions established a do-not-buy list, directing the Treasurer to not invest in any Wal-Mart securities. The second resolution established a temporary committee to consider the question of how the City and Council should receive future recommendations about adding and removing companies to the do-not-buy list going forward. I want to provide a brief overview of what the resolution before us today will do, but first I want to talk for a moment about why this matters. Abusive labor practices, environmental harm, harm to health, corporate corruption, and other unacceptable corporate practices are simply not in line with Portland values. As a public entity, we have a responsibility not to loan taxpayer dollars to those companies that seriously violate these and other principles that the council establishes for its investments. Corporate practices are somewhat difficult to measure and track. We know that. That's why we spent a significant time developing a process that takes into account the City's investment policies and thoughtfully incorporates community input. What we have today is a mechanism that seeks to align our investments with the values that we often talk about, and to do so in a practical way. This proposal puts our money where our mouth is. The first resolution before us today is to extend the do-not-buy list we established last year, ensuring the City will not purchase any additional Wal-Mart bonds in 2015. We have structured this list so it expires annually, ensuring that

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we at the city council will assume responsibility for keeping it current. On the question of whether Wal-Mart still belongs in the do-not-buy list one year later, I believe the answer is a clear yes. Wal-Mart has a long and well-documented history of troubling practices that clearly fit the principles Council established last year, and that are restated the resolution before us today. The area of labor practices in particular, Wal-Mart continues to resist campaigns to provide employees better wages, benefits, and other protections. Just this last month, an administrative law judge for the National Labor Relations Board ruled that Wal-Mart managers in California had illegally disciplined workers for going on strike, and threatened to close the store if many of its employees joined the group over Wal-Mart. In November of 2013, the NLRB ruled that Wal-Mart unlawfully threatened the employees at Wal-Mart stores in California and Texas with reprisal if they engaged in strikes and protests on Black Friday. In the area of corporate ethics and governance, media sources indicate that Wal-Mart is under investigators by the U.S. Department of Justice for violations of the Federal Corrupt Practices Act. In 2012, the New York Times published the results of an investigation into a Wal-Mart Mexico scheme to bribe local government officials in Mexico in exchange for fast-tracking development permits. And as has been documented in Charles Fishman's book, *The Wal-Mart Effect*, Wal-Mart uses its market dominance to disrupt normal market forces. Now, it is possible that leopards can change their spots. It is possible that in the future, Wal-Mart will change its practices. And one reason that we renew this list each year is that there is the opportunity for companies to come off the list as well as to be added. But I think this year, Wal-Mart has earned the distinction continuing to be the one company on the do-not-buy list. The second resolution before us today implements the temporary committee's recommendation which includes establishing a permanent citizen committee to advise Council about companies that should be added to and removed from the do-not-buy list. In addition to establishing this committee and its charge, the resolution directs the City Treasurer to purchase a subscription to reports designed to support investors who are interested in social responsibility. It turns out that there are various entities who come up with these corporate-specific social responsibility reports which address many of the concerns that we've outlined in our list of principles. And this interim committee specifically suggested that the future permanent committee take advantage of these reports in identifying candidates for the do-not-buy list. The temporary committee identified these off the shelf reports as a fiscally responsible way to ensure the permanent committee has a legitimate research tool at its disposal as they consider Council's principles and make recommendations. One important feature of the committee charge that I want to highlight are the provisions that call on this committee to make moderate, thoughtful recommendations that stop the City's investments in only those companies that have the worst records. Specifically, we have included language directing the committee to consider and balance the company's practices as a whole, including the seriousness of concerns about any business practice and whether the practices involve more than one of the principles established by the council in this resolution. This composite approach mirrors that used by the research firm dedicated to moderating corporate practices for investors who care about adding social and values-based criteria to their investment decisions. In addition, we have limited the committee to send one recommendation per year to the council, rather than multiple recommendations through the course of a year. It's my hope this limitation will encourage the committee to be careful and err on the side of slow rather than rash recommendations. It addresses the concern that the committee might adopt a sort of bad flavor-of-the-month approach by saying the recommendations will be made once a year. With that, I will turn it over to Katie Shriver of my staff to provide a brief overview of the two resolutions as well as the process we've used to develop these resolutions.

Katie Shriver, Office of Commissioner Novick: Thanks, Commissioner. My name is Katie Shriver, and I'm staff to Commissioner Novick. I just wanted to briefly describe what each resolution will do and review the process we used to develop this proposal. So the first resolution, number 1300, extends the do-not-buy-list through December 2015. As Commissioner Novick said,

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that list directs the City Treasurer not to purchase any additional Wal-Mart bonds. The second resolution, number 1301, implements the recommendation received by the temporary committee, including creating the permanent Socially Responsible Investment Committee and charging it with recommending to City Council which companies should be on or off the do-not-buy list. The final decision will come to Council. This is an advisory committee only, and recommendations come to you. The committee will be made up of at least seven and up to nine volunteers who must be confirmed by City Council. Each member of the council will nominate one member, and the others will be nominated by the mayor. The committee must include individuals with expertise in environmental and conservation issues, labor practices, corporate ethics and governance, corporate taxation, public health and safety, and business. As the commissioner noted, the committee is charged with considering and balancing a company's practices as a whole, and the committee must send recommendations to the city council once per year, although that recommendation could be no change in the do-not-buy list. Staff from OMF business operations in the City Treasurer's Office will provide subject matter and technical support, and the resolution directs the City Treasurer to identify and purchase a research subscription that best addresses the socially responsible investment principles established by Council. This purchase is contingent on Council approval of a decision package submitted by Treasury in the 15-16 budget process. The resolution directs that when the new committee sends the recommendation for an addition or deletion to the do-not-buy list, the City Treasurer shall prepare a financial impact statement for City Council to consider alongside the committee's recommendation. So, that's a brief overview of the high points of that one. In terms of process, just wanted to run through the history. After Council adopted the two resolutions in October 2013, the temporary committee was appointed and met in the spring of the year. Also, this past spring, community activists organized an event at City Hall highlighting the fact that the first set of bonds investment in Wal-Mart were maturing. Because of the do-not-buy list, the City could not invest new resources into additional Wal-Mart bonds. So, that's as a result of the action last year. In August, the temporary committee presented its report and recommendations to Council, and information about that -- their work -- was published on a website created by the Office of Management and Finance, which provided support to that committee. Commissioner Novick and I worked this fall to develop a draft proposal based on the temporary committee's recommendation. We consulted with you and your staff as well as the City Treasurer and the City Attorney. We published a draft proposal on Commissioner Novick's website, and asked for input from the public, and we shared the link to that draft proposal with folks who had expressed interest in this process from the beginning. We received some comments on the draft, and Commissioner Novick will offer an amendment today to address one significant piece of feedback. So, that concludes my overview. I'm happy to answer questions; and the City Treasurer, Jennifer Cooperman, is also here to answer any technical questions. Thanks.

Fish: Katie, I have a question, and that is to get a better understanding of what you mean when you say consider the factors and balance them as a whole. Let me just give you a hypothetical. I will hypothetically choose a certain municipal corporation in the state of Oregon. That municipal corporation refused to settle with a Mr. Hurley, a firefighter, and it led to the ERB issuing an unfair labor practice charge saying we were in violation of state law. That municipal corporation was found by the Justice Department to violate federal law resulting in a settlement with the Justice Department, and that municipal corporation was sued for violations of federal environmental laws leading to the Big Pipe. That municipal corporation is the City of Portland. So, anticipating that the committee may review our record and make recommendations, what do we mean by considering this as a whole and balancing these factors?

Shriver: Yeah. So, I would ask Commissioner Novick to fill in -- I'm happy to go first. I think what we were trying to get out there is really to say that, you know, every corporation probably does something that runs against the grain of the principles that Council established. But, what we're trying to get at here are the corporations that have very seriously out of alignment with the city's

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values, and with the values expressed in that list of principles. So, what Commissioner Novick has tried to do is say that we want to get at the worst of the worst, and so that direction to the committee is intended to express that.

Fish: I think that's very important sort of in this building of record of what we know here, because the municipal corporation I alluded to invited the Department of Justice to come in and work out the agreement. The municipal corporation was told we would probably get an unfair labor practice charge on Hurley, but a majority of the council felt that there was a principle at stake in the Hurley case that needed to be taken forward and on and on. So, the mere fact that there is an administrative ruling or a settlement of a dispute does not, as you've explained to us, give rise to the worst of the worst. That has to be seen in context, and you're saying it has to be egregious.

Novick: I think that what we're looking for entities that have engaged in an unusual pattern of violating -- in most cases -- more than one of our values. So, probably most large companies at some point had some labor or environmental controversy, but only some of them have had -- as Wal-Mart had -- a lengthy pattern of violations of labor laws, and most entities have not had a lengthy pattern of violations of both labor laws and environmental laws and bribery rules.

Fish: And Steve, in the labor context, we also look at -- to use the analogy you said about a leopard and its spots -- we look at how companies respond to the challenges that have raised. So, a company that has been in the news, for example, for maybe paying substandard wages to employees in a foreign company that then takes up that issue holistically and agrees to respond to it. That company presumably would get some points in this analysis.

Novick: We would look at what their current practices are, and how they reacted to previous criticism. Just as a municipal corporation has been responsible for a large number of combined sewer overflows -- if they subsequently spend a billion dollars to address that problem, we would take that into account.

Fish: Yes, and I guess I am heartened by what Katie said, which is there is more than one factor we're going to look at. Because I think we have to be careful that it's not just one issue that someone cares about that then leads to a discussion about disqualification, but that it has to be broader than that, so we don't get into single issue advocacy. Jennifer?

Jennifer Cooperman, City Treasurer: I will just add that there are -- I'll use Wal-Mart as an example -- they do score poorly on labor practice issues by some of the subscription research we are looking at. However, they score A on environmental issues. So, that's part of the challenge that the committee will have and then council will have of weighing the relative value of those two conflicting performance histories.

Saltzman: Jennifer Cooperman, our Treasurer, give us an overview of the investments this would apply to, and what are the size of those investments currently?

Cooperman: The City is allowed by ORS and by the City's investment policy, Council-approved investment policy, to invest up to 35% of the portfolio in corporate securities. The corporate securities that are eligible to be purchased are ones that meet minimum rating criteria by Moody's, S&P 500, Fitch, etc., and also meets certain maturity constraints, and diversity because we only put a certain amount of money in any one particular corporate name. So, if you put all that together, we have a universe of about 40 to 45 names that are eligible for us to even look at. Once we start looking at those names, not all are active issuers of debt. Not all have debt available for us to purchase in the marketplace. And when bonds are available, it might not be the best value -- relative value. So, it's a relatively constrained universe that we have to look at all.

Saltzman: And when you say corporate securities, you mean bonds, not stock.

Cooperman: Bonds, correct. We are prohibited from investing in stock. We are prohibited from investing in mutual funds or money market funds or any type of a fund. By ORS, we are limited to individual bonds by individual issuers who fit rating criteria and the bonds fit maturity limits on them.

Saltzman: So, you said the universe of potential companies that we could invest in is 30 to 45?

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Cooperman: It's about 40 to 45 names.

Saltzman: That's pretty finite. I guess more finite than I imagined.

Cooperman: It is. I think that was a surprise to the temporary committee as well when at the first meeting I explained the limitations that we work within for the portfolio.

Novick: And Commissioner --

Saltzman: How long would you anticipate it would take the committee to review the 40 to 45 companies? I mean, could that be done in a year with the prescription service and everything?

Cooperman: I hadn't thought about that. The resolution prioritizes the committee's work and asks them to focus on issuers that we currently believe are eligible for us to look at and spend less time -- at least, up front -- on the names that aren't even possible for us to consider. I think -- I hazard a guess and say, yes, I think it's possible during the course of the year because we know that some of these names are not frequent issuers, and we're not likely to see -- so with help from Treasury, we could prioritize that list of 45ish names, and help them work through the process. How frequently are we asking the committee to meet?

Shriver: It's up to them, yeah. I mean, I think we're leaving the committee's operations in some way to ask them, how do you want to approach this? And review the list, and take the time that you need, and structure your meetings accordingly.

Cooperman: So, if at day one, if the committee were appointed and ready to go, the prescription was in place, the research material was available for them to look at, Treasury staff available to prioritize those lists of names, I think that the committee could work through them in fairly short order, prioritizing the ones that are harder, if you will. They get an A on this, they get an F on that, some other names are probably more easily decided upon and dispensed with.

Saltzman: Do we invest in any companies headquartered in Oregon?

Cooperman: We do.

Saltzman: Like Nike?

Cooperman: Nike, Intel.

Saltzman: Columbia Sportswear?

Cooperman: We haven't bought Columbia Sportswear. Precision Castparts. Last year, Council approved an amendment to the policy in accordance with ORS that allows us to go down to a single A rating as opposed to single A rating as opposed to a AA rating if the company is based in Oregon and has outstanding shorter term debt. So, that decision by Council allowed us to add Nike to the eligible list, Precision Castparts to the list, Intel to the list, and a couple of other names, as well.

Saltzman: We did that last year?

Cooperman: Yes.

Saltzman: OK.

Fish: Jennifer, a couple other questions. When the committee makes its recommendations to Council -- because I understand that Council is the final arbitrator of this.

Cooperman: Yes.

Fish: Let's imagine a scenario where the committee has done the due diligence and has a recommendation, but for whatever reason you disagree with it. And I can imagine that might happen. We will have the benefit of both recommendations coming to us? Will you be paired with the committee's recommendations so the council can consider both?

Cooperman: Yes. The resolution was written to allow Treasury to provide a financial impact analysis to the committee during its deliberations, and additionally the Council at the time that the committee's list is presented to you.

Fish: So, Commissioner Novick, in that rare instance where there is a disagreement, my guess is at the hearing we would hear directly from the treasurer if she had a disagreement?

Novick: If she would desire to do so, of course. My understanding was that the Treasurer didn't really want to be involved in applying the criteria. And was actually her original suggestion that we

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simply send her a do-not-buy list rather than ask her to apply the criteria herself. But we would definitely want to hear from her if she wants to speak to us.

Cooperman: I guess I would ask for clarification about the word, disagree. I will be providing feedback to the committee, here is the financial impact of this decision. The committee will have to weigh the scores on various principles, on various measures, and come up with a determination for your consideration. I will provide the financial impact and anything else that we might be aware of.

Fish: This only applies to future securities, right?

Cooperman: Correct.

Fish: It would not to any security that we currently hold?

Cooperman: Right. When we manage the portfolio, we purchase securities with maturity dates that fit dates we know that we have cash outflows, so payroll dates, etc., and it would be too disruptive to managing the portfolio if we had to retroactively sell names.

Fish: Under what circumstance would there be a financial impact? I'm reminded there are some big socially responsible funds in this country that have pretty robust rates of return. So it is no longer the case that you necessarily have to trade-off return for social responsibility. What do you mean by a potential financial impact?

Cooperman: In terms of the funds, I would -- from what I've read, most of those funds are equity funds. So, the returns that they are talking about are -- each socially responsible fund is not the same as every other socially responsible mutual fund. Some funds are comfortable purchasing large banks, others are not. Some SRI funds are comfortable buying Apple stock, others are not. So, they're not always apples to apples. The returns that are available to the SRI equity mutual funds -- if a name gets excluded off their list, they have thousands of other opportunities to invest in. We do not. So, the financial impact for us would be assuming that we have cash to invest and we have a smaller universe of corporate securities to invest in, we are then moving down the ladder, if you will, of the alternative investments, lower yielding investments that we have. And so, what is the give-up of interest that we are foregoing by not being able to invest in Wal-Mart or one of the other do-not-buy names but have to invest in something else? Now, it could be that everything else available is equal to the Wal-Mart security at that time. But, there's also I think a pretty good likelihood that might not be available. And so, we would make an alternative investment that yields less.

Novick: Commissioner, the fact that there is so few entities generally at any one time on the list that meets our, you know, our financial stability requirements is one of the reasons why we would want to be very careful about applying the criteria, and why we would want to limit the do-not-buy list to companies that are particularly problematic. I mean, if it so happens that the committee recommended that 30 of 35 companies that we can buy funds from should be in the do-not-buy list, certainly I would expect the Treasurer to speak out strongly about the potential financial effect on the City, I'd expect us to catch that, too.

Saltzman: So, I guess -- and I've talked with Commissioner Novick about this in the past -- one of my concerns is our commitment to jobs and companies that create jobs in Oregon. I guess I was -- I had forgotten that we had sort of, for, I don't know if laxed is the right word --

Cooperman: Expanded.

Saltzman: Expanded the list of eligible companies specifically so we could invest in Oregon firms. So, I guess what I'm concerned about is some scenario where partners -- good corporate partners who have been sponsoring our concerts in the park or fields or something like that -- ends up in a very public debate here in City Council about whether we should disinvest from that company. That is going to have negative consequences for relationships, for decisions about, you know, headquarter locations, and things like that. Yet, there is no criteria that speaks to, you know, if you're based in Oregon, you are creating jobs in Oregon, that should count for something. So, where does that get played out?

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Novick: Commissioner, I would say if a local company starts evading taxes and bribing officials and damaging human health and the environment, then they should go on the do-not-buy list even if they happen to be local. I would hope that does not happen very often. One thing that I think that we can do is we will look at the subscription services that give ratings to companies and a variety of criteria. And I would anticipate that if we see that a local company is scoring quite low on a number of those criteria, one advantage of there being local is that hopefully before the committee makes the recommendation, we could go to them and say, look, you're in trouble on a number of these criteria, is there anything that you can do over the next few months to address some of these concerns? And if they took us up on that and addressed some of those concerns, that would obviously be taken into account in the committee's deliberations and our deliberations.

Saltzman: Who makes that contact?

Novick: Actually, Commissioner, I'd be inclined to do it myself. I mean, I would ask the committee to let me -- or Katie, for that matter -- to let me know if a local company is scoring very poorly in one of the subscription services, and I would be happy to make that myself, as well as, of course, any other -- other members of the council might also wish to do that.

Saltzman: But it's perfectly OK for the city council -- I mean, we may have an embarrassing debate, but if the council decides on the balance an Oregon-based company creating Oregon jobs is worthy of our continued investment, that's fair. Is that right?

Fritz: Council gets to make the decision.

Hales: It's an advisory to us.

Saltzman: OK.

Fritz: You mentioned that there's a potential amendment?

Novick: Thank you, Commissioner, yes. We have one amendment to offer, which I will now distribute to the council. We received input from the Voz Workers' Rights center that our permanent committee should reflect the diversity of the Portland community. And we thought that that was a very good point, and we wanted to include language in the resolution to signal that that is important to us. We proposed language that would be added to the Be it Further Resolved on page two of the resolution, that begins, quote, "that the socially responsible investments committee will be made up of at least seven and up to nine public members" after members, we propose adding the phrases, "who are reflective of the diversity of the Portland community and who are" and then it continues.

Fritz: Second.

Hales: Moved and seconded to adopt that amendment before we take public testimony.

Fish: Question on the amendment. I support the amendment, but it's interesting -- the way it is now worded, each member of Council would nominate someone to serve. So, how do we reconcile the two principles?

Novick: I think that we would coordinate with each other, as we are so good at doing, to ensure the total committee was reflective of the community as a whole. That's an important reason for us to check in with each other and make sure that we come out with a just resolution.

Hales: And the ultimate control point is that they are confirmed by the council as a whole.

Fish: Before we nominate someone, to have a conversation with you to get a sense of what is the likely composition, and if each of us, for example, nominated someone with an environmental background, that may not meet the test of the clause. So, this would work best if we had a high level of consultation about our nominations.

Novick: Exactly.

Fish: OK.

Hales: Understood, OK.

Saltzman: I just had one more question.

Fritz: Should we vote on the amendment first?

Saltzman: Oh, OK.

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Hales: Or otherwise?

Saltzman: No, that's fine.

Hales: OK, unless there are other questions about the amendment, let's take a roll call on that, please.

Roll on motion to add to resolved paragraph, page 2, public members "who are reflective of the diversity of the Portland community".

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

Hales: Commissioner Saltzman, other questions?

Saltzman: Again, I was surprised you said that there was only 30 to 45 companies that are even out there that we can invest in. So I guess my question is first, you know, how big is the decision package, the money that we're going to invest in this? And second, what the committee is going to do once reviewed the 45 companies? Should the committee have a sunset clause? I'm not asking you that, Jennifer, but I'm posing that. What is the committee going to do once it exhausted the universe of 45 companies, which we sort of estimate would take maybe a year with the subscription service.

Cooperman: I'll speak to that. I submitted a decision package for up to \$25,000 to pay for this subscription research material. I haven't tested the market yet other than sort of anecdotally with some of the people that came in front of the committee and with a couple of other treasurers out of state, and I think that will be a reasonable amount. I expect that it will likely be less. The research, though, needs to touch on the principles that Council has adopted, and that's the part that we need to have a clear crosswalk between the principles and the off-the-shelf subscription, and make sure it's the right vehicle to give the committee information it needs.

Novick: Commissioner, the list changes from year to year of companies that are offering securities that meet our criteria. And of course, the practices of companies can also change from year to year. So, it could be that in the second year the committee meets, they will see that it's exactly the same companies and the subscription services are the same as the previous year, so they might quickly come to a determines that the list should be exactly the same. But it could well be that the list of eligible companies has changed, and that the practices of the companies have changed. So, they would have to revisit the list to reflect those changes.

Fritz: I have a couple of friendly amendments. One is that the resolution says that it would be a subscription service, and it seems like it might be a benefit to having the option of getting more than one subscription. So, it would seem reasonable to change it to at least having a bracket with an S in it.

Novick: Commissioner, the only concern I would have about that would be a financial one. So, I'd ask the Treasurer if she thinks that her decision package of \$25,000 would be likely to cover more than one subscription.

Cooperman: I don't know the answer to that at this point in time.

Fritz: We're not allocating the budget now anyway, so I think you would come back to us if it turns out you wanted to buy 10 subscriptions at a cost of a million dollars.

Cooperman: Part of my waiting to test the research availability would be to see Council's interest in moving forward, the timing and the moving parts of this.

Fritz: If you add up the possibility of one or more subscription services in the resolution, that gives you flexibility without having back to Council saying, actually, there's these two that measure different things.

Novick: Commissioner, could the amendment be to change subscription to subscription parentheses, S, end parenthesis?

Hales: Take that as a technical amendment that does not require Council vote.

Fritz: OK. Then the second one is a little more substantive but still on the line, and it's in the language that Commissioner Novick just amended regarding the committee makeup. It seems to me that nine public members is a lot for this kind of committee. The challenge with nine is that the

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mayor would be appointing five of them, which is a majority. So if you -- if we changed it to seven, rather than seven and up to nine, then each of the four of us on the second floor would get one member and the mayor would get three.

Hales: Fine with me.

Novick: So, you're talking about prescribing seven, period.

Fritz: Correct.

Novick: That's fine with me.

Hales: I will take that as a motion. So, we're delete the words, at least, and up to nine. Right.

Novick: Second.

Hales: Further discussion on that amendment? Roll call.

Roll on motion to designate seven public members and delete "at least" and "up to nine".

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

Hales: OK, done. Any other amendments? Anything else that you want to --

Fritz: One further question, and that is, can the universe of the companies be expanded at the state level?

Cooperman: The ORS requirements are driven by ratings by outside rating agencies and by our own, and then by the Council-approved the maturity limits. Potentially, if those two were to change the universe could expand.

Fritz: The ORS could change at some point, too, right?

Cooperman: I suppose it could. But, in conversations with the state treasurer's office, I don't get the sense that they are likely to do that. This is short-term public funds used for daily operations and going too low in the rating spectrum and too far out on the maturity curve puts more money at risk.

Fritz: Thank you.

Cooperman: Sure.

Hales: Thank you very much. And I think you have other invited testimony, Commissioner?

Novick: Yes, we have an invited panel of two people to speak on the resolutions. Chris Lowe from Jobs with Justice and Ashley Henry who served on our temporary advisory committee.

Hales: Good morning.

Chris Lowe: Good morning. I'm Chris Lowe, representing Portland Jobs with Justice. I'm the chair of the healthcare committee there and on the executive committee, and we would like to support both pieces of your agenda here. We would like to support the continuation of Wal-Mart on the do-not-purchase list and we would also like to support this development of the investment policy principles. I would say that particularly in light of some of the discussion, I want to focus on the idea that this should continue to be developed, as well. I'm a little uncomfortable with some of the transactional language that's being raised about, well, if they are good on one thing and not on another -- I think that really needs to be thought through. If Wal-Mart really has an A on environmental things, I'm skeptical of what that system doing the validation is. But I think that their other practices are bad enough that A should not account to allow them to be taken off the list. So, in terms of the local stuff, Precision Castparts had a very serious environmental problem, there was a leak, but they have -- what their product does creates some serious environmental hazards. I don't know how you're going to work that out, but it's not -- anyway, I just think that from our point of view, that's a little bit of a problem to look at it transactionally that way. Our interest in the general principle here is that we are very focused on the need to improve our low wage economy and turn it into a living wage, fair wage economy. We work on that in a number of contexts. We work with 15 Now, who I know you've been in discussions with. We work with the United Food and Commercial Workers Union on their Making Change at Wal-Mart campaign, and with the organization United for Respect at Wal-Mart. We work on single-payer health care, which would raise the social wage. And all of these things go to creating a living wage, fair wage economy. We think that a crucial element of having that happen is to have bodies like yours do what you have done. And we praise the council for taking the action that you took. We thank Commissioner Novick for his leadership in

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the Wal-Mart issue and we like the fact that you are moving forward in the question of principle here. Setting community standards is a terribly important task of City Council, and I think that I'd like to urge you to take that focus in thinking about how you approach. A crucial public role you play is to set the community standards, and your investment policy is a piece of doing that. In the context of that, then, Wal-Mart is continuing to violate that -- as has been noted -- the low wages, inadequate hours, workers needing public assistance, unstable scheduling that disrupts workers' family lives, exploitative labor model that undermines local businesses, violations of workers' rights to organize -- there are many sorts of things like that in that particular case, but we need to take that broader as well. I'd like to make a plea here that you consider the role of irresponsible, unaccountable corporations in effecting your returns. You know, we've just come through a financial crisis -- which I'm pretty sure the City has taken a financial hit from that. The taxes have taken a hit. Corporate irresponsibility creates economic instability that affects your job. It lowers revenues and it raises cost to the public [indistinguishable] for providing services that people need. Because if the banks crash the economy the way that it did, you face that. So, in terms of thinking about your duty under the law to have responsible investment, I think it's -- I would urge you to look beyond just the immediate return issues to the role of corporate responsibility in creating the environment in which the City exercises its responsibilities. I guess the final thing I'd like to say is my understanding is that the amendment that you now approved, as mentioned, came through conversations with Voz, which is a member of Jobs with Justice -- as UFCW Local 555 is -- and also there are also conversations going on with Enlace which is another member of Jobs with Justice about some potential further developments of the principles that you haven't been able to bring at this session. And I just, again, would like to encourage you to see the development of these principles as a process that you're continuing to engage in, because it seems to me what Enlace asking for -- from what I saw -- fits with the principles you already adopted. Basically, a similar kind of basis. That's not before you directly today, but in supporting this development of this formalization of the permanent committee, we hope there will be continuing conversation about moving this forward, maybe looking -- in addition to a sort of negative view of who are the bad actors, is there any value in having positive, you know, we choose to invest in companies that are doing good things, providing Oregon jobs, other kinds of good things that the City wants to promote? And so I hope there will be a continuing conversation. Thanks.

Hales: Thank you. Good morning.

Ashley Henry: Good morning. My name is Ashley Henry, and I was appointed to the temporary committee that reviewed the various options. And our charge was not to make a recommendation about what the City currently invests in, but rather to recommend a process. We did provide a briefing to you about that on August 6th, and so I'm here primarily just to express my support of the resolution that establishes the permanent committee. As Katie remarked earlier, I think we were very educated about the City's process and the limitations that the City does face in terms of the types of corporate bonds that it can purchase. But I still feel that it does make sense for the City to -- for taxpayer dollars to be invested in such a way that is reflective of Portland's values. I think a lot of Portlanders would be really shocked to know that we hold investments in Exxon, for example. The recommendation to purchase the research subscription -- we took that decision very seriously because we did acknowledge that there would be expenses incurred, and we felt that a subscription service would be a much more cost-effective way to proceed than hiring a consultant to make those recommendations to you. And the only other thing I would conclude with is to say that, of course, you still have the prerogative as Council to make decisions about individual investments, as you have done with Wal-Mart. I know there will be people speaking today about the Exxon investment and other carbon-emitting companies, and so you certainly have that option, but that was not what we were tasked with our committee.

Saltzman: Are you saying that carbon emission is one of the criteria?

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Henry: The environmental impact is one of the criteria that was listed in the resolution that created our committee, yes.

Saltzman: Carbon emission is part of the environmental impact, but not the sole source.

Henry: Not the sole, yes. But carbon emissions -- that is a pollutant.

Saltzman: Is Exxon on a do-not-buy list currently from any of the subscription services?

Henry: I don't think the subscription services create a do-not-buy list, they simply provide information for those who are making investment decisions. They don't recommend a do-not-buy list. It would be the investment committee that would make conclusions based on the information that they got from the subscription service. Does that --?

Novick: And the committee would look at all of the criteria on which the subscription service and the council decided to rate companies, not just their environmental record.

Hales: The subscription service basically provides a rating, not a recommendation.

Henry: Correct. Does that answer your question?

Saltzman: Yes.

Henry: OK.

Hales: Thank you both. Appreciate your help with this.

Novick: Thank you both very, very much. Thanks to Jobs with Justice for all of the work it does nationally, thanks to you and the rest of the committee for your long and arduous service.

Hales: So, do we have anyone else to call as a presenter before we open up for public testimony.

Novick: I think that is it.

Hales: OK, then let's go to the sign-up sheet. Parents with small children always given the privilege. If you want to speak, come on up. Did you want to testify? No, OK. Alright. So, let's take the sign-up sheet.

Moore-Love: We have 14 people signed up. First three, please come on up.

Hales: Good morning. Welcome back.

Joe Walsh: Good morning, Lightning has deferred to me first for some unknown reason. My name is Joe Walsh, I represent individuals for justice. We take a position of support. We like this idea. We like this permanent committee that would look at the investments and from the discussion, if I understand it correctly, you have about 40 to 45 companies that you're looking at. We are concerned that Commissioner Novick is obsessed with Wal-Mart. Let me say straight out, I do not like Wal-Mart. I don't like the way they treat their employees, I don't like the way they treat the people in the vicinity when they move in, and I don't like the way they treat the cities or the state. But they are not the wicked witch of the west. There are lots of other companies that are worse. Exxon, you heard brought up, is one; Wells Fargo is another; Bank of America. How you set up this criteria you are talking about is going to be most difficult. So, our concern is, who serves on this committee? If this is a mirror image of Commissioner Novick, it is a waste of time. It has to be a mirror image of this Council. And there are different personalities on this Council, which is a good thing. Be very careful who you put on this committee, because they will at least have influence on what the City does with its money. And I like that idea, but I don't want people to mirror image anybody. I want them to be independent. I want them to express their views and come to a consensus and say this is the criteria, this is the consensus, this is what we're doing and we're going to expand it from Wal-Mart. Thank you.

Hales: Thank you. I just have to correct you, Mr. Walsh. I believe that Commissioner Novick is concerned about Wal-Mart but obsessed with Corgi dogs. [laughter]

Walsh: Aw, I knew it was close.

Hales: Go ahead. Too much courtesy.

Charles Johnson: Good morning Commissioners. My name is Charles Johnson. I want to thank you for your latitude about my earlier remarks which didn't get to touch on the fact that a \$312 airline ticket is a lot of carbon emissions. That was a bad choice all around.

Hales: We're looking into that.

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Johnson: Thank you. Less flying, overall. We'd like you to stay home. Hearing Chris Lowe's presentation was encouraging that we're going to broaden the look to the difficult thing that Commissioner Saltzman is also concerned about is having good living-wage jobs and maintaining economic viability of corporations that have detrimental environmental impacts like Arc Logistics, like ESCO, like Precision Castparts. So, I want to congratulate you for giving space for that conversation. Some of your fellow citizens feel too often business interests kind of push out the common man's voice. So, even though it is a somewhat awkward and time-consuming procedure to listen to me and Joe Walsh as we try to tell you the really best way to build this committee, we are glad that it is happening and just means the mayor will have to give three times as much access to the public as the rest of you since he is going to get to pick three to the one of you. But I want to encourage you to push forward and to do everything in your power to bring more public input so we can have a city reputation that isn't just green-washed but actually healthy for all of the citizens.

Hales: Thank you.

Lightning: Yes, my name is Lightning, I represent Lightning Humanitarian PDX. It would be safe to say, Commissioner Novick, that you don't shop at Wal-Mart. Now, you have every right to do that. I'm a consumer also. I like Wal-Mart, I like their low prices. Go to any Wal-Mart store and tell me there is not a lot of people in there who enjoy the low prices. But that's our right to make that decision, that's our right to go in, that's our right to support Wal-Mart. I'm in full support of Wal-Mart. They have a tremendous amount of employees. Yes, you can look across the board and find problems. They have two plus million employees plus or minus, so you're going to find something wrong absolutely. But my position is need to have an understanding that we should have done this process before we bought the bonds, not after. And this is what concerns me. We should let their bonds expire and don't buy again. That's the proper way to do this if we have a problem with them.

Novick: Lightning that is what we're doing.

Lightning: But let me finish. But what we're doing right now appears to be more of a witch hunt to pull a lot of different information up right now to put them on a do-not-buy list, and then make our determination. Now, we have a right at any time not to proceed forward and buy by doing our research. What I'm saying is a lot of your research might not be accurate. Give an A-rating on environmental to Wal-Mart, I can pull up data right now that will make that inaccurate. Can a leopard change its spots? Absolutely. Wal-Mart has done that. They improve, like any other corporation can do. We need to be very careful on a lot of the jobs created, a lot of the funding going in other areas throughout our communities to where if Wal-Mart steps back -- and we'll use Wal-Mart as an example because you put them on a list for a reason. You've rallied in front of Wal-Mart stores. You've done your speeches in front of Wal-Mart stores. You probably don't shop in Wal-Mart stores, and that's your right to do that. But there's a lot of people that do. So, what I'm saying is that we need to look at it from a lot of different sides, and Wal-Mart has a right to respond to what you put down in writing. Wal-Mart has a right to say this is what we've done to improve that. Now, you've stated, you want to be the one that contacts them by phone. I don't think you should have the right to do that. I think someone else on the commissioners or the mayor should take that responsibility if this goes through. I want you to be pushed to the side on this just due to the fact you put Wal-Mart on the do-not-buy list without forming a committee first, which you said you would do. So, I do not want you to be contacting these corporations. Thank you.

Hales: Thank you. Next three, please. Good morning. You are on first, Ms. Polishuk.

Sandy Polishuk: Thank you. Mayor Hales, and members of the council, my name is Sandy Polishuk. I'm with 350 PDX. I'm also a historian, and I want to give you a little bit of history. On June 5th, 2013, Mayor Hales came out for fossil fuels divestment at a press conference for UN World Environment Day North America. July 16th, 2013, the mayor met with Bill McKibben and committed to divesting the city. Over the summer, 350 met with the rest of Council and a strong majority of you committed to voting for the fossil fuel divestment resolution. September 2013, 350 PDX provided a draft resolution for fossil fuel divestment. October 8th, 2013, we were told our

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resolution needed to wait until the temporary committee on socially responsible investing did its work; that they would address our issue. That same day, the City created the do-not-buy list for Wal-Mart. August 6th, 2014, the temporary committee presented its report. It did not address our issue. It recommended another committee -- the resolution we are presented with today. During this 19 months since Mayor Hales proudly announced the City was not invested in fossil fuels and urged the state to follow suit, the City has purchased an Exxon bond or two, and we have waited patiently. We are now out of patience. The fossil fuel divestment we are requiring is probably the easiest of all socially responsible investment strategies to carry out. It does not require extensive subscriptions, research, or a volunteer service of busy citizens. A list exists of the top 200 fossil fuel companies ranked by the carbon content of their reserves. These are the companies 350 PDX is asking you not to buy. As you know, the divestment movement is trying through this tactic to shine light on the necessity to leave 80% of fossil fuel reserves in the ground, as burning them will mean we face climate disaster despite our best mitigation and adaptation efforts. The time has come to add this list of 200 companies to your do-not-buy list. The three bonds the City currently holds on the list will all mature by 2017. We are not asking you to sell those, just let them expire and not buy any new companies on the list of 200. There's only one on your current list right now, Exxon. We are looking to you to live up to your reputation as a forward-looking progressive city that cares about the future health and well-being of its citizens. And we are asking you, especially, Mayor Hales, to live up to the commitment you made a year and a half ago. Thank you.

Hales: Thank you. Good morning.

Hyang Nam: Good morning. My name is Hyang Nam, I'm a Portland Public Schools teacher and also activist with many different groups including Portland Right to the City Coalition. And I want to underscore what other people have said, including getting the City to divest from fossil fuel companies and supporting 350's work on that, as well as Voz and Enlace with prison divestments. I think this really brings up a more fundamental issue. We look to you as the leaders of the city not just to make very narrow decisions, but to lead us. In Seattle and San Francisco, people are working on trying to create a municipal bank. And I think ultimately, we need to think about taking our City's money and our investments and taking it out of Wall Street. We can't trust those ratings agencies. I mean, look at what happened to -- all of the three major ratings agencies up to just a few days before the financial meltdown rated mortgage-backed securities and most of these horrible investments as AAA rated. And so, we can't keep on investing our money in whether it is fossil fuels or Wall Street banks that also invest in prisons and other kinds of things. We need to invest in our local economy, and I would love to see our local leaders really think creatively about making this happen. I know that we have some restrictions with the state constitution as far as a state bank goes, but we need to think about what ways that we can find a loophole or some creative solution for public money to be controlled publicly and for public benefit. And similarly, I would like to bring up that I know that I've contacted both Hales' office and Fritz's office and also county officials as well about Numi Financial. As an example of the way that the City ends up doing business -- whether it was your decision or not or the Multnomah County sheriff's -- that we end up doing business with predatory financial institutions that harm the residents of Portland. I just recently discovered that Numi Financial is not only involved with robbing people basically of their money when they're arrested here in Multnomah County, but this is happening federally as well. There is a group in Arizona called No More Deaths, and I found out that Numi Financial is a leader in doing this, working with ICE and targeting immigrants. As immigrants are deported, they steal their money, and these immigrants have problems with their pin numbers, they can't get their money back. And this is a company that is a leader in this kind of a business. They are a sponsor of the California Sheriff's Association, and considering that this business is such a horrible business, I would love to see our City Council take leadership in not just saying, oh, our hands weren't in it, we weren't responsible for initiating it, but doing something to protect the residents of Portland from these predatory banksters. Thank you.

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Zachary Allan: Good morning. My name is Zach Allan, I live in east Portland. I'd like to commend the committee for establishing this responsible investment committee. I think Wal-Mart is a good decision -- that you have divested from that, and over time, corporations do change their values and that is something to look out for. There are other companies, though, that we can divest from now without need for further review. Fossil fuel companies fail at least three of the criteria given to the Socially Responsible Investment Committee: environmental concerns, health concerns, and exercise of market dominance to disrupt market forces. I urge the City to add fossil fuel companies to their do-not-buy list now. There is a list of 200 such companies that are easy to screen for, and there is little evidence that this will hurt your portfolio. Like Sandy said also, you only have one or two on your options and it would be easy to eliminate them. The divestment would align with the city's climate action plan. Steve Novick's blog post explaining need for a Socially Responsible Investment Committee is also a good explanation of fossil fuel divestment, and I will read you that now. I know that Portland alone is unlikely to have an impact on the business practices of Fortune 500 companies, but acting together the cities, counties, and states of America certainly could have an impact. If a significant number of such governments follow our lead, corporations that don't meet our criteria will start to find that it's harder for them to raise capital. If that happened, those corporations would have to think about changing their behavior. Under the new policy, we would examine corporations that meet our stringent financial criteria for investment to see how they fare on certain other criteria. We would take note of abusive labor practices. We would ask if the company has concluded activities that are damaging to the human health and environment. And on a separate but related note, I would like to say I'm against the Pembina terminal. If we ship all of our fuel to burn in Asia, we're not doing much benefit with these measures. Thank you for your time.

Hales: Thank you all. Good morning. Welcome.

Ranfis Villatoro: Good morning. My name is Ranfis Villatoro, and I'm the development director with Voz. We are here to support both resolutions, as well as the amendment that we recommended. I think our support for both resolutions -- as well as many of the supporters who came out with us today -- is the belief that we all at the end of the day want vibrant and healthy communities. At times, I think we might have different visions of what that might be, but I think we ultimately believe that we want communities that our sons and daughters can grow up and that is healthy for everyone to succeed in life. And so, with these resolutions, we believe that the city has a responsibility -- a moral responsibility to understand the impact of our investments, as well as balancing the return on investments to be able to support our services and programs for our community members. When it comes to the resolution and the amendment, we believe that it's very important to have -- that it be reflective of the diversity of our community, such as communities of color and low income families who I believe historically have been disproportionately affected by unscrupulous companies, whether it's the impact of environment or health as well as labor practices. We also believe inherently it's good to have the active participation of the community when possible to be able to give a recommendation to the City. I think we understand the valid concerns for such a committee, but I believe when you look at communities of color and the local community that are definitely impacted by such unscrupulous corporations, I think at the end of the day when we see the vision of vibrant communities, what we want is access to work. Historically, when we look at how communities are color have utilized this social responsibility investing, it's typically been in the form of a boycott. I think, for example, the Montgomery bus boycotts is a really good example where the civil rights movement -- they took this boycott not as a form of self-destructive way of destroying the community, but really as a constructive way to improve the community. It's not to get rid of the bus company, but really it is to improve the conditions to move forward for healthy and vibrant communities. So, I support the resolution because I believe at the end of the day, communities will want to find pragmatic solutions that still will promote the growth of the communities -- [beeping] -- sorry, I'll end there. Thank you.

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Hales: Thank you very much. Thanks for your advocacy. Good morning.

Peter Cervantes-Gautschi: Good morning. I'm Peter Cervantes-Gautschi from Enlace. We appreciate all of the work that's gone into this. We certainly appreciate Commissioner Novick's championing this important resolution, and we also appreciate the amendment that you all added. However, we believe very strongly that it is important to add to the principles with respect to corporate responsibility. The City of Portland, next year -- 4000 people of color will be arrested and taken to Tacoma and put in a private prison run by the GEO Group, which is a facility that has had a number of very long hunger strikes due to the very brutal conditions there. And GEO is one of the two corporations that control over 80% of the private prison market in the United States. These people will be taken there because they committed an offense that was no more harmful to the community than the offense that Rosa Parks committed when she sat down on a bus some years ago. And that industry is rampant with sexual abuse, with wrongful deaths, with child abuse, with lack of access to medical care, and they have a monopoly on the private prison system and the incarceration of immigrants in the United States right now. As the principles -- we look at the principles that you have on the resolution, we don't see where private prisons fit in. But certainly, the council would -- I would hope -- be open to considering the fact that there is a disproportionate abuse of communities of color in Portland by some rogue corporations, and certainly, the private prison industry fits that criteria. I don't know if rampant sexual abuse, wrongful deaths and so forth -- I don't know where that fits into the language, but certainly this is an industry that exists solely for the purpose of incarcerating people of color. So, we would request that you consider adding a principle that measures the impact, the negative impact of corporate abuse on communities of color in Portland. Thank you.

Hales: Thank you. Good morning.

Samual Matz: Good morning. It's really cold in here. Samuel Matz, "Matz" like rug, if people need to remember how to pronounce it, and I'm here talking about that addition as well. I think it's really important to recognize as a Council that's been over 95% white over the last 100 years, it is important for you all to realize that when people of color say diversity, we're talking about diversity of perspectives, and we're also talking about diversity of backgrounds. So, we're talking about people who are disproportionately harmed by problems needing to have voice, because they presently don't have a voice. What we are talking about when we're talking about adding that as a criteria is if you want to be ethically consistent with the statements you are saying, then you can't be single-issue, as one of the commissioners said during the discussion. You have to look at it broadly, you have to look at it intersectionally. You have to say, if there is a company that looks really cool but has significant and consistent disproportionate harms on people of color, is it a company that is ethical? And my answer would be no. According to the criteria, it sounds like the answer would be no. But the problem with a color-blind criteria -- which is what it is right now without the suggested amendment -- is that a color-blind criteria is going to replicate the oppressions that already in the system. If you don't recognize and name the problems in companies, and if you don't recognize and name specific ways that they harm people, especially communities of color, then that is going to slide. Because that's what happens in history, that's what happens. We really urge you to do this to be consistent with the values that you've said to actually help vibrant communities, including communities of color, and to basically not look like hypocrites. We think that's really important.

Hales: Thanks very much. Good morning.

Stephanie Patricio: Good morning. Good morning. Thank you for your time. My name is Stephanie Patricio. I'm here today as an organizer with SEIU Local 49. As someone who works day in and day out with low-wage immigrant and workers of color, I see the impact of those same workers not having a voice at the work site or in other important decision-making processes in their lives. I think the proposal to include voices of low-wage workers and people of color would be a step in the right direction of starting toward starting to be a socially responsible city. I would further urge City Council to include the language and criteria to take the look at the impact that companies

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disproportionately have on communities of color and low-wage workers. We know that for any advisory committee to have effect, the need to reach beyond simply including voices of color at the table, and be critical of the impact said companies have on our communities. Portland has started to take strides towards inclusivity. It can continue to do work that truly impacts communities of color and low-wage workers through this language. Personally, I would also like to include or ask that -- just say that I think the time is now. I think that I'm taking a look at the things that are going on in the world and I'm seeing how by not being critical of the companies that we allow into the city, it funnels out and has an effect on communities of color. And I think that the City -- I'm asking the City to really take a look at those policies, the way they impact my communities. We're tired of having our communities torn apart, being held in detention centers, and we see that City has the power to truly change that. I'm urging City Council to take a look at that and take that seriously.

Hales: Thank you. Thanks very much. Hi, good morning.

Yolanda Sandoval: Good morning. My name is Yolanda Sandoval, I am the internal organizer for Voz. I actually am here because I want the language that Voz and Enlace has submitted to be included, and also to just like my friend here said, to take it very seriously. And I actually am going to be talking not only because of Voz, but also with the families and other communities that I'm involved with. Churches, people that I'm always, always around with. And they actually are being very, very impacted. And by including this piece of language, it's going to actually open avenues to also target other people to not be in the do-not-buy list. And it's actually really, really important, because not only the detention centers but also prisons and all of that -- it's actually targeting minority people. And not only minority, but also people of color with wage -- low-wage -- I lost my words, sorry. Low-wage workers. And I actually would like for the low-wage workers and also the people who are being affected to be involved. With that said, please, please take it in consideration and please let the community also have a say.

Hales: Thank you. Thanks very much.

Fritz: Just so both of you know, I don't yet have somebody in mind for my appointment for the committee, so if you or somebody that you know would be willing to serve, I would be very glad to hear from you.

Sandoval: That would be very nice. The saying that I like to go by a lot is also not decisions for other people being affected, being inclusive of people being affected. And there are many testimonies are people who are being affected.

Hales: Thank you. Good morning.

Marion Haynes: Good morning, Mayor Hales, members of Council. My name is Marion Haynes, I'm with the Portland Business Alliance. The Alliance does have some concerns with the resolution before you today, including creating the permanent committee. The City has a limited ability to invest in corporate securities. These investments do generally have a higher rate of return than the alternative, and limiting that scope could potentially have an impact. While applying a value screen, assuming all other things being equal and assuming a minimal financial impact is not objectionable on its face, we do have concerns about creating a do-not-buy list that names individual companies. It's unclear how the criteria will be applied. It will necessarily be a fairly subjective exercise. You know, what criteria will have greater weight? What determines extreme tax avoidance? What determines market dominance if there is no violation of federal anti-trust laws? We're not talking about specific laws that have been broken, it really is quite a subjective determination. Second, the creation of the committee that will be publicly judging these companies may have a deleterious impact on the City's business climate. There's no reason to believe any company operating here will be added to the list, but creating the public discussion about the worthiness and tradeoffs of a company could be detrimental. Many of the companies eligible for investment are located in the city of Portland. They pay taxes in the city of Portland. They invest in the city of Portland. They employ thousands of people in the city of Portland. Some of them are even headquartered in

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Portland. And setting up a process by which they will be judged -- even if not ultimately added to the list -- is not a particularly welcoming environment.

Novick: Marion? May I just ask, are you suggesting that public officials should never publicly criticize any aspect of a corporation's behavior?

Haynes: No. No, I haven't said that at all. I'm saying creating a committee which will judge -- and it's been said that there is no one criteria that will outweigh -- I mean, a company may be very good in one area and have issues in another -- but creating that sort of public conversation by which companies are judged, I think, and then put specifically on a do-not-buy list is not very welcoming for companies, especially those that are -- as I said -- investing and employing people here. Is that not to say that there shouldn't be a social screen applied to some investments? No. And we've never said that. Is it quite a different thing to say we're going to choose to divest in fossil fuel companies rather than naming companies to a specific do-not-buy list? I think that is a very different thing. Given the potential impact and some of the subjectivity, we're unclear how this will play out and we urge caution and pause in deciding how to move forward with this.

Hales: Thank you. Thanks very much. Others?

Moore-Love: Yes, the last two who signed up.

Hales: Are they still here? Yes, come on up, please. You can come up even if you didn't sign up, that's fine. Good morning.

Melissa [spelling?]: Hi, good morning. My name is Melissa [indistinguishable]. I'm not sure if you can hear me. I'm here to speak out on the issues at hand. It's great to fund these businesses, but you have to look at the overall success of these businesses, and also the little committees that they put together have to have real in-depth research before they speak on the subject and the topic -- before they decide and make decisions so that would need to be discussed with them and talked with them and spoken to see exactly what they plan to do. Because there shouldn't be an overall -- like you said, it fluctuates -- the rules or they change. It shouldn't be that way. It should be this is consistent. And they know what they need to be doing and how they're going to do it. With that said, there are bigger issues than Wal-Mart. The issues at hand right here that we have here in Portland and nationwide is our public and our police and our safety. I was recently abused very badly by the police. I did speak out on December 3rd saying that bad cops are bad but they give the good cops a bad name. My perspective has changed immensely. My voice has gone, still, since December 8th. I am now saying bad cops are bad but the good cops are just as bad because they don't do anything about it and I need something to be done, justice needs to be served. I am a disabled woman, grandmother, of color, brutally assaulted while I'm handcuffed. And it is very sad. Day after, I went up and went in to that -- in TPI where they had the Behavioral Health Unit, I find it very concerning that you all are making a new system when the old system is obviously failing. There's too many holes. There's no accountability. I looked up, there was no data, and the data that is there is justified. Where the law in that? Where is the accountability for the crimes being committed against humans by the police department and by you all by just going along with it and saying, OK, we are just going to keep doing this. And then, starting a new system. How is that going to gain the public and the human's trust? I don't trust them, I don't know how anybody else is going to trust them. If the old system is failing, why start a new one? There is too many holes in that as well. They said they had started -- this is the Behavioral Health Unit -- they said they begun in 2013. [beeping] They had very beautiful made up PowerPoints, but they had zero tracking, zero data. It's very concerning.

Hales: Thank you. Good morning, welcome.

Jamie Trinkle: Good morning. My name is Jamie Trinkle, I'm with Enlace. I want to thank Commissioner Novick for your leadership in promoting the socially responsible investment policy, which is very much needed by the city so that we can invest and use our tax dollars and our revenue in ways in accordance with the City's commitment to equity. Enlace submitted language along with Voz to make sure that the resolution actually reflected the City's commitment to equity. We

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wanted it to be named that the City does have concerns about practices and institutions that disproportionately and detrimentally impact people of color. As we're all aware, there are a number of corporations that have made a business out of profiting off of detrimental and disproportionate attacks on people of color -- banks that have engaged in racial predatory lending comes to mind, as well as investors in private prisons, as well as some of the fossil fuel companies that were mentioned earlier. We think that we -- we commend and applaud the city council in moving forward with the socially responsible investment policy, we just want to be sure that it actually reflects the needs of our community and that we use this historic moment to be as bold as possible and lead the country in instituting a socially responsible investment policy that centralizes the needs of the most disproportionately impacted folks in our community, and centralizes them in the decision-making process as well as actually naming them as important players in the socially responsible investment policy. Thank you.

Hales: Thank you. Good morning.

Rosa Navarro: Good morning. My name is Rosa Navarro, and I am a native Oregonian, Portland resident, and taxpayer in the city. And I'm also here in support of the language that Voz and Enlace have submitted on this investing firm companies that impact and disproportionately impact communities of color. In particular, looking at private prisons on how that disproportionately does affect people of color, mostly immigrants. As people have said before me, this country is in a moment right now. It is burning. And whether we want to look at this and take a stand of what our values are as a city, then this is an important moment to really actually act. I think that looking at Portland's history and our values as Portlanders -- you know, Mayor Hales, you have publicly stated that you supported an ongoing sanctuary case for Francisco Aguirre, who was actually fighting deportation. The very system of investing in to the tension of our members of our community to make profit out of. Had that campaign that you and other Commissioners here supported not been successful, he would be in a private detention facility with people making money off of his detention. I think it is important to know that the way that we stand and our stances actually reflect that. So, if we are publicly stating as a city, as Commissioners, as Mayor, that we want the people within our community to stay within the communities and to stop separating our families and separating the folks that need to be part of this community, we also need to use that to reflect the way that we invest as a city to make sure that those people don't end up in that track, don't end up in the private detention facilities that actually profit off of our people and our community. So, I just ask that as a taxpayer in the city, that we don't just -- how do I phrase it -- that we actually act with those values. When we say something, we mean it, and we actually collectively act to make sure that that doesn't continue to happen. I do believe that the city and that you guys actually have that power to make those changes. So, thank you.

Hales: Thank you. Thank you very much.

Melissa ***:** May I continue on that?

Hales: I'm sorry?

Melissa ***:** May I continue --

Hales: No, we need -- you each get the same amount of time. So, that's enough for today. Thank you. Are there others that are signed up?

Moore-Love: No one else signed up.

Hales: Anyone else want to speak on this item?

Moore-Love: We have somebody else coming.

Hales: Come on up, thank you. Good morning.

Romeo Sosa: Good morning. Sorry, I signed up for the wrong list. Thank you, good morning everyone. I just want to thank you for --

Hales: Put your name in the record, sir.

Sosa: Romeo Sosa, Executive Director of Voz Workers' Rights Education Project. First of all, I support this resolution. Also, I just want to mention something like the people that did mentioned. I

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work every day with day laborers, like people who work on the streets, and also we serve the large community. It's not only day laborers, but people from all over the other counties. I want to mention that every single day, people have been arrested and been sent to Tacoma detention center. Three day laborers -- they are in Tacoma right now. Yesterday, we just met with one of the family of them. The suffering of these people -- it's so painful for me, and I think the City should understand the pain, how much that separation of family is. For me, the City should say, no more one sent to the detention in Tacoma and Seattle. I think those corporations, they are making money for the suffering of our people -- people who live in Portland, people who work in Portland, people who are putting a lot of money into the economy of Portland, so we should stop sending that -- the City should not send more money there. Thank you.

Hales: Thank you. Thanks very much. Any other Council questions or discussion before we vote on the first resolution?

Saltzman: I guess I have a question of Commissioner Novick. On Resolution 1300, which extends the Wal-Mart disinvestment for another year, you are OK with the committee itself reviewing Wal-Mart once the committee is up and established and if they come forward with a recommendation to take it off of the do-not-buy list, is that something that you are prepared to live with?

Novick: I mean, that's the major purpose of establishing a committee -- is to look at each company on the list and look at the companies that are already on the do-not-buy list and see if there is reason to take it off.

Hales: Other questions?

Fritz: I'm interested, Commissioner Novick, in your response of the two major issues I heard. The first putting fossil fuels on the list right now.

Novick: Well, we took an approach of adopting a list of criteria that could apply to any company in any industry, rather than listing particular industries that would -- where all of the companies would be on the do-not-buy list. Part of the reason for doing that actually is the concern about the limited number of companies we're allowed to invest in at all. And frankly, if we went through and -- a list of particular industries we have concerns about, there is some concern that many of those companies would fall into some industry we have some general concern about. So, that is part of the reason -- although only part of the reason -- that we chose to look at criteria, rather than industries.

Fritz: And why did Exxon not get on the list along with Wal-Mart?

Novick: Because although Exxon clearly has a detrimental impact on the environment, there is not -- I am not aware -- at least there has not been such a thoroughly public discussion on where Exxon stands on the other criteria: misuse of market power, impact on health, abusive labor practices. So that's one of the things you would want the committee to look at, with the aid of the publication services. For example, Amazon, I think from what I've seen, has exercised in misuse of market power. I don't know where Amazon stands in terms of impact to the environment and human health.

Fritz: That brings into question rather rampant failure on just one criteria could be enough to get a company on a do-not-buy list. I would suggest that there's actually two major concerns, there's the environmental concerns and the health concerns on fossil fuels. So, whether they are wonderful corporate citizens in other manners -- which I don't know anything about -- it seems like the two concerns are in conflict with our stated values of the council, and as the mayor had talked about with our climate action plan, it seems like that's a principle that should override whether they otherwise treat their workers fairly or not.

Novick: I will not argue that point. I think that there could be a reasonable case for putting fossil fuel companies on the do-not-buy list on the basis that you just stated. However, when we decided to establish a list consisting of one company before we have the committee go through this process and establish this permanent committee, the reason we felt comfortable putting Wal-Mart on the list is that there is such extensive documentation of the risk behavior in terms of their labor practices, general corporate ethics, and market behavior.

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Fritz: Mayor, do you have any --

Hales: I have a couple of comments. I mean, one, I'm prepared to support the resolution, but I'm assuming this process is going to continue to evolve. And that is one, if our committee says there is a level of violation of one of these principles that is in itself is egregious, I think that would be sufficient for us to say that's not a company we want to invest in. Also, based on the council testimony that we've heard, there's some other criteria that I would like us to consider over time. I heard one, and the way I would describe it is maybe a pattern of contributing to human rights violations. I'm not ready to put that language into the resolution, but I'm interested in weighing that issue. Another would be this issue of disproportionate impact on low income people and communities of color. Those are both legitimate criteria that might be measurable enough in corporate behavior that we could make a decision that that company rates or doesn't rate. But I'd like our process to continue so that we could consider those kind of factors.

Fritz: So, you're comfortable in waiting on the fossil fuel, despite --

Hales: I am for now. Though, again, I think we've been pretty clear that we take all of these criteria seriously and there are still judgment calls and they are going to be making recommendations to both the treasurer and to us.

Fritz: Right. So, although the resolution does say that the principles can be amended by further resolution, I am persuaded that we should add to them right now to add disproportionate impact to communities of color and low wage workers. Can you tell me why we're not adding that?

Novick: What I would ask you is -- disproportionate impact, frankly, think is rather vague. What kind of disproportionate impact? I actually think that abusive labor practices, practices that damage the environment and human health are likely to have a disproportionate impact on communities of color because, I mean, it's been -- people in communities are color are often in jobs where they're more susceptible to abusive labor practices, they often live in places where environmental degradation impacts them greater than others, and the same for human health. So, I have no problem with thinking about a way to express that sentiment. The phrase "practices and institutions that disproportionately and detrimentally impact" I would want some sort of clarification of what kind of impacts we're talking about.

Fritz: I would submit the example given of the private prison that ICE takes folks to doesn't necessarily fit into any of these categories.

Novick: That would be an example of switching our emphasis from talking about kinds of practices to particular industries. So, I mean, I think that -- as the mayor suggested, concerns about adverse impacts on civil liberties, individual liberties -- that would be an amendment consistent with the way we've outlined our principles and the charge of this committee. I think that would be -- that's easier to fit into this construct.

Fritz: You would be willing -- can we add that now?

Novick: I have no problem with that.

Fritz: So, what's the language?

Novick: Let's see. It would add, whereas, companies engage in practices that damage the environment in health, engage in abusive labor practices, violate ethical and government standards, engage in extreme tax avoidance strategies -- so we could say, have significant adverse impacts on individual liberties. I mean, that might be one way of adding it. And I would actually ask Katie to tell me where the language repeats itself in the resolutions. We might want to make sure it's added in those places.

Fritz: Yeah, it's in both resolutions, I believe, and a list of the principles.

Hales: Yeah, it's where the principles show up.

Fritz: Add to the principle concerns about human rights violations or --

Hales: I think stating it either way, either impact on individual liberties or having -- contributing to human rights violations, they're the flip side of the same statement. I'm comfortable with either

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version of the language. I would like to add that as a principle now or later. Now is fine if that's OK with you, Commissioner Novick.

Novick: Absolutely.

Fish: Do you have any preference on the language?

Shriver: I think either could work. We should decide, though.

Fish: Frankly, as I listen to the discussion, I think framing it around human rights is a broader category that encompasses the other components. And we also have the Human Rights Commission, we also have some guiding laws.

Hales: That's true.

Fish: I would argue that human rights frame is broader.

Hales: OK.

Fritz: How about just concerns about impacts on human rights.

Hales: Yeah, fine with me.

Novick: Good.

Fritz: I think that then gets us to the testimony, which I found very compelling about the disparate impacts on communities of color, low income communities. Making it broader allows a greater consideration, so I really appreciate you bringing that to our attention.

Hales: Alright, I will take that as an amendment.

Fritz: Should we vote on it?

Hales: Yes, we should. So, that's an amendment to the list of criteria adding concerns about human rights as one of the criteria.

Fritz: Impacts.

Hales: I'll take that as a motion from Commissioner Fritz and second from Commissioner Novick.

Novick: Second.

Saltzman: Is this pre-judging that the company that runs the ICE facility in Tacoma is one to disinvest from --

Fritz: It's putting the principles -- it's putting this value in the principles.

Saltzman: So it's making no judgment whatsoever on who runs the detention facility in Tacoma and whether they are violating human rights.

Fritz: Correct.

Hales: And I don't believe we are currently invested in any such company, but what this says is that's a factor that we as a council would want taken into consideration by our committee when they make a recommendation to us, and --

Saltzman: OK. So, it's making no judgment on the corporations mentioned in the testimony.

Hales: Not yet. OK. Does that work? Let's take a roll call on the amendment.

Roll on motion to add "contributes to human rights violations" to the list of objectionable practices and make corresponding changes in item 1301.

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

Hales: Anything else that we want to do for now? Again, I'm assuming that -- this has been a good discussion, good testimony, good discussion -- I'm assuming that what may happen over time is that the committee may come to us and say, you know, you really ought to have a criterion about -- and we are obviously by resolution able to amend that list when that happens.

Novick: I think the committee's charge is officially to apply the criteria we've already outlined, but I'm sure that we will appoint enterprising people who might very well take it upon themselves to suggest additional criteria.

Hales: OK. And today's discussion was a good example. Here's something coming out of the community, could come to the committee, come to us. In either case, we ought to be able to say that's right, this is an issue we ought to highlight in this analysis. So, good. Thank you. Let's take a roll call on the first of the resolutions, then.

Item 1300 Roll.

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Novick: Did we already vote on the amendment?

Hales: Yes.

Novick: We did, sorry. I would like to thank Katie Shriver on my staff for her tireless work on this issue for many months. I'd like to thank Kelly Ball from OMF for her work; and Jennifer Cooperman; and Ashley Henry and all of the members of the interim committee; and to thank organizations, including Voz and Enlace and Jobs with Justice for their participation in this discussion. And I really, really appreciate the community attention to this issue. Again, the impact that one city's investment practices might make on corporate America or the corporations of the world might be small, but if other cities and counties and states follow our lead, I think that our impact could be large. So, I really, really appreciate my Council colleagues' engagement on this issue, and I'm delighted to see that rather than listening to the concerns of some people that we are going way off to the left, my colleagues actually decided -- seem to have decided not only to adopt the existing criteria, but enlarge them. That's very heartening to me as a member of this Council. Aye.

Fritz: Not often you're to the right, Commissioner Novick, but you are every time we sit here. At least to my right. [laughter] Thank you very much for your leadership on this project and to your entire team. I am very happy to support this, and thanks to my chief of staff Tom Bizeau for all his work on it. Aye.

Fish: Thanks, Steve, for your leadership on this issue. And to those who argue that in a democracy, we should not apply a socially responsible screen to our public investments, I say nonsense. This is a work in progress. And I think we've built in enough flexibility that we will be getting feedback from the committee and a chance to fine-tune this over time, but I think it's a worthy experiment and it has my support. Aye.

Saltzman: We're voting on 1300?

Fritz: Yes, and then the other one.

Saltzman: So, yeah, I will agree to extend the disinvestment of Wal-Mart for one more calendar year, with the understanding that Wal-Mart will be evaluated by this new committee we're going to create under resolution 1301. You know, sort of on the same level playing field that all of the 40, 45 companies that we're eligible to invest in gets evaluated. Because certainly, it sounds like there is a mixed record of Wal-Mart and they should be evaluated, reevaluated in light of that. Aye.

Hales: We try in this room in big ways and small ways to try to align what we do as a city, as a city government, with our communities' values, and that involves both what we do and how we do it and then how we spend money, or in this case, how we invest it. It's an imperfect process. And it has to be done with leadership from here, but also real citizen engagement. We also need to have checks and balances on us as politicians, because we have our preferences our own philosophies. So, that's why having this committee is a good idea. Steve, I really appreciate your leadership on this and your passion for it and that's exactly what we should have in this room. So, I'm very happy about the progress that we've made. I think as this discussion indicates, there's still some ideas in the community that deserve to be considered in how we make these decisions, and what this committee will allow us to do is do that in a thoughtful way. I think sometimes Portland gets a reputation for having a lot of process, but we also have a reputation for being a national leader. Hmm, maybe those two aren't inconsistent. Maybe it's possible to be thoughtful, deliberate, and bold all at the same time, and this is another opportunity to do that. Thank you, Steve. Aye.

Item 1301 Roll.

Novick: Mayor, perhaps that can be a new motto for the city -- Portland: thoughtful, deliberate, and bold. Aye.

Fritz: Thanks to our community partners, particularly Voz, Enlace, SEIU Local 49 and others for coming in to testify. I would be ready to add fossil fuels, thanks to 350 PDX for continuing to raise this issue. I hope that the committee will be charged with looking at the principles and adding to them, if necessary. I do think that they're -- now with the amendment that we made -- broadening

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the scope that we can get the issues that people in Portland are concerned about addressed through this process. Thank you again, Commissioner, aye.

Fish: Aye.

Saltzman: Well, as I said at the outset, I am concerned that this is going to lead to some very public and perhaps embarrassing decisions about local-based companies that employ Oregonians. And to me, that's a big thing. We've weathered a recession. We have come through nine, 10% unemployment. We're down to seven. Great, celebrate. We need to be down to about 4%. So, to the extent that this is going to result in debates at this council chamber about investments in Oregon-based companies that are creating jobs and sponsoring city activities, contributing tax dollars, I'm concerned about that and I want to voice that concern right now. I think that's going to be a recipe for disaster, a train wreck. But I do agree with the overriding principle here that we need to be socially responsible, but I am concerned that this committee is going to be pretty narrow-minded and it's going to be up to the seven people who get appointed to this committee. And I think as Joe Walsh said, they've got to reflect the breadth of the city council, not simply one or two commissioners. I would hope that my appointees will bring some balance to what I think is going to be to a committee that is going to be looking for things to do after they've exhausted the 40 to 45 companies we're eligible to invest in. What are we going to do? They are going to have to find something to recommend disinvestment. So, I have those concerns and how this will play out at a public level and adversely impact Portlanders and the jobs that Portlanders value. Nonetheless, my colleague Commissioner Novick has worked hard on this and I'm going to support this and give it the benefit of the doubt, but I do it with some reservations. Aye.

Hales: Talked a lot about the flip side of this. I understand your concern, Commissioner Saltzman, it's a legitimate one. But I guess the flip side of this to me having spent quite a bit of time in the last few weeks meeting with the burgeoning movement of B corporations here in Portland, so-called benefit corporations that actually try to be socially responsible in a variety of ways, it seems to me there are a lot of great investment options for the City of Portland in great companies that do reflect our values. And so I don't think it is going to be that difficult for this committee and our Treasurer to have a list of companies that we're happy and proud to be investing in, even while there are a few that we want to avoid. So, I don't mean that just as happy talk. I just think given the kind of progressive companies that we have here, large and small, and some of which will be eligible for investment because they meet the criteria that are very narrow, I think we can get there. So, I'm optimistic that there's plenty of opportunity to do the right thing and still invest wisely. Aye.

Fish: Mayor, can we take a sec to do some agenda management?

Hales: We do, and we need to take a motion from Commissioner Fritz, I believe, to hold a night Council meeting in January on our hearing on JTTF because you wanted us to do that. We have to do it by Council action.

Fritz: We do, Mayor. However, I don't think the schedulers have met to decide when we can do that. Oh, do we now?

Hales: Rachel tells us we can authorize the night meeting without naming the date.

Fritz: Actually, I wrote the ordinance and I don't think we can.

Hales: [laughs] OK, then we'll wait.

Fritz: I believe we can do that tomorrow afternoon. But the public should know the Joint Terrorism Task Force meeting is going to be an evening meeting and we'll figure out when it will be and announce that tomorrow.

Fish: Mayor, because I have the dubious distinction of having my stuff become last in our agenda, I'm increasingly concerned that people actually come out to testify and don't get a chance because we go through the lunch hour. Is it your intention to see if we can get everything done by 1:00, or in light of the fact that the time-certain at 2:00 this afternoon is going to be a very short matter, are you planning to put some things on the 2:00 slot?

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Hales: I think we can deal with the remaining regular Council calendar items fairly swiftly and be done well before 1 o'clock because several are second readings.

Fish: Alright. So, my team, BES and Water will be prepared to meet that schedule.

Hales: If that is OK for everybody, we'll power forward to what I think will be another 30 minutes and then take a break.

Item 1317.

Hales: Second reading. Roll call vote.

Item 1317 Roll.

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

Hales: And 1318, also a second reading.

Item 1318.

Hales: Roll call.

Item 1318 Roll.

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

Item 1319.

Hales: Could you go ahead and read the next two, as well?

Item 1320.

Item 1321.

Hales: Commissioner Fritz.

Fritz: Thank you, Mayor. Here we are correcting an unintended consequence of our protected sick time law. It turns out that state law under the Public Employees Retirement System says that there is a provision that requires estimation of sick time for retirement purposes to be based on the lowest accrual rate in the city. Therefore, even if a regular employee earned more sick time than the lowest, that employee would not be credited for it on retirement because their rate is determined on the lowest rate, which currently is the new sick time provision for our seasonal workers which of course we're all really glad that our seasonal workers are finally now able to earn and use sick time when they need it. So, this set of ordinances is to correct that problem. Our Bureau of Human Resources Director Anna Kanwit will explain it much better than I, but that's the gist of it.

Anna Kanwit, Director, Bureau of Human Resources: Thank you, Commissioner. Anna Kanwit, Bureau of Human Resources. Mayor and Commissioners, actually I think Commissioner Fritz stated it quite succinctly. The three ordinances before you are to change the existing protected sick-time ordinance to increase the accrual rates of sick time for the City's casual and seasonal employees. As the commissioner said, it does address an unintended consequence of the City's sick time ordinance. I want to note the passage of these ordinances, which is one to change the City's program. And the other two letters of agreement with Laborers 483 to ratify those that changes the accrual rate for the seasonal park rangers and the seasonal maintenance workers. The ordinance has absolutely no impact on regular City employees' sick time accrual rates. They have no impact on existing current PERS benefits for any of our employees. What the ordinances will do is change the current accrual rate, which is currently one hour of sick time for every 30 hours worked, to one hour of sick time for every 20 hours worked. And this allows an increase from the current maximum of 40 hours to approximately 70 hours per year that employees can use if they are sick. It does not change the current carry-over. That remains at 40 hours. There is a cost impact to this. It's approximately \$113,000 moving forward. Almost the entire amount -- just over \$105,000 -- falls to the Parks Bureau because that bureau employs the vast majority of the seasonal casual employees. The ordinance also asks authorization to increase the Parks Bureau appropriation in the next fiscal year by the \$113,000. Thank you. Any questions?

Hales: Questions for Anna? Thank you very much.

Kanwit: Thank you.

Hales: Is there anyone signed up to speak?

Moore-Love: I did not have a sign-up sheet.

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Hales: Anyone want to speak on these? Alright. They're all emergency. Let's take a roll call on the first of those, 1319.

Item 1319 Roll.

Novick: Aye.

Fritz: This is yet another reason for us to pass sick time statewide and very grateful to my colleagues on the council and to the Bureau of Human Resources for working with my team on this so that we figure out all of the little pieces ahead of time and can hand it to the state on a platter to adopt verbatim. Thanks especially to Tom Bizeau on my staff who continues to work on sick time. Aye.

Fish: And just for those watching, the reason this is not sparking a broader discussion is because we have each received briefings on what is a fairly targeted and complex matter. Thank you for that. Thanks to the Bureau of Human Resources, and Commissioner Fritz, thank you for leading on this. Aye.

Saltzman: Aye.

Hales: Aye.

Item 1320 Roll.

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

Item 1321 Roll.

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

Item 1322.

Hales: Commissioner Novick.

Novick: Colleagues, in 2009, during development of the sidewalk management plan, stakeholders and City Council desired to better manage the sidewalk by looking at different activities not currently addressed in City Code. Publication boxes were identified as one of the activities, and the City began a pilot project in 2012 for a consolidated publication program around Pioneer Courthouse Square. In 2014, PBOT convened neighborhood groups and publications to determine if the consolidated program is a good model to expand citywide. PBOT and the committee developed some basic regulation for free-standing publication boxes to address areas not covered by the consolidated program while still protecting the freedom of expression of the publications. In general, the neighborhood groups and publications are supportive of this compromise. Any revenue generated from the permits for the consolidated publication box program will go to cost recovery. No permit is required for free-standing publication boxes. We have Rich Eisenhauer and Kyle Chisek from PBOT, and members of the stakeholder committee -- or at least one member of the stakeholder committee -- here to elaborate.

Hales: Welcome.

Kyle Chisek, Portland Bureau of Transportation: Thank you. Kyle Chisek with Bureau of Transportation. Commissioner Novick did summarize very well where we are in this process. The sidewalk management plan did indicate that we needed to do some work on publication boxes. Our pilot program was initially very successful, and so the ordinance and code change today will do really two things. One is focus on that consolidated program, allow for it to expand beyond the pilot area citywide as an opt-in program; and the second is just some basic fundamental regulations around free-standing newspaper boxes. The City has attempted in the past to broach this conversation, being sensitive to both neighborhood livability concerns and free speech issues. So, we took a consensus-based approach where we could bring in neighborhood activists, we could bring in the publications, and talk through some of the issues and come to some consensus around what we need to focus on in the future, what we need to continue to monitor, and what we can do now. So, I'll turn it over to Lisa. She does have to leave, but has willingly stayed here. She's been in charge of the publication box pilot program down at Pioneer Square.

Lisa Frisch: Thank you. Good afternoon, Mayor Hales and Commissioners. My name is Lisa Frisch, and I am the retail program director at the Portland Business Alliance and Downtown Clean

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and Safe. I'm here today to provide a recap of our current co-located news rack pilot project around Pioneer Courthouse Square and then to support the efforts of the Bureau of Transportation to formalize this pilot project into City Code. The Clean and Safe District has long advocated for the placement of condo-style news racks on downtown streets, as they create more space in right-of-way for pedestrians and ensure a clean and orderly streetscape aesthetic that is important for vibrant downtowns. Since the enactment of the city sidewalk management plan four years ago, the Clean and Safe District has been working in partnership with Portland City Council and key local publications, including The Oregonian, the Tribune, Willamette Week, and even Portland Mercury to create a pilot program. Portland City Council approved the pilot program to better manage publications and newspaper boxes in July 2012. The four racks were placed around Pioneer Courthouse Square in September of 2012. Locations as follows: one at Broadway and Morrison, 6th and Morrison, Broadway and Yamhill, and 6th and Yamhill. The news racks were painted black to match the accessory poles in the Pioneer District, and they also have anti-graffiti coating. No commercial advertising is permitted on the news racks. The racks are cleaned and repaired by Clean and Safe on a daily basis. We are pleased that in the two years of the pilot project, the racks have maintained a good physical appearance despite the harsh treatment of street furniture. During the two-year pilot project, we have heard only positive feedback from the participating publications and neighboring property owners and businesses. All publications on the street at the conversion date were provided stalls on the news racks. No new news racks popped up in the pilot area or were removed during the pilot project. Throughout the pilot project, publications expressed overwhelming positive feedback and support and a desire to formalize and expand a citywide program. The publications have shared with us that these racks help increase their circulation numbers. We feel strongly that print publications are an amenity to downtown business people, visitors, and transit rider, and we are pleased to offer these newspapers through an upgraded street fixture. Recently, the downtown Clean and Safe board voted to fund 10 additional co-located racks, and we are working now with PBOT staff to select sites for the racks to be placed over the next several months. Thank you again, Mayor Hales, Commissioner Novick, and other members of City Council for your support. Through these types of public-private partnerships, we can bring innovation to the most every day and mundane but necessary street furnishings. These small improvements make a difference in providing vibrancy and cleanliness to our downtown community. Thank you.

Hales: Thanks, Lisa. Welcome.

Richard Eisenhauer, Portland Bureau of Transportation: Thank you, Lisa. Hi, my name is Rich Eisenhower with the Bureau of Transportation. Just some highlights of our co-located program, because basically we're going to allow it to expand citywide. It's an opt-in program where we work with neighborhood associations, business associations to help regulate the newspaper boxes within their neighborhoods. They must accommodate all the publications that are in the area and basically it restricts any free-standing boxes within the co-located box within 175 feet. Among the free-standing boxes like Kyle stated, we're just trying to implement basic regulations for placement, size, and maintenance. There's some enforcement measures in there to help deal with all of the abandoned boxes on the sidewalk today, and also on the box required that the publication has their contact name and number so in case there's any problem, the public or City staff is available to find who is the responsible party.

Chisek: We have other members of the stakeholder committee here as well that would like to testify on their experience.

Hales: Thank you very much. Committee members come on up, and we will take anyone else after that. Thanks for coming.

Fran Goldstein: Thank you, Mayor and City Commissioners. My name is Fran Goldstein, a neighborhood activist. In the spring of 2011, members from the safety and livability and transportation committees of the NWDA met to talk about the proliferation of free-standing

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publication boxes in our neighborhood. As an older neighborhood with typical sidewalks only 10 feet wide, demands to accommodate A board signs, street furniture, advertising and landscape competes with the primary function as sidewalks as pedestrian thoroughfares. The increasingly widespread and haphazard distribution of these free-standing publication boxes allowed to be placed in the public right-of-way without any City oversight or regulation is one of the competing demands. These boxes pose obstacles for those approaching a sidewalk or crosswalk, or trying to get in and out of cars through walls of boxes every few feet along the curb. As a committee, we resolved to develop a common sense proposal to the City of Portland to address this single free-standing box issue. Realizing that other neighborhoods may be experiencing similar crowding, or with continued urbanization that others may soon find more boxes at their curbs, we set about contacting other neighborhood and business organizations to gauge support for a citywide solution. In each conversation, we received overwhelming support to please advocate for regulations on the quantity, maintenance, and placement of boxes throughout the city. We were made well-aware that all Portland neighborhoods deserve to have a managed pedestrian right-of-way. With expanded participation, our committee officially became the joint subcommittee on sidewalk management. During the next 18 months, we undertook activities to pave the way to solicit City government for action. We inventoried over 1078 boxes on the City's west side and found that 85% of the boxes had graffiti and/or damage, 67% violated the encroachment policy. We met with ONI and PBOT. A walk-about with TriMet resulted in the subsequent removal of boxes by them that we found obstructing bus and transit stops. We sent quarterly reports to many box owners, asking that they please maintain their damaged graffitied and abandoned boxes. While many owners did respond positively, others did not. We researched Portland's existing codes and found that only Chapter 17.46 deals directly with pub box issues, however, that language is limited to the transit mall streets. So, without any code in place to help us our enforcement, our hands were tied. We realized the answer was to expand the language and Code Chapter 17.46 from the limited area of the transit mall to sidewalks citywide. In December of 2012, we submitted a comprehensive report to then-Mayor Adams, Mayor-Elect Hales, and each Commissioner outlining our clearly-defined plans for managing the single free-standing publication boxes in the public right-of-way. In February 2013, our subcommittee met with Commissioner Fritz to review the report and to keep the process moving during the transition from previous City Council to new. She was quite supportive. In April of this year, a stakeholder task force named appropriately Resolving Conflicts with Publication Boxes in the Public Right-of-Way was formed. Led by PBOT, we reached agreement on amendments to the City of Portland Code Chapter 17.46 as a citywide ordinance. Today, after almost four full years, an experience in learning the ways of local politics that I will not soon forget, we are now before City Council. While this is obviously not a solution to poverty or world peace, it is a first step in improving the safety, appearance, and shared use of our sidewalks citywide, and I ask that Council vote yea that the City of Portland Code Chapter 17.46 be replaced as submitted. Thank you.

Hales: Thank you. Welcome.

Jeanne Harrison: Good morning Mayor and Commissioners. I don't have a lot to add to --

Hales: Just put your name in the record.

Harrison: I'm sorry. Jeanne Harrison, chair of the NWDA transportation committee, and was part of this ad hoc group and served on the stakeholder advisory committee as well. What I really wanted to say I never thought I would be here talking about this, because for decades I'd heard that we couldn't do anything about publication boxes and they were just going to be unregulated. So thank you, thank you, thank you. The Northwest neighborhood is still being inundated with a variety of objects that can loosely be called street furniture, which include A board signs that were out of control, and BDS was extremely helpful in getting us some sweeps done and some regulation. The A board signs are mostly under control. The publication boxes, which was our next topic to tackle, were blocking sidewalks, forcing pedestrians into the street, preventing people from accessing transit, and just generally interfering with pedestrian movement, which is a primary

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concern of our committee. We are so thankful to PBOT staff, particularly Kyle and Rich who have been wonderful to work with. Very patient. Also would like to thank the representatives of print media who sat on the committee. Our conversations were often tense, but cordial. We did come to consensus. Nobody got everything they wanted. But we do feel like this is a step in the right direction that we can all live with. I'd also like to thank PBA for taking the initiative to not only sit on the committee, but provide sort of an inspirational approach to what can be done in not just the downtown but other parts of the city. We definitely in Northwest would like to pursue having these more attractive boxes as a way of displaying print media, and we will be working on that. So, I guess that's all that I wanted to say. Thank you again to staff, particularly. They were just great to work with. Thank you.

Hales: Thank you. As you know from other experience, some things take time around here.

Harrison: [laughs] Sometimes decades.

Hales: Thank you. Good afternoon, Stan.

Stan Penkin: Good afternoon, Mayor and Commissioners. I will be brief.

Hales: Put your name in the record.

Penkin: My name is Stan Penkin representing the Pearl District Neighborhood Association. More than three years ago, several neighborhoods came together to work on a quality of life issue that may seem small to some, but which is one of many small but important issues -- others being things like graffiti, trash, and noise -- that together greatly affects everyday life in our city. Over the years, the proliferation of publication boxes on our street has become an eyesore, a nuisance, and an impediment to pedestrian traffic. The sight of empty boxes, graffiti-covered boxes, broken boxes blocking sidewalks, and so on speaks to how we do not want our city to be. We are most pleased and appreciative that Commissioner Novick and PBOT have collaborated with the neighborhoods and the publishing community to sort through this problem and arrive at a policy that will properly address the issue. The ordinance presented to you today is the result of many months of effort by many parties under the leadership of Rich Eisenhauer and Kyle Chisek from PBOT. The ordinance has been thoroughly reviewed, discussed, questioned, edited, and tweaked by all the stakeholders, and we strongly urge your adoption of it. Thank you for your consideration.

Fish: Stan, can I ask you a quick question?

Penkin: Sure.

Fish: As part of this, Commissioner Novick has a do-not-sell list and has placed The Oregonian on it -- [laughter] -- do you think that's agreeable?

Penkin: I think based on this morning's editorial, it might be so. [laughter]

Hales: Thank you very much.

Fritz: I just have to note that it might not solve world hunger or world peace, but astonishing perseverance by your group, and sticking to it under multiple administrations, multiple commissions in charge of Transportation, and I'm very, very grateful. Because it is an example -- sometimes it takes four years and you have to stick to it, but you can get things done in the city as a citizen group working with the City, and this makes it better, the pictures showed that. Thank you very much.

Goldstein: Thank you, Commissioner Fritz, also for you sticking with us the whole way.

Penkin: We have one more person to testify. Thank you.

Hales: Please. Thank you very much. Come on up.

Jan Valentine: Good afternoon, Mayor, Commissioners. My name is Jan Valentine, and I have been involved since day one on the groups that have been mentioned here, the joint subcommittee and then the stakeholders group. Originally, I started out several years ago representing the Pearl District, but today, I'm here to speak in favor of the ordinance as president of Friendly Streets, which is a Portland-based nonprofit group that is concerned about sidewalk management and the livability of all neighborhoods in the city of Portland. So, that's our background. Friendly Streets has a goal to foster and assure safe, attractive, pedestrian-friendly urban neighborhood. In that regard, our concern is that the proper regulation of public sidewalks must provide for multiple

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beneficial uses and the safety as well of all side walkers. In particular, based on physical surveys, we have observed there is a need to locate public amenities such as publication boxes in a way that respects everyone's legal rights while enhancing the pedestrian experience. We believe that the proposed change the amend City Code Chapter 17.46 addresses and assures these straight-forward objectives. I would also like to add that we think that the ordinance as drafted by the members of PBOT is very fair to all concerned -- publishers and pedestrians alike. So, we sincerely urge its adoption and we really thank you for your time and consideration. It also happens that the president of the Portland downtown association happens to be out of the country today, but Felicia Williams who is president, did submit her testimony with her signature. Would it be OK to read that?

Hales: Or give it to Karla, that would be helpful.

Valentine: OK.

Fish: Mayor, I have two questions if I could for staff --

Fritz: Before you do that -- I'd like to thank Jan Valentine for all of your work with the graffiti cleanup as well as everything else. Practical assistance as well as the intellectual stuff is most appreciated.

Fish: Kyle, two questions about this -- and it's probably pretty clear in the ordinance -- but if someone abandons one of these publication boxes, do we have the authority just to pick it up and scrap it?

Chisek: We do have the authority to pick it up. But the way the enforcement process is going to go is first to contact the publisher, whoever that may be --

Fish: Let's assume you've done all that.

Chisek: Then, one we pick it up, we hold on to it.

Eisenhauer: We hold on to it for three months.

Fish: That's fine. I would recommend at some point you simplify it so that once you've gone through those hoops, we contract with someone who picks it up and scraps it. Because we do have a lot of scrap companies here who recycle. We have a hard enough time, as you know, with collecting people's possessions and managing that. If you want to start storing these things and having to go through that -- I would recommend a simplified process where you can just make a few bucks off them and sell them if necessary. The second thing is there are people out there who are partially responsible for vandalizing these things and making them the eyesores they are. I do a lot more walking now. People put graffiti on them, kick in the door, whatever. What's the punishment for someone who destroys property in the right-of-way there?

Chisek: I'm going to go on a limb here, but there are existing ordinances and laws relating to graffiti and also related to public vandalism. They would be held accountable under that. We would still want the actual owner of the box to be responsible for it. So, they understand that these things have a certain shelf life. Part of the issue we worked through is that well, they move these around sometimes. Sometimes they get so damaged or vandalized that we pull it and buy a new one. So, talking with the publishers -- they're already responsible for that. The enforcement problem we run into is where [inaudible] puts out some publication boxes for quarterly publication and then goes bankrupt. So, they're still sitting out there. We do anticipate we'll get abandoned boxes at the very beginning, and that's what we'll be dealing with. But all the publications we were working with are very responsible for their own boxes, and they keep them looking nice. Especially with paid publications, you know, their bottom line also depends on that. So, there's an incentive for the publisher to keep their boxes looking nice.

Fish: Yeah, I'll just give you -- now that I do a lot more walking, since I don't have a car, I will say my anecdotal experience is there are a lot of them in bad condition. People kick them in or you open them up and people have put garbage inside. One of the reasons that I really like the program you have before us today is that from a consumer's point of view, it's nice to have something that's neat and tidy and one-stop that's an attractive amenity and you can get all the newspapers you want to read. But it's hit or miss in my neighborhood about how these things are maintained. And I also

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think there are people who appeal to go out of the way to vandalize them. And then you have an eyesore. I just applaud this program because again, it's aesthetically better and it gives readers more choices in one location.

Fritz: Actually, Commissioner, for those reasons you stated and because of the issue that the businesses are responsible for their boxes. When I was Commissioner-in-Charge of ONI, I sent letters to the publishers of some of the major newspapers reminding them of that responsibility. It's obviously a lot easier for businesses to band together and clean one of these bigger apartments or condos for publications than to have to continually look after their own boxes.

Fish: The business you're talking about responsible is the publisher right, not the coffee bar across the street.

Fritz: Correct, it's the owner of the box. And one further note, it's a felony to put graffiti on a TriMet shelter. So, that's something folks should be aware of if they are thinking of vandalizing.

Fish: Who generally is responsible for the bike corrals in the right-of-way?

Chisek: That's Transportation.

Fish: I have an issue to raise with you later. Near and dear to my heart in the last 24 hours. So, thank you.

Hales: Other questions for staff? Thank you both. This is not an emergency ordinance but it's a really good idea so I want to thank both the commissioner and the bureau and the citizens that worked hard on this and set it over for hearing next week --

Moore-Love: Mayor, I'm not sure if they're here but we had two more people that signed up on the list, Melissa Sayson and Charles Johnson.

Hales: I don't think they're here.

Fritz: Before you gavel this out, I want to thank the community volunteers and also to recognize [indistinguishable] Malone and Warren Jimenez who worked who worked on this issue way back then.

Novick: And thanks to Kyle and Rich.

Hales: Great job, thank you. This is back for second reading January 7th.

Item 1323.

Hales: Commissioner Novick.

Novick: I note that my staff instructions on this item say "no introduction from Novick needed" which demonstrates this is a complex subject that I could only mess up, so I will turn it over to staff.

Kyle Chisek, Portland Bureau of Transportation: Hi there, I'm Kyle Chisek from the Bureau of Transportation. So, what are above ground structures? I have a picture here -- I have a slide show that I don't think we need to do, but I'm just putting up the picture right now of what an above ground structure is. So very quickly -- currently, the situation we have is we in general prohibit above ground structures in the right-of-way, like these utility cabinets. We do on a case-by-case basis make allowances for them. And these are used by all the private utilities, BES, Water Bureau, and Parks Bureau. Our variance process now is fairly onerous, and we've heard from all our utilities and our public agency partners that it would help them if we were a little more allowable with this. The other factor that's going on is for years, we've had some of our telecoms come to us and want to build out a system within the city for high speed internet, small cell technology, and this would be the hard wired infrastructure that would be able to provide that. We are very cognizant of some neighborhood concerns, so we've tried to be very restrictive still with where we will allow them. We will still have the variance process; that has been negotiated in franchise agreements. If those areas that will allow them aren't able to work for them, we can still keep talking. Some of the features of our -- well, first, we have been working with Community Technology on issues related to Google Fiber and potentially coming to the city, and we've been doing that for some time. And now, we decided that making this change, while it's not for Google Fiber, it's clearly able to be used by Verizon, Comcast, CenturyLink, even the power utilities is existing use by other utilities. We needed to make some kind of adjustment to our process in order for them to even consider

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Portland being a location. So, moving forward, we opened up a 30-day comment period with both the utilities and the public. We crafted this administrative rule change in the bureau and then shared it at the same time with both the utilities and the public. We kept the record open until our public hearing. And as far as next steps, as part of our comments, we did hear from Bureau of Development Services. Initially, we thought we would send these if they are in a design district or historic district to historic design -- or Landmarks Commission and Design Commission even as just a staff review. BDS requested that we instead go to Design Commission and Landmarks Commission and come up with some standards which would apply consistently in those districts with those commissions. Another feature --

Fritz: Was that done?

Chisek: We're planning on going -- I talked to Tim Heron, and he was thinking January or February. We're also going through a process with Regional Arts and Culture Council to select what we're calling an art wrap. An art wrap is for the private utilities == and this is what they look like in other cities like Seattle or in Boise -- to help the cabinet -- instead of just being a gray cabinet or a colored cabinet, kind of be an amenity for the area -- not stick out so much. So, that is what an art wrap is. We will need to develop design templates and the costs for the design of the art wrap to be used, and the cost for permitting and processing will be borne by the utilities. We do have a renewal, and this caused some concern with the utilities. They were worried that we would want -- that when we came out, we would make them take out their utility box, their cabinet in the right-of-way. That's not the case. We just want to make sure these art wraps hold up when we have a yearly inspection and renewal fee.

Fritz: And is there any input from the adjacent business and or property owners or residents about the wrap?

Chisek: We'd notify them. We're not seeking their approval for the art. We could do that, but that might be a little more challenging. The way Regional Arts and Culture Council kind of framed it was that there would be a pool of maybe 20 designs that could be used a certain number of times, and then once they were done with that art wrap, it would be retired and they would have to basically go through the process and create new designs again.

Fish: Kyle, I'm the Arts Commissioner, so of course I'm instinctively in favor of more public art, but this one gives me pause for concern. First of all, we're putting vinyl wraps around street furniture. I mean, we are a Council on record as saying most of these plastics we're trying to discourage people from using. So, I think the question about what material we're using is very pertinent.

Chisek: Right.

Fish: Second, as the BES Commissioner, we do have problems with the runoff that goes into the streets and causes us regulatory issues. One of our biggest problems is the pesticide that we use on the wooden telephone poles that gets into our system and creates DEQ issues. So, we would want to make sure whatever is wrapping does not create toxicity that gets into the water runoff. And the third is just my view. A piece of street furniture in a monochromatic tone -- whether it's metal or just white or red or black -- seems to me to be less conspicuous than one wrapped in art, particularly if it's art that is not, you know, the taste of everyone in the immediate area. Anyway, I'm instinctively interested in using them as platforms for art, but I must say I'm a little concerned about how that would work and using vinyl. And my guess is -- and I hate to say this -- we just had the presentation on the newspaper boxes, my guess is they are going to be attractive magnets for people to add their own flourish to the art, and I wonder where we are. Just caution flags on that.

Fritz: Yeah, and we have a program of intersection repair -- which I think Commissioner Hales --

Hales: Right.

Fritz: And there's an extensive public process to decide what the intersection gets painted to look like in the neighborhood that wants one. So, to have art outside your door, outside your business

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that may or may not reflect your own personal taste -- as Commissioner Fish said -- that's a little different from a bland light green structure.

Chisek: Well, from the comments we received, the utilities would be in favor of a stainless steel cabinet or muted monotone kind of color painting of the cabinets. From PBOT's perspective, our signal cabinets are all kind of like manila yellow, a beige cabinet that you'll see at basically every intersection. We currently do have Water Bureau and BES and Parks cabinets in the right-of-way as well as Northwest Natural and a few other private utilities through that variance process that are in general stainless steel.

Fritz: Did you ask the Office of Neighborhood Involvement about graffiti removal from the vinyl wrap?

Alex Bejarano, Portland Bureau of Transportation: Alex Bejarano of PBOT. We did have conversations with ONI on this when we first started the process of what the cabinets should look like and what we should do early on. And the wrapping was a concept that they were supportive of, specifically because when you have wrappings, they have an anti-graffiti coating on them, so they're much easier to be cleaned. And so, they are not a blank canvas, if you will.

Fritz: One of the biggest challenges we have in graffiti removal is the stickers that people put on. And unless it's -- I routinely going around trying to take them off, and some of them are really difficult to get off. I wonder about using solvent to get off the sticker that will affect the artwork and look tacky.

Bejarano: That I do not know.

Fish: Steve, I understand the bigger issue is the authority to do it, and you've briefed Council extensively on it. Is there some way to give you the green light on the substantive authority you seek, and just to have additional conversations pre-implementation on the wrap?

Hales: I think that's what we're doing with this rule-making here.

Novick: Any problem with that?

Chisek: No.

Bejarano: Not at all.

Novick: I have to say, as the only member of Council to vote against the arts tax, I just sort of assumed all my colleagues would be more pro-art than me. So, I did not anticipate this conversation.

Fish: I'm prepared to get there, it just raises a couple questions for me.

Fritz: I actually have more substantive questions, too.

Hales: OK.

Fritz: One is about pedestrian movement. I couldn't tell from the list of criteria -- about 18 inches from the curb, in line with the placement must be on the property line extended plus or minus two feet. This isn't as clear as leaving six foot of clear clearance or two wheelchairs, for example.

Chisek: So, these are intended to be in the furnishing zone. They would be allowed in the finishing zone, similar to a power pole. The reason why we located them on the property line extended plus or minus two feet is because they also will very likely end up adjacent to a power pole. So, they are going to need power underground and the utilities aren't going to want to trench conduit for that length. But we would put them in the furnishing zone, maintaining the pedestrian through zone. Anyone trying to put a cabinet in the pedestrian through zone would be a nonstarter.

Fritz: So, what's required width of sidewalk where these could go?

Bejarano: The placement of these does not impact the sidewalk at all. So, what we're talking about is within that furnishing zone, if they do not fully fit within that, then they cannot be allowed to be there. So, the sidewalk will be maintained to whatever that sidewalk width is now, and there'll be no compromise to that through zone.

Fritz: What do you mean by furnishing zone?

Bejarano: Furnishing zone is basically the area from a curb face back to the edge of the sidewalk. So, that's where trees go, hydrants, other utilities.

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Fritz: They're not allowed in a curb-tight sidewalk?

Bejarano: In a curb-tight sidewalk, unless there's adequate six foot clearance meeting ADA, we would not allow that to be in that location.

Fritz: I'm just not seeing that six foot clearance piece in here. Another question I have is about the noise. I know when we were looking at some of the other cellular facilities that they make noises. They hum, they whir, they are otherwise objectionable. What's the consideration of that?

Bejarano: Currently, well, we have very few of these in the right of way. We don't have any noise complaints now. However, we do have criteria in City Code if it did make a noise that would be through enforcement through the Noise enforcement offices.

Chisek: If it does turn out to be a larger issue then what we know right now -- if there's new technology or something that becomes a larger issue -- we would seek to address that through the franchise agreements.

Fritz: Are the Google boxes anticipated to make noise?

Hales: Some, I think. Right?

Bejarano: The hub I assume makes some kind of noise, but this is really just for equipment. I do not know that, but my answer would be that I don't think they would make any noise, or very little.

Fritz: Heads up as the Commissioner-in-Charge of The Office for Community Technology, that was the bane of my life for many, many months trying to figure out how to deal with that.

Hales: And with cell phone boxes, too. But maybe these don't.

Fritz: And my final question. I believe we had a letter from the Homestead Neighborhood Association asking more time to consider these changes. Did you receive that?

Chisek: We have received a letter from Friends of Terwilliger. I believe that I know of the Homestead Neighborhood Association's letter. I have not seen it yet. But as far as time considerations, we have extended our time period. We're definitely willing to consider comments that happen after today's date. We initially promulgated this rule, which basically says you can't put things in the right-of-way through the bureau's rulemaking authority. So, should we get substantive comments in either through Council, through neighborhood associations, through individuals, we would be considering those and are willing to make changes to them. If Council feels that art wraps might not be a great idea and we don't go that direction, then that would be something we would change if we do go that direction or if Historic Landmarks Commission wants a specific color we would be making changes at that point as well.

Fritz: Is there an urgency to pass this today?

Bejarano: We have many requests from other utilities to place these in. CenturyLink and others have asked for this technology to be placed above ground. So, we have many requests kind of pending. It's a matter of this. In addition to that, while this is not for Google -- as we said -- they are still in the process of deciding to come to the city of Portland or not. One of their criteria is that they are reliant on these small above ground structures.

Fritz: I know Linda Nettekoven is here and she has some other concerns, so we may need you back after the testimony.

Hales: OK.

Novick: Actually, Kyle, do we have much public comment on the art wraps concept?

Chisek: We had comments from the utilities saying that they did not -- that it would be a cost for them and that we would have to do yearly inspections and gee, wouldn't it make more sense if you painted one color or you had it stainless steel? We did not receive much in the way of comments from anybody on the neighborhood side.

Novick: Pro or con?

Chisek: Neither pro nor con.

Bejarano: Although, CenturyLink did -- a couple years ago, when they requested above ground structures a few years ago -- they went on a wrapped cabinet for us to see and view over the last few years, so we have been monitoring that. And they are supportive of that.

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Hales: Thank you both. Let's take public testimony.

Moore-Love: I did not have a signup sheet for this one.

Hales: I think we have at least couple people to speak. Linda? Please come on up. Good afternoon. Welcome.

Linda Nettekoven: Thank you. My name is Linda Nettekoven. I apologize for the eleventh hour of sending some comments to you. I just noticed this item was up when I looked at the agenda yesterday, and I had meant to talk with Kyle earlier. I'm very surprised that there aren't more comments from neighborhoods, because we've had conversations behind the scenes. My only guess is there are so many other things going on right now that this has just kind of slipped off people's radar. I just wanted to raise a couple of suggestions regarding the public involvement portion of the proposal. Several things. It refers to having the neighborhood coalitions be a point of contact, and I think from conversations with coalition directors casually in passing, most of them feel stretched pretty thin, and to have them be the contact point and have to relay information to the neighborhood seems inefficient. I think it should be the same way BDS does land use review notifications, where it goes to the neighborhood with a CC to the coalition rather than going through the coalition first. Also, there's no reference to notifying business associations. And since I'm assuming a lot of these will end up on commercial corridors, that seems really important. I had talked again with Venture Portland folks in passing, but again, we didn't solidify any kind of response. And then the idea of notifying property owners rather than also including tenants. So if you're the small business owner who has the shop on the street but your landlord gets the notice and perhaps isn't in close proximity to you in that 30-day window is pretty tight. You're perhaps not going to know that there's something proposed in front of your store. So, those three concerns just about public involvement piece I think are small.

Hales: Thanks very much. Good afternoon.

Anton Vetterlein: Good afternoon. I'm Anton Vetterlein, I'm the president of Friends of Terwilliger, also involved in the Homestead Neighborhood Association. And both those groups did send comments to PBOT about the new rules, but it appears that our concerns were not addressed in the version that you're looking at or ruling on today. I did speak with Kyle the other day about the new rules, and I learned a lot about the intricacies of crafting the rules. Some of what I learned allayed some of our concerns, but also gave rise to new concerns. In short, I believe that more needs to be done to protect parks in particular from the technological clutter of the utility boxes. On December 4th, the SWNI parks committee passed a motion supporting the Homestead neighborhood comments and referred the matter to the SWNI board for formal action, but that board meets tonight, which is after I think your vote here today. Frankly, I think that 30 days is not enough time for issues like this to work their way up from concerned citizens to neighborhood associations to neighborhood coalition committees and boards and on to City staff and deciding decision makers. Mayor Hales, your comment that some things take time having to do with paper boxes -- well, this is a different example where it seems to be going a little too fast. I think it is kind of flying under the radar because basically, we got one email saying this is going on, you've got 30 days to respond. And there's been a lot of things going on with comp plan update and the southwest corridor plan in the southwest part of Portland that it's taken a lot of time from neighborhood people. We're specifically concerned about the impacts of the utility boxes on Terwilliger Parkway. Terwilliger as you know is a linear park owned by Parks and Recreation with a public right-of-way running through the middle of it. The historic parkway and its environments are regulated by the Terwilliger Parkway corridor plan and design guidelines whose primary goal is quote, "to preserve and enhance the scenic character and natural beauty of Terwilliger Parkway and Boulevard" end quote. I emphasize that includes the roadway. Unfortunately, exceptions to the regulations are commonly made for road signs and utility structures to the point where Terwilliger's scenic character has become degraded in numerous places by visual clutter of roadway signage and utility structures. We've been struggling reduce this unnatural blight but it will only be made worse by

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utility cabinets. I think the best solution from our point of view would be a ban on utility cabinets in the right-of-way where that right of way adjoins a park anywhere in the city. That's what we proposed in our comments. If that doesn't happen, then we would like to make sure at least Terwilliger Parkway is protected from these above ground structures. I have some specific ideas for that, if you're interested in hearing them. [beeping]

Hales: I think we are. The question will be for Commissioner Novick whether you want to act on this now or do you want to take more time? What's your pleasure given the comments we've gotten?

Novick: It seems to me that we are going to need more time. What I'm wondering is whether we think that we think we might be able to have some conversations or pull some amendments together for next week or whether we think we should push it out further than that. Wait a minute, are we here next week? [speaking simultaneously]

Hales: January 7th would be our next meeting.

Novick: Oh heck, then we have all kinds of time. Sure we should be able to work all of this this out before then

Hales: Maybe we want to continue this item, and that would give us a chance to have some informal discussion between those of you at the neighborhood or district coalition level that are interested in this, and answer some of the other questions before we take it up again. Because yeah, you're right, this is one more item on a long list for volunteers to keep track of. Appreciate that. Does that make sense?

Vetterlein: It is to me.

Fritz: Thank you very much for your diligence.

Hales: Thank you, appreciate that. Unless anyone else wants to speak on this item, then we'll continue it until January 7th. And now, we have some remaining items, couple second readings we ought to get out of the way while we are all still here. Then assuming Commissioner Fish wants to proceed, we'll take up the other three. So, let's do 1327, 1328.

Item 1327.

Item 1328.

Hales: Roll call on 1327.

Item 1327 Roll.

Novick: Aye.

Fritz: Aye.

Fish: We'll have further report on Powell Butte Reservoir 2 in the new year, Mayor, and further drill down on closing out this project. But as we learned last week, we are under budget and we've very proud of that. And you are currently drinking the water and I don't see any of my colleagues glowing, so I'm proud of that as well. Aye.

Saltzman: Aye.

Hales: Appreciate the vigilance and the good management on this project, Commissioner Fish. Thank you. Aye.

Item 1328 Roll.

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

Hales: Got a bridge for sale, looking for buyers. Aye.

Item 1324.

Hales: Commissioner Fish.

Fish: Here's the short version, Mayor and colleagues. Scott Gibson and team with is us this afternoon. The Bureau of Environmental Services found that some modifications are necessary in the Willamette River combined sewer overflow tunnel system that controls combined sewer overflows to the river. During very heavy rainstorms, the rapid filling and inflow of stormwater can cause pressure to build up in parts of the system. This item would authorize a contract with the engineering firm of CDM Smith, Inc., to design a project to install pressure relief structures at three

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project sites on both the east and the west side of the river. Scott is here to give you a very skinny presentation.

Scott Gibson, Bureau of Environmental Services: Thank you. We'll go quickly, I know everybody is busy. Good morning. We're here today to ask for authorization for a new contract for design services on a new project. We have completed an open and competitive selection process, and the firm of CDM Smith was selected based on their qualifications. The firm has assembled a team of local and national experts, which includes 21.6% participation by minority and women firms. And we've also negotiated a detailed scope of work and have a pretty high level confidence in our estimates for the work. With me today is Tammy Cleys. She's going to be supervising the work. She also led design effort of the eastside CSO tunnel system. She will give us brief background of what the project is about.

Tammy Cleys, Bureau of Environmental Services: Good morning. I'm Tammy Cleys, and I worked on the design of the eastside tunnel, so I was going to give you a little background. The Willamette tunnels -- the tunnels, called the spine, were designed for the transient pressure surge and the air releases. During the design, we utilized specialized academia to analyze the system. We did some surge mitigation in the larger tunnels. However, now that the system is operational, we're actually seeing some pressure surges and pressure releases in the upper sections, the consolidation conduits. The photo you see to the right is a transient, a hydraulic pressure surge we saw in the Tanner system, which is upstream of the Upshire shaft on the westside. The hydraulic pressure surge came up, destroyed part of the manhole, and lifted the pavement.

Fritz: So it's called a transient pressure surge.

Cleys: Yes. It's a very quick, 1000 feet per second hydraulic pressure surge that resonates up the system from the tunnel.

Fish: Commissioner Fish, when I got my initial briefing, I wondered why transients had anything to do with the tunnel system.

Fritz: We've all learned something here today.

Cleys: Oh, it gets geekier -- just wait. To the left, you see we have a number of connections into the shafts. The lower ones that you're going to see there are problem areas. I'll briefly touch on that. So, we've seen evidence, physical evidence of the air release and transience in the system. In the upper left -- that's the bulk consolidation conduit area -- and we have already mitigated that particular problem with this vault. We've installed that and now we can release the air and the surges that we've seen safely without affecting the public or any infrastructure. We still have two problem areas. The one in the middle there is the one near the Upshire shaft you saw with the pavement lifting. This contract will do some more analysis of the transient to define the problem and then move forward with the design of our mitigation measure. It will also look at the area that's on the bottom right, which is in the central eastside, which is about 3rd and Alder. We know we have an air release problem and likely a transient problem. The modeling that CDM Smith will do will define again that we have the issue, the quantification of the issue, and then design our mitigation measures. This is the part where I get to show you a little bit about what the phenomenon is and how it happens in our system. This is the consolidation conduits where you see the CSO tunnel along the bottom. We have our shaft vertically with our air vent coming out of the tunnel, allowing the actual tunnel to vent. But then, we have two drop shafts there that collect the overflows from the old system into our consolidation conduits and drop it down to the tunnel. The only overflow for this system is to the right where you see the CSO overflow. So when it's starting to rain everything is filling, everything is free flowing, and it works well. Once the tunnel fills, then the only place to relieve itself is up those drop shafts, which go out approximately a half foot a second. So we've got about two minutes until that shaft is full. Its overflow point is elevation 18 to the right. Unfortunately, we have a couple of connections that are significantly lower than that elevation 18. As you can see, the rapid rise in the water levels. So, it begins to have a large pressure head built up, sending flows back up that consolidation pipe. So, we get some 30 feet ahead, the

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pressure wave starts going up the system, the storm continues to increase -- our peak. We get significant inflows coming from the left side of the screen. So, all of a sudden you have a pressure wave moving up our consolidation system, a large inflow coming down our collection system, the two collide, they cause a transient wave that continues then to move up the system until it's reflected back. It dampens or is dissipated. Unfortunately for us, most of the time when it's dissipated, it is at our nearest point of relief, which is a manhole lid in a lot of cases.

Hales: Sometimes they literally come off --

Cleys: That is what we did at the BCC, we actually had a report of the gentleman who saw the manhole lid go 20 feet in the air. So, the vent we already built was because we saw that report of manhole lid 20 feet in the air. So, we have a real problem in our large conveyance system that requires some modification. The work is necessary -- obviously, I think -- and would have been completed with the original tunnel work had we understood the extent of this phenomena, which we didn't at the time. So, now we are not rebuilding anything, we just need to do modifications to add some surge and some dampening in our system to relieve this problem.

Fish: Colleagues, we know that there are children watching this program. But we've now learned today that the CSO tunnel has to relieve itself periodically. And this modification will allow us --

Hales: Of air, of air!

Cleys: There's also air entrapment.

Fish: You had a slide that had the confidence level?

Gibson: The project was approved in the current city budget identified as line item in our Capital Improvement Budget at \$1,020,000 with a moderate level of confidence. We're still -- that's still our number. The initial analysis by this consultant will confirm that that's where we are heading as far as scope and cost.

Hales: Other questions?

Fritz: Thank you for the thorough explanation. Tammy, how long have you worked for Environmental Services?

Cleys: I think about 17 years now.

Fritz: And what's your job title?

Cleys: Supervising engineer.

Fritz: Say that again?

Cleys: Supervising engineer.

Fritz: Supervising engineer. It's just fantastic and I hope a lot of young women watching at home and thinking, that looks kind of interesting and kind of cool and they might want to follow in your footsteps. Thank you for all the work you've done in the bureau over the many years.

Cleys: Thank you. And I hope so too, because it is.

Hales: Thank you. Other questions for these two? Thanks very much. Anyone else want to speak on this item? Then it is a nonemergency ordinance. It will pass to second reading January 7th. I assume that's --

Fish: Mayor, you want to slap an emergency on it?

Hales: I wouldn't mind doing that, because the prospect of flying manhole covers has me nervous.

Fish: Commissioner Fritz, are you OK with that?

Fritz: So moved.

Fish: Second.

Hales: Motion to add the emergency clause. Any discussion?

Moore-Love: Do we have language for that?

Hales: No, we're just adding the emergency clause.

Fritz: For the public safety of not having flying manholes.

Fish: The pressure is building up as we speak.

Hales: There is a safety issue here.

Moore-Love: Safety issue, OK.

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Hales: Roll call on adding the clause?

Roll on motion to add emergency clause to address pressure safety issue.

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

Hales: And on the ordinance.

Item 1325 Roll.

Novick: Flying Manholes is almost as good a band as Combined Sewer Overflow, but you don't want to see either of them on the street. Aye.

Fritz: Thank you both, Scott and Tammy, for this really good explanation. Thank you, Commissioner Fish, for explaining things in ways that those of us who took biological sciences rather than physical sciences can understand. Aye.

Fish: Yeah, thanks to my team. This is a very complicated thing. And here's the nice takeaway: if we can figure this out, we'll actually be setting the standard for the rest of the country, because this was an un-provided for engineering issue. So, we get to be innovative as well. Aye.

Saltzman: Aye.

Hales: Thank you. Aye.

Item 1325.

Hales: Commissioner Fish.

Fish: Mayor, this item concerns a contract between the Bureau of Environmental Services and Natt McDougall Company, the general contractor for the Guilds Lake Pump Station. The item would authorize an increase in the City's contract of 37% over the original contract amount. We'll explain that. The additional money covers changes in the scope of work needed to address conditions that were unforeseen during project design, and the resolution of a contract dispute between the contractor and the City. And I'll turn it over to Mark Hutchinson, the BES construction services manager.

Mark Hutchinson, Bureau of Environmental Services: Good morning, Mayor and Commissioners. My name is Mark Hutchinson, I'm the construction division manager with the Bureau of Environmental Services, as Commissioner Fish brought up. And with me is Franco Lucchin from the City Attorney's Office. The City of Portland has 98 wastewater pumping stations. The majority of those were built in the 1960s and they're approaching 50 years old at this point and they need remodeling. Guilds Lake pumping station is one of those stations, and it's critical to protecting the health of residents in Northwest Portland. It takes care of all the sewage along St. Helen's Road and down in the lower area. It pumps across the river -- as you can see in the yellow line -- over to our tunnel, up along the railroad and kind of by University of Portland. We started a contract -- the design and build this pump -- remodel this pump station because originally it was built to handle a large development in Northwest Portland that never came to be. So, the pump station was three times as big and very inefficient. With our new tunnel system, it even got less flow. So, we designed the station and then we went into construction with Natt McDougall. During the process of building the pump station, there were changes that were necessary that we didn't anticipate. At the outlet structure by the tunnel there are some things we needed to modify that we couldn't look at until the time we were working on the tunnel. And there were some modifications inside the old structure. Those added up to about 11% of the contract. When we started the construction project up -- took it off temporary bypass and hit the switch -- the station vibrated heavily and shut itself off. We at first thought that was the contractor's problem. He said it wasn't. We continued to work through the issues. They hired some vibration experts. We hired some vibration experts. The contractor claimed that it was due to resonant vibration, similar to if you ever have seen the Tacoma narrow bridge and how it shook apart. They said the three piping systems were all in sync and they would vibrate. During the course of the year, we still thought it was our contractor's issue, and he continued to do things to mitigate vibration in the station. We eventually got it up and running at the end of summer. Through the discussion with our experts and their experts we and the City Attorney, we came to the conclusion that it was in our best interests to settle

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the costs that we'd spent over the last year and have come to you to ask for additional funds to pay for this project.

Hales: So, it sounds like a little bit of a technical -- maybe not completely resolved -- technical argument.

Hutchinson: Well, at the last point we left it, our vibration expert and the contractor's vibration expert agreed that the issues are outside the station, and that they think they exist in the pipeline underneath the Willamette River, which was not part of the original scope. So, we're putting together some documents for additional engineering work and then a follow-on project to work on that piece of the pipeline that's 1968 vintage as well.

Hales: Other questions? Thanks very much. This is also not an emergency item, but I think sounds like in this case it can pass to second reading. So done, thank you.

Fish: One last thing.

Item 1326.

Hales: Commissioner Fish.

Commissioner Fish: David, this is budgeted for eight minutes. You get extra credit if you can bring it in under five.

David Shaff, Director, Water Bureau: Will do. It's nowhere near as cool as transient pressure waves. This is actually a project you already know about and have approved one portion of. February of 2014, you approved an ordinance that authorized an IGA with Tualatin Valley Water District and the City of Tualatin so that they could build an emergency pump station that is going to be located in a vault where we have the Washington County supply line and our meter with Tualatin Valley Water District. That design work has been done, and now we're moving forward on construction. The reason we're involved is -- we're not involved in the emergency pump station, but we are going to be reconfiguring our pipe and we're going to be replacing a meter that no longer is functioning accurately. And in order to be as efficient with the public's resources as possible, the three entities -- Tualatin, Tualatin Valley Water District, and the City of Portland -- have combined and we're using one designer, one design engineering firm -- that's the ordinance that you authorized earlier this year -- and then now, we're going to move to construction. Tualatin Valley Water District is the lead on this, and that's why we're doing an IGA and I'm not coming forward with a contract. Our costs should be about \$300,000. I think that was under five minutes.

Hales: It was. Thank you. Questions for David?

Fritz: My understanding is that Tualatin Valley doesn't have MWESB requirements.

Shaff: I don't know that they don't, but they are in the lead on the project itself. My assumption is this will be a low bid contract. This isn't something we'll do CMGC or anything along those lines. So, there's a little less opportunity on low bid contracts as well. But I don't know how they operate.

Fritz: That might be something to think of in the future when we have money when we have IGAs for -- if our partner of whatever kind doesn't have the same kind of requirements that we have.

Shaff: Their general manager is a former employee of the Portland Water Bureau, and I would be happy to talk to Mark and express our interest in making sure that we have MWESB participation and that TVWD is aware of our interest as a partner.

Fritz: Great, thank you.

Shaff: You're welcome.

Hales: Other questions for David? Thank you very much. And this passes to second reading. We are recessed for a blissful 35 minutes.

At 1:24 p.m., Council recessed.

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

DECEMBER 17, 2014 2:00 PM

Hales: Good afternoon, everyone, and welcome to the afternoon session of the City Council for December 17. Would you please call the roll?

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

Hales: We have a four-fifths item to take up, which is item 1328-1. Why don't you read that, and I'll explain it.

Item 1328-1.

Hales: This is kind of a peculiar item. We needed to put this on the council calendar today, open the hearing, and immediately close it because it's been postponed to next month. But because we sent individual notice to 30,000 property owners and don't want to do that again, we have to have this touch stone here. So, obviously 30,000 people didn't show up today, which is good, but if anyone did come today because they're interested in this item, the Portland Development Commission staff is upstairs on the third floor of this building in the Rose Room and is available to answer any questions that you might have about it. And again, it's going to be back on the council calendar on January 29th. So, unless there's any requests from Council or other reasons to take further action on this today, I'm going to close the public hearing and continue this item to January 29th. So ordered. Now, let's take items 1329 and 1330, please.

Item 1329.

Item 1330.

Hales: Commissioner Novick, would you like to make some comments once we get started here?

Novick: I think that -- why don't we handle the amendment issue first.

Hales: OK. First, we have some amendments that the council considered and that we took testimony on at our last public hearing. We need to actually take formal action to adopt those amendments. I think Celia Heron is here -- there she is. You can just come up and give everyone a reminder of the substance of those amendments, what they were, and we'll take a Council vote on that.

Fritz: First, I have to ask about the scarf.

Celia Heron, Office of Management and Finance: It's festive, but it's really about the Thorns.

Fritz: Good answers.

Hales: Both good.

Heron: So, as the commissioner and the mayor were saying, there were amendments made last week, and just procedurally would be a move to adopt those. The amendment was to amend City Code Chapter 7.02 to add one definition about home-based businesses. You recall the conversation about exempting those. That's one change to the language of City Code 7.02.10. And then, the nonresidential transportation fee schedule exhibit D was amended to reflect the home-based business exemption left for those grossing less than 50,000 and a cap on the fee for small businesses for those grossing less than 50,000. So, these were discussed last week. Those were the amended portions of those documents.

Fritz: Just to clarify, they're not new amendments, but we forgot to vote on them. So, we vote on them today and it goes to another reading later.

Heron: That is correct.

Hales: Any further discussion? Now, let's take a roll call on adopting those amendments.

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Roll on motion to adopt December 10, 2014 amendments to add “Home-based businesses” definition to Exhibit A and amend Exhibit D fee schedule to include exemption for home-based businesses grossing less than \$50,000 and a cap on the fee for small businesses grossing less than \$50,000.

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

Hales: Done, OK. Now, on to the next stage of the process.

Novick: So, the proposal that we have on the table currently on the residential side was intended to be a compromise which we hoped to be acceptable if not enthusiastically embraced by most stakeholders. It's a progressive income tax, but in order to allay the concerns of people who we knew don't like the idea of an income tax, it has some odd features for an income tax, the most dramatic of which is that there's an absolute cap on the amount that anybody would pay of \$75 a month. Normally, if you've got an income tax, it doesn't work that way -- the more money you make, the more you pay, and there's not a cap on it. So, we offered that provision and others in hopes it would allay the concerns of people who really don't like the income tax. It turns out that those provisions did not have the desired effect. It's become clear since then that, for example, the Portland Business Alliance and some of their allies would rather burn the city to the ground than have us adopt anything remotely resembling a progressive income tax. So, that means that we have a choice to make. We can either go back to some sort of user fee, such as we start off with in May, and that would be amenable I think for people who really don't like the idea of an income tax. Or, we commit ourselves the idea of an income tax and we propose something which is a more normal income tax, which is percentages of income and there's no cap. And we have not at this point resolved which of those directions we're going to go. So, what we're going to do today is to set this over and it's our intent to have a proposal for a revised residential tax or fee filed for January 7th with a final vote on January 14th. And I realize that some people will say, you had a first reading on this issue in June and now it's months later and you're still adding additional time. That's true. However, I would note that the City has known that it was insufficiently funding transportation since at least 1987, which is 27 years ago. And I'm reminded of the words of Kasper Gutman played by Sydney Greenstreet in *The Maltese Falcon* where at the end of the book and movie, when he realizes the falcon has slipped through his fingers and if he wants to continue the chase he has to go to Istanbul, he says, 17 years I've been looking for that little item and wanting to get it. If I have to spend an additional year on the quest, that's an additional investment that will only five and fifteen seventeenths percent.

Hales: Thank you, Commissioner, I think in terms of clarification of what we're working on and not working on. I will continue these two items until January 7th. We will be considering potential amendments to the residential fee then. I think it's my understanding, I think it's the council's understanding, yours as well, that with the adoption of the amendments that we just took up today, we're essentially done making modifications to the business portion of this structure, but both ordinances are coming back to Council at the same time on the 7th and then with an intention for that to be the first reading and public hearing on amendments, and final vote adoption second reading on the 14th. Does that meet with everybody's approval? So, we're going to continue both item 1329 and 1330 to -- do we have a time certain?

Moore-Love: I don't believe we did for the 7th. We could do the morning at 10:30.

*******:** We'll schedule it tomorrow.

Hales: We'll schedule it tomorrow, OK. They're continued until the 7th. We'll figure out what time it is and announce that.

Fritz: Karla, could you tell us when the filing deadline is for the January 7th agenda?

Moore-Love: That is December 31st.

Fritz: December 31st. So, the proposal would be published on January 2nd.

Moore-Love: Correct.

Hales: If not earlier, I think. The intention was to maybe beat that deadline a little bit.

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Fritz: So, it might be out post order your website before it's filed with the Council Clerk.

Fish: And I have one request, Mayor. If this is a morning issue time certain, we can pretty much assume it's going to take all morning into the afternoon. And I would ask that when you do the scheduling, consider the impact on the regular agenda. And I would plead with you to maybe structure it so the regular agenda goes first and then we do the time certain so we don't have people waiting all day.

Hales: Amen to that.

Fritz: Is there an afternoon available?

Moore-Love: The COCL contract has not been confirmed. But Commissioner Saltzman is gone that afternoon of the 7th.

Hales: OK.

Fritz: And then the 8th?

Moore-Love: I have a 2:00 not confirmed and the 3:00 is the Block Seven.

Hales: We'll figure it out in the next 24 hours or so. But again, I think it's your intention, Commissioner Novick, to get this probably filed somewhere before the 31st so people have a chance to see whatever amendments there are for more than a week before we actually have the first Reading.

Fritz: Potentially, since it is going to be the "it" which we will be voting on, we might consider doing an evening hearing on the 7th or 8th, which would then take care of the issue of the conflict with the rest of the agenda.

Fish: I would second that, Mayor. Because Josh has already given us a forecast that January is going to be a very tough month with our regular agenda.

Hales: Alright.

Moore-Love: So, if you do an evening hearing on the 7th, you need to make a motion now. Because this is our last meeting --

Fritz: We meet tomorrow. My intention was to move tomorrow -- we'll potentially have an evening hearing for the Joint Terrorism Task Force discussion, and that has not yet been scheduled -- unless you know it has.

Moore-Love: I thought they were putting that out to February.

Fritz: Well, we're going to look at that. Potentially, there might be a motion on that tomorrow. And then we can -- I will make the motion for the evening hearing. Just so everybody is aware, the code does allow evening hearings on any Wednesday or Thursday, but requires at least two weeks' notice with a formal vote of the council. So, since we're not meeting next week or the week after, if we're going to have an evening hearing in the week of 7th or 8th, then we'll need to make that motion tomorrow.

Hales: Let me continue the item for now. We'll figure that out. If there needs to be a motion tomorrow to set an evening hearing, we can do that then. Is that right?

Fritz: We don't have to continue to it a time certain, right, City Attorney?

Hales: Right. I can continue a Council -- I'm going to continue these two Council items but not set a time. And again, tomorrow we'll revisit this question of schedule. So yeah, we have had an awful lot of compression in a whole new sense of the word with our Council calendar lately. So, we're going to try to avoid as much of that as we can. Rachel and I will confer after this and see if we can make that work. I think you have something planned for the evening of the 7th, so we'll see about --

Saltzman: I'm not sure it's the evening.

Hales: Maybe it isn't.

Saltzman: I think it's 2 o'clock.

Moore-Love: You're out from 2:00 to 5:00 on the 7th.

Fish: We'll all confirm.

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Hales: We'll figure it out in the next 24 hours and let people know. OK. Thank you. Now, we are going to unfortunately have to recess, right? We're ahead of schedule, what do we do with all the found time?

Fritz: Have lunch?

Hales: Yeah, since we didn't have any break before. We recess until 3:30 when we take up item 1331.

At 2:16 p.m. Council recessed.

At 3:33 p.m. Council reconvened.

Hales: Good afternoon, everyone. And we will resume this afternoon's Council meeting. Welcome. Do we need to call the roll since we just took a recess? OK, let's do.

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

Hales: before we begin, as it happens, there's a memorial service this afternoon for a wonderful community activist -- who I know a number of you in this room knew -- who made Portland a much better place. We're here to talk about protecting the things we love about Portland, and Barbara Walker loved trees and trails and parks and spent much of her life as an activist in the city creating what was originally called the 40-mile loop but of course now is a lot more than 40 miles. I'd just like to take a moment of silence, but hopefully we all smile when we remember that she lived a long and good life, passed quietly, and made Portland a much better place. So, a moment for Barbara Walker, please. [moment of silence] Thank you very much. Karla, would you please read the item before us?

Item 1331.

Hales: Commissioner Fritz.

Fritz: Thank you, Mayor Hales. As we all know -- as most people do -- the Bureau of Development Services administers and enforces the state building code throughout the city. Currently, the demolition delay ordinance requires notice and a 35-day delay in issuing demolition permits for single family residences in areas of the comprehensive plan map designation. There's an exception to the notice in delay requirements when an applicant files for a building permit to replace the home that is being demolished with another single family residence. The code currently allows neighborhood associations to request a 120 days of delay for no particular reasons. On July 30th of this year, the Historic Landmarks Commission presented its annual report to City Council, and that report included recommendations that the City Council should take action to reduce the number of demolitions of single family homes with historic significance. Based on the Historic Landmarks' recommendation I directed the Bureau of Development Services staff to work with the Development Review Advisory Committee, henceforth known as DRAC, which has a demolition -- which established a demolition subcommittee. And we added members of the Historic Landmarks Commission and the Design Review Commission and asked them to work hard to present a proposal to City Council by the end of the year. We've got a full day. There's another hearing tomorrow, but we did indeed deliver on that promise and I want to start by thanking all of the volunteers and the staff who have worked on this project for your diligence in coming to this proposal before us today. The demolition subcommittee did reach consensus on proposed changes, and that's what's being presented to the Council today. With that, I would like to invite you to tell us about it.

Hales: Good afternoon.

Nancy Thorington, Bureau of Development Services: Good afternoon, Mr. Mayor and Commissioners. I'm Nancy Thorington with the Bureau of Development Services.

Andy Peterson, Bureau of Development Services: I manage the plan review and permitting services.

Jeff Fish: Jeff Fish, chair of DRAC.

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Thorington: Thank you. Basically, what we did was we worked with the DRAC demolition subcommittee, the Historic Landmarks Commission, and the Design Review Commission, as well as members of the public to come up with amendments to the demolition delay ordinance. We're recommending amendments that will amend the notification requirements, the delay provisions, define demolition, and add a new permit category for major alterations and additions. We really tried to be inclusive in this process and have as many stakeholders as we could. I went out and did a lot of outreach into the neighborhood associations and got them to bring representatives so that we could have as many voices at the table as we could. So, even though everyone is not necessarily happy with all of the provisions that we're proposing to the council, we think it's a pretty fair proposal that's before you now. And I personally would like to thank everybody who was a part of this process, including the DRAC subcommittee which worked very hard, the members of the public, and everyone who attended the meetings and participated. As Commissioner Fritz noted, on July 31st, the Historic Landmarks Commission came before the council with their annual report, and it included the white paper that had some recommendations about residential demolitions. They recommended first removing the current exception to demolition delay and notification so that all residential demolitions are subject to a 35-day delay. They recommended codifying a definition for demolition. Right now, there is no definition in the state or city code for demolition. BDS basically uses a policy that's been in place for a while. The third recommendation -- as part of codifying that definition, they wanted it to include removal of 50% or more of the existing building. The third recommendation was to create a demolition task force that would be composed of BDS and Bureau of Planning and Sustainability Staff as well as other stakeholders to address changes to Title 24, which is the building regulations; as well as changes to Title 33, which is zoning; and to the comprehensive plan. Based on that white paper and the testimony -- I sat in on that hearing so I could see what the public was concerned with -- we worked with the demolition subcommittee and came up with the proposal that's before you right now. We met several times between August and November to discuss these various changes. I think we had enough input to get to this point. The first thing I wanted to address is what we didn't cover, because there were a lot of things that came up at that July 31st hearing that people wanted to -- that are related to demolition, but we didn't cover them. And to understand that, it's necessary to look at what the BDS authority is. Basically, we regulate the health and safety, the fire and life safety of a building. Is it going to fall down, burn down? But what we don't legislatively have jurisdiction over because it's under Title 33, the zoning code -- is what gets replaced. Things like the lot coverage, how tall the building is, if it fits in with the neighborhood -- those are the kinds of things that we don't look at, and therefore we didn't address things like the context and compatibility of what was going to replacement structure. We did not cover the historic resource inventory, the loss of affordable housing, tree protection. There is a tree code that is going to come into effect at the beginning of January, so that's covered by that anyway. And then the one area that we didn't cover that I know there's been a lot of public discussion about is the hazardous materials, the asbestos and the lead-based paint. We as a city lack regulatory authority over those matters, because the regulations are in state law or in federal law under the EPA. Those matters are regulated by the Department of Environmental Quality, OSHA, the Oregon Health Authority through the contractors board. So, we have no regulations. We can't go out and cite somebody for not cleaning up the asbestos or improperly disposing of the lead-based paint. We just don't have the authority to do that. We have been working with DEQ and OSHA representatives trying to address it. We realize there is an issue with it. And so, they're the regulatory agency. We've sat down with them and tried to come up with some outreach and education and materials we'll be able to hand out. The representative from OSHA has been very helpful with us, and he is going to be developing handout that we can give to applicants for demolition permits that will basically have the asbestos regulations for DEQ, OSHA, federal regulations for asbestos on one side and lead-based paint on the other that we can hand out to applicants. We did change our building permit application. I know in some of the materials it said

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this is just the notice, but that's not true. It's actually on the building application and it requires the applicant to sign to say not only I acknowledge that my project may be subject to asbestos and lead-based paint regulations but also that if it is, I will comply with it. So, it's more than just a statement that, yeah, I get that this project may be subject to it. There was some things in the material about local jurisdictions. One of them was Tualatin, and it said that they required an asbestos survey. I went on to their website. Yes, they do require an asbestos survey but for commercial projects. One to four unit residential units are specifically exempt from the asbestos survey regulations. So, yes, they do have the requirement but it's not relevant to what we're doing here. Hillsboro has a checklist and it basically says for information only, and you check a box that says, yeah, you may be subject to asbestos and lead-based paint. Lake Oswego does require a certificate of compliance. I spoke with the staff member there, and she said they don't do anything, they do no regulation, they don't inspect, they don't go out to see if anybody does anything. Again, they just have somebody say, yeah, we know there's lead-based paint or asbestos there. So, I just wanted to get that out there because I know it's a big issue. And understandably, because if things get kicked up and they're not dealt with properly, that is a hazard. So, with the recommendations under the white paper, the first was removing the current exemption to the delay notification. The proposed amendments do eliminate that exception and would make all residential demolitions in the residential zones subject to a 35-day notice and delay period. The second recommendation was to codify a definition of demolition as removal of 50% or more of the existing building. The proposed amendments don't define demolition that way, they define demolition as removal of the entire superstructure basically down to the sub flooring. But what we did to address what have been referred to as the virtual demolitions where two of the walls come down was to create a new category permitting category called major alterations and additions. And that would be defined as if you add a new story, if you increase or replace 50% or more of the exterior wall on any floor -- so that covers that 50% -- adding a total new floor area of 800 square feet or more, and that 800 square feet basically comes from -- that's the ADU number. If you get over 800 square feet, it's not an ADU -- that's an accessory dwelling unit, sorry. Then, if you're adding any new floor area that exceeds 100% of the existing floor area. The purpose is if you had a house under 800 square feet, like 750 and you doubled it, that would still be a major alteration. So, those would all be subject to under our proposal a 35-day notice and delay period. So, you would get that notice, which is what the neighbors have been saying that they were concerned about. The third one, the creating demolition task force basically was beyond our purview. So, if that's what the council directs at this point then that's what we would do. So probably -- not probably, I would think people here would say definitely. Definitely the most controversial aspect of this ordinance is the 120-day extension. Right now, the way the code is, it's a 35-day delay plus you can ask for -- not just anybody, it has to be a recognized organization, which is the neighborhood association or the neighborhood coalition -- can come to BDS, and say, we want 120 days beyond the 35. The purpose is to try to find an alternative to demolition. So, that came in in 1990. What happened was all -- the ordinance the way it was before that -- all residential demolitions were subject to a 35-day delay and notice. Then in 1990 as part of a zoning code amendment, the Planning Commission recommended to the council that they add this 120-day delay. The BDS director at the time opposed that at the time saying, well, this is subject to abuse. If you have people who can just come in and ask for a delay with no -- there's no burden of proof, they don't have to show anything, they just ask for the delay. She said there are other areas in the code that address this. So, she recommended -- she said if you're going to adopt the 120-day delay, then I request that you also include this exception, which is now known as the K1 exception or the one-for-one exception, which allows -- if the applicant is coming in for a demolition permit and they're also going to replace that demolished structure with another new single family residence, it's a one-for-one exchange, then they are not subject to the delay or notice. That's the way the code is right now. And a vast majority of the residential demolition permits fall under that exception. I think it's important to note they came in at the same time because one was

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offsetting the other. Basically, at this point, the DRAC subcommittee is recommending on that 120-day exception that it be removed and be replaced with requiring all residential demolitions to have the 35-day delay, and then having an optional 30-day extension. And that basically would require both the property owner and whoever is requesting the extension to sign it. So, it's voluntary and we recognize there's no teeth in that. One of the -- the purpose is to encourage the negotiations. We found after looking at the statistics -- in the last year and a half, of all the residential demolition permits that were subject to the 120-day delay, it was used eight times. And in none of those did it result in a house being saved. So, the houses that have been saved were not under 120-day extension. If you think about it in real estate terms, 35 days is a long time in a residential purchase. Sometimes, it's hours you have to get an offer in. This gives the parties 35 days to decide if they're going to come to the table. What it doesn't do is cut off how long their negotiations are. They can negotiate as long as they want. The voluntary 30 extra days is kind of like a good faith agreement that they're at least going to stay in the negotiations for that much longer. Because if the owner signs that, then it is tied up for that extra 30 days. The issue is if you make all demolitions subject to the 35-day delay and you keep the 120 in there, you're going to have potentially 300 of these permits subject to a 155 day delay. You know, at the end of the day, if the owner is not going to come to the table and negotiate, they're not going to come to the table and all you're doing is tying up the development rights if they've otherwise complied with the code.

Fish: Can I ask you a question?

Thorington: Sure.

Fish: What's the situation where you anticipate where a developer would sign the 30-day extension as opposed to just agree to informally continue the negotiations? In other words, what's the incentive for the developer to bind himself or herself for the 30 days?

Thorington: It's a good faith representation that they're planning to do it. We don't know how it's going to play out, but hearing from the developers, they seem to think that that was acceptable. In coming up with this alternative, we really looked at a lot of different options. We didn't just toss out the 120. We looked at doing it in increments of 30 days with certain thresholds. We looked at different time frames. The problem that we kept running into was that if we started doing these increments or these different thresholds, we'd have to make determinations. And so either it would have to be BDS staff or it would have to go to a hearings officer or some other option like that that would pretty much put us in like a land use kind of discretionary action. Plus, how are we to know what's good faith? So, because of all of the complicated issues with trying to do it in steps like that, we rejected that as an option. We spent a lot of time on the 120 days. That was probably the issue that took up the most time -- I would say -- in the whole process. The other thing that we looked at is that we are recommending changing is the notice. There's a chart that's in your packet, and it highlights the notice changes that we're looking at. Right now, all that's required for the demolitions that are subject to the delay is notice to the recognized organizations and a posted notice -- those orange notice of intent to demolish posters. What we are recommending is adding a mail notification that BDS would do. It would go to the site addresses within 150 feet of the property and to the recognized organizations within five days of the completed application. And that would kick in the delay period. We're recommending getting rid of the posted notices based on input from the development community that those are more of an attractive nuisance. It's like, hey, this place is vacant, come and squat here. There's enough statistics to back that up that that actually is happening. So, we removed that and replaced it with door hangers which we think are a little more effective. So, they would go to the doors of the surrounding properties so that anybody who's actually living there would get notice within five days before. So, if they had issues or concerns about the asbestos or the lead-based paint or closing their windows or covering their cars, then they would be able to do that. Those would be self-certified, which is similar to the short-term rental situations. Then again, the extension, the 30-day voluntary extension. And then with the major alteration category -- the notice for those would be self-certified email notices to the recognized

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organizations and the door hangers that would be posted at least 35 days before the work is going to begin. With major alteration, any one of us who owns a house could be engaged in a major alteration, so we're trying to balance that kind of work so that -- you can notify your neighbors with a door hanger but you don't have to go out and do a lot of mail presidents or things like that but at least gives your neighbors the heads up that a large project is going to be under way. One issue that we tried to tackle was deconstruction. That was a big issue that came up at the July hearing. And we recognize that it's a very important issue, especially for Portland. We have worked with representatives from BPS, but basically, it's a really complex issue. And we felt every time we started to go down that road in one of the meetings, the meeting started to go down a rabbit hole and we really weren't getting anywhere on anything else. And given our time frame and the complexity of the issue plus the fact that we didn't have the right stakeholders at the table -- we didn't have any deconstruction experts. We had somebody from BPS, but we didn't have anyone from the construction industry there. The other issue that's a little different with deconstruction is it's mainly an incentive program. What we're looking at here with the demolition ordinance is more regulatory. You know, you can do this, you can't do that, you have to do this notice. Whereas with the deconstruction, it's much more of an incentive. Like, you're not going to tell people you have to deconstruct. It's more if you deconstruct, you get this. So, to really come up with a fair and comprehensive way to address this, we are looking at continuing on to discuss it. Jeff Fish, who is going off DRAC at the end of the year, has volunteered to continue on any subcommittee that might go forward in the future. We've had a few other people, some deconstruction experts volunteer to do that work. So, we're looking to come back maybe with something by the end of the fiscal year on deconstruction. We wanted to just make sure that you realize -- I'm sorry?

Saltzman: Are we still thinking in the incentive vein of things with deconstruction?

Thorington: Yes. I don't know that the council -- unless you tell us otherwise -- I don't know that regulation saying you shall. I mean, the only regulatory part of this would be a definition, but that doesn't have to be in the code. It can be, but doesn't have to be.

Fritz: It's more of a Bureau of Planning a Sustainability issue that would be addressed in the comprehensive plan process. It's not a matter of us just setting a regulation with no policy to back it up. That's where that discussion would take place -- under the comp plan.

Saltzman: Seems like a -- I don't want to digress, but it seems like a strange fit for a comp plan. Anyway.

Hales: Well, it's Title 33 stuff. Yeah.

Fritz: Sustainability.

Thorington: The other issue is the fees. The current notification process costs about \$800 to \$900 a year for the posters and the mailing. So, adding in the mailed notice to the surrounding properties will add quite a bit more to that. We are figuring on about 315 demolition permits a year at about 105 per permit for staff costs. That would be a total of \$33,075 a year. The mail notice -- it would be about 95 a year, which is what it is now. So, that would not be a change. The door hangers would be basically printing costs. And that would be about 630 a year for a total of about 33,800 for our proposed notification for the demolitions. And then adding in the major alteration piece that basically is just going to be the cost of printing the door hangers. We estimate that the number of permits that would fall under this new category would be about 3500, and so the cost for those printing costs would be about \$7000. The total combined notification costs will be about 40,800. If you subtract the current 800 that we're doing now, it would be a new cost of about \$40,000. Right now, we are not looking to raise the fees. If this is the direction that Council gives us and you adopt the ordinance with these notification provisions, then we would take the next six months and see whether we can absorb those costs. With that, I would like to thank you for your attention and turn it over. I know Jeff Fish wanted to make some comments.

Hales: Maybe before you do -- and maybe I want to ask you, Jeff, and other DRAC members that are here to -- appreciate you going through each of these particulars -- but talk a little bit more about

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the context of this. That is, I think most reasonable people would say, there's a house that ought to be preserved. And most reasonable people would say there's a house that ought to be -- it's OK to demolish. We might differ a little on that, but I'm starting with that premise. I also believe that we're not adequately preserving all of the houses that most people would say should be preserved. Some of the houses that most people would say should be preserved are being demolished. And so, there are things we can do -- if you will -- on the back end of the process, which is what we're here about today in terms of controls over demolition that will influence -- maybe influence how often that happens. How often that goes the wrong way. And there are things we can do at the front end, which we do need to address in comp plan and code about what's the setback, the height, the mass, and the scale of what can be built on a single family lot. How many lots can be split? How many can't? So, my question is, how much more can we do on the back end of the process and how important is that versus making changes on the front end of the process? I think we have to do both but I'm trying to weigh that, I'm trying to understand -- are we sending a whole bunch of perverse incentives to your colleagues who are builders and saying in our code it says tear the house down, and all we're doing with this demolition delay stuff is damage control. If you really want us to stop tearing those houses down, change the code. I want you to opine about those big picture questions, because we have work to do soon on the comp plan and the code that says, you can't build a house that's three times the size of the house that you demolished. I'm interested in that bigger picture, understanding from people in the room that care about this. Because my sense is we're going to talk a lot this afternoon about the very particular details of how long the delay is and those things, but if you say as you just did, Nancy, you just reiterated that 120-day provision has been implemented eight times and it didn't stop demolition.

Thorington: Correct.

Hales: Then, I guess I'm wondering if we're focusing on the right -- if we're pulling on the right levers here. I'm not articulating that terribly well. We've had a long day and I think it's showing, because I didn't say that as well as I would have liked. I hope you get the point which is there's a front end set of incentives and disincentives for what you can do with that old house. And we tell the development community in effect, go ahead or no, you don't at the front end. Then at the back end we say, so it's your intention to tear down this house, we're going to make it harder for you in this situation. We're going to maybe make it easier if you recycle the components of the house. I'm trying to weigh how much the front end incentives and disincentives will change the outcome versus how much the back end if you will penalties and delays will change the outcome.

Jeff Fish: You want me to start with that?

Hales: If you could.

J. Fish: I'll start with that before my remarks. First of all, in the 42 years I've been building in the record --

Hales: Jeff, but your name in the record. I'm sorry.

J. Fish: Excuse me. Jeff Fish, chairman of DRAC, also owner of Fish Construction Northwest. In the 42 years I've built in the city, the setback codes and the height codes have changed very, very little. So, if I go out and build a house in a neighborhood that has a bunch of vacant lots in there already versus build a house in a neighborhood that's completely filled up with lots and I demolished one -- excuse me, filled up with homes -- I demolish one, I'm not really building anything different than I would between the two different neighborhoods. The difference I think is that the neighbors recognize that maybe the house that is demolished had maybe a little farther setback because it was sitting on two lots versus setting on a smaller lot. So heights, widths, setbacks really haven't changed in the code very little in 42 years.

Hales: But the market has, right?

J. Fish: The market in what way?

Hales: For what people want to buy.

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J. Fish: Yes and no. I mean, until the '90s we didn't build on 25 by 100 foot lots. It was just kind of a unique thing. Now, we see a lot of that and it's acceptable housing for a lot of people. My view of what the problem is as far as guys demolishing homes in established neighborhoods is the lots underneath them and the cost and the difficulty of getting raw land blocked to a lot basis. I'll give an example. Renaissance Development. When I met Randy Sebastian -- who owns Renaissance -- in '84, he was doing infill spot lots in Portland. Over time, he moved out to the suburbs and started building on subdivisions and building his product out there. He's moved back in. He's now back being a competitor with me because the cost of land and the cost of the entitlements to get on that land are such that it dinged him really bad in the recession. So, he would rather tear down a house and build a home on two lots in a nice neighborhood. So, a lot of the dynamics in my opinion is the dynamics of what metro and urban growth boundaries have done to us. I haven't built in the subdivision per se for years. All mine has been spot lot building. So, in answer to your question I think the front end the problem for most of us going into the neighbors is the land supply. As far as the house being bigger -- historically, houses have gotten bigger. Our houses are pretty much bigger than the houses our parents lived in, and I know my parents' house was bigger than my grandparents' house. And it's a free society. If somebody wants to live in a large house, I don't see a reason we should stop them. You can't also try to dictate whether this home is a spec is going to have a six person family versus a two person family in it. So, that's a hard thing to pigeon hole in my estimation.

Hales: Thank you.

J. Fish: Let me make some additional prepared remarks. I'll try to edit these because a lot of stuff Nancy already covered. The subcommittee from DRAC consisted of myself -- and I'm on DRAC representing the home building community -- Maryhelen Kincaid, Vice Chair representing citywide neighborhood interests; Steve Heiteen, former DRAC chairman representing the home remodelers; Claire Carder, representing neighborhood coalition land use committees; Rob Humphrey, representing small business. And Rob has a permitting service, he helps people get permits, so he was really valuable seeing both sides of the issue. And Christopher Kopca, who represents historic preservation. In addition to what Nancy discussed, through the efforts of Maryhelen; Claire Carder; Justin Wood of the Homebuilder Association; myself; Robert McCullough, president of Eastmoreland Neighborhood Association and Treasurer of Southeast Uplift; Anne Dufay, Executive Director of Southeast Uplift -- we met for lunch during the process to discuss the demolition issues that were occurring in the city. And most notably at the time, the issues that made the press in the Eastmoreland neighborhood. Many of this group again met for lunch as a subcommittee getting to a point with draft recommendations. At Robert's request, he spoke to DRAC at the August meeting to express his concerns with demolitions to the full committee. This may have been the first time at least in recent memory an outside speaker not affiliated with the city has formally spoken as a scheduled guest speaker at DRAC. Additionally as a request, I spoke to Southeast Uplift's board of directors meeting in August regarding demolitions. Personally, I have attended with Maryhelen a Rose City Neighborhood Association meeting discussed draft ordinance, attended a demolition forum held in late June at Concordia College, made numerous updates to the building industry through the infill buildings meetings held at monthly, went to various meetings through the homebuilders association. Maryhelen will probably update you on more numerous meetings she's attended with neighborhood other organizations. We really tried to make an outreach is what I'm trying to get to. Here's my view of what DRAC has accomplished on the two sides. The building industry has given up the K1 exemption that allowed a replacement dwelling immediately after demolition of the structure if the new structure was permitted. According to BDS records, that exemption was used over 74% of the time between May of 2013 and November of this year. The industry will now face a 35-day delay on all demolitions. The remodeling branch of the industry will now have a 35-day notice and possible delay for major remodel over 50% of the structure where they had none before. The neighbors gained information and assurances that local neighbors

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and neighborhood organizations affected would be notified about any major remodel or demolition that has a reasonable time frame to attempt to negotiate a purchase or relocation of a historic or important property that could be negotiated. There is a method to extend negotiation time for the party -- is available. What has not been mentioned -- and I guess Nancy has mentioned it -- that 30-day extension can go as long as those parties want to negotiate. Education -- Nancy touched on this some. We're going to work to make sure that everybody involved with demolition process is informed and educated. One of the major concerns that we hear from neighbors are concerns over asbestos and lead poisoning. It's a valid concern and one thing all of us involved in the committee from staff to builders to citizens came to understand as a complexity of the authority between EPA, DEQ, Oregon Health Authority, OSHA, and the Oregon Construction Contractors Board on who, what, and how it's monitored. The Portland Homebuilders Association of First Americans infill builder group have had Chris Zimmer of OSHA address builders on some of the issues. Chris attended at least two subcommittee meetings, as did Audrey O'Brien of Oregon DEQ. Education will be the ongoing issue with DRAC, BDS, and the industry, which we need to follow up on. Are both sides happy? Definitely not. I know you're going to hear testimony from some people who want to keep the 120 day rule, even though it's not been used effectively. And builders and remodelers happy? Again, definitely not. I've been in the crosshairs of several that think our industry has given up too much. I personally feel DRAC has found a relatively easy solution to a complex question. I suggest the city council adopts this resolution that a timeframe of 12 to 18 months be included to allow DRAC and BDS to monitor the results and at some point we come back to City Council any recommendations to tweak the process as needed. Too often, ordinances don't get reviewed until problems flare up. I would hope DRAC would be allowed to and required to come back and report on how the solution has been working. I want to make a couple other comments before I move on. On the deconstruction issue, as DRAC chairman, I fought that in the subcommittees pretty hard because one of the suggestions came across that we reduce the notification to neighbors down to 14 days if they deconstruct. I didn't feel that protected the neighbors, first of all. I'll be honest with you, I didn't want to be perceived as supporting something that took away some time frame from the neighbors as a builder representing DRAC and chairing DRAC. I told Shawn Wood from BPS I would be happy to sit on any committee. I feel there's merit to it, but I didn't feel we could get anything done on this project if we mixed that in, as Nancy made mention to earlier. I also think that maybe at some point in time, the neighborhoods might want to do an inventory of buildings they really feel they ought to preserve in their neighborhoods, so that when notice comes that somebody is demo-ing something that's kind of high on their priority list -- this house is important to us, we have thought about it, we want to move into saving it, and house B doesn't have any really qualities that we would want to fight to preserve. So, I would like to see neighbors maybe pick up on that. Finally, I got to recognize people involved in this process. First of all, the great BDS staff that worked with the subcommittee. Whether it was permitting, codes, inspection services, or management, they were all valuable, invaluable in finding out information and making suggestions on solutions for the committee. To the neighborhood and neighborhood organizations that attended meetings and participated. To Robert McCullough and Anne Dufay of Southeast Uplift and Tamara DeRidder of Rose City Neighborhood Association. Rick Michaelson, a past DRAC member; and John Hasenberg, an active DRAC meeting participant; along with Audrey O'Brien, Oregon DEQ's asbestos manager; and Chris Zimmer. Additionally Claire Carder, DRAC's neighborhood coalition land use committee member, was willing to find time from her busy schedule to meet with Maryhelen and myself over coffee several times one-on-one to find solutions both sides could live with. Rob Humphrey, DRAC member and owner of a permitting service, often saw problems from the permit side of an issue that might affect the City or the applicant. He was really invaluable to say, wait a minute, this is going to cause a problem for one side or the other. The last two people were most important to the process. Kudos must go to Nancy for keeping the subcommittee group on focus and for the most part on time -- that was tough on

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occasions. Her meeting management skills were a must to try to accomplish the goals each meeting needed to accomplish with so many of us wanting to go different directions. There was so much input from all parties, including staff. Of course, you don't have a completed process until you have someone like her writing the code ordinance. Last but not least, Maryhelen Kincaid. This lady is fabulous. She jumps in with both feet and is a major reason this process got completed. I'll let her update you on the number of meetings she attended, but I can't tell you the number of times I got an email close to midnight because she just got home from a neighborhood meeting -- whether it was involving DRAC and demolitions or some other City committees she's on or was serving on. If the City of Portland has a citizen of the year, I would nominate her. Another citizen might be somewhat worthy of an award, but they have not outworked her. I would look forward to her becoming chair of DRAC next month for the energy and excellence skills she brings to the project. She really did dive in on this, and she held all of our feet to the fire. Didn't matter my side of the industry -- I imagine Nancy would agree with me to some degree -- she did a fabulous job of keeping everybody informed and up to date.

Hales: Thank you. Questions?

Fish: Jeff, the mayor talked about the front door back door, and posed a big philosophical question. One issue that we're not going to take up today but I would like your opinion on is, what is the new owner's obligation in terms of maintaining a house and the property that is subject to demolition but may be months and months off?

J. Fish: Well, his obligation is to keep the house secured, keep the grass mowed, kept up, stuff like that. Keep the garbage out and that kind of thing. That's where some of us have had problems. With did a project out in the Kenton area a couple of years ago where we had design area where we had to notify everybody. We had somebody build a fire in the kitchen.

Fish: Yeah.

J. Fish: Luckily, it was built on a sheet of tin so it didn't burn the house down, but there's been other projects in the paper where people were squatting on a project and stuff like that. So, it's the responsibility of that person that owns the property to keep it up and keep it secure.

Fish: So, I'm glad you said that those are all the obligations because there's a house on my block -- in fact, it's next door -- that apparently is slated for demolition. And initially, there was a sign out front and they took that down. But I have noticed almost everybody is using it as the bathroom for their animals. The lawn is not being mowed, and I'm starting to see periodically someone put up used wood to cover openings or holes or other kinds of things. I don't know whether that's because people are trying to get in and squat. But I hope it's well-understood to folks that buy these properties and intend to demolish them they that they have do have to be good neighbors up until the time they take them down and maintain them. Otherwise, they become attractive nuisances, and a lot of bad things can happen. Frankly, one thing I thought about, what if someone broke in, was in there, used the fireplace, it caught on fire -- my house is right next door. I mean, how do you make sure that bad things don't happen to the neighbors with essentially an abandoned house?

J. Fish: What the code did require was people post a big orange notice on the front door and that's what was drawing transients in. I'm not familiar with the state law, but I know if they become squatters, they have some legal rights to stay in the project. So, that's one reason we want to take those notices off, notify the neighbors. And the reason we picked the door hanger rather than posting it on a telephone post or something -- we thought that a transient in the neighborhood might recognize that door hanger to be some advertising from the carpet cleaning guy or the girl scouts or whatever and wouldn't pay attention to it. Yet, it also would be placed on somebody's door so they would see it and know there was going to be something happening. We really want to -- at least I did, some of the other people involved -- really wanted to take that notice to transients away so not only were we not affected as developers, but the neighbors didn't have -- as you stated somebody -- next door that might burn the house down and damage their property or destroy their property.

Fish: Thank you.

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Novick: Can I ask about the 150 foot rule? I think a normal block is 200 feet. I'm just wondering what the rationale was for saying that the notice would only extend 150 feet from the house in question.

Thorington: That was basically taken from Title 33 because there was already a provision in the code for that. So, we just mirrored that.

J. Fish: The intent was to mirror it, Commissioner, similar to the land use notification. Not only were the customers coming to BDS -- OK, do we use 150 on this and 200 on another one? Staff didn't have to remember. So, we tried to mirror it so it was an easy, knowledgeable thing.

Novick: Gotcha. I should have realized that. Over the years, have we gotten feedback on 150 feet? Do people think that's adequate?

Thorington: Have we gotten feedback on --?

Novick: Feedback from neighbors of houses that have been or proposed to be demolished saying they think that the notice should extend beyond 150 feet to like a full block or two blocks or something?

Thorington: I haven't received any comment that they didn't think that was adequate. Part of the thing is we're adding -- we're recommending adding this mailed notice that doesn't exist right now. So, it's making the notice a lot more effective, we think.

J. Fish: There was nothing in the past, but I do remember there was one citizen that was at one of our meetings that suggested we go four blocks. We thought that was a little far, personally.

Hales: Other questions? Do you have anything else to add?

Fritz: I just wanted to thank Mr. Fish, especially for reminding me about the need for the report back. I can't believe I missed that. So, I'm going to have a friendly amendment to my own ordinance here, and that is to have number 12 that will say, BDS is directed to continue working with DRAC on this issue and to bring a report to Council by June 30, 2016 providing an assessment on the outcomes of these code changes.

Hales: I'll take that as a motion. Is there a second?

Saltzman: 2016?

Fritz: Yes. That's a year to get the data, and then a little beyond that. This won't go into effect until -- what, February now? Because we'll be voting on it until after Christmas. Yeah, it's coming right up, 2015.

Hales: Motion, seconded. We'll take a vote on that so that's what's in front of the council.

Moore-Love: I'm sorry, who seconded?

Saltzman: I did.

Roll on motion to add finding #12 to direct Bureau of Development Services to continue working with Development Review Advisory Committee on this issue, and report to Council by June 30, 2016 with an assessment on the outcomes of these code changes.

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

Hales: Thank you.

Thorington: I think that Maryhelen and a few others wanted to come up.

Hales: Yes, please. Come on up.

Maryhelen Kincaid: I also wanted to introduce Chris Zimmer, who is the senior investigator for state OSHA. And he was going to speak a little bit about their relationship.

Fritz: Just bring up whoever you want.

Hales: Please. Mr. McCullough, come on up with Maryhelen and Mr. Zimmer? We've got three chairs. Make yourself comfortable wherever you want.

Kincaid: I'll do clean up. I think Robert has to leave.

Robert McCullough: Robert is happy to be back from Quebec. And I know you've seen enough of me recently but I'll be very quick. When I was talking to the regulatory panel in Quebec, I missed Joe. It was so much less exciting than our friendly -- Joe the speaker. They are much more serious in Quebec than they are here. This is very brief. We are luckily blessed with some pretty good

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grassroots leadership in the community. Jeff, Maryhelen, Claire, Anne Dufay and I had lunch several times. First lunch was early enough that I was still secretary of Southeast Uplift before I was unlucky enough to be elected president of Southeast Uplift. And right from the start, it was a business discussion. We knew we were entering a really grueling period of conflict. Over this period, Eastmoreland lost 100 trees. We like our trees. I've been known to hug our trees. We had a variety of issues. I was amused with the question of how far the notice should be, because we had zero notice. And frankly, I would get calls at seven in the morning saying, there's a bulldozer knocking down the house next to me, what's happening? We've addressed all those issues -- and very, very well. And I don't think Maryhelen has been praised enough. I've asked her to marry me, but unfortunately Presbyterians are not allowed to have harems.

Kincaid: That's right, put that on the record. [laughter]

McCullough: And those of you know my wife knows that this would be a suicidal moment.

Fish: ONI does have a mediation section --

Fritz: Her husband is a Navy veteran, I wouldn't advise. [laughter]

McCullough: So, bottom line is the following: this is progress. I have raised the exact code language with our land use committee, the formidable Rod Merrick -- those who have met him know to fear him. Also with Bob Kellett at Southeast Uplift. We'll have some changes; this is an evolving process. And Jeff Fish's proposal to have a revisit is a good one. I would endorse that. There's a lot of debate about the 120-day delay. As used as a club, it was not effective. As was used as a negotiating period, it might be. But where it was until this moment was not effective, and we know that people found loopholes in it. And so, there will be a lot of debate here from people we represent and our allies. LLS worked very hard on this issue, has positions slightly more extreme than Southeast Uplift, but we actually like LLS and we think he should be listened to very carefully. I said if you want to bang on me for saying this is a pretty good step, feel free -- and some of them may. So from Southeast Uplift and people that worked their tails off on this, I think that Jeff and Claire and Maryhelen have done an excellent job. And we will probably come back, there will be fine tuning. Let me say one sentence on your comment about the relationship between the comprehensive plan and demolitions. Obviously, the comprehensive plan is the key. That's what the foundation is. We haven't got a very good idea of how this city works. A big issue in Eastmoreland is the underlying plot lines from the turn of the last century became buildable without really anyone's notice. Suddenly, the house you not was on a street of 50 by 100 lots instantly became 25 by 100 lots. Well, if you have an investment in that, you're pretty upset. So, there are a lot of comprehensive plan issues that are important. We are addressing them. We want to maintain that single family operational neighborhood feel of Portland. That's actually very central to our character. And so, we will be revisiting that with you. And we will take it very seriously. Believe it or not, I'm going to shut up and leave. Thank you.

Hales: Thanks, Robert.

Fritz: Thank you very much for participating in this whole process.

Claire Carder: My name is Claire Carder. I'm at 6156 SW Nevada Court. I am one of two neighborhood representatives on the DRAC -- Maryhelen Kincaid being the other one. I'm here in support of the DRAC's proposed development code amendment to address changed circumstances related to how residential demolitions are allowed in the city, and to answer any questions the city council may have related to the proposed code changes -- if I can, although probably Ms. Thornton is a much better authority than I am. I truly appreciate Mayor Hales' perspective about the demolition process, and I believe that our proposal to address the issues is the best that BDS and the DRAC can do under our current authority. Thank you very much. I would like to add some additional information or just to make a statement about the 120-day demolition review which is currently allowed in the City Code. I want to emphasize that city neighborhoods have few tools to address what might be built in their neighborhoods. While the City's land use codes all have some level of notification of neighborhood associations, part of their land use process -- the

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neighborhoods have few tools to actually address concerns or issues related to the actual form residential development would take. The 120-day delay associated with currently with residential demolition has frequently been used by the neighbors and neighborhoods to express frustration and anger about the lack of meaningful opportunities for neighborhoods to weigh in on new residential development. It is the only tool that can be used to address properties with cultural significance, since property rights -- who owns a property -- trumps the community interests in individual properties, as I think we all understand. The proposed 35-day demolition notification and the additional 30-day waiting period provides a minimal amount of time for business organizations, neighborhood associations, and historical societies to contact property owners to discuss demolition alternatives. The current 120-day delay can be a significant financial issue for property owners waiting to develop during which time the developer must continue to pay on loans or financial instruments. There is no requirement for evidence of progress toward a realistic demolition alternative on the part of those proposing the 120-day delay. While 65 days after hearing of a proposed demolition is not a lot of time to develop a proposal, this provides a small window to assess possibilities and develop -- or attempt to develop -- a relationship with the property owner. I would especially like to emphasize, the 30-day waiting period after the initial 35-day notification does not require that a plan is in place and has been executed. It is additional time for interested parties to explore options to determine if a property owner is willing to consider options and may allow the parameters of negotiation to be determined. While we have as little as 24 hours to respond to a proposal to buy a property in the private sector, that amount of time frequently in the volunteer and neighborhood sector is not possible, since neighborhoods are volunteer organizations. There are many different circumstances that affect their receiving a notice and their ability to actually mobilize interested parties in their neighborhoods. I think the current 120-day delay is significant financial consideration for a property owner to deal with. I think the current proposal -- which is a 35-day notification with the potential for 30-day window extension -- would allow the intent of the existing 120 day delay to remain while requiring that organizations not drag their feet in contacting a property owner and moving towards developing a plan to an alternative to destroying what might be an important community resource. I think the process that we've used to develop this proposal has been phenomenal. Members of the DRAC stepped up, they contributed their time as Robert, as Jeff Fish, and as Maryhelen will probably tell you. I think that also this is the best possible proposal that we could bring to you today that is within the jurisdiction of BDS, although there are larger issues in the development community that remain to be addressed. Thank you very much.

Hales: Thanks very much. Thanks for your help. So, Mr. Zimmer, I think you're next.

Kincaid: Let me get a little prelude to this. Early on, we were trying to figure out the whole hazardous materials handling issue, and the City doesn't handle it, the state enforces it they've never spoken or been in the room together. So, I said to Paul Scarlett, can we get them in the room together? And he said, you can. I got on the phone and called Representative Kotek's office, who happens to be in the Kenton Firehouse and very convenient to me, and said, how can we get these people in the room? The next morning, Chris' boss Penny Wolf-McCormick called me and Audrey O'Brien from DEQ called me and said, what can we do to help? I thought, good, Tina got out her big stick for me. So, Andee Short in her office was instrumental in getting people to contact us, and then Chris came to the meeting, and it's been a very good relationship. I invited him here today so you could hear the commitment on the part of the state OSHA. So, that's the background.

Hales: That's great, thank you.

Chris Zimmer: I'm Chris Zimmer with Oregon OSHA. As Maryhelen said, she invited me here yesterday. So -- as prepared as I am. Basically, one of the things I've noticed over the years is -- I've worked as an inspector, investigator for OSHA for about 18 years, and I've primarily focused on construction-related health hazards. One of the things that's a primary issue that Maryhelen and others have run into is lead paint and asbestos -- two of the reasons most of the stuff pops up in the newspaper, because there's a hazard there for children, families, and of course the workers that I

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regulate. The issue that I've come to realize since I have worked there is knowledge base in the construction industry is very limited. For years, it's been overlooked. It's much easier to head into a nice, clean office building, talk to people, inspect them, everything is the same every day and you can leave and things will remain the same. Construction -- its nature is to change every day so it's difficult to enforce those things when they are short term, possibly one or two days and the whole project is done in the case of demolitions that we've looked at and inspected. Despite the fact that OSHA has had these rules around asbestos and lead around for 20 years, I find the majority of the licensed contractors and homeowners failed to have the necessary education or training to understand what they are doing. As such, we run into a lot of problems. As a result, the community has to deal with it as well as financially the contractor, the homeowner -- somebody has to clean it up and deal with the results of those things. So, after dealing with the stuff myself for 18 years, I've taken it upon myself to get out and talk to these groups and try to figure out how we can help them. And I've discovered that probably the most efficient way to do that is to try to do outreach. As an enforcement officer, my primary thing is to go out and take look at what they're doing and ask them to correct it. For years, there was no regulations on lead at all inside houses. So, there were recommendations through the health division and they would chat with them, but couldn't require them to do anything. So, a lot of that fell to OSHA because we're a regulatory agency and that's our primary directive. I would show up and in doing so, I could speak to the homeowner, the neighbors, talk to them, ask about what they've seen, talk to the contractor, the employees. Everyone now kind of gets an education. This is the thing that needs to continue to improve. There have been additional regulations from the EPA here in Oregon and because of that, the education and training level and therefore the health and safety of the neighborhoods has improved. One of the things that we discussed was creating some more outreach. Something that I propose -- as a group we proposed -- was providing a training document of some kind that would allow them to not only put their name on the line that said they received something that would protect the neighborhood, but also would give them the education necessary and remind the person that fills out these demolition permits that there are a few primary hazards that are out there in the neighborhood that we really want to prevent exposure from to the community. That's one of the things that we have been working on as a group to get that lead and asbestos training, that education in a document in their hands so that they have number one, an idea and understanding of who will enforce these rules, what resources are available, and how they can get those -- whether it's through a web page, a phone number, or a contact. Thank you.

Hales: Thank you.

Kincaid: ONI is having their neighborhood summit February 28th and he and a representative from the construction contractors are going to be there to do some work sessions. So, the neighborhoods will have exposure to that. In that area, there's a huge win for to us to be able to make that connection. I wanted to really bring attention to -- they have put a lot of effort in that and he's the only guy in the whole metro region, I think. So, taking that time.

Hales: Appreciate you for being a resource for us. Thank you.

Zimmer: Absolutely, I appreciate the time to do that. It's something I enjoy doing.

Kincaid: I'm going to tell you things you haven't heard and may not know. Because you've already heard a lot of it -- and I might repeat a couple things that I think are important. People talked about the number of meetings we went to. I tried to count them -- and some weren't on my calendar -- but I did come up with a timeline. DRAC started this discussion at our April 17th meeting and ended November 20th with the proposal, the resolution that's before you today. So, there was eight DRAC meetings that we discussed this. There were 10 subcommittee meetings -- which averages about three meetings a month -- just on demolition. And I learned more than I ever wanted to know about demolition, construction, etc. But maybe that knowledge will come in handy someday. Then I started in to the other meetings. Like Jeff insinuated about coffee meetings or with Eastmoreland neighborhoods or someone in another neighborhood or whoever approached us. Because there's not

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really a formal process within BDS, like there are district liaisons on BPS to do these things. So, I think we did a phenomenal job. I came up with a figure of over 45 neighborhood build years, those kinds of meetings, in a period of six months -- which goes down to eight meetings a month. I wanted to bring -- I already mentioned this, but special recognition to the coordination of Andee Short in Representative Kotek's office in getting this connection, because I think it's a huge, huge benefit. One of the big things I heard from the neighborhoods was they wanted increased notification and they wanted to be protected. And they wanted K1 to away. In one of our very first meetings in April, they said yeah, it's going to go away. That was one of the easiest ones we got over. But being able to craft and get the information in -- it's confusing to everybody, to BDS staff, the neighborhoods, the state of who does what and how we can coordinate it. That's all coming together and I think that will be a huge accomplishment. It's not really a in code and it's not really a policy, but it will protect the citizens of Portland. I wanted to speak to Commissioner Fish's question about the examples of the use of the 120 days. There are three instances in North Portland that didn't use 120 days. They did negotiation with land owners to save properties. Overlook neighborhood in the oak savannah and there's an older house in that. There's one in St. John and one in Portsmouth.

Hales: That did use, or didn't?

Kincaid: They did not. They just went on their own and started talking to the owners. In one case, the owners is actually helping them with fund raising to actually purchase the property from them. There's lots of other unique ways to do this, and I think part of the outside the box thinking on this is not to hit people with a big stick, but to teach them how to use tools that are there. How neighborhoods can raise funds, how they can coordinate and save those things. You'll hear -- and I'm sure and I wanted to emphasize this -- we do need to look at an inventory of what's valuable to us in the neighborhoods to help this. If we can do it for trees, we can do it for houses. We can go out and do that inventory. As far as pulling the levers, I think this committee -- and I'm glad it's an amendment, because it was a strong point I wanted to make. There's going to be oops in there somewhere that we don't know today sitting here. Jeff Fish has followed this entire process and invested a lot of his time, and we can all spend a lot of time telling everyone how wonderful we were, but my attitude has always been you're only as good as the company you keep. We had a lot of really good company so we got a good product out of this. I think that his ability and willingness to stay on and serve on this committee will be a huge benefit. I think that the suggestion to -- and I don't mean this lightly -- but the suggestion that there will be a committee to look at the design review issues, underlying lots and what comes after -- there's arguments on both sides. I don't know, because I don't know who is in the audience, but there's not an organized effort of people that like those houses, people are buying and living in them. I'll give you a specific example on SE 20th in Ladd's Addition. It's across the street from historic design. It's a huge monster of a house. It's three stories, 5000 square feet. It's square, it doesn't look like any of the Portland cottage houses in there. A lot of people don't like that house. I took a friend of mine from San Francisco that lives in those painted little Victorian houses in a quaint area. And she came by there and said, well that's really cool, it's different, it gives new character to the neighborhood. I hadn't had that vision before. I know there are people that will disagree with me, but there are people have different visions that think our neighborhoods might need to be something different, that there might need to be something different. I grew up in a neighborhood in North Portland across from the University of Portland and there were three houses on the block. They subdivided and built my parents' house, which is a ranch style house. And I forever lived with the term that I was the kid that lived in the ugly house because it didn't look like the other three houses that were on the block. So, I kind of understand that. But I think as we grow as a community and a city we have to realize there's going to be differences. Everybody is going to decide they don't like something, but somebody may. And that came out clear in a lot of neighborhoods. We heard mostly from the people that disagreed, but there were a lot of people that would whisper in my ear afterwards after meetings saying, you know,

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I really do like that house but I'm afraid -- so, their voices are just as important. They weren't as loud for the most part.

Fritz: Maryhelen, maybe we could have you save the rest of your testimony and come back after we've heard from others? Because it seems like you're going through some of the things that we're going to hear in testimony.

Kincaid: OK. Can I just say one quick thing before? Because I don't know how long people will last here, and I didn't bring my pillow. I threatened to bring my pillow. My special recognition is going to Nancy Thorington. Because we throughout this entire process called her the cat herder. She brought all kinds of people into the room. There was a lot of -- oftentimes, there was contention. She was able to keep us on track and do all those things. So, I didn't have a trophy, but I brought her a little presentation piece here. It's a mug. And it says cat herder on it. [laughter] I tried to get it here without breaking it.

Hales: You might have succeeded.

Kincaid: Because -- you all know, you have seen me enough times, and I've been on enough committees -- and they all haven't been stellar, and they all haven't been the best -- it hasn't been the best of experiences all of the time. But Nancy did a phenomenal job, and I think she deserves special recognition for that. I'll stick around.

Fritz: You, too, have done a phenomenal job. Thank you so much, Maryhelen, for all your work on this.

Hales: Thank you. Are there other DRAC members, Commissioner, that are going to speak, or should we open it up?

Fritz: I think we should open it up.

Hales: OK. I understand there's a very large number of people signed up to testify. We'll try to give you an opportunity to do that. If you have heard one of your friends or neighbors make your points well, please don't feel any compulsion to be repetitive but say, "what she said." And maybe be merciful to not only us but your fellow citizens here. So, we do want to hear the various perspectives on this issue, but if you think your points have been well covered, do exercise that option if you'd like.

Fritz: How many do we have?

Moore-Love: We have 39 people signed up. The first, three please come on up.

Hales: Good afternoon.

Caroline Dao: My name is Caroline Dao, I live on 4045 N Missouri Avenue. Good afternoon, Mayor Hales and Commissioners. Today, I'm speaking to you guys wearing two different hats. I may take a little extra time, but I promise not to go on and on. First, I want to talk to someone who has actually used the 120-day delay in my neighborhood association. And so, the eight examples in the last year -- that was one that was successful. The second hat is obviously the Landmarks Commission. And we worked on the white paper and the follow-up letter that you should have in front of you. The second page of the letter is the picture of the house that our neighborhood moved. I want to start with the neighborhood side, because I think that throughout the process, a lot of assumptions made about how this was used or abused. I'll tell you a story of how the house was moved. In 2013, I was the president of the Boise Neighborhood Association. Boise covers Mississippi Avenue, North Williams, North Vancouver. And at the time that we got the demolition notice, we were coming off the heels of a lot of major development. We had gone in for a design review appeal, and we were getting ready to go in for another and we were all pretty exhausted. We got the demo notice, it was kind of sad for our neighborhood because this particular house was on the cover on the History of Albina, and it's sort of a flagship property. Even though it was a little derelict, it was a prime example of a type of house in that neighborhood. And so, we didn't go for 120-day delay right away. We were told there was nothing we could do about the demolition. The way that it was -- the owner was long time owner. He had lost his job, got foreclosed on. He was in the middle of home renovations, and so no one could get a traditional loan on the house. So, it was

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bought with cash by a developer and he put in the demolition notice right away. So, a lot of people approached the developer and tried to buy the house. You know, will you please renovate the house. This is all prior to the 120-day delay. He didn't want to do any of that. That he was going to split the lot and build two townhouses. We were told by Northeast Coalition of Neighborhoods that since this is a contributing resource on the Albina conservation district, we were eligible for the 120-day delay. AS the neighborhood president, I put in for the delay right away. We didn't have a plan, but we knew we would put one together right away. We started work contacting Emmert International, since we knew the only way to save the house was to move it. And he gave a discount of \$5000 and said if anyone wants the house, it's going to cost you \$70,000. We went on a social media campaign -- slacktivism, as Commissioner Fritz likes to call it -- and the developer was vilified right away. And not on purpose. So, there was a lot of social pressure on him to do the right thing. The DJC picked up the story, as well as The Oregonian. And so, there was a lot of social pressure on him and it became very contentious almost immediately. But we started work, and we looked at what are the open lots in our neighborhood that we could move the house to that's close that would reduce the cost? We started contacting individual property owners. Then we started contacting people to buy the house and move it for that \$70,000 fee plus SDC and permit fees. So, long story short, we utilized the delay. It took well over 120 days. BDS told us right away that it takes longer than four months to move a house. That was true. We ended up moving the Killingsworth exit sign, and that takes a while. So, we utilized it and it was successful and it was really inspirational for the whole neighborhood and it was a success for us, given the amount of development that had going on at the time. The second hat is Landmarks Commission. I just want to echo what everyone is saying about Nancy Thorington. She was well prepared, she led us through a lot of passionate conversations. I want to point out there were a lot of successes with the DRAC resolution. I mean, the K1 exemption, the increased notification -- but the Landmarks Commission does have to take issue with the outright removal of the 120-day delay. Because a 30 day by 30 day voluntary extension isn't always possible in a situation where the relationship is contentious. And when there's finances involved and social pressure involved, it may not always be easy. I know there was one point in there where the developer would not have signed that 30-day extension. I believe that. So, Landmarks Commission respectfully opposes outright removal of the 120-day delay because there's really no codified incentive for the developer to engage with the neighborhood. And really so far, we don't see evidence that it's been abused and it has been successful in one instance. I think it's without protection of our historic properties right now. The 120-day delay is our best hope to save some of these gems of our neighborhood.

Hales: Thanks very much.

Fritz: Did the Landmark Commission consider that it was a trade for 35-day delay for everything versus 120 in some instances?

Dao: I think there's definitely some confusion about that, because the K1 exemption -- the way it was presented at first was the K1 exemption was brought into code because some houses were being raised and demolished to make way for developments like Legacy Emmanuel Hospital and weren't being replaced with anything. So, it was a surprise for us that at the last meeting it was stated they went hand in hand. That was a lot of the reason why I think it may be a surprise that we're opposing this outright is because the way it was explained to us is they belong together, and that wasn't our understanding from the outset of this process.

Fritz: Thank you.

Hales: Thanks. Good afternoon, welcome.

Margaret Davis: Good afternoon. I'm Margaret Davis, I live at 3617 NE 45th Avenue. It's an honor to be here. Today, you heard recommendations from the Development Review Advisory Committee in part prompted by a July 31st hearing in these chambers in which the Landmarks Commission sounded the alarm on the epidemic of home demolitions as they entered their second record-breaking year. Members of United Neighborhoods for Reform attended the DRAC meetings

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dedicated to solving the problem, however, despite some elements we support, overall, we're disappointed by the recommendations and are especially disheartened by proposed code changes that dramatically reduce neighbors' ability to save viable, affordable housing. You will hear more from our members about how we agree, disagree, and even object to the recommendations. My job today is to tell you about United Neighborhoods for Reform. Two months before the Landmarks Commission hearing, neighbors were already at work. In May, we convened a citywide summit and held two others in the fall, drawing the activists from 37 neighborhoods. The goal was twofold: save affordable housing, and ensure more positive development. United Neighborhoods for Reform grew from these grassroots. Its steering committee includes teachers, planners, economists, and attorneys -- full disclosure, I am a recovering journalist and infill developer. Many of the ideas generated by the summits form the basis of a demolition development resolution now endorsed by 39 neighborhood associations. And I have a map for that, Karla. Thank you. [applause] Yay. This document represents the boots on the grounds perspective often missing in the discussion over demolition and development. This is the voice of the early stakeholders in the city. As hundreds of homes and average of 87 years old head to the landfill, we lose more than quality craftsmanship and materials. We also lose affordable housing, economic diversity among neighbors, mature urban tree canopy, solar access for energy and vegetable gardens, and neighborhood character and history, and more. Comp plan policy 5.33 calls for preservation of small and affordable single family homes. This makes that priority a reality. In addition, we want to build on Portland's reputation as a green, sustainable city -- one committed to public health and safety. Local preservationist Cathy Galbraith says, in Portland, we try to recycle everything, but throw whole houses away. In those demolitions, toxic clouds of hazardous materials such as asbestos and lead are released uncontrolled into the environment. DRAC has done a fine job of eliciting developers' views. Aside from the K1 exemption -- which we agree with -- we are not convinced that most of the recommendations will better manage home demolitions, and some may make things worse. In particular, neighborhoods should not lose protections earned 25 years ago, and they should not have to ask permission from the developer to request a demolition delay to save a home from the landfill. The most effective solution brings all interests to the table. Time and time again, neighbor involvement has improved developers' investment in our community. This resolution and its request for a task force that equitably represents residents as the voice of those who are most heavily impacted to conversations about this city's future. Let's protect what makes the city great -- a range of well-built, affordable housing. And when we build, let's make a Portland that makes us proud. Thank you.

Hales: Thank you. Good afternoon.

Janet Baker: Hi, my name is Janet baker. I live at 3416 --

Fritz: Let me interrupt you. You don't need to give your addresses. Just for the future.

Baker: I'm a member of the Beaumont-Wiltshire Neighborhood Association board and a member of UNR steering committee with Margaret. As Margaret told in her testimony, a series of these summits started in spring, drawing more than 100 participants from 37 neighborhoods. Ideas generated during these summits form the basis for the UNR resolution, which you have before you. In the spring, we also started attending DRAC meetings although we had no official status in that group. The resolution was finalized in early November, and then the real work began. Members of the subcommittee -- steering committee contacted each of the Portland 95 neighborhood associations offering to present the resolution before their association boards, land use committees, or neighborhood general meetings. To date, 39 associations have voted to support the resolution -- as shown in Margaret's map -- but it's a little hard to see the map, so I'm going to read those to you. Alameda, Arbor Lodge, Ardenwald-Johnson Creek, Argay, Arlington Heights, Ashcreek, Beaumont-Wilshire, Brindlemile, Brooklyn, Centennial, Concordia, East Columbia, Eastmoreland, Elliot, Grant Park, Hayhurst, Hosford-Abernethy, Humboldt, Irvington, King, Maplewood, Markham, Marshall Park, Mill Park, Mt. Tabor, Multnomah, Northwest District Association, Overlook, Pleasant Valley, Powellhurst-Gilbert, Reed, Richmond, Roseway, Russell, South

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Burlingame, South Portland, Vernon, West Portland Park, Woodlawn. We also received a number of qualified endorsements from about a half dozen other neighborhood associations. Many of the neighborhood associations had no meeting during our time period from mid-November to now. A few called special board meetings to be able to vote on the resolution, but many of them have invited to us present the resolution to them when they have their first meeting again in January. We've been pleasantly surprised by the outpouring of support at these meetings. It's as if the resolution has touched a nerve among Portland residents. In my opinion, this was an incredible outreach effort in a very short window of time. Some members of our group -- all volunteers -- made three or four presentation as week at meetings that often stretched into the night. The issues surrounding demolition of Portland homes are not going to go away. Unless actions are taken every day, another Portland home will be torn down. Thank you very much for listening to us and to the neighborhoods that support the resolution.

Hales: Thank you all. Good afternoon.

Barbara Strunk: Good afternoon. Thank you for allowing me the opportunity to speak. My name is Barbara Strunk. I live in the Beaumont-Wilshire neighborhood, and I'm a member of United Neighborhoods for Reform. I was awakened to the trend of demolitions in our Beaumont-Wilshire neighborhood this year when a beautifully-maintained, large brick house with leaded glass was bought by developers to demolish. I do not object to the replacement of unsound houses. However, when a developer tells me he is demolishing a good iconic house instead of remodeling because he cannot make enough profit, then I do react. I looked beyond our block at what was happening in our entire neighborhood in the two-year period, 2013-2014. In Beaumont-Wilshire alone, we have had 85 demolitions and new construction, and remodels that have the impact of demolitions on our neighborhood. From data compiled from Portland Maps from building permits and realty ads, we have found that new houses on average are 2.3 times as big and 2.4 times as expensive as the houses they are replacing. Of 85 demolitions and large remodel projects, only 3% or 4% were done by homeowners who continued to live in the house. Demolition and development in Beaumont-Wilshire in 2013-2014 resulted in an increase of 13 houses. So much destruction for so little gain in density. The median price of these new houses is \$766,000 compared to the median house price of all Beaumont-Wilshire houses of \$449,000. Government officials we have talked with about this trend have stated that the demolition rate of 300 houses per year -- demolition as currently described by the city of Portland -- it would take 483 years to replace all the houses in Portland. In Beaumont-Wilshire, using the more common sense definition of demolition as the actual destruction of the house, the rate we are seeing will result in replacement of all current houses in 52 years or less. Even more chilling is this statement by another developer that all the bungalows in Beaumont-Wilshire -- an example of relatively affordable housing -- will be gone in 10 years. Figures and statements like these go a long way toward explaining why so many Portland citizens feel an urgency to examine and slow this demolition development trend. The current demolition development activity in Beaumont-Wilshire is not adding meaningfully to the general stock of housing or to the stock of sustainable, affordable housing. I do not want to see my neighborhood become a place where the great majority of Portlanders cannot afford to live. Thank you.

Hales: Thank you. Good afternoon.

Claire Coleman-Evans: Good afternoon, members of Council. My name is Claire Coleman-Evans and the video that I'm going to be showing you today was made because of a King neighborhood resident, Fred Lifton -- and there's a copy of this testimony that I have to Karla -- who was mobilized to join United Neighborhoods for Reform caused by the demolitions in his neighborhood. In particular, one in which a classic Portland home that had been petitioned into a duplex was torn down to make way for a large, lightly-constructed single family home. The pictures making up the video are mostly of Northeast Portland homes, but in my neck of the woods -- Southwest Portland -- I was awakened and shaken by the sound of a bulldozer ripping apart a perfectly good, affordable single family home located at 4521 SW 60th Place. Every neighborhood probably has this litany of

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demolition tragedies. This is just part of the Portland story. Bill Deene's protest song Don't Tear Them Down, which accompanies the pictures, came out of the Overton miracle of 1989 in which 23 protestors were arrested trying to stop the demolition of homes on NW Overton and Pettygrove Street. Protests then included vandalism and arson. The unrest prompted changes in City Code to preserve existing homes. The projections we are fighting for? DRAC recommends reducing demolition delays that has helped save these homes. DRAC proposes to require that neighborhoods or people interested in saving the homes obtain the property homeowner's permission to request the delay. This song was offered to our efforts and hopes to save affordable the housing throughout Portland by [indistinguishable] who involved in the Overton miracle, and Billy Oskay, who produced the video. The video runs about three minutes, 40 seconds. So, Mary Ann Santana is going to take her time. [video playing] [applause]

Hales: Thank you very much. OK, let's take the next folks, please.

Fred Leeson: I'm Fred Leeson, board president of the Bosco-Milligan Foundation at the Architectural heritage Center. We've been an active member of the Portland Coalition for Historic Preservation and provide a venue for many of its meetings. This is starting to feel like a home away from home, and I'm sorry about that. One of our primary concerns entering this process was the definition of demolition. Many cities -- including Ashland, Berkeley, and Pasadena in California and Amherst, Massachusetts -- define it as a loss of a specified percent of roof structure or exterior walls, commonly 50-60%. Ashland is generous at 60%. We regret DRAC chose not to accept this kind of definition as recommended by the Landmarks Commission. Instead of the idea of a 50% or 60% rule, the idea was to encompass the virtual demolitions that left little or nothing standing of the original house. These will now captured by the remodel category, a new category included in this package. At first, it seems to be a distinction without a difference, since the same 35-day delay would apply to a demolition to a major remodel. So, why was the major remodel even there? I suspect there's some sort of gamesmanship going on here that I'm not smart enough to figure out, but maybe we will discover it in time. If the council adopts 120-day delay -- as we hope it will -- the potential for fudging becomes much more apparent. Leaving a chimney or a single door would be a major remodel rather than a demolition. The loophole would be almost big enough to drive a bulldozer through. I think there are always grounds for skepticism whenever any particular industry writes its own regulations. I appreciate Commissioner Fritz's amendment about gathering information over the next year. Tracking those statistics will help us determine how effective this will be. Not every house needs to be saved, but when the exceptions come along, we need to have tools that allow opportunities to protect them. Once they're gone, they're gone. Along with the adverse impacts on sustainability, moderate income housing, neighborhood compatibility, and sense of place. Thank you.

Hales: Thank you. Welcome.

Al Ellis: My name is Al Ellis, and I go by Al in my neighborhood, which is Beaumont-Wilshire. I'm formerly president of the Beaumont-Wilshire Neighborhood Association, and I chaired the United Neighborhoods for Reform summit meetings, and I've come here before wearing another hat -- I'm president of the Portland Khabarovsk Sister City Association. You know, this whole issue was off the radar for us a couple years ago. And I just finished my term as president of the neighborhood association last April. And all of a sudden, I was getting lots of emails, phone calls, people were showing up for general meetings about this issue -- it caught us by surprise. And people wanting us to -- neighbors -- what can the neighborhood association do about this situation? And so, we did a little research, I called up BDS, we decided to make a test case of a house, try to save a house that was an iconic house on a block, and it was quite a nice house. Market value was \$700,000, annual tax -- property tax of \$9,000. And all the residents to a person on the block wanted to save it, so we made a test case and I called up BDS and requested 120 -- this is, you know, it took us a while just to decide as a neighborhood association board to take on this case to try to save the house amidst all the other houses that were in need of saving, according to residents.

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So, once we got to the situation, we needed a delay. We needed a time to sit down with the developer and the residents. So, I called up BDS, and on the same day we got the 120-day delay. So, I sat down with the developer, with a representative from the residents -- representative from the block -- and the first thing that the developer said is, had I known early on that this was such an important house to the block, then I wouldn't have bought it for demolition. I don't know whether he was telling me the truth, but he seemed sincere. And that resonated. We weren't successful in saving the house. In fact, we didn't even get the whole 120-day delay because of the K1 that the developer was able to get around that and nullify the 120-day delay. So, we're pleased that the DRAC committee is recommending eliminating the K1 provision. So, after that house was destroyed -- and we kept getting more and more emails, phone calls, etc., what could we do? [beeping] Well, the comprehensive plan was something we could go to, but that was really far in the future, and the DRAC committee, that was -- we had observers, we would go -- we would have people from our neighborhood association go to the meeting, but it was observer status, and the developers who dominated the committee didn't seem, you know, favorable to the kinds of reforms we were talking about. And so, what could we do? So, in the waning days of my presidency of the neighborhood association, I thought, what if we could bring together neighborhoods from around Portland who have similar concerns? Craft some kind of common proposal of reforms and bring it here to the council? And I have no idea whether we would be able to pull that off. And so, we had the summits, and we eventually called the organization United Neighborhoods for Reform, and here we are. And you can see that people are well-organized, we have neighborhoods from all over Portland.

Hales: I need to you wrap up, because we're using time.

Ellis: I just want to say that we're very pleased with the DRAC committee's recommendations except for the elimination of the 120-day delay. I think the mayor hit it on the nail when he said it needs a combination of front end and back end, I think that's really important. Commissioner Fish knows what the process is, he's going through it right now living next door. And in closing, I just want to say that for thousands of residents around Portland, this issue is the elephant in the room when it comes the quality of living in the neighborhood. Thank you.

Hales: Thank you. Welcome.

James Gorter: My name is Jim Gorter, I live in the South Burlingame neighborhood, and I'm speaking today on behalf of United Neighborhoods for Reform. As Ms. Thorington said, the DRAC recommendations before you do not cover the issue of hazardous materials. The Bureau of Development Services issues demolition permits, but has not been given the authority to deal with hazardous materials. Other cities in Oregon have rules for demolition which require contractors to submit mitigation plans as part of the application process. Some require work to be done by certified workers and contractors. Ms. Thorington commented on a couple of cities' forms -- which I have here -- Tualatin demolition permit requirements says that DEQ requires an asbestos survey before any building may be demolished. A copy of the DEQ asbestos survey must be included in the permit application submittal. Lake Oswego says demolition permits must be accompanied by a certificate of compliance for asbestos and lead paint removal, completed by an Oregon licensed abatement firm. We call on the city council to convene a demolition hazardous materials task force to draw up new City Code using the City's permitting and public safety authority, consistent with applicable state law to ensure mitigation of lead, asbestos, and other hazardous materials at permitted demolition sites. As a minimum, Portland should require with the submission of the demolition application -- one, documentation of the presence of lead paint, asbestos, underground fuel tanks and other hazardous materials; two, written hazmat handling mitigation and disposal plans; and three, identification of the demolition contractors and verification of current hazmat training and certification for the contractors and their workers. Thank you.

Hales: Thank you. Thank you all. I understand we have another DRAC committee member here. So, we're going to give deference to committee members. Thank you. Let's take the next three.

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Folks, I think we're going to try to go to 6 o'clock. I know we're going lose at least two members of the council then. So, we've got a little time left. But again, try to be succinct.

John Sandie: Ready to go? My name is John Sandie, I represent United Neighbors for Reform. I'm thankful for being given the opportunity to speak today. Protecting the safety and health of its citizens is a core responsibility of any municipality's governing body. Mayor Hales said it himself in a recent op-ed -- and I quote -- "government must ensure the safety of everyone" unquote. While previous speakers have addressed needs required prior to issuing a demolition permit, I'm going to focus on the demolition process itself. I am requesting from the council the immediate use of best practices in residential housing demolitions in order to minimize potential health risk to the public. In the past three years, the City has approved over 750 residential demolition permits. Since most of these houses were built prior to 1950, there is no doubt that the asbestos and lead-based paint existed at the majority of these sites. The health hazards of asbestos and lead-based paint are well-publicized and widely accepted. As this demolition activity increases, your urgent and immediate action is required to implement responsible demolition procedures. And I have references to any study I'm going to talk about in the information -- I've given it to the clerk. A HUD-sponsored study by U of C to gathered data during housing demolitions in Chicago resulted in these three key findings. One, significant amounts of lead dust is emitted by demolition of older homes, often in excess of established thresholds. Two, improvement of dust suppression techniques is needed to minimize the spread of this lead dust. Three, lead dust fall was detected at distances 300 feet from demolition perimeters. This HUD study was borne from an earlier east Baltimore responsible demolition study. While there are many broad recommendations from the east Baltimore case study regarding responsible demolitions, there are two that outline simple steps to drastically reduce the public's risk. One, perform partial deconstruction of homes, removing doors, windows, railings, and other components with high amounts of lead prior to the demolition. Two, provide adequate wetting of the structure and debris to minimize dust spread. While the EPA and its state designate, the Oregon Health Authority, have broad and detailed procedures for lead-based paint and renovations, repairs, and painting program, they are silent on whole-house demolitions. When you consider the minimum thresholds for activating the procedures during renovation is disturbing just six square feet of lead-based material, it's clear that current whole-house demolitions are in dire need of similar sets of guidelines and inspections. For the above reasons, I request the immediate development and issuing of rather simple best practices for responsible house demolitions coupled with appropriate inspections. For it is my desire for each of the council members to be able to answer unequivocally "yes" to the mother who lives next to a demolition site when she asks, is it safe for my kids to go out and play? Thank you.

Hales: Thank you. Welcome.

Brandon Spencer-Hartle: Mayor, Council, my name is Brandon Spencer-Hartle, I'm the senior field programs manager at Restore Oregon. Restore Oregon is a statewide historic preservation organization. Our mission is literally to save historic places. Since the beginning of this year, I devoted approximately 300 hours of my professional time to working on this issue. I've responded to dozens of local requests for technical assistance, worked with City staff to research the impacts of demolition, conducted a series of demolition education programs, and have attended almost all the DRAC subcommittee meetings. I'm here today to oppose the recommended replacement of the existing 120-day delay extension with what amounts to a 30-day token extension. Retaining a meaningful demolition delay extension is a paramount importance to the historic preservation community. There are four reasons this is the case. First, in Oregon, historic designation requires the consent of an owner. Unless a historically-significant house has been designated as a landmark, it is not protected by the zoning. Without the opportunity for additional delay in Title 24, Portland will continue to lose buildings that are eligible for landmark listing but have not been designated. Two, saving a historic building takes time. At Restore Oregon, one of my responsibilities is to save the annual list of Oregon's most endangered places. Typical due diligence, such as performing a

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condition of assessment, commissioning a feasibility study, finalizing a pro forma, and mobilizing grassroots support generally takes six months or longer. Under the DRAC's proposal, the community cannot reasonably be expected to save historic places. Third, as evidenced in the findings in the ordinance in front of you, demolition delay extensions are rarely requested by neighborhood associations. Removing this important neighborhood power will result in less communication with developers, and will represent a reversal of decades of public policy to assist neighborhood associations in the work they do. Fourth and finally, 120 days is the appropriate and legally defensible amount of time. For example, the zoning code mandates a 120-day demolition delay review for proposals to demolish local and conservation landmarks. ORS 197772 specifies that no demolition permit can be issued within 120 days of an owner objecting to historic designation. And finally, ORS 227178 specifies that cities must take final action on land use permits within 120 days. These local and state laws align with the time frame that's existed in Portland's Title 24 for two decades. After participating in this process, I've gained a great amount of respect for both DRAC and City staff. I'm not here today to criticize the process, but I am here to say as much as it represents a step forward, the loss of 120 days would represent a significant step backwards for the work the neighborhood association communities do here in Portland. Thank you for your time.

Hales: Thank you.

Fish: I know it's late, Mayor, but I just -- you've raised an issue that I haven't heard before. I want to give you a chance to answer this question. What percentage of the houses that are currently subject to demolition in your view might be eligible for some historic designation?

Spencer-Hartle: So, in Portland we have individual and district designations. So, there are many districts that currently are eligible. But with the erosion of the existing housing stock wouldn't be eligible. If we take that out of the equation and look at the individual houses one by one as landmarks, 5% maybe. I don't have an exact number.

Saltzman: Five?

Spencer-Hartle: Yeah, maybe. We're not talking about a significant chunk or majority.

Fish: If it's 5%, do you have a suggestion for us that gets at the 5% without applying a rule that would snare the other 95%?

Spencer-Hartle: What I would recommend is -- right now, we have the 120-day provision. I would recommend that the council keep that and in 18 months, we come back and see how effective that's been. If it's abused by neighborhood associations, obviously, we would change course. But right now, we're looking at somewhere between 3% and 8% of demolition permits have asked for that 120 days, depending on whose data you look at. At the current time, I don't think we're using it egregiously. And I'd be interested to see under the rest of the DRAC recommendations whether or not it was used appropriately.

Hales: Thank you. Welcome.

Barbara Pierce: Hi, my name is Barbara Pierce, and I'm here today representing the Architectural Heritage Center where I'm the marketing manager and also the Save the Markham Home campaign team along with Jennifer Moffatt, C.J. Hurley, and Mark Miller. And today, I specifically want to address the importance of retaining the 120-day demolition delay. The Markham home is one of Portland's rare mission revival style homes and sits to the Glisan Street entrance gates to Laurelhurst -- and I think most of us have followed some of that, anyway. The home was on the historic resources inventory, but was removed at the owner's request earlier this year. In June, the home was purchased by Peter Cusick [spelling?] of Forenza Development. Peter bought the home with the intention of demolishing it and building two new buildings, one of which would have been a duplex. Neighbors rallied immediately when we learned of the plans, and asked the Laurelhurst Neighborhood Association to request the 120-day delay. We soon learned that Peter was planning to use the K1 exception to get around the delay, but we moved ahead, started a petition to gain community support, and developed a social media campaign to help spread the word. After seeing

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we were serious and passionate about our efforts, Peter agreed to meet with us. While he was unapologetic about his plans, he was also willing to work with us if we could show him that we had a chance of success. He gave us a very short deadline to find a serious buyer, and while our team was dedicated and felt we had a responsibility to our community and supporters, we started our search knowing without a 120-day delay we really had no chance of success. Fortunately, we quickly connected with contractor John McCullough who committed to buy and rehab the home, but we still had a tremendous amount of work to be done by our team, including raising \$35,000 needed to make the purchase feasible for John. In the end, our process and ultimate success took about 120 days. During that time, we scrambled to meet every deadline set with Peter and had to ask for extensions at each phase. Peter worked with us, but every time we needed an extension our focus, had to shift and our work was delayed, so we really weren't doing what we needed to be doing. If we had the 120-day delay period, would it have freed up our team to focus on our project rather than responding to repetitive crises each time we needed an extension. Our team believes most other developers would not have worked so well with us and the 120-day delay would have been the only way to have the necessary time to succeed. We support the United Neighborhoods for Reform proposal to retain the existing language in city code providing for 120-day residential demolition delay upon request by a recognized neighborhood association or neighborhood coalition with the understanding that a good faith effort be made by the association to find an alternative to demolition. Thank you.

Hales: Thank you. [applause] We might try to get people to stay within two minutes now just so we can try to get 15 more people in.

Wendy Chung: Good afternoon Mayor Hales, Commissioners. Thank you for allowing me to testify today. I am an NWDA board member and a member of the NWDA planning committee. We are grateful for the hard work of DRAC aimed at addressing citywide concerns about demolition. The document that Karla will hand you will probably answer some of what Commissioner Fish asked earlier about the 5% to Mr. Spencer-Hartle, but I'd like to reserve that comment for after my testimony. It takes an enormous amount of coordination to pool resource and develop alternatives to save a house from demolition. I experienced this firsthand last spring during the effort to save the Goldsmith House on NW 24th and Quimby, both as a member of the NWDA and as one of the neighbors who pitched in to buy it from the developer. At one of our meetings, NWDA was presented plans already underway to demolish the Goldsmith House and the house on the lot next to it to make way for row homes. We hurried over to the house from our meeting. Workmen were already removing interior pieces of the house and placing them on the porch or along the driveway. Although built in 1898, the Goldsmith House follows outside the Alphabet Historic District and is therefore not subject to historic review. The NWDA planning committee meets weekly, but we needed to hold several emergency meetings to address this urgent issue. In the meantime, BDS announced its reinterpretation of the so-called K1 exception that would have subjected this project to the demo delay rules, including the 120-day exception. It was a key component of a negotiation and tentative agreement reached by NWDA with the developer to suspend demolition was sought. When it was determined the city's reinterpretation would not retroactively apply, however, the developer rescinded his agreement and resumed demolition. It ultimately took the swift and Herculean efforts of individual neighbor Rick Michaelson and Karen Karlsson to save the house in the absence of an agreement between NWDA and the developer. We are very lucky. But we cannot be so lucky every time. The DRAC proposes a voluntary 30-day extension to prevent abuse and unproductive negotiations that would prolong the process. The current code, however -- and this is something you haven't heard, I don't think -- already provides protection to the applicant who can appeal the 120-day extension at any time if the neighborhood association has not made a good faith effort to work with the applicant. This protection preserves the applicant's rights to develop its property and the neighborhood's rights to try to save viable housing, fulfilling the purpose of the

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demo delay rules. Please do not eliminate the 120-day extension. And if I could answer any questions about the 5% of historic homes not subject to the --

Hales: May want to follow up with you about that rather than do it now. Just for time's sake. Thank you.

Chung: Thank you.

Barbara Kerr: Good afternoon. My name is Barbara Kerr, and I am here to ask you to establish deconstruction as the standard method of demolition. I am the founder of Rejuvenation -- originally Rejuvenation Houseparts Company -- and an early board member of the Rebuilding Center. The guys I worked with salvaging house parts for repair, restoration, or rehab in the '70s and '80s were called handwreckers -- now, they're deconstructionists. Deconstruction is dismantling a building in order to use the materials that would otherwise be crushed into mulch or fuel or go to landfill. It is demolition and should be considered if and only if a house has to be removed and relocation is not feasible. As the Bureau of Planning and Sustainability's website says, the greenest house is the one that's already built. But if a house must be demolished, deconstruction is the only sustainable method. The list of benefits of deconstruction versus mechanical demolition is long. Reducing the need for landfills, the transportation to them, and the methane released by them, reducing the need for harvesting virgin timber and other materials and the environmental costs of their extraction, processing, and transport. Neighbors' exposure to toxic dust, excessive noise or unnecessary physical danger; providing affordable and often higher-quality building materials; providing parts that would not otherwise be available for people to more affordably repair and maintain older homes; creating entry level employment that can be pre-training for apprenticeships that lead to higher-skilled long-term jobs; creating small business opportunities for people who otherwise may not have opportunities; and preserving some of the beauty and craftsmanship of earlier times. Even with so many incentives, only a small number of demolitions in Portland are deconstructions. Work with the Rebuilding Center and the rest of the local national and international reuse committee to create a clear and thorough definition of deconstruction from how much of the building is reused and what qualifies as reuse to what safety standards are required both in materials removal and on-site sales. Revise regulations to make it easier for contractors to deconstruct and to reuse building materials. Deconstruction is labor intensive, but that is an upside for economic development. For job training and employment programs, dismantling a house in the reverse order of how it was built teaches knowledge and work habits for the construction trade, a good precursor for apprenticeships. In turn, training programs can make deconstruction more affordable. Deconstruction goes a long way to meeting the city's environmental, economic, and social goals and it can make sense for everyone.

Hales: Thank you very much.

Terry Parker: My name is Terry Parker, I'm a fourth generation Portlander, and I'm speaking on behalf of the UNR steering committee of which I am a member. When my neighborhood, Rose City Park, was platted over 100 years ago, the developers clearly envisioned a residential village and a park geared to the working class. Today, the working class is often called the 99%. Even before zoning was implemented, early deeds required homes to be set back 15 feet from the street. It has been said the greenest building is the one that's already built. The reality is that for a variety of reasons, some single family home replacement is going to take place. Tear-downs, however, must be done with more respect, responsibility, and sustainability. Metro and the City want people to sort their garbage so less trash goes to the landfill. Yet Portland is in the rear when it comes to managing home demolitions. Private property becomes a public problem when 75% or more of a single family home is sent ever sent to the landfill, and when dust and potentially hazardous material are spread and trespass on to neighboring properties. Done right and without the diesel fumes from excavators infiltrating kitchens, living rooms, and our parks, 60% or more of the materials from a deconstructed home can be reused. When a single family home is permitted to be torn down, deconstruction needs to replace mechanical demolition as the norm. It is clearly the right thing to

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do, and there are tax write-offs for developers who donate the reusable materials to places like the Rebuilding Center. The City can kick start this standard by accepting the UNR request to adopt a workable definition of demolition as recommended by community experts and by adding incentives to the demolition process that favor deconstruction. Additionally, the City also needs to see disincentives for mechanical demolition, such as encouraging Metro to immediately increase the tipping fees for home demolitions debris -- tenfold, if necessary -- to motivate reduction. The wrecking ball approach in the race to replace is clawing at the fabric of our neighborhoods. New houses that replace older homes often extend to the edges of the lot lines. The unsurpassed park for any parent that wants to keep tabs on a small child is their own back yard. Without the reverence of green that backyards and front yards provide, the buyers of replacement homes are getting less for their money. The living environment is compromised and housing becomes less affordable. We need to keep neighborhoods like mine affordable while maintaining long-standing values and the intended vision of the residential village in a park setting. Thank you.

Hales: Thank you.

Jim Heuer: Good evening. I understand we're running late, so I'll be brief. My name is Jim Heuer, and I'm a volunteer with the United Neighborhoods for Reform. We're at an important juncture in our presentations tonight. We've had a lot of conversation about the DRAC recommendations. Our basic position on this is that we like most of it, but there's one key piece -- as you well have heard -- that we do not like. Our recommendation to you is to save this proposed ordinance language back to the drafting unit at BDS with the suggestion that they remove the language relating to the 120-day delay. One of the things that we are asking for is the task force. We've discussed that before -- what happens afterwards? But that task force is really a policy-oriented task force, and it might conceivably also be enabled to look at other ways to make the decision about whether there's a public policy value in stopping a particular demolition. I suspect over time, we'll have a chance to share more information with you about the impact of these demolitions that don't really -- that they have the effect of reducing the growth of our single family housing inventory. The BPS plan for the -- the comprehensive plan projects 28,000 new single family houses in 20 years. If we continue to demolish at the same rate versus the build rate, we'll only get about 8000 houses built. So, this has a big impact. The task force we've talked about -- it has to be focused on the comp plan. There's very specific parts to it. Policy 4.13 on infill construction, 5.33 on preserving small resource-efficient homes. We need to turn that into reality. There's no mechanism, we've been through the comp plan from one end to the other, we've looked at that wonderful map app, we can find no place to address these issues. We need a task force similar to the one on mixed use zoning that is able to pick apart the details of the zoning code. Thank you very much.

Hales: Thank you very much. Welcome.

James Paul Brown: Good afternoon. I'm James Paul Brown, I live in the Alameda neighborhood and have for some time. I chaired the land use and transportation committee for the neighborhood association. Over the last three years, homeowners have contacted us about the increasing trend of demolitions of good smaller homes. Their removal reduces affordability and diverse, but investors purchase such homes to replace to maximize their profits. Of the more than 20 new homes constructed in Alameda, only four were infill built on vacant lots and -- well, pardon the delay. I guess we won't see them.

Hales: Oh, there it is.

Brown: That's alright. The new homes typically cost about \$900,000 and are two to three times larger than the \$400,000 homes they replaced. The style of most of these barn-sized new homes 1910 faux craftsman. Among our modest sized 1920s homes, they appear out of place and incompatible. Three other new homes in Alameda are more radical style, each close to the sidewalk, towers over the neighboring homes, and looks even more out of place than the faux craftsman structures. One policy expert group meant to help update the comprehensive plan focused on residential design and compatibility. Along with slides of other incompatible examples, one of

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Alameda's other style homes was shown. After thorough discussion, consensus was that out of context homes detract from neighborhoods. Language in chapter four of the proposed comprehensive plan addresses neighborhood context compatibility. There are some grand homes in Alameda, but most homes on the avenues are a store and a half English cottage styles or bungalows on 5000-square-foot lots. Space allows these homes allows daylight to shine in the windows and enough back yard for gardens, patios, etc. Oversized hulking new homes cover their own lots and blot out the sun next door. Most homeowners choose their homes after careful consideration. When they make that big decision, they not only buy the home, they buy the neighborhood. Over time, they invest heart and soul as well as dollars. Their commitment deserves more respect than is shown by speculators who smash, build, and move on. I encourage the council to authorize creation of that broadly-based task force recommended by UNR. Appropriate regulations can protect the individual homeowners and our neighborhoods to keep Portland, Portland. Thank you.

Hales: Thank you. Welcome.

Gary Clifford: Thank you. Good afternoon, my name is Gary Clifford, I'm with UNR. I was a land use planner with Multnomah County for 28 years, half of that time a senior planner responsible for zoning code revisions. I'm addressing today the problem that occurs primarily in the R5 zone, where a single family house on 5000 square feet of property is replaced with two houses on two 2500-square-foot lots. This happens because the original house was built on and usually across two platted lots. From the 1970s, it was consistently explained to me by knowledgeable individuals and older citizens who had worked in real estate in the early 20th century that these subdivision plats would narrow 25 foot wide frontage were never expected to be individual building sites. The lotting format was a marketing tool that allowed the buyer to not only buy the expected 50-foot-wide two platted lots together, but also the buyer would have the option to add a third platted lot for more yard or a garden space, three lots side by side, or even four platted lots together for building a larger house. When Multnomah County had urban planning jurisdiction, the zoning ordinance always stated clearly that the 25 by 100 foot lots were not individual building lots. The zoning ordinance read, quote, in no case shall a dwelling unit have a lot area less than 3000 square feet. This was by design so that two platted lots always stayed together as a group. By allowing the current lot-splitting practice, the City of Portland is blatantly disregarding its responsibility to protect the stability expected by homeowners in the zoning code. The Portland zoning code does have rules about not building two houses immediately when one is demolished, but they can circumvent that rule by declaring the house to be dangerous. And that can be easily -- that argument can be easily made by leaving the utilities off and the -- no heat for a winter, and they let it deteriorate.

Hales: Let me stop you there. We do have the rest of your written testimony. So, it's very helpful. And all three of you provided good copies, so that's helpful to us.

Clifford: Alright. Thank you.

Hales: Thank you very much. Welcome.

Sara Long: I'm going to start because we're short on time. My name is Sara Long, I live in Elliot, one of our closest-in and most historic neighborhoods. I'm on Elliot's land use transportation committee and I am the vice chair of the Elliot Neighborhood Association. In this capacity I'm working on massively increasing close-in density and affordability by promoting mixed-use development of our many vacant lots, particularly those right on transit corridors, and redevelopment of our vast amounts of empty and unused surface parking into permanently affordable housing. Elliot is in the footprint of the historic city of Albina platted in 1873. It is the historically Black neighborhood, and today, Black residents of Elliot whose families have been here for generations have been priced out and those who remain have few services, as Black businesses have been pushed out by gentrification and shuttered. In the former city of Albina, we have lost over 10,000 African American residents, and landmarks of Black history in Portland aren't protected. That's who I am, but today, I'm here on behalf of United Neighborhoods of Reform to talk about tree protections. From the seven key directives to achieve in the vision of the 2025

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comprehensive plan, number six is our goal to preserve resiliency. We will -- and I quote -- prepare for climate exchange and reduce risks posed by natural hazards. Trees help reduce harmful flooding, cool the city on hot summer days, and reduce health, safety, and economic risks for households, businesses, and the City. Key direction four on page I23 of the comprehensive plan states, but many of Portland's valuable natural resources are at risk. Trees that reduce heat island effects and provide habitat are vulnerable to development. Without thoughtful intervention, human and ecological health will suffer. This plan includes policies to improve human and environmental health. We know Portland has one of the worst urban heat islands in the United States. We know that our hills and veils combined with rainfall mean erosion on the small hills and landslides on our big hills are a huge issue for all. We know that a single mature tree can filter 60 pounds of pollutants from the air each year, yet we are not protecting our trees. New regulations are going into effect January 2nd. However, a developer can simply pay 1200 dollars and chop it down. Let's contrast this to the City of Lake Oswego, where if a tree is over 10 inches of diameter and five feet above the ground, then the following applies. The permit requires more intensive evaluation and staff time and takes approximately one month to complete. The applicant posts a sign obtained from the city that describes the proposed tree removal. This begins the 14-day public comment period during which staff reviews the application and makes a site visit. At the end of the comment period, staff issues a tentative decision. If the tentative decision is for approval, a second sign will be posted by staff which starts at 14-day appeal period. During this period, the tentative decision can be appealed to the development review commission. Portland's trees are so valuable they deserve better, and so do we. I have confidence in you, our elected officials, to keep Portland deserving of its reputation as a green and well-managed city.

Hales: Thank you very much. Welcome.

Steve Elder: Good afternoon. I'm Steve, I live in the Concordia neighborhood, and I hardly endorse the remarks of my neighbors about the 120 days and the deconstruction versus demolition. But I am going to depart a little bit from the standard -- as some of the other people have -- and talk about the issue of solar development. I submit that consideration should be given to solar access and development for both new and existing structures. Portland should consider and deal with the impact of sun and shadow on residences in its jurisdiction. Action in support of sunshine should address issues of residences that may be overshadowed by new construction. We have all seen new construction extending 35 feet into the sky and putting an existing house in the shade -- on the north side in the shade. The impact may be the shaded house can't avail itself of incentives for solar development. There might not be enough sunshine for solar panels. Even if the neighbor wasn't contemplating installation of these devices, he might find his tomatoes won't ripen. Although affording protections to neighbors affected by overshadow of new construction is prospective, not retrospective, it's not just a matter of the way the neighborhood has always been, but how the neighborhood will be going forward. Solar energy has been endorsed generally and specifically by the comprehensive plan, 4.7 and 4.8. And the city itself has started well. Solar forward is a very good program, but it's not there anymore. There is much that has been done, but there's much that has not been done. When you fly over Portland, you don't see solar panels. When you fly over Frankfurt, Germany, you see a lot of solar panels. [beeping] And that is something that can be done. Frankfurt Germany is farther north than Portland. You could say, stages in latitude. Frankfurt is much farther north but they have a whole lot more. Germany has many times more solar panels than we do. I recognize that -- the City should address the issue of overshadowing, I urge Council to address issues of solar energy, which is good; and solar shading, which can have a deleterious effect on the neighbors. The issues raised are progressive, not regressive. They are clearly definable and not matters of opinion or aesthetic sensitivity. You can measure how much sun a house will get. Thank you.

Hales: Thank you very much.

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Jack Bookwalter: Jack Bookwalter, Beaumont-Wilshire Neighborhood Association land use chair and also a member of UNR. I'm going to talk about expanding the historic resources inventory of the city. Portland's existing historic resources inventory dates from 1984. While helpful in the past in identifying historic resources built prior to World War II and in specific neighborhoods, the inventory is woefully inadequate in presenting an accurate view of what is and what is not historic in the city today. No post-war buildings were included in the survey. Thirty years ago, they were not considered historic. Since then, we have come to appreciate a whole new genre of historic buildings we now know as mid-century modern. The inventory thusly missed notable buildings such as the Coliseum and the building and houses of particular architects, buildings that are prominent not only just locally but on the world architectural stage. An updated inventory would aid in planning decisions of many types, as well as in analyzing demolition decisions. Planners and the city would be able to make better-informed decisions, and neighborhood associations could better be able right away to assess the historic and architectural importance of the building threatened by demolition. And developers might find it useful in deciding whether to purchase a home or not if they knew ahead of time that the city had deemed it to be an historic significance. If for no other reason than the desire to avoid properties that may result in some sticky complex with neighborhoods groups. The draft to the new comp plan contains language stressing importance of historic inventories. Policy 4.24 protect, restore, and improve historic buildings incentives and corridors and adopted inventories; 4.41, expand historic inventories and encourage historic preservation in areas that are underrepresented by current historic preservation efforts; 4.40, survey and inventory historic resources as part of future planning projects with a focus on areas of anticipated growth and change. Furthermore, Landmarks Commission in its annual presentation to Council in July 31st of this year, requested \$20,000 for a pilot neighborhood historic resource inventory study. This study would be followed by expansions of the inventory and the subsequent years after that. UNR strongly recommends adoption of the Landmarks Commission's request to expand the historic resources inventory. Not doing so would be pennywise and pound foolish on the City's part. The City can save itself, its citizen, and its business people much time, expense, and grief by getting started on the inventory right away. Thank you.

Hales: Thank you all.

Fish: Walter, I just want to say, I was up in the air about your request but when you got to the punch line the City could save itself a lot of grief by making a modest \$20,000 investment, you got my support. [laughter]

Hales: OK, let's take three more people because we are going to lose a quorum at 6:00 and then I think we'll have to continue January after that.

Fritz: And how many are there after that, Karla?

Moore-Love: I believe we have about 14 more after that.

Hales: Sorry, folks. We won't be able to get everyone in today, but we'll take those three and then figure out -- [inaudible]. OK. Welcome.

Ben Gates: Good afternoon, Commissioners and Mayor. My name is Ben Gates, real estate developer and board member of the Rebuilding Center. I've had the pleasure of facilitating a diverse deconstruction work group that has striven to work with a parallel effort to the DRAC demolition policy subcommittee. As Nancy Thorington alluded to, DRAC did not have time to properly consider deconstruction. And this is where we stepped in. Our work is comprised of developers, builders, deconstruction contractors, neighborhood representatives, and those who salvage and repurpose deconstruction material. We would like to propose that the demolition policy being considered today be amended to include a voluntary incentive for deconstruction. This straightforward proposal has been submitted for the record, and you should have it in your hands. If adopted, this amendment would provide a voluntary incentive for the deconstruction of a home in lieu of demolition. I'll let others who follow speak to the merits of deconstruction and why there makes good policy sense. I can give you a brief introduction to the proposal in your hands. The

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proposal contains three parts. A definition, an incentive, and a program for deconstruction. The deconstruction definition is simple. Basically, 75% of the weight of waste materials generated from dismantling a structure must be salvaged for reuse. Salvaged material can be sold, donated, or reused on site as part of new construction. And the deconstruction program would be easy to administer by the City with the Bureau of Planning and Sustainability. A detailed program guide would be developed, a list of deconstruction contractors maintained, jobs posted, and inspections conducted randomly. The deconstruction incentive part would reduce the demolition delay from 35 days to 10 days. In order to qualify for the reduced deconstruction delay, the building owner or agent must secure written approval from the neighborhood association and agree to use a qualified deconstruction contractor. So, this addresses Jeff Fish's concern of protecting the neighborhood. Basically, it requires their sign-off to get this reduced delay.

Fish: Quick question -- does the 70% figure -- is that based on the fact you assume some of these buildings from the '20s, for example, are likely to have lead paint or asbestos in the basement, so you're assuming that's not salvageable and you're looking at the rest?

Gates: Correct. There are some things that are difficult to salvage and can't be salvaged, like hazardous materials. And then some things like concrete, which is difficult to repurpose, but easy to recycle. We urge you to amend the demolition policy to include a voluntary option for deconstruction. Thank you for the opportunity to present this proposed amendment.

Fritz: Just to -- the challenge with that is neighborhood associations only meet once a month. So, unless you happen to have a neighborhood association meeting, it would run -- the 35 days -- you couldn't get a neighborhood association meeting to sign off on it and to then give the incentive.

Gates: That is addressed through seeking neighborhood approval for the deconstruction activity.

Fritz: Right, but you can't get the neighborhood approval because --

Gates: The neighborhood group and United Neighborhoods for Reform are in support of this 10-day reduction with the sign-off.

Fritz: This doesn't work logistically, because neighborhood associations only meet once a month. So, by the time you had gotten the sign-off you would be at the end of your 35 days. I think we want more discussion about potential incentives for deconstruction, but that's not -- it would take a complete reworking of what the proposal on the table to incorporate something like that. And it actually would mean a longer demo delay in order to allow for the deconstruction incentive. I understand it sounds like it's an easy thing to do, but it doesn't work with the proposal that's on the table.

Gates: We think it's an easy thing to do, and so does United Neighborhoods for Reform and neighborhood associations we've been in contact with.

Hales: Thank you. Welcome.

Preston Browning: I was going to say good afternoon, but good evening. My name is Preston Browning, the owner of Salvage Works in the Kenton neighborhood of North Portland. We sell reclaimed lumber from deconstructed homes and barns, and have a shop that fabricates custom furniture and commercial fixtures from that material. I'm speaking to Council today about the economics of reclaimed lumber and deconstruction from a small and sustainable business perspective. Five years ago, I started Salvage Works on my own, and grossed \$60,000. This year, I have eight full-time employees, and will gross \$600,000. We're growing and expanding to -- moving to a new space, we'll have two new employees next year. If you've gone out to dinner or drinks in Portland lately, you've probably noticed most new places are building their interiors with reclaimed wood. It's on the floors and the walls and the bar and the tabletops. It's kind of all the rage these days. And it's not just in Portland. People are looking to Portland for our food and coffee scene, and they're looking to us for design sense as well, and this is sing rated into that. So, we've built out or supplied material to hundreds establishments in Portland in the last few years. Contractors, fabrication shops are looking to us for this material to build not just local places, but stores, restaurants, and bars all over the country. One of our customers is a big fabrication shop in

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town. They got a contract to build 18 clothing shops nationwide. Each store requires about 5000 board feet of reclaimed lumber, which is about what you yield from a single deconstructed home. So, what I'm really getting at is that we have lost opportunities and lost resources. A challenge I'm facing is a supply problem. Without more deconstruction, Salvage Works can't meet the demand for the reclaimed wood. With the deconstruction incentives in Portland's demolition policy, this would change. Traditional philosophy in the demolition industry is to crunch and dump as fast as possible. And that's changing. I have now relationships with demolition contractors who are deconstructing, because it makes economic sense. I'm buying this material from them. And I think it's also important to know that deconstruction means jobs, and not just for the deconstruction work but it trickles down into in my -- the retail and manufacturing sector, fabrication, construction, and new projects. And these are skilled, living wage jobs with lots of room for advancement. So, I think that if a deconstruction was included in the demolition policy, skeptics would really come around pretty fast because it's -- the jobs, the exchange of goods, the tax income, and the design culture are all good things to me.

Hales: Thank you.

Browning: Thank you very much.

Hales: Welcome.

Joe Connell: Thank you. My name is Joe Connell, I'm vice-president of retail operations for Habitat for Humanity of Portland. As you all know, Habitat for Humanity is a nonprofit affordable housing organization. We build homes in partnership with civic entities, businesses, and individuals. As I think you're also aware, part of our work is funded through the resale of donated materials through our Restores. To date, our three metro area stores have raised \$3 million for habitat and saved roughly 40 million pounds of materials from the waste stream. This social enterprise represents an extremely valuable service to our community through the savings of natural resources, job creation, community building, and of course creation of affordable homeownership. This year alone the work of the Restores will provide for the building of 12 Habitat homes in our metro area. Our capacity is tremendous. There is also -- as we all know -- an endless needs for affordable housing and an endless supply of good products going to the landfill. One of the keys for increasing our business and thus providing more homes is more donations, more materials coming into our stores. In a time when more and more nonprofits are looking at social enterprises to provide the extra funding they need, Habitat's model is an example to all. We and the other organizations and businesses here are prime examples of how waste can be turned into a valuable resource for our community. The need we all share is for more of this waste to be diverted from the traditional model of disposal. I think it's a tremendous opportunity to make a great impact with minimal investment. Deconstruction is one of the most direct ways in which we can invest in ourselves as a community with extremely minimal investment. Over the last decade, I've seen a great deal of growth in the reuse sector nationwide. Where there is more opportunity, however, isn't getting civic entities to provide legislation and policy to create more incentive to communities to get involved in this process of upcycling our waste to help improve ourselves. Habitat's famous mantra has always been we offer a hand up, not a hand out. What we're all asking is for the City to provide more incentive and direction to help support our community in helping itself. Thank you.

Hales: Thanks very much. This has been an excellent hearing. I'm sorry we haven't been able to get to everybody, but I really appreciate all the great testimony. We have to figure out exactly when we'll carry this over to for further deliberation. One possibility is tomorrow, because we have some items on the calendar with time certain that might not take the full time. Another is to set another date in January. Do you have a preference, Commissioner Fritz?

Fritz: Do we have room to do it tomorrow?

Hales: I think we do. I don't think the 2:00 p.m. item -- which happens to be a demolition case -- is going to take that long. We have two witnesses left in rebuttal from the applicant and Council deliberation and a decision.

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Fritz: So, maybe a half hour for that?

Hales: Yeah, I think it's a half hour proceeding. So --

Fish: That means if the current pattern holds -- a half hour means two hours. You know, there is a benefit for having more time -- unless we're time-sensitive -- which is, there have been issues raised that we could have a chance to talk to the sponsor about and staff. So, just back to that --

Hales: Yeah, I'm interested in a little time as well. We're going to have to get people to come back anyway, so if those of you who want to come back, don't mind coming back in a couple weeks instead of in 24 hours.

Fritz: Maybe in a month.

Hales: Yeah, so this is going to be mid-January. But again, obviously there's some urgency to this issue, but not -- a couple more weeks or days won't necessarily make the difference. So, I'm going to just --

*****: [inaudible]

Hales: A couple more weeks. We're not meeting next week or the week after because of the week after.

*****: No, I was asking.

Hales: Oh, you're asking for more time.

Fritz: Well, let's be clear this is for finishing up the testimony of the folks who have signed up.

Hales: Right, right. Yes, I know -- there are two of them right there. I don't know if you have the time certain calendar in front of you. If we could just pick a date in January now. That might be helpful. If we can.

Moore-Love: Would the morning work? I've only got one 15-minute time certain --

Hales: I'm sorry, say that again, Karla?

Moore-Love: The morning of the 7th if you want to do the first week. The second week of January is booked for time certain.

Hales: January 7th in the morning we have only one 15-minute time certain item now?

Moore-Love: Yeah. Otherwise, you would be looking at -- I don't know if that COCL contract --

Fritz: I'm essentially gone between now and then.

Hales: You'd rather wait until later in the month?

Fritz: Yeah.

Moore-Love: You're gone the third week of the month, Mayor. So, you're looking at the end of the month unless you want to come back without the mayor the third week.

Fish: Just finishing up the testimony on first reading.

Fritz: Yeah, but I'd like the mayor to be involved in the discussion. So, maybe the last week.

Hales: Last week of January? OK. So, we're going to pick one of those two dates.

Fish: Can we do it in the afternoon, Karla?

Moore-Love: It would be Thursday at 3:30 again.

Hales: Thursday the 29th at 3:30. We have 2:00 p.m. Time certain?

Moore-Love: That's the URA amendments.

Fritz: That's gonna --

Saltzman: That's gonna take a long time --

Hales: That's not going to work. [laughter]

Fish: Mayor, please don't -- sometimes we do work sessions on a Tuesday. Are we prohibited from doing a Council session on Tuesday?

Fritz: Yes, I believe we are.

Moore-Love: Well, that would be a special meeting, and you can do a special meeting as long as you announce it. And the code requirement is a written notice from at least three members signing off.

Hales: I'm open to that.

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Fish: January is so jammed. If you did a Tuesday, we would at least have the time to focus on it without bumping up against all these other things.

Hales: We have to show up for work, anyway.

Fritz: But it would be a public hearing and we'd get the vote on it? Is that correct? It would be a special meeting, it would be a public hearing and we'd get to vote on it?

Moore-Love: Yes.

Hales: So, one possibility would be Tuesday the 20th.

Saltzman: You're out of town.

Hales: I'm not sure which day I'm leaving. Let's talk about Tuesday the 13th. How does that sound?

Moore-Love: I don't do the notable scheduling but I don't have anything right now --

Hales: You wouldn't have anything in the Council calendar.

Moore-Love: Mm-hmm.

Hales: We're going too tentatively -- we'll notice this, because there are other folks like our schedulers involved who are either going to jump out a window or affirm that this is OK. But I'm going to tentatively set this for 10:00 a.m., let's say? Or, 9:30 a.m., because we often have work sessions at 9:30 on Tuesdays. 9:30 a.m. for Tuesday, January 13th. And again, bear with us. We might revise that if there's a problem for the quorum. But at least for planning purposes, that's what we're going --

Fish: For those of you who haven't testified, you get us fresh.

Fritz: I might not be here then. I might be coming back from Dallas.

Hales: That won't work. Then how about Tuesday --

Fish: I'll get you at the airport.

Saltzman: I just figured that out.

Hales: Tuesday the 27th.

Moore-Love: That is a work session already scheduled for PURB.

Hales: Let's stick with the 13th for now, and we'll see --

Fritz: No, no, that would jinx it for sure.

Fish: Can we do the afternoon?

Fritz: I don't have my flights booked yet. I have my tickets saved.

Hales: We're not going to interfere with that.

Fritz: For those of you who are not football fans, the Oregon Ducks -- if they win January 1st will be in Dallas for the national championship on January 12th. And I --

Fish: Commissioner Fritz is not a football fan, but she's representing the City at this event.

[laughter] At great self-sacrifice, she drew the shortest of the lot.

Fritz: If you caught me smiling earlier, my son texted I to say the Ducks told me we got our tickets. Pretty darned excited.

Hales: I believe my travel schedule for the U.S. Conference of Mayors involves either flying out the evening of the 20th or the morning of the 21st. So, I'm going to tentatively set this for 9:30 a.m. on the 20th on the assumption I can get out of town in time to show up for that. So, 9:30 a.m. on Tuesday January 20th -- and again, bear with us if we have to revise that. That's the plan for now.

Fish: That's a regular meeting, not a work session.

Hales: Regular meeting. Regular City Council. We'll take testimony from those who signed up and haven't gotten a chance to speak today. Thank you all for your patience and for good testimony. We're recessed until tomorrow.

At 6:13 p.m., Council recessed.

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

DECEMBER 18, 2014 2:00 PM

Hales: Good afternoon, everyone. Welcome to the December 18th meeting of the Portland City Council. Would you please call the roll?

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

Hales: OK. We're going to be resuming -- oh, go ahead and read the item, please.

Item 1332.

Hales: So, we'll have a number of procedural checks here as we get started. First, it's been a week since the previous public hearing, and I think a number of us have had discussions about this. So, it's time for us to disclose any ex parte contacts or potential conflicts of interest that weren't mentioned at the last hearing.

Fish: I'll start, Mayor. My staff has fielded some phone calls and had some conversations with people they have not shared with me. I have run into an alarmingly high number of people over the last week that have actually been in this room at one time or another, and I have in each and every occasion said that the only thing I could not talk about was the substance of this proceeding. And so I scrupulously avoided doing so and talked about everything else.

Hales: OK. Dan? I have one ex parte contact to mention -- not with somebody who's been a party to the case -- but I revisited the site and had a brief discussion with a former member of the Design Commission, Loren Waxman, who is not a party to this case as someone who has testified or has a financial interest in it, but he did have some expertise on the subject and I asked him some questions about it. I was deepening my understanding of the design issues involved and consulted a former member of the Design Commission. I also met at some length with the staff to go back through their recommendations and the basis for those.

Fritz: Could you summarize what you heard from Loren Waxman?

Hales: Yeah, I asked Mr. Waxman what he thought of the prospects of this building for renovation.

Fritz: I have nothing to report.

Hales: Anything else? Does anyone have any questions or concerns about these ex parte contacts? Again, no one has disclosed any potential conflict of interest. OK. Kathryn, I think you have some procedural guidance for us before we resume the hearing?

Kathryn Beaumont, City Attorney: At this point, no, I think where we are is just -- I think there are two remaining people to hear testimony from. And then close the hearing -- or then rebuttal, and then close the public testimony portion.

Hales: Correct.

Beaumont: And then I guess we need to know at that point from the applicant whether they intend to waive the final seven days for written legal argument that state laws affords them.

Hales: OK. We can ask when they come up for rebuttal?

Beaumont: Yes.

Hales: OK, then let's return to the sign-up sheet for those who did not get to testify at the last hearing.

Moore-Love: Those two are Seth Johnson and Rick Michaelson.

Hales: Looks like only Rick is here. Good afternoon.

Rick Michaelson: Good afternoon, Mayor Hales and Council members. I'm here to talk about why I oppose the -- oh, Rick Michaelson here to testify about the demolition. The applicant's arguments

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seem to come down to four points. One, the comp plan calls for more housing in the area. Two, the site can accommodate more housing with the existing height and FAR limits. Three, the existing building makes it difficult to achieve that FAR, and therefore because it makes it difficult for it to build it should be torn down. I think this is a case that could be emblematic of a proposal for many of our historic districts. I want to run through how it would work in Skidmore Old Town. The comp plan calls for more employment opportunities. More employment opportunities require more office space. Many of the buildings at Skidmore Old Town are built to minimum FAR and less of the maximum height and have serious seismic issues with them. In order to fully maximize those sites for meeting the comp goal of office space and jobs, those buildings need to be torn down and destroyed. I don't think that's adequate for tearing down a historical resource, and I think it would set a very example throughout the area. I also think this proposal is not fully gelled yet, and it doesn't give you enough information to make a decision in favor of demolition at this time. They talked about two proposed public benefits. One is shared parking with the neighbors, which is not allowed under the zoning code and therefore they can't provide it at this time. And the other is affordable housing, which they will only be able to do if the City and others give them a public subsidy. Giving a public subsidy to do a public benefit at the expense of a public building I don't think is a good choice. In terms of mitigation -- if you're going to have an impact on a historic district, you need to do something to mitigate the effects. I sent you a memo about different possibilities. The only mitigation that they've proposed in their application is to name the building for Johnny Pesky -- who is an important neighborhood figure and historic, but has absolutely nothing to do with this site. Therefore, that's not really mitigation for this particular site. I think one of the issues that's pushing this is the developers are presuming and have presumed from the beginning they can get maximum FAR and height on the site, even though it's in a historic district. They have been advised by a number of people that they should go to the Landmarks Commission first and do a design advisory review to talk about what's appropriate on the site or not before coming to you. To tear down a historic resource, I think you really need a compelling story with adequate findings, adequate background. You don't have it here. I've passed out the findings and conclusions you made in the Dirty Duck case to demonstrate what I would find compelling. Those were compelling reasons for approving the demolition. No reason of that sort are being presented to you today. Finally, I don't know why we're here today. They can't get the demo permit until after the building permit is issued many months from now and after they've gone through design review, so what's point of pushing us? I think today you have two choices. One is to deny the application because you don't have any basis and findings to support it. The second would be to set conditions on it that might make it acceptable, but you don't have any information to do that today. Therefore, I would recommend that you deny the application at this time. They can always reapply once they have a real proposal. Thank you.

Hales: Thank you. Others may have questions for you as well, but obviously, you've been around these issues of historic preservation quite a bit. So it's -- appreciate you coming to testify. Let me pose to you the same question that I asked Mr. Waxman standing out in front of the building, which is, if you owned this building and the City were in effect to say to you, you must keep it, go figure it out, what would you do with this building and what would do with the other three parcels that you own there -- the two parking lots and the noncontributing older small apartment building? What would you do with this property if the City said that you had to keep the building?

Michaelson: I would do a series of things. I would do with any interesting building similar to what we did at 19th at Kearney and Lovejoy, where we took the old film studio building and divided it into small working spaces. I would do that within the building, provide an adequate courtyard space for light and air on both sides of the building. On the 10,000 square foot building to the north, I would propose an apartment building -- probably not a full FAR of four to one or a full 65-foot height, but something more like the Dirty Duck is at four stories on the same site for zoning. On the south side, I'm not sure whether I would keep the parking or I would build some additional working

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spaces on that that would be compatible with the neighborhood. I think there are a lot of opportunities. The problem the developers are having is that they are presuming the land cost is way above what is appropriate in the district. My friend John Russell says the only flexibility in any of these projects is what you paid for the land. If you paid too much for the land, you've made a mistake. And can't justify tearing down a building because you paid too much for the land.

Hales: Another question I had after revisiting the site is a block to the west is a seven-story building. I think it was built by Pat Prendergast. Not sure if I got the builder right, but anyway, it's directly facing Couch Park. Occupies half the block, the other half of the block is occupied by well-maintained older -- some historic, no doubt -- buildings. Why is that interface OK there, and out of scale here?

Michaelson: Let me add a little more to that. There are also two additional buildings on 19th Avenue north near Johnson Street that were also built to six-story and closer to full FAR than is appropriate on this site. All of those received approval from both the Landmarks Commission and with the support of the neighborhood association. I think the difference is this site that we're looking at is bordered on both sides by our most historic blocks of houses that are a much smaller scale and there's not the relief of the park that allow a taller building to be there. If you look at Couch Park, you can see there's a ring on the south side -- now on the east -- of taller buildings that help frame the park. Because of the park, they don't overwhelm and dominate the street frontage the way this building would next to these houses. So, you've got to look at each site specifically in order to see what's compatible.

Hales: Thank you, other questions?

Fish: Thank you, Mayor. I have two questions. The first is -- in your opinion, why did the applicant not come forward on the alternate approval criteria about the economic value?

Michaelson: Well, as the applicant said to you and testified, the building is ready to occupy today, all they have to do is turn on the lights and rent it. There is economic use and economic value to it. It just would not perhaps get the rent level that they feel appropriate.

Fish: OK. And the second question is -- we heard arguments on both sides about the precedent value of a decision here. I want to give you a chance to offer your opinion on that subject.

Michaelson: Yeah, I think people use the word precedent differently. In a legal sense, no one land use case is a precedent for another land use case from a legal point of view. But I think the tone in the decisions that the council makes -- and the Design Commission and Landmarks Commission makes -- on each case steer the next application towards what the community finds acceptable and what is not. As I was talking about in Old Town -- if this building can be torn down, I think it's a lot easier to tear other buildings down and do something similar in other portions of the city. On the opposite side of precedent -- and I'll use the word not legally -- I think you folks set an incredibly good precedent on the Dirty Duck. If you read through what was found there, what was necessary to approve that demolition and replacement, I think that's exactly the precedent we should be following.

Fritz: Could you remind us the nature of contributing structures in a district, and this building isn't drop dead gorgeous in itself or it would have been listed as a landmark. Why is this particular building of more value than some of the hundreds of other contributing structures or the noncontributing structures?

Michaelson: I think it has more value than the noncontributing structures because it is more similar in scale, more typical of the type of building built in the northwest. The three-story buildings with an entrance at the center of the front are fairly typical of not just this kind of commercial building but of apartment buildings that line many of our streets. In terms of scale, it's typical of the background of the neighborhood. What's odd is that there isn't anything next to it until you see the side, but that can be remedied. One of the things you've got to remember about the national -- doing this to a district is you don't do as much research on a building as you would if you were doing an

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individual nomination. Because they all fit together as a whole, they're all teeth in your mouth. Not each one of them has to be great, they just all have to work together.

Fritz: Is it all about the buildings or partly about the historic uses of the buildings?

Michaelson: There are a number of criteria for getting approval on the National Register in the district, one of which is the quality of architect. One is the -- I'm not going to get this quite right -- the style of the building and how quality it is. The other is its place in the history of the community. For instance, we're dealing with the Bernard Goldsmith House on 24th and Quimby now going through that process. Our primary strength on that one is because it was owned by the first Jewish mayor in the City of Portland. That's going to be 50% of the justification for our application on that.

Fritz: Thank you.

Fish: One last question. If we rejected the application and maintained -- and essentially the status quo is maintained, is there an irony that we would be in essence locking in a surface parking lot that is hardly compatible with either goal 7 or 12?

Michaelson: I don't think denying this application is going to mean that site is locked in forever. They're going to look to do something different on it -- either restore or reopen an existing building or do infill or come back to you with better justification for the demolition with better mitigation and better benefit. It's not going to just sit there.

Hales: Other questions?

Michaelson: Thank you very much.

Hales: Thanks very much. OK, so that's going to close the public testimony -- [applause] oh, no, folks. I don't think they showed up. Did the other person arrive? OK. So -- read that name again, please.

Moore-Love: Seth Johnson.

Hales: OK. I'm going to close the public hearing and invite the applicant to come back up for rebuttal.

Beaumont: Mayor Hales, just to be clear, you're closing the public testimony.

Hales: Not the hearing, public testimony. Get those words right. Words matter. Thank you. Welcome.

Tim Ramis: Mayor Hales and Council, for your record, Tim Ramis. With me is Mr. Tess from Heritage, and Jill Sherman from Gerding Edlen. We've submitted our rebuttal in writing for you and won't go into detail except on issues where you have questions. We have members of the team here to talk about those issues if you have questions. We'd like to focus our time on the issue of mitigation, and in particular, the council's discussion about affordable housing and the question about where the need is the deepest in the city. That's an issue that during the discussion had resonance for Mark O'Donnell and I as owners. Our family histories in this neighborhood of course started with our predecessors who were searching for the least expensive place to find an apartment on a bus line. For both of us, we've focused our pro bono work over the years in our firm on the issue of affordable housing, in particular, for people of low income who have developmental disabilities. So, we like the idea of connecting the project to that issue, and I'll ask Jill to speak to that.

Jill Sherman: For the record, Jill Sherman. I'm a partner at Gerding Edlen, and Mark Edlen was not able to be here today. I'm gonna talk about two things. One is the issue of feasibility of redeveloping this building. We did -- as we mentioned previously -- do a significant amount of work to look into the options to redevelop this building both as an office building as well as a residential building, and determined that is just not feasible. In other words, the cost to renovate will not get you the rent that you would need to have an economically feasible project primarily for some of the things we've talked about having to do floor-to-floor heights, the existing character of the interior of the building, and the need to give full seismic and other systems upgrades for that building. The next thing I want to talk about gets to this idea around mitigation. And I would like to describe the current -- what we think of as the current mitigation aspects of our project and then talk

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about perhaps some proposed conditions that could provide additional mitigation. The preliminary concept plan included what we would consider a significant budget for design features to mitigate concerns. And these were concerns that we heard in our very early and initial meetings with primarily some of the immediate neighbors to the site and have to do with below-grade parking, which we've discussed. We're including it, we're not required to include parking. It's below grade, which is desirable but expensive; and we're providing an adequate number of spaces to serve the units we're proposing. We're also proposing to continue shared use, recognizing that the property owners have been successful in figuring out a way to do that in the past and that we would propose to work with the City to make that possible to do in the future. We did try very hard to articulate and mass the building in a way to be sensitive to the houses on Hoyt and Irving by making it four stories at that location, only up to six stories toward the center of the site. And that was based on kind of shadow studies and sight line studies that we did to compare it to other options that showed that it was in fact less impactful on the neighborhood. We incorporated very high-quality materials that would be compatible in terms of their permanence, as other historic structures in the neighborhood, and we committed to apply for the City's MULTE program, which as you know would commit 20% of the units to be affordable to household earnings at or below 80% of median income, which would in fact provide a resource in that neighborhood that doesn't currently exist in abundance. In other words, a lot of the new units are not serving households that are at or below 80%. Today, we're proposing to address housing affordability beyond just our project and in a way that gets to the folks -- who we've heard from the commissioners and know from our own experience -- are the most need in our community. We're proposing to devote \$45,000 a year for 10 years to sponsor the low-income senior housing work of the Northwest Pilot program. We did get a letter from the Director, Susan Emmons, and understand that she will be able to use that sponsorship to provide housing and eviction-prevention services to 100 low income seniors per year. So, over 10 years, you'd be serving about a thousand people. We would suggest this requirement be added as a condition that we would implement through a development agreement that we would work with City Attorney to put together. And again felt this was a way with the contribution from the project to get significant bang for the buck in terms of assisting those who have the highest need. We also heard a lot about the proposed height massing and FAR associated with our proposed very preliminary concept. To address that, we're proposing a condition that the building we construct be reduced in height from the 75 feet allowed by the zoning to 59 feet. The FAR would not be reduced. The shift in using our mitigation budget for the affordable housing and in changing the building would impact our building design, but we're confident that working with the Holst architects we can still deliver a quality project that we'll all be proud of and that will enhance the community. So, while the design may change, we would still provide adequate structured parking, for shared use parking, and we would still submit for inclusion in the MULTE program. Thank you.

Hales: Questions?

Saltzman: I'm just curious how you came up with \$45,000 a year.

Sherman: Well, we did some initial looking into what the difference was between the 80% units and if we went for more affordability, and frankly, we quickly realized that that difference would basically render the project not economically feasible. It's about \$250,000 a year to take the 16 units from 80% and put them at 60%. So, while we recognize that was not something that we could do, we still wanted to do something that would have a significant impact on low income members of the community. And based on relationships that Mark O'Donnell has with Northwest Pilot Project and understanding -- having a discussion with him about what they could do with a certain amount of annual resources -- came up into something we thought could work for us and be meaningful.

Saltzman: OK.

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Ramis: Mark spoke to the executive director and asked, what sort of contribution would be meaningful and would make a difference for you? The response was, we can help 100 people a year with \$45,000. And that's where it came from.

Fish: So, following up on that, remind me -- under the revised proposal, how many apartments would you contemplate?

Sherman: We haven't designed it, so I don't know, but we're proposing the FAR would not be reduced. So, it's four to one FAR, but that no one in the building would there be 59 feet in height.

Fish: Just a range of -- so, assuming you had a mix of sizes you were thinking about and what you could design, what are the goal posts on which you might be able to get in terms of number of units?

Sherman: I would say 75 to 80 units.

Fish: One of the concerns that I have -- and by the way, I compliment you for the creativity of the Northwest Pilot Project proposal, because it's a target population in our city that is facing unique challenges. One of the concerns that I have, Jill, is that we have a significant shortage of available units for the populations that are being priced out. And one of the great advantages of this particular area of our city is that it's a high-opportunity area. It has access to amenities. And so, adding units in a high opportunity area for me is more preferable than having a fund which subsidizes people who may not be able to find housing. We have such a shortage of units because of the dynamics that if we don't actually add units -- which is the virtue of the tax abatement program, it gives you an incentive to add them. What we're doing is still rolling the dice that someone can find a unit in a very tight market. So for me, dedicated units in a building are worth more than a fund to provide relief for people who ultimately may not be able to actually find housing. The challenge I guess we have with the tax abatement program that you've referred to is it's a competitive program judged against all the other applications with a statutory cap. So, you may or may not get it. And if you don't get it, it seems to me there's a significant drop in public benefit in this project, and I'm not quite sure how to reconcile that.

Saltzman: So, I know you're not quite sure how many units. But what's the proposed mix again of studio, one bedroom, and two bedrooms, three bedrooms?

Sherman: Well, in the original concept we had actually about 40% studios, 40% one-bedrooms, and 20% to 25% -- perhaps a little fewer studios -- two-bedrooms. We believe it's a great opportunity for small families in that location. Great schools, great location, etc.

Fritz: How many actual units of two-bedrooms would that be?

Sherman: When we had 82 units under that scenario, we had about 18 two-bedrooms.

Hales: So, let me return to a couple of issues if I can. Others may want to go back to this discussion, as well. But when I asked Mr. Waxman the same question I asked Mr. Michaelson -- what would you do with this property if you owned it if the City said you gotta keep it -- he frankly didn't come up with much and mentioned the seismic issue that you mentioned. But when I met with staff, I learned something that I hadn't quite understood. And that is, I believe you have to spend about \$40 a square foot in renovation costs before you trigger the full seismic review. So, it is possible -- if I understood them correctly -- Ms. Adam and Mr. Heron -- that you can do a substantial renovation -- not remodeling, but renovation -- of a historic building like this that's unreinforced masonry without triggering the full seismic retrofit. If I go that right. So, are there not scenarios by which you renovate this building and stay under that \$40 per square foot ceiling and not therefore have to try to absorb the extraordinary costs of a full seismic retrofit?

Sherman: I mean, under any scenario that we looked at in terms of what we thought you had to upgrade the systems and the interior and the exterior of the building, you would exceed \$40 per square foot. You would be leaving the building in fairly similar condition with perhaps some cosmetic changes. And I think the owners tried to lease it as is for a number of years.

Ramis: I'll add also that because our intention is to be in ownership for a long time, the idea of leaving an unreinforced masonry building without seismic upgrade is an unattractive proposition.

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Hales: Hear you. Mr. Michaelson mentioned the design process. Why did you not go through that process in advance of this proposal, given that obviously you've got to go back to the Landmarks staff and Landmarks Commission to get design approval for a building here? I know it costs more to do the design in advance, but given that you're going to have to do that anyway, and you have a pretty high bar to clear here in order to demolish a contributing building, I'm a little puzzled as to why you didn't go through that process, particularly after staff encouraged you to.

Ramis: We considered it, we talked a lot to staff about it. There's a sort of chicken or egg question about where you start. We figured sooner or later, we're going to be in a design conversation, but we had some pretty clear messages from the staff and they said they were reflecting what Design Commission would say anyway, so we decided let's get on with the fundamental question. And we know the design issue is one we've got to take on.

Fish: Jill, have you -- assuming Council denies the application, have you considered what are the options for what you can do with the parking area in terms of building something that's compatible or complementary to the existing structure?

Sherman: Any alternative that we have looked at -- which we have looked at many -- we found both problematic, because it's still assumes you can renovate the existing building and leave it, which we don't think is feasible. And two, we thought was a less attractive and beneficial solution to cohesively redeveloping the half block and being able to provide below grade parking, which you won't be able to do that if you lease this where it is.

Hales: Right. You can't do eighth block underground parking.

Sherman: And even quarter block is very expensive and inefficient.

Novick: I just want to go back for a second to the question of how many of the units might be two bedroom. It's actually one of the most attractive features of the proposal as I heard it last week was that you thought this would be family housing. Given that you're scaling it back, is there any kind of commitment you could make that a certain fraction of the units will be suitable for families?

Sherman: Yes.

Novick: What do you think that realistically could be?

Sherman: I knew you'd ask that -- [laughs] -- I mean, I think it's reasonable that even if we scale it back, and let's say we lose two to seven units is what we've ball parked, that we would maintain the same number of units that we have today as two-bedrooms, which I believe is about 18. So, we would end up with a slightly higher proportion of two-bedroom units in a fewer-unit building.

Novick: There's no possibility of any three-bedroom units, is there?

Sherman: Three-bedrooms are very, very challenging. We could certainly look at it and see if it's feasible to do a couple as part of the project if the owners are amenable.

Ramis: Yes, if that's an important consideration, we'd address that.

Novick: I'll state here for the record that partly in view of other demolitions recently, I'm looking for places with families with some means to live other than McMansions. So, I'm looking to you for alternatives to McMansions.

Hales: Other questions? Follow-up items for the applicant here? And then, do we need to check in with you about the one-week period for additional written testimony?

Ramis: Yeah, we would be happy to waive that additional opportunity. We appreciate very much the amount of time that the community and the staff and the council has spent on this up to now. I'd say also these are ideas for mitigation. If the council wishes to engage further in that conversation, we're happy to do it.

Saltzman: Just a follow Commissioner Novick's question and answer with Jill about 18 two-bedroom units. That's regardless whether you get any tax subsidy from the City of Portland for the affordable?

Sherman: Correct.

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Fish: By the way -- again, if we deny the application is there anything that prevents you from refileing at some point after you've determined whether you qualify for the multifamily tax exemption? Excuse me -- not the multifamily --

Sherman: The MULTE?

Fish: The MULTE.

Sherman: I guess -- we started working with the owners on this piece of property almost two years ago, and it's taken a lot of sort of time, thought, meetings with both the neighbors to determine what we thought was the best route. And we have not taken that lightly. So, I think our preference would be to move forward, apply for the program. We think we can put together a very compelling application -- the two-bedroom units in particular, the location, and what an opportunity area it is, etc. We think that we would have a good chance of being successful.

Fish: You know, one of the things that's challenging for me, Ms. Sherman, is that the staff has come in very heavy on the goals and the policies are not met in the balancing test. Very heavy. In fact, it's one of the strongest recommendations that's come to us on a land use matter that I've been involved with -- and I was involved in the Dirty Duck discussion. And I agree with Mr. Michaelson there was a compelling public benefit. That building was also about to fall down at the time, as well. But it was a compelling public benefit, and we also got a really beautiful building out of it. And for me, it's a little challenging where the balancing test -- where recommendations from staff and reviewing the record, puts the balancing test, you know -- from at least from your point of view -- at risk. And I don't have of a compelling public benefit to throw into the mix. Again, I appreciate the effort you've made today with Northwest Pilot Project, which is a superb addition to this project. But I'm personally concerned that there just -- I have not personally seen enough public benefit here in a case where the balance also seems to be at risk. And so, I don't know in the ordinary course what's the best way to sort that out. Whether it's to give you the opportunity to come back at some point with another plan, or to engage in an interactive process with this Council. This is a somewhat unique proceeding, so I'm not sure what's the appropriate way to go forward.

Ramis: We're happy to accommodate whatever process you want to use to address that other or issues. We're not here to argue any particular procedural requirement. We're here to engage in conversation about how to get a great building, how to make a good contribution to the community, and how to stay involved as families. So, if the results of the council's discussion is that a majority of the council feels the balance weighs in favor of one of the other and you want to reach a final decision, we understand that. If you want to continue the proceeding in some way, we're open to developing some way to do that in consultation with you and the City Attorney.

Hales: Thank you. Further questions? Thank you very much.

Ramis: Thank you.

Fritz: Mayor, I have further questions of staff.

Hales: OK. Could we bring Ms. Adam and Mr. Heron up?

Fritz: Commissioner Fish just teed up the question I was about to ask, which is in terms of balancing the comprehensive plan goals and objectives and your analysis. Can you talk to us about -- the issue here is demolition of a contributing structure. How does any public benefit weigh into -- how does that get weighed into the findings on the comprehensive plan findings?

Hilary Adam, Bureau of Development Services: Hilary Adam, BDS. I think that the public benefit would be weight as looking at the comprehensive plan goals and policies and the northwest district goals and policies. I didn't see much related to those goals and policies in their proposal that I could point to to say that they were doing that in exchange for proposing demolition of a contributing resource. And the approval criteria says that you can look at the merits of the demolition or the merits of the proposed development. The merits of preserving the historic resource the effects either or would have on the area's desired character. Again, I didn't find that it was -- on balance -- met by the proposal to demolish.

Fritz: And tell us again about your understanding of a contributing structure in a historic district.

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Adam: There are different levels of significance as they pertain to the National Register. There's the national historic landmark, like something like Independence Hall in Philadelphia may be. Then, there are historical landmarks in our city, which are generally buildings that are individually listed in the National Register, and that is based on their merits by themselves alone. There are also historic districts listed in the National Register, and those consist of contributing resources and noncontributing resources. Sometimes, landmarks are included in there because they are already there. Contributing resources are those that specifically contribute to the significance of the historic district. Noncontributing buildings are those that don't; they may have been built later or they may have been significantly altered to the point they're no longer recognized as they once were. The Alphabet Historic District was listed in part because it was associated with significant events, meaning the development of that neighborhood; significant people, people that are associated with that neighborhood; and also significant architecture. This building was listed as contributing because when it was built -- the style it was built in, and that I believe was specifically why.

Fritz: The Irvington community association talked about their district and expressed concern that allowing removal of contributing structures would impact them. Do you agree with that assessment?

Adam: That gets into the precedent argument. I believe their letter was talking about how historic districts are stronger because of the collection of buildings that are listed as contributing but not specifically individually-listed or landmarked on their own. So, it's the strength of all the buildings together that makes it special.

Fritz: I'm reviewing the Landmarks Commission letter again -- has anything you've heard in testimony -- does it make you think that the Landmarks Commission -- well, first of all, did the Landmarks Commission hear most of the testimony that we heard?

Adam: Yeah, they were here for almost all of the hearing last time.

Fritz: No, I mean when it was before the Landmarks Commission. Was anything new raised before that was not raised with them?

Adam: I don't think so.

Fritz: So, they essentially weighed what we heard and came down in favor of denial.

Adam: Yeah. There were no testifiers in support of demolition at the Landmarks hearing. I'll say that.

Fritz: And the Landmarks Commission says they would likely find a large four- to six-story development would not be an appropriate neighbor to the 14 landmark houses. I know you're not the Landmarks Commission, but does the offer to take it down to 59 feet -- is that a significant difference?

Adam: I mean, 59 feet -- that's still a four and a half story building. At the hearing, one of the Landmarks Commissioners specifically said that she didn't see herself approving something more than three stories. There seemed to be general agreement with that. Obviously, it's open for discussion and it depends on the actual design that's presented to them.

Fritz: And the burden of proof is on the applicant, correct?

Adam: Right.

Fritz: So, we would need a compelling reason to overturn or disagree with the Landmarks Commission's recommendation.

Hales: Tim, were you involved in the Dirty Duck case as staff? I don't remember.

Tim Heron, Bureau of Development Services: All day, yeah, I was there for that. Tim Heron, BDS.

Hales: OK.

Heron: We called it the Kiernan building.

Hales: Yes, sorry. It's just that the alliteration makes it memorable -- nothing else memorable about it. Thoughts about this case and that case as critical indicators of how we weigh this contributing building issue?

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Heron: As the applicant said, I did everything I could to convince them that coming in for historic advice request with the Landmarks Commission as it were would be helpful. What I heard in testimony at the last hearing and today -- the one missing piece we're not talking about is the potential replacement should Council find the resource to be demolishable. That's unfortunate, because I think that could have been part of the conversation about what kind of volumes, what kind of massing, what kind of articulation in the building form that could replace the resource the Landmarks Commission could have weighed in on. We haven't had that conversation. That could have helped this Type 4 proceeding. It's one of the things to consider in the approval criteria, meaning the merits of the replacement of the resource. As we heard from the Landmarks Commission expressing some concern about the proposal of the step down from six stories to four stories -- I'm also concerned not just with thinking about height, but thinking about the full half block frontage of 200 feet along 18th as being an issue. Any of the buildings approved more recently by the Landmarks Commission were either on a quarter block with five stories, or if it were taller -- Mr. Mayor, as you mentioned, Park 19 across from Couch Park has a significant recessed alcove that goes from ground to sky in the middle of that half block development. So, I'm just concerned. There's lots of architectural moves that could be made. The firm they have retained is clearly one of the best in the city, but what we're talking about is basic fundamental massing and height across a 200-foot frontage between two sets of very important landmark properties that are a much lower scale.

Hales: I'm inclined to agree with you that it would be nice to have the advice at the front end on this, but I wanna flip that on the other side for a moment and be a little bit of a devil's advocate. The code criterion that we're looking at for making this decision -- 2B says the merits of development that could replace the demolished resource either as special proposed for the site or as allowed under the existing zoning; and then D, the effect that redevelopment on the site would have on the area's desired character. How would it be possible for an applicant in a situation like this to meet those criteria without reaching a fairly high level of design and perhaps getting a DAR at the front end? In other words, is it even possible that you could meet those criteria if we don't know details about the design?

Heron: I think it's definitely possible, I think that's where the advisory request meeting would have been helpful to have had walking into this Type 4 review -- so, we would have had some fundamental components. The Type 3 -- if the demo review is approved by Council, a Type 3 Landmarks Commission hearing is required. What is very protective about the Type 4 -- and I had mentioned this to others -- is this is only the second review we've had of a Type 4. The process works by virtue of no one's really taken advantage of it since 2004, this is the second one in part, looking at some of those details. I think that's where I'd get back to if we could get to a fundamental massing. When we did the Blanchet House it was a quarter block and a quarter block only. This is a resource of one-eighth block in scale with three-eighths remaining to be re-developed or re-developable. Meaning if the resource was retained, there's more block left to be developed. The Blanchet House was a quarter block for quarter block. During the DAR, we talked about design and details, kind of designing a fabric building. We did it with some subtle renderings, with details to follow with the formal process. It was also proposed at three stories during the DAR process as it informed the Type 4. When they came back after Council found the demolition was approvable on the merits of public benefit in that case, ultimately, a four-story building was approved. The Landmarks Commission at the time felt like the additional story that was added since original DAR for the Type 4 was fine, but a lot of that was based on the merits of the detailing that that building provided for that required Type 3 process.

Fish: And it also a significant public benefit -- the fourth floor was housing.

Heron: Right. It wasn't a different kind of use, it was an expansion of the same public benefit.

Hales: Other questions?

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Fritz: So in your opinion, if the Landmarks Commission had been presented with a proposal that had affordable housing in it, do you think that would have changed their decision?

Adam: I don't think it would have changed their perspective on what was appropriate for the neighboring historic landmarks. I think -- just going back to the optional DAR -- if they had had that in the beginning, maybe they would have had a better idea of what Landmarks would've been open to in terms of mass and scale and maybe could have resolved their program around within that envelope. And it would have made a far more compelling argument for me, and maybe a perhaps more balanced staff report.

Fritz: Thank you.

Novick: Question about the relative contribution merits of buildings. My understanding -- whether it's your 478 contributing structures in this district, something like that?

Adam: I don't remember the numbers exactly, I think there are 400-something resources.

Novick: Sorry, that's right -- contributing resources. So, do some resources contribute more than others? Could you like rank them one to 478? And if you could, where do you think this one would fall?

Adam: They are not ranked that way. There's either contributing or there's noncontributing. As I said, there are some that are landmarks which, you know, are even more special -- that they deserve listing on the National Register on their own merits. But in terms of looking at the district as a whole, it's only contributing and noncontributing. This one -- I think at the time of listing of the Alphabet Historic District, not enough research had been done with regard to its specific history. It is possible -- with that additional knowledge that we now have, perhaps it could be listed on its own merits.

Novick: Does that mean that we are bound to treat each resource as contributing as any other resource? There's no way to look at gradations of contribution?

Adam: You're human, so -- it's not really -- in the code, it's not specified that way. The code only talks about contributing and noncontributing. Granted, some resources have been modified a bit and don't look like they once did, such as this one. Others are in extraordinary shape, like the Trenkman homes just to the south. Again, approval criteria talks about considering the merits of the building versus the merits of demolishing it and the merits of what's proposed in its place.

Novick: Some of the opponents of demolition have said that if you allow this to be demolished, then all contributing resources have to be allowed to be demolished. Do you think that's really true?

Adam: I don't think that's what they meant. I think what they mean is they are all at risk now because we will have learned -- if demolition is approved -- that historic preservation isn't necessarily as lofty a goal as we thought it was, or that you can propose demolition of a historic resource to be replaced by a primarily market rate apartment building.

Novick: OK.

Hales: Any other questions for staff? Oh, Mr. Heron, go ahead.

Heron: If I may, a couple final points that were raised at the last hearing. One, the zoning for the site was in place before the historic district was created. However, we feel the potential to redevelop the site and still meet minimum zoning requirements as desired by those goals of the RH zone could still be met and still retain the resource.

Fish: What's your basis for that belief?

Heron: Just minimum density requirements for the RH zone could be met if the remainder of the site is developed.

Hales: Minimum density.

Heron: At least minim. Not maximum.

Hales: Not necessarily maximum.

Heron: Right. I think the maximum may be problematic, depending on size of the units. Obviously, more three-bedrooms is more volume, more studios is less volume, but the issue is compatibility in

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context of this new addition to the historic district. And I think that's where there's going to be pressure on height, there may be pressure on overall FAR -- bulk, if you will -- of the proposal.

Hales: Make your second point, but I want to come back to that.

Heron: Sure. The second point -- Commissioner Fish, you expressed concern about the Landmarks Commission reviewing new development and suggesting perhaps the Design Commission.

Legislatively, that's problematic. I also don't think that's necessary. The Landmarks Commission is made up of several volunteers across the spectrum of development. You're correct that their focus is preservation and restoration, but we have been and are reviewing new full block developments. One in fact by Gerding Edlen development is a three-quarter block on a vacant site next to the Old Town building in the Old Town Skidmore district. So, they're warming up to new construction, so that's not a concern.

Fish: I didn't mean to imply they didn't have the capacity or expertise to do it. I was just struck by the vehemence of their position against the proposal, and how does that same body then perform that other function against a strong conviction that there should not be a demolition to begin with. I'm struggling with that, not so much whether they had the tools to do their job appropriately.

Heron: I think the Landmarks Commission is put in a position of not having anything to react to. The entire conversation was on demolition, not a potential replacement. And when we did the Blanchet House and did a DAR, that was challenge because even doing a DAR for new development presumed Council would approve the demolition.

Fish: Your point earlier about looking backwards -- saying maybe had they sought voluntary design advice, it might have had some impact. The code currently says that's optional.

Heron: Correct.

Fish: Is it optional because it's an undue burden?

Heron: No, I think it's just a newer process. For me, what I've found on Design Commission's role -- which is extraordinarily busier than Landmarks Commission, especially as of late -- we're seeing all three of our projects taking a voluntary design advice request to get some predictability in what the final formal proposal -- what the envelope is, what are the details, what are the expectations.

Fish: It just seems to me -- whether it's optional or mandatory -- where we're asked to balance things like the compatibility within a historic district and how it impacts the district, and looking on either side of the street to imagine the size and scale and its impact -- it seems to me as you said. It meant the Landmarks Commission didn't have as much to react to. And it puts us in a position of dealing with a lot of imponderables, a lot of things that are not before us. And I'm not sure that is our best role.

Heron: I don't disagree with you.

Hales: So, let me pose a dilemma here. One of the things that's been difficult for me to weigh in this case is the entitlement that the RH zoning confers on the property owner and the conflicting entitlement that the historic designation in effect confers on the community around it. So, there are a number of property owners who own property in historic districts. Is there, in your opinion, an entitlement to an envelope building -- that is, a building that achieves the full density?

Heron: Not necessarily. The historic overlay is as much an overlay as the zoning code overlay. I think one of the reasons why Irvington became a historic district was because they wanted to preserve some of the fabric and the scale and the compatibility. One of the reasons why the Buckman Neighborhood Association wanted to pursue historic district nomination is because of the different zoning code envelopes that were otherwise entitled to by the zoning code were not protective or able to be preserved. That process failed because a number of people spoke up in concern of the regulations around historic districts. And a lot of that has to do with compatibility and consideration of adjacent structures and adjacent sites. Large buildings in the Alphabet Historic District have been approved recently and exist there in the past. But we do look at each site on a case-by-case basis, and this particular site presents a challenge given adjacency. It's a much smaller scale individually-listed historic landmarks on the north and south of this site.

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Hales: And we've discussed this for me but go back there for me -- if you would -- that is to a block away, where we did entitle an envelope building very close to the theoretical envelope across Couch Park. I asked Mr. Michaelson that question. He said it's because of the situation of that building. But yet, it has two-story buildings immediately adjacent to it.

Heron: That was a big concern. I also did that review. That was a great concern in that the approach to that building from the east going into the district would be very visible. One of the struggles that the Landmarks Commission had in reviewing that project was how to detail the end walls of that project. They ended up deciding that because it would be so visible, they detailed it much like the front façade. So, it has a lot of detailing as opposed to being a more typical end wall with a lack of ornamentation that you might see in a historic district. That building also has another front, a more formal front, and that is Couch Park, which is on the uphill side of that building. So, the sense of that building having more gravitas -- if you will -- as well as height was found to be appropriate specifically because of its relation to Couch Park. That project also received a transfer of FAR from a historic landmark. So it's actually built above the entitled FAR for that site. But because of a provision in the code that allows you to transfer landmark FAR, it went up in height. And I think in consideration of that, the Landmarks Commission -- while they struggled with the upper story of that project, it did ultimately receive support from the neighborhood and then obviously from the Landmarks Commission.

Hales: I assume there's been some turnover on the Landmarks Commission since then, but is it largely the same commission?

Heron: I think half are. There will be some institutional memory. I'll provide some institutional memory.

Hales: Clearly. Thank you.

Heron: But there are new Commissioners.

Hales: Alright, thank you.

Fritz: Further going to Mayor Hales' question about the balance between what's allowed under the RH zone and what's required under the historic preservation requirements -- there's something in the record -- and I was desperately trying to find it -- about a previous decision that Art DeMuro was involved in where we previously established a precedent that in fact the historic resources -- the area plan -- it trumps the base zoning. Can you remind me -- do you know what I'm referring to?

Heron: I'm sorry, Commission. I mean, in the course of talking about big buildings in historic districts -- which is relatively recent -- meaning bigger new buildings, that very case, the one off Couch Park was one of them where we had back and forth. We did have confirmation from the City Attorney that the guidelines do mean something. That the zoning entitlement is not necessarily a right in a historic district. The guidelines that layer -- that historic layer of approval criteria -- can shape, mass, require additional detail, and perhaps require wood windows, for instance, as appropriate. They are part of the entitlement process and it's part of that land use review.

Fritz: Thank you.

Adam: The zoning code also specifically states that plan districts and overlay districts modify the regulations of the base zone.

Fish: So, another way I'm trying to reconcile the same issue the mayor raised and Commissioner Fritz just addressed -- when I go to approval criteria, one way of looking at it is if you come to Council under sub one, which essentially says you've been deprived of all reasonable economical use, that's the takings argument. And the takings argument trumps if we find that to be.

Heron: Mm-hmm.

Fish: If there isn't a takings argument -- and that's not before us currently -- then it's by definition a balance. And the tension has to be resolved through a balancing. And the balancing -- ultimately, the burden is placed on the applicant. So, at this stage, it is a balancing with the applicant having the burden, and that's at least how the code anticipates we would resolve that tension that the mayor identified as I read it. Am I in the ballpark?

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Heron: That's correct, and that's why the Blanchet House when we had that was a tough conversation. It was balancing the comp plan.

Fish: And in effect, that is in some ways the legal precedent that we are creating for these kinds of processes. Each case is a case-by-case, but there is in effect some legal precedent in terms of how we -- hopefully we're consistently construing the applicable code and applying it. Then if we get to a balancing test, that by definition isn't much of a precedent, because every case is unique and you'll balance it slightly differently. But to the extent you are identifying things like public benefit as an important consideration, then that does send a signal to the next applicant where our focus may be.

Heron: And it's why the Type 4 has you as the approval body.

Hales: I think we may have exhausted our list of questions. Any more?

Fish: Mayor, I just want to compliment staff for this exchange. This is a very hard case, and it's a case largely of first impression and we appreciate the guidance we're getting in terms of our deliberations.

Heron: You're welcome.

Hales: Thanks very much.

Heron: Thank you.

Hales: OK. So, now I'll close the public hearing.

Beaumont: That's correct.

Hales: Going to begin Council discussion and deliberation and proposal of a motion if there is one.

Fritz: I'm ready to do so. I believe the Landmarks Commission got it right. It's one of the first women's hospitals with one of the first well-known businesswoman, Mrs. Alta B. Spaulding, who I had not previously heard of -- and that in itself is a problem, because as a graduate of a nursing school and somebody who worked at OHSU, I would have hoped I would have heard of her before. The building has significance as a historic structure. It fits well into the neighborhood. We heard a lot of testimony about the fabric of the neighborhood and the appropriate scale of development. There's no contention that all economic value is taken away by not allowing the demolition. And we haven't heard any proposals to replace the building with something close to being compatible in the area and the district, given the nature of the surrounding buildings, particularly, the 14 small historic structures so this building does fit into the overall scale and the time period of the other buildings in the neighborhood. Therefore, I move that we deny the application.

Hales: Is there a second?

Fish: Mayor, I'm going second it and explain my thinking. In nine out of 10 cases that come to us with the players before us who are representing the applicant, I would be inclined to be supportive of a development. We have a responsible owner, a world-class development team, and an award-winning architect firm. You can't get a better team together. But the question that we have to grapple with -- since there's no taking issue in this case -- is on balance, is it or is it not supportive of the goals and policies of the comp plan? The burden is on the applicant, and I think the burden is particularly heavy when an administrative body with expertise that we have asked to give us recommendation has come down so strongly. For me, though, in addition to the analysis we've been presented to by staff, I struggle with the question of public benefit. I was on the council when we took up the Blanchet House. And while I disagreed about the merits of the Dirty Duck building, which some people thought was a more significant building than this Commissioner, the public benefit was overwhelming with the new Blanchet House. In addition, because of the significance of the issues we're addressing as precedent -- and I'm not talking about legal precedent, I'm talking about signals that we would in giving in other historic districts -- I believe we have to err on the side of caution at this point. While I am not saying that under no circumstance could I approve a demolition permit, under this or similar circumstances, I can't get there on the record before us. And so, I will second the motion.

Hales: Further discussion before we take a vote on that motion?

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Beaumont: Mayor Hales, I would just clarify that your vote today would be tentative.

Hales: It's a tentative vote to be supported by findings, exactly. We've got findings already on the record from the staff and commission that still need to be added to, no doubt.

Beaumont: Correct. As I understand the motion, it would be to uphold the Landmark Commission's recommendation and deny the application.

Hales: That's right.

Fritz: It doesn't say on appeal or not appeal. Thank you for the framing, Katheryn.

Hales: Right. Further discussion, Steve?

Novick: My inclination would be to put this position on hold and ask the applicant to go through the design advice process. And I do think there would -- I mean, there is a public good argument for demolition. One is that this is an unreinforced masonry building, and unreinforced masonry buildings are a safety hazard. And frankly, that leaves me with something of a bias towards removing them if there's not an obvious, immediate path to reinforcing them. Another is that I think that -- I mean, in order to meet our climate change goals, we are going need to have more people living in multifamily housing, and not just poor people, but higher income people. We want higher income people living in multifamily housing rather than in McMansions that use a lot of energy. And I know it takes energy to knock down and rebuild a building, but people living in McMansions suck up a lot of energy over a long period of time. And when I look at goal 12 -- enhance Portland as a livable city, attractive in its setting and dynamic [indistinguishable] character by preserving its history -- we would be knocking down a piece of history here, but also and building a substantial legacy of quality private developments and public improvements for future generations. I think particularly if we had family housing in a multifamily unit that would add to the dynamism of the urban character of this neighborhood, which is why I would be particularly interested in having the condition of a certain number of the units being at least two-bedroom. So -- it's actually frankly easier for me to say what I'm saying knowing I'm probably going to be on the losing side rather than if I had a chance of being on the winning side, because I don't like to go against staff. But I do think there are strong arguments for replacing this, and also the idea of getting rid of surface parking is rather appealing as well.

Hales: OK. Further discussion? Let's take roll call on that, please.

Roll on motion to tentatively uphold Historic Landmarks Commission decision and Bureau of Development Services staff recommendation and deny the application. Prepare findings for January 7, 2015 at 10:00 a.m. Time Certain.

Novick: Nay.

Fritz: Aye.

Fish: Aye.

Saltzman: Well, I do have a lot of respect for the applicant and team that's been assembled on this proposal. But I do have to say -- and I appreciate the efforts towards Northwest Pilot Project and towards applying for tax credits for affordability, but I do find that this proposal does not have a compelling substantial benefit -- compelling public benefit attached to it in its present form. Not to say that it may not come back to us -- and I do think that perhaps nothing in our decision will prohibit you from seeking the design advice, taking another run at maybe the number of family-sized units, the affordability levels. But I just can't -- given, as Commissioner Fish said, it's not a legal precedent but it does sort of have a -- given this is the second time we've ever made a Type 4 decision, it does carry sort of water cooler precedential value associated with it. And for that reason, I really need to see a more compelling public benefit before I can approve demolition of this structure. I don't really -- you know, I've seen the structure, I've learned the history. The structure is not that impressive, but the history is more compelling. And as I said, I don't find a compelling public benefit in this proposal as it's presented to us this week that I can approve it. Therefore, I, too, vote aye.

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Hales: I want to echo a lot of the comments here. This has been a very difficult case for me to weigh in part because I do have such respect for the applicant and for his partners and family and for the team that has been assembled to do this proposed project. And we've seen a lot of good quality work done by members of that team, and I think that's imminently possible in this and other places. But I agree with a lot of the comments of my colleagues here, and I went through those six criteria under 33846080 C sub 2 and tried score each one based on everything that we've heard in this hearing and seen from the commission and from the staff. The merits of demolition? In this case, demolition might be the only realistic option for this building. I've heard conflicting testimony about that. I've heard people say that it's possible to renovate this building and keep it, and I've heard people who are also well-informed people say probably not. I share Commissioner Novick's concern that even though we haven't figured out how to fund the seismic improvements of unreinforced masonry buildings all over the city, pushing a property owner towards a scenario where they have to keep a dangerous building dangerous is something that should be of concern to all of us. But OK, I'll score that one in favor of the applicant. The merits of development that could replace the demolished resource either as specifically proposed for the site or as allowed? Well, sometimes that's pretty easy if it's as allowed. If the site zoned store front commercial and the property owner's going to demolish it -- an older building and replace it with store front commercial in a store front commercial district, I think we -- actually without seeing the design of the building -- have a pretty good idea of what we're going to get because of the requirements of the base zone. But this is zoned RH. And as we've seen, you can build a very mass envelope building in an RH zone absent any other design guidelines from either the Landmarks Commission or the Design Commission. So, we don't know enough about this proposal to say that it meets that criterion, particularly because of context in this case. And I take Mr. Michaelson's counsel seriously and Mr. Heron, as well. If you look at this versus other situations, the suite of old houses that are north and south of this site are extraordinary resources. I'm not a historic landmarks expert, but even I can see that. So, whatever gets built on this site will have to show great deference and neighborliness to that particular set of buildings on both sides. That's the deal because that's the neighborhood, and that's what we have to take into account, which is why I asked those questions about an entitlement to the full build out. "Not necessarily" was the answer, and I think that's the right interpretation. So, that's a question mark. The effect that demolition would have on the area's desired character? Well, the desired character is both historic preservation and density. And again, we can't tell from the application without a more detailed design. The merits of preserving the resource? Again, it's hard to know if it's possible. But if you look at all those question marks in that list, and if the burden of proof is on the applicant, then unfortunately, the burden of proof isn't met -- unfortunately for the applicant, the burden of proof isn't met. And we have to, whenever we see a case -- whether it's a zone change or a comp plan amendment or a very rare instance like this of a demolition review -- if it's a close call, we have to remember where the burden of proof is. And it's always on the applicant in a situation like this. And then finally, I do have to give some deference to the volunteers that we ask to serve on these boards and commissions, whether it's the Planning and Sustainability Commission when they put a zoning designation on a piece of land in the first place, or the Design Commission or the Historic Landmarks Commission when they do this kind of work. We had a unanimous recommendation from the citizen body who we trust to give us good advice, and we have to have very good reasons not to take it, and a very compelling case not to take it. Again, I don't think this case is compelling enough. So, I'm not sure where this goes from here in terms of the applicant's options. Again, I'm pretty convinced from what I've heard that it might not be possible to keep this building in service with the seismic costs that are attached to it. That's not unique to this site, but it doesn't allow us to approve essentially a speculative plan for what might go there in its place. If we have a specific plan that shows great deal of deference to its neighbors and does a better job of more clearly meeting these criteria, it might be possible to approve something else. But given what we have in front of us, I don't believe we can approve this. So, I

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vote aye. That's a tentative decision to deny the demolition review and uphold the staff and commission's findings. We need to set a date for the adoption of those findings, City Attorney and staff and applicants.

Beaumont: I'm conferring with staff to see how much time.

Hales: We're not meeting again until January 7th, so you have a little time.

Beaumont: Maybe the second or third week in January.

Hales: It'll be on the regular calendar, because it's just adoption of findings.

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

Hales: For a morning session, probably.

Moore-Love: The 14th is really busy, is the 7th OK? It will be at 10:00 a.m.

Hales: This is just for the adoption of findings, so it's a swift action.

Fritz: I'd like to thank both the applicants and neighbors for a very constructive set of testimony, and especially Hilary Adam and Tim Heron in the Bureau of Development Services for their guidance through this process, as well as the Landmarks Commissioners. It's really been a very helpful discussion as we look at our historic resources and how we're going to take care of them and neighborhoods. So, thank you.

Hales: Thanks very much, everyone. We're recessed for 10 minutes and we'll come back for the other time certain.

At 3:20 p.m. Council recessed.

At 3:37 p.m. Council reconvened.

Hales: I'm going to ask the council to come back to order, and we'll resume the Council meeting this afternoon. We took a brief recess. We are now ready to take up item 1333.

Item 1333.

Hales: I'm going to call Thomas Lannom and others from the Revenue bureau, but just some context for this. We are as a City trying to adapt to the new economy that includes new business models, and particularly what people call the sharing economy. We've been working hard at that on the residential side. Now, thanks to Commissioner Novick and some very hard work by City staff, we're going to begin work on how we address those same new economy issues in the transportation sector. The point is this is how Portland does things. We try to be innovative and get in front of trends rather than be behind them. This is another case where we're working towards that end. And Karla, you have an urgent need.

Moore-Love: Yeah, we read 1333, which is the first item we need to announce is being held over.

Hales: Oh, sorry. And then 1334.

Moore-Love: That's being held over to --

Fish: Karla, I think one's being held over and [inaudible] is a first reading.

Hales: Sorry, I don't have this --

Kathryn Beaumont, City Attorney: [inaudible]

Moore-Love: Right. We haven't read that title yet, though.

Hales: You haven't read 1334?

Moore-Love: No. We read 1333, which is being held over to January 13.

Hales: Right, I'm sorry. So, you need to read 1334.

Item 1334.

Hales: OK. We're dealing with the Revenue issue today, and 1333 is held over. Thank you. So, now, call on Thomas Lannom to take us through this set of proposals in front of us, which are code changes regarding short-term rentals and how they pay their taxes.

Thomas Lannom, Director, Revenue Division, Office of Management and Finance: Thank you, Mayor. I'm Thomas Lannom with the Revenue Division, and this is Terri Williams, also with the Revenue Division. Short-term rental compliance is the issue before this body today. Compliance

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with Title 6, which is the transient lodging tax code, is currently estimated at about 72%. This is mostly on the strength of the tax collection agreement that we have with Airbnb. By contrast, our brick and mortar standard hotel, motel in the city -- we have a compliance rate about 99%. So, that's the target we want to be looking to with respect to the transient lodging tax code. For short-term rental single family residential locations, compliance with Title 33 -- the planning appeared zoning code, is currently estimated at about 7% to 8%. According to figures from BDS, 110 short-term rental operators have applied for their permits. There are over 1000 short-term rental locations that are not compliant with Title 33. Incidentally, going back to Title 6, there are about 900 locations that are not compliant with Title 6, the hotel motel tax. City Council legalized single family residential short-term rentals on July 30. BDS began issuing permits in September. Even if we assume compliance increases at the net rate of 3% per month -- which is what it has been increasing since September -- it would take almost three years to get to 100% compliance, and I would remain very skeptical that we would ever get anywhere near that number, given there are currently very few to no incentives for people to come into compliance with the code. Our efforts at education and outreach aimed at voluntary compliance have to this point not succeeded. This is largely due to the fact that the booking interface available on the platforms is opaque and that the actual operator information is obscured until the transaction is finalized. Under these conditions, a one-by-one, peck-and-scratch type approach to enforcement is untenable. In 2013, the Revenue Division directly emailed 240 short-term rental operators using the contact function available on one of the leading industry platforms. We received only 40 responses to that mailing, which is about 17%. And that's just the responses, that's not people that came into compliance. The actual number of the 40 that came into compliance is much lower. Also in 2013, the Revenue Division mailed a letter to each of the major platforms asking for a list of local operators to more directly contact the individual operators about their code requirements. None of the platforms were willing to do this, and at least one of them representing several others as doing business as cited our lack of code authority to ask for that information. So, the ordinance today would amend the City Code Title 6 and give the Revenue Division additional enforcement authority to close the compliance gap. First, upon request of the City, short-term rental platforms must provide the City a list of operator locations, names, and contact information. That part that I said about "upon request the City" is very important. That's not the place we intend to start the day after we have the authority if Council grants it. Rather, we'll enter into dialogue -- now that we have a new piece of leverage -- with each of the major platforms, and ask them to help us to bring their operators into compliance. Second, it requires short-term rental platforms to collect and remit hotel motel taxes if they are collecting payments from guests. Otherwise, they would not have to do that. Simply put, if they're not collecting money they don't know the amount of the transaction, it's unreasonable for us to expect them to remit our tax for us. Third, it requires short-term rental platforms to post a BDS permit number on the web advertisement for each operator location. And finally, fourth, it provides for penalties for up to \$500 per violation. And again, that "up to" language is important. We do look at each circumstance differently when it comes to the circumstances and the facts that lead us to potentially impose a penalty. So, we also have a couple of amendments before you. One of them -- I don't think I have it here, Terri. Thank you. The first one --

Hales: And these are in your December 16 memorandum?

Lannom: That's correct. It's got some yellow highlighting. You should have it before you now.

Hales: OK, got it.

Lannom: I'll allow Terri to read this into the record if that's part of what we need to do here, but I guess what I would summarize them as is that we would further tighten the language around who is accepting a payment and what does that mean to accept a payment. The second one -- to address some concerns we heard about confidentiality -- would attempt to extend confidentiality to those operators that had their names disclosed to us by the platform that they are affiliated with. I should probably note that to an extent an operator is compliant with local law, that is to say, the BDS Title

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33 Code as well as our Title 6, they are required to have a BDS permit number and therefore that would not be confidential information. This provision right here would only extend confidentiality to noncompliant operators -- that we have the names for from the platforms. I'll conclude my remarks there, and ask if there are any questions.

Hales: You want Terri to go through the amendments?

Lannom: Yes.

Hales: So we have those in front of us, and then take questions.

Terri Williams, Revenue Division, Office of Management and Finance: Terri Williams, Revenue Division. The first is to amend the proposed new City Code Section 6.04.040 B that more broadly describes what accepting payments would be. So, it would strike out the term accepting payments, and say, directly or indirectly accepts, receives, or facilitates payments including through application program and interfaces, APIs, or other computerized devices where third party providers receive information about a transaction and collect funds that may or may not be transmitted to the operator, owner, or other person operating a short-term rental. So, that's the expanded language instead of just accepting payments. That's the first one. The second proposal is to amend the proposed new City Code Section 6.04.040 C to clarify that names and addresses of host information received from the booking agent to us is considered confidential. So, that's adding an additional sentence at the end of that section that says, any location and related contact information provided under the subsection is considered confidential and is not subject to public disclosure due to personal privacy concerns.

Hales: I believe that provision is founded on state law that allows to us do that, right?

Williams: I believe so, yes. And the City Attorney has reviewed that.

Hales: Commissioner Fish, questions?

Fish: Yes, thank you, Mayor. Thomas, under the penalty provision, how frequently can Revenue impose a penalty for a violation?

Lannom: Potentially daily if the violation is ongoing. However, we would be very measured in our application of that. We've only used that penalty six times in the last year. So, an ongoing violation would need to be flagrant, would need to be in the face of repeated warnings from the bureau. It would be a very rare set of facts that would compel us to use a penalty that aggressively.

Fish: OK. Does Revenue have the capacity to enforce this ordinance?

Lannom: Yes and no. [laughs]

Fish: You've covered all your bases -- [laughter]

Lannom: The answer is yes to the extent that we are acting -- the platforms that actually collect payments are acting as our tax remittance agent, much as Airbnb does. There is very little work for us to do there. We audit those platforms from time to time, but there's no actual account hands-on one location after another. At least one major platform has a business model where they are not the merchant of record, they are not collecting the revenues. For that particular platform, we need all the host names and would actually have to set up a separate account for each of those. And so, what we signaled in the ordinance and one of the whereas or findings -- I forget which -- if we get inundated with individual locations, I will need to come back appeared ask for appropriation for a position. Hence, yes and no.

Fish: Reminds me, Mayor, of a joke my friend Barney Frank used to tell. And the punchline was the windbag Senator on the floor of the Senate saying, Mr. Speaker, Mr. Chairman, half my friends support this amendment and half oppose it. And today, I proudly stand with my friends. [laughter]

Lannom: I assume I'm the windbag Senator. [laughter]

Fish: Oh, no, we have five choices on this panel here -- you are by no means. BDS uses a complaint-based enforcement model. What will Revenue's model look like?

Lannom: Well, our model will be first to -- assuming Council approves this new level of authority for the bureau -- we will send notification to each of the booking agents, as they're now defined in the code, and inform them as to the new enforcement tools that we have. We will at first simply

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strongly encourage them to get their operators into compliance. So, I don't need to have to ask for a list of every single location if the platforms are aggressively and effectively helping their local operators to come into compliance with the code. That would be the starting place. To the extent they're not successful or they're unwilling to assist, we would at that point begin exercising our code authority.

Novick: Wouldn't you have to look at actual listings to see if the listings are including the permit numbers?

Lannom: Yes, that's correct.

Novick: Do you have the resources to do that?

Lannom: Yes. With the penalties that we're talking about, I don't anticipate that the platforms will want to continue carrying the advertisements that are noncompliant. That said, certainly it would be probably for us to implement some administrative rules -- we can do that under our code authority -- to make it clear that if we hear from a platform, for example, that they feel they are going to need 90 days or 180 days -- there may be contracts, for example, between the platform and the local operator that speak to confidentiality and perhaps that contract needs to expire or be amended. So, we're going to listen to certainly reasonable issues like that before we begin combing and penalizing.

Novick: OK, but at least initially to convince them you mean business, you with your existing personnel can look through the listings and call up one of the platform operators and say, you've got 65 listings right now in Portland that don't have a permit attached to them, and pay up.

Lannom: Yes. Right now, you can go through I think they display 10 or 15 results at a time. There is, for example, one of the platforms has created a field that captures the BDS permit number. So, for that particular platform, which is a major player in the market, we could probably go through that within a couple of hours anyway and sort of itemize the number of listings. Again, it's the creation of a large volume of accounts from some platforms that would be the driver for needing to ask for more resources.

Fish: And I had one other question. Thank you for your succinct answers. That that had to do with the privacy issue. Commissioner Fritz has raised this issue. I'm inclined to support the amendment, and she's made a strong argument about the privacy issues, but the two concerns I have are number one, would that change, impede your ability to enforce the law?

Lannom: No.

Williams: I don't believe so, no.

Fish: And the second -- I was just curious generally about the question of privacy. So, I asked someone on my staff to find me a room or house to rent in my neighborhood, anticipating that the moment is coming sooner rather than later when my wife throws me out of my house. And we picked two houses nearby off Craigslist and two off the Oregonian. In each instance, there's a picture of the house with an address. And in one instance, it actually has a series of photographs documenting every room in the house. Actually, in more than one instance it has all the rooms documented. And so, again, I think this privacy is very important and it's important to my friend and colleague, but I just want to note -- and because it doesn't impact your ability to enforce the law, I'm not going to object -- but I just would note that in the ads we pulled up -- and this is typical of the marketplace -- addresses, pictures of the house, and other information are listed. And so, if at some point this did become somehow an impediment to enforcement, I would want to revisit the question.

Lannom: I understand. I should probably clarify one point. It's not an impediment to enforcement for Revenue. For Revenue. However, if we turn that list over to BDS, I'm informed that then it would become a public record, it could be requested once it's in BDS's possession. So, maintaining that confidentiality -- if we're bent on maintaining the confidentiality -- then that could create a problem for BDS in terms of their enforcement. I've talked with Mike Liefeld, the enforcement division manager, and we've talked about sending joint letters that would discuss both code languages if we needed to. So, that would be our initial approach.

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Fish: So, that's a little different than I understood your earlier answer. Under this amendment we would in fact be making it more difficult for BDS to do the code enforcement?

Lannom: To the extent that we want to maintain confidentiality for noncompliant operators that we receive from the platforms, yes. To the extent that we're willing to let go of that confidentiality protection, then no, because once it reaches BDS, it's no longer considered confidential.

Fish: Do you draw a distinction between preserving confidentiality of a compliant host and noncompliant host?

Lannom: Well, that's an interesting question, and it's one I have given some thought to --

Fish: At some point, do you lose the benefit of this protection if you are disregarding our laws which after all are designed to protect health and safety of the guest?

Fritz: Actually, it's the other way around. Our complaints are confidential, our non-complaints are not.

Fish: I'm sorry -- so what were you going to say?

Lannom: Can you restate the question?

Fish: Well, so you described a situation where if we maintain the confidentiality it creates potentially a complication for BDS. But in the instance in which you may be turning to BDS, the host is potentially in violation of our law. Should we give the same weight to privacy in those instances that we do to an otherwise compliant host?

Lannom: Well, I would think not but I would reiterate that compliant hosts are 100% out there already. At some point, I think it would be reasonable. I think the voice that's not at this table is BDS's voice to the extent -- you know, do they have resources and is that a list they would welcome receiving? Those are some of the things that feed into this discussion. That said, my personal perspective would be that Revenue sending out reasonable letters informing individual hosts that we're -- correction, operators -- that were at the present time still confidential from public disclosure, that if at some point they fail to come into compliance we may well determine that we're going to turn that list over to BDS, and they will do with it what they will. And then at that point, the record becomes disclosed or disclosable to the public.

Fish: That's one of two instances where it could become disclosable. The other is if a third party challenges the confidentiality and the District Attorney or court determines that it's in the public interest to disclose it.

Lannom: That's correct.

Fritz: So, are these amendments primarily to get taxes or are they primarily to get compliance with the code and the permit requirements?

Lannom: Well both, really. We're hearing pretty universally that there's a compliance gap on both sides of the Title 6 and Title 33. So, this amendment would help us address both.

Williams: But primarily, I believe it is to get taxes.

Fritz: And the challenge with the taxes is that we have one platform who are actually taking responsibility for provide us with the taxes, and then we have others which are not.

Lannom: That's correct.

Fritz: This ordinance doesn't discriminate between those two, even though we have one already providing us the taxes.

Lannom: That's correct. It doesn't discriminate between the two, it's treating the entire market the same.

Fritz: I think that's of concern to me -- that we've got one company that has been working with us and doing what they need to be doing and we have the option of auditing them like we do other franchises to make sure they are paying the right amount of taxes, and yet, we're having from broad brush approach. The second concern I have is that it seems like people expect confidentiality in their tax matters, especially. We're that in the street feed funding discussions, that people consider their income taxes very private information. And so, is there any other precedent where we use tax information to enforce another position of our codes and policies?

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Lannom: Well, the actual taxpayer in this case is not the operator or the platform, it's the occupant of the room that's paying the tax. So that construct I don't think applies in this case.

Williams: Well, actually we do in fact view the operator as a taxpayer, because we put the burden on them to receive that and basically be that link. We were recently -- a reporter tried to compel us to release transient lodging tax payment information on one particular taxpayer and went to the District Attorney and we prevailed in that, because our code is very specific about protecting them. At least in dealing with the tax information, the City Code and other provisions of the state public records law does protect financial information very much so, and we take that to heart and we do protect that absolutely.

Lannom: Right. I stand corrected, thank you.

Fritz: Except when we're going to give it to BDS.

Williams: Well, a name isn't financial information, normally, and that's a distinction.

Lannom: I think that's the distinction here. I'll just give you another example. Each of the individual operators in the city of Portland, each location, they should have a business registration with the City.

Fritz: Do we go after other home-based businesses that are not paying their taxes? Do we investigate those?

Williams: Yes.

Lannom: Yes.

Fritz: And does that information get passed to BDS to make sure they get a Type B home business permit?

Williams: Oftentimes, we use actually information from BDS to pursue some of those with data matches.

Fritz: But do you do it the other way?

Lannom: If they asked for it, yes, we would.

Fritz: But they don't.

Williams: They haven't at this point.

Fritz: Can I ask Mike Liefeld to come from Development Services?

Hales: Sure.

Fritz: Do you have the capacity in Development Services to take this information and start tracking down the 1500 or more owners, operators who are not currently holding permits?

Michael Liefeld, Bureau of Development Services: I believe we would have some good capacity to take a first step. If we had a list, we could easily generate a mass mailing of -- we could structure them as courtesy warning letters. We could follow our adopted process for actually code violation letters, instituting our compliance period and enforcement regime. So, there's a number of things we could do, and that would be pretty easy if we had the host name and address. That would be a simple mail merge, and we could complete that.

Fritz: And then if they ignore that letter, then what?

Liefeld: If they ignore that letter, then we take the next step of enforcement. And so, there are additional resources, staff time that would be necessary to potentially verify violations, assess the penalties, and continue to assess penalties in the hopes of gaining compliance.

Fritz: Do you know offhand what the current wait time is for complaints on other code violations such as nuisance properties?

Liefeld: We currently have a pretty large backlog for housing complaints, for typical zoning and nuisance complaints. Prior to losing some staff with some turnover, we were meeting our service goal of three to five business days. And we are in the hiring process to fill those vacant positions right now. So, I believe probably in the next few to four months we will return to that service level goal of three to five day response time to complaints.

Fritz: And then the housing complaints?

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Liefeld: Housing complaints is a different story. Certified inspectors do that work, so it is apples to oranges. With those inspections, I think we have many positions to fill. We're a ways off from meeting our service level goals and response times, unfortunately.

Fish: What's the current percentage of noncompliance now with the mere registration requirement that we have?

Lannom: On the transient lodging side.

Fish: Yeah.

Lannom: Well, I'll structure the answer this way. The compliance rate for taxes paid on that side is about 72%.

Fish: What percentage of people have filed to seek a permit?

Liefeld: We received 110 applications.

Lannom: I'm sorry, that's 7% to 8%.

Fish: Seven to 8% of the assumed universe are people who have sought a permit. So, presumably over 90% of the market is now currently operating outside of our regulatory framework.

Lannom: Well, I don't think there's a lot of presumption about it. We actually went through each major platform, looked for Portland listings -- listings that appear in Portland -- and then put in search terms like single family dwelling, the terms that are applicable for a single family location, because we're not talking about multi-family yet in terms of that compliance rate. Just single family. We found about 1300 locations, and only 110 have requested permits. That's 7% to 8%.

Saltzman: What was the 72% you mentioned earlier?

Lannom: The transient lodging tax code compliance.

Williams: Combined.

Saltzman: Hotel, motels?

Williams: The hotel motel compliance is 99% of the brick and mortar, whereas the short-term rental is much smaller. When you combine them, it's about 72%.

Fish: The good news is we're getting taxes on almost a little more than two-thirds of the units. The bad news for the guest is that over 90% of the units potentially don't meet our code requirements for safety and health.

Lannom: That's right.

Saltzman: Further questions? OK, thank you. Do we have people signed up to testify, Karla?

Moore-Love: Yes, we have four people signed up. The first three, please come on up.

Saltzman: Welcome. All you need to do is give us your name, and you each have three minutes. We'll start with you, sir.

Scott Breon: Scott Breon, chief strategy officer for Vacasa, Portland's home-grown vacation rental management company. We welcome the council's enforcement efforts, and we look forward to working with you on some of the more nuanced aspects of that enforcement. Some of the issues that might come up that haven't been addressed previously is that many owners actually have listings on multiple listing sites and it being one of the fastest-growing industries in the country. There's more than 100 new listing sites every month. So, if the goal is to go after listing sites because there's few of them -- that will quickly change. Also, if the homeowner is liable to pay the taxes but we're holding the listing sites accountable for paying those taxes, you will actually get multiple returns for multiple listing sites for the same property, which can create a lot of confusion for homeowners. Just wanted to throw a few of those things out there that didn't sound like they had been discussed previously.

Saltzman: OK. Thank you.

Gwenn Baldwin: Thank you. I'm Gwenn Baldwin. I'm here representing Multifamily NW in large part because I think it's important when any entity comes before you and shares concerns and various feedback that when you are responsive, that we come back and say thank you. At our last hearing around short-term rentals for multi-families, we expressed some concern about the lack of enforcement mechanism that didn't focus on the property owner as opposed to active participants in

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the new shared economy. And I really appreciate the work of the Revenue department and your staff and the fact that you're having this conversation about a more engaged, focused enforcement mechanism. So, thank you.

David Owen: Hello, everybody. David Owen, Airbnb. Thank you for the opportunity. And I want to thank staff -- specifically, Revenue -- for taking some time to talk with us over the last week or two about sort of the history of the development of this ordinance. And just wanted to -- speaking of history -- walk through some of the background between our discussions with the City on these issues. It seems like there are two primary policy matters driving this ordinance before us -- before you, pardon me. First is enforcement of the recently adopted short-term rental rules and the other is collection of the lodging tax. And on that second issue, we engaged with the City and subsequently the county and state in negotiating what was at the time for us the first in the world voluntary collection agreement to collect from the guests on behalf of our hosts and remit to the City on a periodic basis. And it was something that was unprecedented not only for us, but as an industry at that point in time, and we were excited to move forward with it because we understood the importance of that issue to the City and to cities in general. We now find ourselves in a situation where it feels to some as though being the first mover now comes with the drawback of potentially creating a target of more data for the City to come and attempt to enforce the rest of the ordinances that may be applicable to this activity. And it's a concern for us because we look at this -- and Commissioner Fritz, I think, touched on some of these points when you were talking about how BDS and the Revenue bureau share information -- and we see and in talking with tax collection officials around the country, we certainly hear from others that they try to communicate to taxpayers that they are only using taxpayer data to enforce the Revenue codes, because they tend to find -- certainly in the case of San Francisco, this is their position -- that that helps them maximize tax returns if taxpayers aren't concerned that government is going to use that data for any inform better of other enforcement purposes. But in the context of online privacy, I think that becomes even more important. Because we don't as a matter of course rely on website platforms like Google or Yahoo or any number of other internet sites to facilitate enforcing local zoning codes and to share data to that end. You now, many of us have smart phones in our pockets and these are a revolution in technology in the last 10 years both phone calls, data, and text messaging. Verizon, Apple, AT&T -- any of these companies could tell how quickly I'm driving down a freeway at any point in time, or whether I'm sending text messages while I'm doing it, a violation in most states, and for good reason. But we don't automatically require those companies to report that data to government in order to -- [beeping] -- I apologize if I'm going over my time, but we don't enforce speeding rules by requiring apple or Verizon or AT&T to report that data, because consumers have an expectation that is private and that is not how government will enforce the rules. Instead in the context of text messaging, we see innovative partnerships to educate users about the importance of safety and to increase compliance and to issue tickets when violations are observed by law enforcement. And these get more complicated in the context of online commerce because as it has exploded in the last 15 years, there's a tantalizing target of data. There's one point of contact for user data that makes it much easier for government to enforce a host of laws. We've also decided as the internet has developed that that's not something consumers are comfortable with. And in the context of this ordinance, it's concerning to us that the City would rely upon user data without a subpoena outside of the context of formal legal process similar, frankly, to what the NSA was seeking from companies like Yahoo and Google which was so objectionable and that SOPA PIPA fight that we saw, that government would rely on an internet platform to simply send data to the City in order to help them enforce the law without a subpoena in a broad fashion.

Fish: Can I -- you're going to have all the time you need because you're here and it's a great conversation. I need to clarify a few things. Do you support Commissioner Fritz's amendment?

Fritz: What amendment? What was my amendment?

Hales: The amendments that were just here.

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Fritz: Those are not mine.

Hales: Those are the Revenue's amendments.

Fish: I'm getting a headache here -- I just want to make sure what lane we're in. The Revenue bureau has proposed an amendment which would treat the information that you have just addressed as confidential. Do you support that amendment?

Owen: I think we saw in some of the exchange between --

Fish: Sir, we have an amendment on the table and it doesn't have nothing to do with the exchange. It has to do with you representing a company that will be regulated. It's a yes or no question. Do you support the amendment?

Owen: We're concerned about a precedent that enables the City to request unfettered data from a platform outside formal legal process to enforce the zoning coat.

Fish: OK. So, let me go back to something you started with. And you said this is the first voluntary agreement in the world, it's unprecedented. And I just want to put that in context. This is not a state where the Attorney General has taken you to court and gotten that information through a judge's ruling. This is a state and a city where the mayor has welcomed you to the city and has struck a bargain. But if this was New York -- if you want to talk about precedent -- you have an Attorney General declaring war on your company and a judge compelling you to turn over the data of all of your hosts. That has not been the way we have approached it. So, I understand in the heat of the moment you may feel strongly about this, but the only person you left out of your thing was Edward Snowden. I think you perhaps are too suspicious of our motives in this. We have two public policy things we have to oblige here. One, we're levying a tax, and we cannot just go off your representation that all the tax has been paid. We don't have that relationship with any taxpayer, and we can't extend that courtesy to you.

Owen: If I may on that point, Commissioner. I would be curious to hear the Revenue bureau's thoughts on whether they feel the agreement that they have entered into with our platform is sufficient to provide them enough information to be confident that they're being paid the tax they're owed. Because it's our understanding that that's not an issue of concern for them.

Fish: We'll have them back. The second is we have a compelling public policy concern making sure that the hosts follow our local laws so that guests are protected. We share that. We want to make sure that someone who accesses a room in a building that you advertise is safe. And so, in order to further both purposes, we have to have some mechanism of verifying. It's called trust, but verify. And we're not picking on Airbnb. The kinds of things we're talking about are garden variety. So, when you bring in online privacy and the suspicion of people about giving confidential tax information, let me go back to the original issue before us. It is whether the host has to disclose their location. And I picked up four hosts in a different context -- these are people who rent out their rooms in houses -- and they have pictures of the house, pictures of every room, the address and contact and descriptions of the houses. So, we are not seeking to bring George Orwell into this conversation. We are seeking to enforce a reasonable set of regulations, and we are a City that is welcoming you -- unlike most other cities and states in the country. And we have a regulatory framework that we're trying to enforce. It would give me a lot more confidence to move forward here if you came before us and said, for example, you intend to comply with the regulations that we're about to adopt. That would mean something to me. What I'm hearing you say is you have concerns about them. And if you have concerns about them that signals -- I guess -- that you may not be prepared to tell us today you'll comply with them

Owen: I think two points. And I appreciate what you're saying. And I think two points are important. First, the concerns that we're raising are concerns that are not just concerns on our platform, or frankly, in our industry. They are concerns which transcend I think all internet platforms and how the structure of online commerce generally is carried out. But on the second point --

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Fish: But sir -- I'm sorry, I can't let that go. Motel 6 advertises on the internet. And the notion that you can claim internet privacy because you are like somewhere between a hotel and a motel is absurd. It is a new part of commerce, and the City Council has showed admirable flexibility in adapting to it. But to claim somehow you are not even in the family of motel, hotels, and other types of lodgings that advertise on the net and are required to provide certain information I think doesn't pass the giggle test.

Owen: Commissioner, you may misunderstand me. The difference is we would share the same issue with any of those businesses to the extent they have an online presence. Which is, you wanted to obtain confidential user data from any of those enterprises -- whether a brick and mortar with an online presence or a platform that's primarily internet-based, like ours -- you would need to send them a subpoena and they would need to notify their users probably under their terms of service. And I think that's the critical difference. But on your second point, we share the City's concern and commitment to public safety in ensuring that folks who are staying in Airbnb listings in Portland and around the world are safe. That is a principal concern for us, and it's heartening to know the vast majority are people sharing the home in which they live. So, they have a high concern and a high interest in making sure it's safe for their guests and their families as well.

Fish: 92% of your hosts have not sought a permit from the City of Portland.

Owen: I think that's a critical point, because we are as concerned as the City about making sure that this ordinance works well. We want --

Fish: You're claiming the very address of the people who fail to follow our law is somehow confidential. And sir, that's just an untenable position to claim -- you want to have your cake and eat it too. And we have an obligation to go after folks that are not following the law. The only way we do that is we know where they live and you're claiming that's confidential and somehow an erosion of your privacy rights.

Owen: I think it is possible for us to craft an enforcement system that the City is confident in that still protects internet privacy and doesn't require online commerce -- any company engaged in online commerce, whether ours or others -- to provide unfettered access to private user data without formal legal process, which is a fundamental tenet of internet commerce, something that raises concern for us. But I think we would like to continue working with the City on what is now just about six-month-old ordinance. Sort of a first of its kind -- to understand if it's underutilized, why that's the case, and how we can bring those numbers substantially up. Because it's as much in our interest for that to occur as in yours, but we would like to do it and I think there is a way that doesn't raise these privacy concerns -- which I would venture to guess if many Portlanders were aware that the City was considering regulation of this type and requiring private internet companies of any kind to turn over user data without that formal process --

Fish: Turn over their address.

Owen: Any user data, sir.

Fish: But we're only asking for the address. We're not asking for people's confidential information. We're asking to have an address of a home-based business. And under your view, because that has an internet component, that raises privacy concerns that are different from motels and hotels?

Owen: Let's extend this argument to Craigslist, another online platform that's utilized not only by folks in the home rental business but also by folks who are doing all sorts of things.

Fish: I have the Craigslist ads right here. And people do not feel shy of actually listing a photograph of a house and an address and phone number. And some of them have each room photographed so that you can make an informed decision. And that, according to you, is some invasive -- according to your logic, these people are engaging in a gross violation of their own privacy rights.

Owen: Well, they're controlling their speech and how they choose to put that information on the internet --

Fish: When did this become speech, sir? This is a regulatory -- we are regulating an industry. This is the problem -- by the way, this has shades of Uber all over it. We invoke the internet and we

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claim an exemption from all the laws and rules of society because we're somehow on the internet. We welcomed you to Portland. We're pleased you have harnessed the internet. But sir, we have to make sure the guests in one of your host's places -- and you do not inspect your hosts' places -- we have to make sure that guest is safe. And the only way that the talented professionals who work for the City can do it is to have an address. And if you are going to tell us that we're going to be in litigation for 20 years over so-called privacy claims and invasive government in order to get that address, then I don't have a lot of confidence in saying yes to authorizing the underlying conduct. Because if we don't have an enforcement mechanism that works, why on earth would we give you the green light to do something we can't reasonably enforce?

Owen: I appreciate all these concerns. I think part of our concern about the ordinance that's before you today is unlike the original ordinance -- which was discussed in community meetings and over a period extending well beyond a year -- and the multi-family ordinance, which was the subject of a working group that met monthly for several months and involved stakeholders from all affected areas of the city, this is an ordinance which was not developed out in the open. We were not provided -- nor were members of our community -- president opportunity to participate and I think we could have done so in a way that would help the City and help those who are concerned that drove this ordinance to come together to understand the concerns of folks in our world about online privacy, but also help the City accomplish its laudable regulatory goals, which we share. It is as much in our platform and our community's interest for this ordinance to work and for us to continue to celebrate a partnership with the City that is unique and that we point to around the world as it is for the City to have this ordinance work. And I say that with absolute sincerity.

Fish: Well, let me just read you something, because there was an op-ed in the newspaper recently. And I told the author shortly thereafter that I thought it was a well written and well-reasoned op-ed. And the author said, we'll take into account public health and safety and the impacts of our decisions on the community. That was Mayor Hales in the context of Uber. And I thought it was just as applicable in the context of short-term rentals. And if what you're telling us by your presence here today and your testimony is that we're about to green light short-term rentals, but we'll be in the courts for the rest of my life fighting over whether we can have the right to compel you to tell us the locations of hosts, then that will have an impact on how I view authorizing the underlying conduct. Because these two fit together. And if we don't have an enforcement mechanism, then all we have is a hope and a prayer that we're going to get this right, and we don't have the luxury of doing that. And the first time something bad happens to a guest who is in a unit that someone has not permitted and that we've all been complicit and hide the ball, we'll all have to account for that.

Owen: If I can return -- I appreciate your comments, Commissioner. If I can return this discussion to the ordinance at hand, I think again it's a measure that is aimed -- as I understand it -- at both increasing compliance with the City's tax rules as well as increasing compliance with the City's zoning ordinance through BDS. It seems from the dialogue -- and certainly in our experience in other cities -- that relying on the Revenue bureau to help enforce the zoning code and collect information to that end is fairly unprecedented, and is something particularly outside of that context in the context of online commerce that makes folks uncomfortable. I think there's a solution that doesn't create a penalty for somebody who steps forward to negotiate tax collection agreement. I think what you've heard from some of the other comments today, and certainly in the responses you may have received from other platforms who are not here today or not in this room is you'll have a very difficult time just getting to step one with some other operators and that their numbers are increasing by the day. As you are -- your points are completely well-taken. As we hear them and I go back and we continue to discuss ways that we can increase compliance with folks in our community and our platform -- which by the way, will be helped by letting 100% of our community, not just 66% of our community, understand that there is a path for them to become regulated and clearly legal in the City of Portland -- I would urge you to focus on the first step of making sure you can bring the entire regulated community or the entire community of this

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community into tax compliance and to not use that tax compliance for those who have already stepped forward as a means to further -- that some people would consider a penalty. You're in a -- this is new area for you, it's new area for us, and we're continuing to learn, and there are more participants in the market every week, as you've heard from other folks on the stage. So --

Hales: Let me jump in. I'm not sure where -- I'm not clear on where that concern is coming from. Our regulators have some discretion. It would be reasonable to assume that they would focus on areas where the compliance problem was greatest rather than on where it was least.

Owen: And I certainly appreciate hearing that. I think in the context of the internet privacy concerns, which I know Commissioner Fish disagrees with --

Fish: I have the same concern you do with internet privacy. But I don't concede that providing the address of a unit that is used for commercial purposes and that your company benefits from raises a particularly significant internet privacy concern. And that's the difference. I have huge concerns about the privacy, particularly as I read the paper every day and find out that it's quite likely that nothing on the internet and none of my emails are private as a result of gross violations of people's privacy rights. I share those concerns. We're talking about the address of a host that is a partner with you in a very innovative business model which you are claiming is somehow covered by some very broadly-defined sense of confidentiality and privacy, which by virtue of not producing that information frustrates the ability of our team to enforce the law. That's the discussion. And I really think that the internet piece is a red herring.

Hales: In a minute, we may want to call up the City attorney to join this spirited discussion.

Novick: I think Commissioner Fish is doing a fine job -- [laughter] -- I do have to say that people are always complaining about government inefficiency. And sir, you're in effect asking us to be a very inefficient government. I mean, we have an issue with compliance. And actually, as Mr. Steve Unger of the Lion and Rose I thought had this brilliant idea, why don't you just require all of the -- you're not hosts, what are you again? -- the platforms -- the host and platforms to display a permit in any ad. I thought that was brilliant idea and that happened very much out in the open. I think we said at the time it was brilliant idea, and it seemed to me quite obvious that the logical consequence is that if you do not display a permit, then we will follow up and make sure that you are paying your taxes and getting a permit. When you say that you don't think that Revenue should be allowed to share information with BDS, you're basically saying we should have two bureaucracies do duplicate work. And finally, I do have to say that people who are renting out their homes to strangers, and people who if they did seek a permit -- that would be a matter of public record. To say that they those who are not seeking a permit have a huge privacy right in their addresses seems a little bit of a stretch.

Owen: And I think you misunderstand. I am saying that the data itself -- regardless of the actions that you describe -- there are principles that operate relative to how internet platforms share data with government and under what circumstances. And while this seems like an obvious one, I revert to the history of the development of the internet, where you have previously diffuse commerce now being centralized in one point of contact regardless of the industry. You could use any industry that engages in online commerce. It creates a tantalizing single point of contact for regulators to seek data to enforce a raft of different laws. And we have made decisions about how we want to govern that relationship between government's ability to simply ask for and obtain that data outside a formal legal process. And that is -- we may disagree, and I understand that we do on that fundamental point, but I think what is positive is that we can craft a solution that doesn't I think bump into those issues for us. I can't speak for other operators in the field, and I would suggest if nothing else considering as you move forward an amendment on the tax and data provision that would exempt a platform which has already engaged a voluntary collection agreement with the City that is operating, that the Revenue bureau feels like is accomplishing the goals of collecting the revenue in a way that's verifiable --

Novick: But we can't take your word for it.

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Owen: I'm asking you to take my word for it, I'm asking you to take the Revenue bureau's. As to the sufficiency of the collection and whether they are --

Fish: Sir, that's like me telling my son, I'm going to give you an especially big Christmas present because this year you were truthful.

Fritz: But in the franchise agreements where we collect 5% from our franchise partners, we don't get their data. We periodically audit them to make sure that they're paying the right amount of tax. We could do that here. Make sure we get the right amount of tax. There are other ways other than getting individual addresses and checking them.

Fish: Maybe. But we don't tell hotel, motel operators, B&Bs, and others that they can mask their address and make it twice as complicated for us to do enforcement.

Fritz: It will be interesting to find out, how do we make sure the hotels are paying the right amount of tax? Aren't we currently suing the online providers to try to capture more of the taxes from Priceline and such?

Fish: Yes, and actually, that's a great point because the online providers in that case said they are not governed by our rules. And I'm a little concerned here that there's a pattern here. Uber comes into town and says, we're not governed by your rules. Congratulations, Mayor and Commissioner Novick, for putting an end to that. You have come and said, this is a new technology and it would be a violation of privacy. What I would love to hear is that -- representing a responsible employer that the mayor has welcomed with open arms -- if we adopt these amendments, you intend to comply with them.

Owen: I'm here to express the concerns that I have raised, and I appreciate your point. What I can absolutely do -- regardless of what happens today or next month -- is commit to continuing to work with the City and the relevant agencies to increase compliance as much as possible on our platform.

Fish: But could you -- I think it's a fair question, Mayor. When this is coming back for a second reading --

Hales: Yes --

Fish: Would you consider furnishing us with a letter prior to the vote on this as to whether it's the official position of Airbnb is that they do or do not intend to comply with these rules?

Owen: I will certainly take this spirited discussion back to folks, and they will be very interested in understanding what we all discussed here as well as the issues that you raised.

Fish: And in fairness, if you have a completely different approach that you believe balances privacy and some of the legal issues you've raised differently but gets the same result, would you share that with us?

Owen: Absolutely. And would love along those lines to continue this conversation outside of the scope of a piece of legislation which until recently we were not invited to participate in providing feedback on. And work with you to accomplish a solution at least in so far as our community is concerned that helps the City achieve its regulatory goals while not impacting some principles that I think a lot of people -- and you'll find a lot of people here in Portland who are not necessarily parts of our community feel very strongly about as well.

Hales: I appreciate that. Again, I'm going to bring staff back up in a few minutes when testimony is done. But there may be some elements that will make it easier, not harder. I think we may be missing one piece here, and that is the hosts are required to get a business license. And you have to disclose your address when you file for a business license.

Owen: That's my understanding of the ordinance.

Hales: So, the address is already in the house here.

Fritz: So, I think we're getting -- the tax, the enforcement, all of these things -- complicated. I also think we're missing the point that this is a representative of a company that's actually been working with us and is giving us the taxes. So, to the extent that there's a lot of ire, it's really folks who are not in this room who are not paying the taxes and not getting the permits that we have the big problems with. So, I really appreciate you being here, you working with us. I would like -- I hope

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there will be some scope for looking at if not this then what? Would you be willing to comply with the suggestion which I thought this was originally the way we were going, which was to require a permit number to be posted?

Owen: So, as I mentioned when I was here previously, we -- at the suggestion of your department -- amended the website, the platform pages here in Portland to create a field that's currently voluntary and more than happy to go back and chat with folks about what that looks like if it becomes a mandatory field. I'm not certain of the regulatory interest in the difference if the field is present, I think the message is sent whether or not --

Fish: Wait a second, wait a second. You've had a long time to think about that, and you're now saying you're going to talk about it. That was framed at the last hearing and has had a ton of discussion. And the truth is if that permit number is listed with the property on your platform, anybody can go pull the permit and figure out the address. So, there is no privacy. Once the permit is listed -- as the mayor noted -- anyone with a little bit of time can figure out what that address is. You do not have a position today as to whether you would be willing to comply with that requirement?

Owen: The concern I had raised with your staff and with others on this point was the implication in the ordinance as it's drafted that any platform -- ours or others -- would be subject to fine if we had not verified the validity of any information that a user had entered.

Fish: No, sir, that's not what this says. And we'll bring Thomas up. We're not asking you to be the cop. This is no different than an employer asking someone to show a social security number. An employer doesn't have to hire a law firm to determine whether it's a valid social. It's presumed valid. All you would be required to do is compel a host to fill out that screen with the permit number. And if they committed a fraudulent act and deceived you, this doesn't put you in harm's way, this allows us to go after them.

Owen: On a technical point, I'm not certain I agree with your reading of the language in the ordinance. And it sounds like we may be in agreement about how we would like that to operate. But it was a concern for us in reading the ordinance that it didn't appear that that was the case.

Fish: You're worried you would have to independently verify the permit as opposed to just require it as a part of the field?

Owen: Correct. And I simply don't want to provide a misrepresentation to the City or any other that we can scale-ably do that in 192 countries around the world.

Hales: I get that. The question is -- it's a legitimate one about who is liable for misrepresentation. I get that. And we ought to run that issue to ground and find out what the answer is or whether there are different ways to craft this ordinance that would get us different answers. Because it doesn't sound like -- and I certainly don't have this belief -- that if a host in one of these platforms provided invalid information, it would seem to me if not forgivable, at least low on our prioritization of enforcement problems that we would go chase around the platform for somebody else's misrepresentation. Because the person that's responsible to register and get the business license is not you, it's your host. Right?

Fish: There might, Mayor, even be an asterisk on the field saying that providing false information to us is potentially a violation of City Code which could subject the host to liability. I mean, we hope there's enough good faith. But part of what Thomas Lannom wants to be able to see is go to the page and see that there's a permit number. If someone is so sophisticated they want to game us by having an improper -- he can do a spot check every month. He could do a random selection just to see -- but that's -- I don't think the intent was to make that your problem, unless you failed to require them to give you a permit number. That's the only time you're in harm's way, because then you would be advertising something without a permit number.

Fritz: And that's something I would support. It's the additional pieces in here that require addresses that I share some of the concerns not only of Mr. Owen but also the internet association letter.

Hales: OK.

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Owen: Thank you.

Hales: Appreciate your testimony -- all three of you -- and your willingness to be part of this spirited debate. Actually, I want to bring our Revenue staff back up.

Moore-Love: We have one more person --

Hales: I'm sorry, one more person to speak, and then we'll bring Revenue staff back up. So, thank you.

Moore-Love: Mary Ann Schwab?

Hales: Good afternoon.

Mary Ann Schwab: Good afternoon, everyone. Mary Ann Schwab, inner southeast Sunnyside neighborhood. I had everything all prepared for today until I listened to this jibber jabber -- voluntary, mandatory, shared economy. Six months we've had a trial run here, and I can only talk to Sunnyside within Southeast Uplift. Sunnyside has 68 units. Two permitted. One lady came to our November meeting and said, I went to the City. No one knew what to do with my application. So, we've got a few bumps in the road to take care of. We're celebrating inner city commerce -- we can go back to Abraham Lincoln on that one -- but this company is a \$10 billion company who's come into our city -- we've welcomed him -- and yet so many people have not bothered with their permit. I don't have a problem with the permit because I know it's a safe house. I had planned to go page by page on this document -- this second reading that's got some Swiss cheese in it. But again, I have a clock that says I have already talked two minutes. And I've listened to this man talk for 40 minutes. What is equity here in the public involvement process? The other thing, public health and safety. The minute I read that in the newspaper as referenced by Commissioner Fritz and Mayor Hales, I also interfaced this with the Airbnb and other companies. I'm only using that as a model. If this is really going to work, then we really need to get to the nitty-gritty of BDS. They also need to be at the table because we don't have enough money to enforce and go out and inspect these places. You see my little note here that I passed out. I mean, what is an accessory short-term unit? In my neighborhood, there's two house trailers all surrounded by some kind of a bamboo fencing and they can rent that out because they live in the duplex next door. And this is absolutely bizarre. It says 30 days is not the limit on the number of nights a host can rent to overnight guests. That was just one example in your 33.207-01 purpose. When you're looking at this language and you're reading it, it's just bizarre. And the enforcement piece. Airbnb has a perfect opportunity to work with our City [indistinguishable] office and really get things set in tone and we could be a model if we really worked at it. But to do this tamp down, voluntary versus mandatory, the last 40 minutes is insane. [beeping] I guess my time is up. I had three pages to question here.

Fritz: What are your main concerns, Mary Ann?

Fish: And which ordinance is it?

Schwab: The one you gave us, the advisory short-term rentals multi-dwellings. Is that going to be talked about the next number?

Hales: You mean 1333? That's being set over to -- what is the date?

Moore-Love: January 14.

Schwab: Are we allowed to have public testimony at that point or is that second reading and you just rubber stamp it?

Hales: It's a second reading. There are no amendments to it.

Fritz: So, if you found concerns with it --

Schwab: I did. I did, I did, I did. The biggest when we have PDC and REACH and subsidized housing, there's nothing in here that says officially that they cannot sub-rent their apartments. That is not right and it's missing. I did call the Mayor's Office regarding that issue. Also on page --

Fish: Mary Ann, would it be sufficient for your concern if existing law prohibited them from doing so? For example, federal law prohibits -- if there's a federal subsidy, there's a prohibition. If there's state and City money in a subsidy, there's prohibitions involved. Does that give you enough protection?

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Schwab: Listening to this guy back here -- he could find a loophole. You're not getting people registering now. The lie is there. They shouldn't, you're right. But I just don't feel safe in a multi-dwelling. Suppose I move into one, the Encore somewhere, and having my neighbors rent out their bedrooms, how safe are you in your bedrooms, how safe are you in your units? How safe are you in your corridors? You can afford to be there. I have a problem with renting out apartments and high-rises. I don't think it's safe. And having worked object the good neighbor agreements and setting all that up and neighborhood watch all those years, I think we are setting ourselves up for trouble. And carbon monoxide, by the way. There were several places where it wasn't necessary. So, I think we need to readdress that as well. Thank you.

Hales: Thank you. Thanks, Mary Ann. Anyone else want to speak on this? Then let's bring Revenue bureau and maybe BDS staff back up for any questions or any comments from you having heard the testimony and Council discussion, do you have any more light to throw on any of these issues?

Saltzman: Well, can I ask -- the testimony from the gentleman from Vacasa. Scott, I believe. About the growth of all these platforms. Are we going to be able to keep up with that?

Lannom: Well, that's a great question. It very much mirrors the question that Commissioner Fish brought up earlier about workload. We've got one fully employed tax collector right now just doing transient lodging taxes in the downtown business improvement district, now called the enhanced service district. If we discover that this becomes such a great workload, then we may welcome back to the council and ask for resources. But I didn't want to yet because I don't have the workload yet and I don't know what my workload is yet. I need to look you straight in the eye and tell you I understand those things before I ask the question.

Williams: We have one auditor, too, that's dedicated to transient lodging audits. So, there's two FTE there.

Lannom: And it's that second position there that answers Commissioner Fritz's question about how we audit existing hotels and motels. We have a dedicated auditor that digs deeply into the records of hotels and motels to confirm the validity of the remittances they provide to us.

Fritz: Does that include the names and addresses of the lodgers?

Williams: In the case -- most audits are the single location and a single proprietor. So, the agreement with Airbnb -- this is one of the initial examples where we have a single tax remitter who represents a lot of different locations. And so, we are actually -- they've completed their first quarter of remitting taxes which they have voluntarily chosen to do on a monthly basis, and we are doing an initial audit of that.

Fritz: Do we check to make sure what the hotel says the room was charged at is in fact what the guest was charged?

Williams: Yes.

Fritz: And how do we do that?

Williams: We do that by looking at receipts and the books of record, the revenue ledgers. We look at the receipts. We look at a variety of things. We go in and do a financial audit.

Fritz: We know who rented and how much they paid and what their credit card number?

Williams: Not their credit card number, necessarily. That's not necessarily in the records. But we see that it was paid, whether with cash -- we see the receipts. So, yes, we would see --

Fritz: [inaudible] audit process, we don't require them --

William: That's under audit. That's correct. But with regards to needing addresses even -- and I'll try to address a little bit with the bogus number and all of that. If, as an example, we went in and everybody was great and they put in their permit numbers and we did some spot checking and we found out that one of those permit numbers was wrong, well, we are going to want -- it wasn't a real one. We check with BDS, and it's not a real one, and it's on a platform that perhaps we're not getting taxes from. We need to contact that operator. How do we do that if we can't ask for the name and address? So, that's a very small example in trying to do all this compliance work, an

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example of why we need that address. We need in many cases -- particularly on platforms that are not remitting taxes to us -- we need to contact them and let them know of their transient lodging responsibilities; in partnership with BDS, their permit responsibilities; and their business license tax responsibilities. Because they have all three.

Fritz: Have we explored having the companies send out that information and telling them that unless they get 75% compliance, we'll pick a number that then there will be another iteration?

Williams: We can do that. We can absolutely do that as a part of how we go about implementing and enforcing this is to ask the companies to do that initially and give a time frame and try to get that. But at some point if we don't get that, we need to have tools that allow us to enforce all these three codes.

Lannom: My understanding is BDS has already done much of that -- asking for assistance in enforcing Title 33. I think some assistance has been forthcoming, but it's just not been effective.

Fritz: Can you speak to that please, Mike?

Liefeld: We have had discussions with one operator, and we had early discussions about how to make this successful, how to have good voluntary compliance as we were ramping up towards the effective date in July of allowing these in single family zones. We suggested certain measures that could be taken for website alterations to ensure voluntary compliance. We approach compliance from most Portlanders want to do the right thing this. They're not out to try to game the system. But what they do need is some education. And what we talk about websites, really having that field focusing people on having to input a permit is key.

Fritz: Yes.

Liefeld: And when they don't know what that permit means, a link that says what this is that takes you directly to the City's new webpage and can walk them through the steps of getting a permit. That's we talked about. In our eyes, that's how we approach new legislation in trying to get people into compliance through education efforts without seeking tough enforcement actions. We talked about that, and we still haven't seen that implemented yet. We've also asked for information about the other operators, contacts that we could reach out to them, and we haven't received that information either.

Fish: You know, I think this discussion has been very helpful. Because my guess is that the mayor - - who supervises the Revenue bureau -- would be quite amenable to a phase-in that uses some carrots initially, and not a stick. It is in all of our interests to have the platforms and these companies send out notices that are friendly in tone. It's in all of our interest to explain the why before we have to bring down the hammer. But let's just keep in mind there has to be at least some pressure put on the companies, otherwise, what's the incentive? They have a business model where they're getting paid. The host is getting paid. The risk that we're trying to -- what we're identifying here is the guest. And we're not sure the guest is staying in a place that's safe. And as long as we know that, we have an obligation to fix it. Whether a phase-in is the right approach -- I happen to think that friendly persuasion ought to be the first approach, that's why I always appreciate when I get pulled over, the officer gives me a warning and not a ticket. But that would be within the mayor's power.

Hales: I bet that happens more often now.

Fish: Actually, I don't have a car -- [laughter]

Fritz: Or a bike, right?

Fish: I don't have a bike either. Thankfully, the mayor has been taking pity on me recently because he has a car. But I think the mayor has established his good faith and his dealings with Airbnb, for example, that I have no doubt -- I have great confidence the mayor would structure something that's not intended to be punitive or to single out any company, provided he was satisfied that the health and safety issues were addressed in a timely manner. That's what we're talking about. We're not talking about anything draconian, we're talking about making sure guests are safe. And shame on us if they aren't and something bad happens, just like shame on us if Uber continues to flaunt the law and something bad happens to a passenger. We're complicit. That's why we have these rules. And

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when I hear that this gentleman -- who has been a great partner so far to the City -- but when I hear him say he's not sure he has the authority to enter into these agreements and has to go up the chain, it doesn't give me a lot of confidence on something that we've clearly signaled is important to us. We've opened the front door and said come in, but there's a quid pro quo, we have to have reciprocity. And right now, we're being asked to open the front door but look the other way or put ourselves in a bind where we don't have the tools to do the regulatory enforcement we do in every other area we regulate. And I don't see how the council can subscribe to that.

Fritz: As Mike said, in every other area we expect Portlanders to do the right thing. And I'm not sure we have had the amount of oomph behind the education to get people to apply for their permits, and we haven't had the stick of having to put a permit number on. And that was the discussion we had when we approved the regulations is that we were going towards getting a permit on there. I think from my perspective, it's gone sideways at this point because of the issue of them saying if you don't do that we're going to get your name -- you also have to supply us with names and addresses. And then we start getting convoluted into the internet issues and such. It seems we could do the permit being required first, we could then go after the other platforms who are not even in this room engaged in conversation. We can go after the platforms for not requiring it, rather than the moms and pops and the people who are trying to make ends meet. If that doesn't work after another six months, they we go to discuss what the next step is.

Fish: Commissioner Fritz, I might even be able to support that if, for example, the one platform that has been a good partner and has agreed with us says to us between now and our second reading that they will comply with the requirement of putting a permit number. But I'll be less charitable if we don't get that assurance, because then we are left with very little on the enforcement side. And I appreciate your point.

Lannom: Well, I would note that if that amendment were to be moved and go forward, we would need another person. Because now, we would truly be on a one-by-one on multiple platforms.

Hales: Understood. And if you're collecting more revenue, we have all kinds of good reasons to authorize an additional positions. That's why we have people to do this work. It doesn't fall out of the sky, and particularly when we start regulating a new area of commerce, which is effect what we're doing here today.

Williams: But again, we still need the ability when we do that one-by-one -- if we can't find them and get -- we need to be able to notify them. And unless --

Fritz: No. No, that's not my proposal. Because then the responsibility would be on the operator, on the platform. Actually, you wouldn't need a whole bunch of new people. If you found one that didn't have the permit listed, the operator would be out of compliance and you would go after the operator.

Williams: But we still need to get that individual in compliance.

Fritz: No, it's a two-step process. It's requiring the operator to have the permit listed. So, if there's a single listing that doesn't have the permit listed, the operator is out of compliance, we have some structure to find the operator.

Williams: You're talking about the platform --

Fritz: In the platform.

Williams: Yeah. So, in the platform. But in addition, there is requirements -- the operator to comply with three different laws, and they can potentially -- even if the platform put -- and this was I think what was being talked about. Are they the police? No, they're not. Because if I said, figure out what the number is, if I put in 1273562 because that will fit the scheme -- [speaking simultaneously]

Fritz: Then you go check that number --

Williams: And find out it's not there, the platform is not out of the compliance because they did what we asked them to do. It's the operator, and I need the address to then go pursue the operator. [speaking simultaneously]

Novick: Yeah, that actually --

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Williams: To get that tax and to get that --

Fritz: In that case you have reasonable cause to ask for that particular --

Fish: But that is in fact --

Williams: But I still need the authorization to require it of them to give it to us.

Fish: That is likely the sequence -- that they do the spot check and if there's ads where there's no permit number or permit numbers that turn out to be bogus, to use your word -- by the way, someone may have entered the wrong number. At that point, they're stymied unless they know who the host is.

Fritz: Well, no, that's where we would -- especially in the initial phase where people may not know what they are supposed to do, we have the operator then contact the host and say, your permit doesn't work and you need to get one, here's how you do that. We're going to be in a similar situation with the tree code as we go into implementation January 2nd. There's going to be a whole bunch of people will not know what the new tree rules are.

Fish: Commissioner Fritz, if the industry was willing to do that -- and I didn't hear that that in the exchange -- but if the industry was willing to do that as a precondition to us then asking for -- in other words, if we had to go through the hoops, that's the best kind of enforcement, because we're putting it on the backs of this platform, a multi-billion dollar company -- and we don't put it on their backs. But at some point, you've got platforms that are not at the table with us and are flaunting our rules, hosts that either don't know the rules or are flaunting the rules. At some point, we need to know who they are so we can go beyond the carrots to actually say, you can't do this without making sure that your dwelling is safe.

Fritz: Yeah, but let's go down those steps and let's try to work with the operators, the platforms who are not currently at the table to figure out, is there a mechanism that we can have the burden on the multimillion-dollar corporation, not on the mom and pop trying to make ends meet?

Novick: Commissioner, I'm not sure how we can in every circumstance do that. Because let's say that people are listing a permit number, which is all we require the platform operator to do. We look at a number. I think that we have to have some capacity to be able to verify that people aren't using someone else's permit number. People just like punching in a number they think is valid, but it might not be, it's actually somebody else's. I would assume we have to have the ability to contact the person who listed that permit number, make sure that it is actually the person who had the permits. So, you have to be able to contact them to do that. And then if somebody put it up to the permit holder, we need that person to get them to stop violating the law.

Fritz: Well, I think there's obviously some more discussions that can be had over the next several weeks, but you can do it with spot checks and again having the platform say, you know, Ms. Jones, your number has come up, I'm gonna have to shop ya on this one.

Fish: Mayor, it seems to me that one of the primary things we have to sort out today is the amendment.

Hales: Right. In fact, I think that's all we have to sort out today. We have to decide whether we want to adopt these amendments.

Fish: We have one looks like a technical amendment -- that's the sub B. And I would move that amendment.

Hales: Only -- [speaking simultaneously]

Fritz: Actually, I'm fine with both of them. I don't think C goes far enough, but it is better than nothing.

Fish: So we at least have it before us.

Fritz: Yes.

Fish: I move the amendments.

Fritz: Second.

Hales: And is there further discussion of that? Then, let's take a roll call vote on adopting the amendments because that's probably all we're going to do today, right?

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Fritz: Good call, Commissioner.

Fish: Well, I think you've raised important follow-up questions.

Hales: OK, roll call.

Roll on motion to accept amendments in Revenue Division memo dated December 16, 2014 to more broadly describe what "accepting payments" means and clarify that the names and addresses of Host information provided by a Booking Agent to the Revenue Division is considered to be confidential.

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

Hales: Made that look easy. Now, I think the intention is to bring this and the other item back on the same date.

Williams: Yes.

Hales: And that date is --

*******:** The 14th.

Hales: The 14th of January.

Moore-Love: 10:45 a.m. Time Certain.

Fish: Mayor, can I make a suggestion? Because our friends from Airbnb have said that on some of this they would like to be further engaged to see whether they can get to a position of support -- it goes without saying, but I would urge, Thomas, you and your staff to have that conversation and to find out very specifically what their concerns are and if there's an alternative, solicit an alternative so that the council would have that well in advance of the 14th. And I'm particularly interested in knowing whether they've indicated to you that they do not believe that this enforcement mechanism is lawful.

Hales: I want to encourage that discussion. And I think this discussion -- although somewhat almost like a cross-examination -- nevertheless revealed some important questions we need to get in play and put people on notice about work that needs to get done. So, I'm teasing a little bit. I appreciate it

Fish: I actually thought he was one of the most forceful advocates for a position when came before us, so I paid him the respect that he paid us.

Hales: I do think there's a great benefit to collaboration, and we've had some of it in this change that we're managing. We have to have a lot more. And we have to have compliance from some folks that have sat it out so far. And that's really important. A long time ago, I worked as a representative of an industry and went from having no consumer protection to having something called the builders board that then required every homebuilder to register, and there was consumer protection involved. And it was a pretty disruptive change for that industry. And I got my house built by a guy who got builders board number one. There's now 150,000 of them, so it is possible to make that kind of progress, but it requires -- as this does -- public information, cooperation, and enforcement. Got to have all three. And we've had some cooperation. I particularly appreciate the cooperation we have had from Airbnb. We've had some folks sitting it out who haven't participated and are in effect completely in violation and seem to be enjoying it there -- that's not OK. And then we have a lot of people I suspect who don't know that we're having this debate at all and who need to be brought up to speed. So, I think all three are once again required. Anything else you want to add before we close, Thomas?

Lannom: Only that I was asked to put on the record that we have met with Airbnb, had a conference call with them a week or two ago, and simply that no one to this point has raised any legal concerns about the ordinances before you today.

Hales: Yeah.

Williams: But we can continue to talk with them.

Hales: We should continue to talk, and we'll carry this forward to the 14th and look forward to more discussions in the meantime.

Fish: Thank you, Mayor.

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Hales: Thank you. And we are adjourned for the week --

Moore-Love: Mayor --

Hales: No, we're not, sorry. First, I'm sending over 1333 to January 14th to go along with it. And now, we have to take two motions. One is to have a January 8th 6:00 p.m. City Council meeting on street fund, and the other is to have a February 5th, 5:00 p.m. City Council meeting on our participation in the Joint Terrorism Task Force.

Fish: Mayor, I will only support this if Commissioner Fritz gives her assent.

Hales: At least one of them was her idea -- [laughter]

Fritz: They were both my idea.

Hales: Commissioner Fish moves those two Council meetings at special times.

Fritz: Second.

Hales: Commissioner Fritz seconds the motion. Is there any reason to debate this any further? If not, then a roll call, please.

Roll call on motion to have a 6:00 p.m. meeting on Street Fund on January 8, 2015; and a 5:00 p.m. meeting on February 5, 2015 on the Joint Terrorism Task Force.

Novick: Aye.

Fritz: Thank you, colleagues. I know that it's important for people to be able to testify. Aye.

Fish: Aye.

Hales: Aye. And they are both adopted. Now, we're adjourned for the year. Happy New Year.

At 5:05 p.m., Council adjourned.