



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **12<sup>TH</sup> DAY OF NOVEMBER, 2015** AT 9:30 A.M.

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

Commissioner Novick left at 11:42 a.m. and Commissioner Fritz left at 11:44 a.m.

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

Item Nos. 1170 and 1166 were pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

<p style="text-align: center;"><b>COMMUNICATIONS</b></p> <p><b>1163</b> Request of Bill Lindekugel to address Council regarding Argay Neighborhood Association concerns about the Castlegate Apartment Building permit (Communication)</p>	<p style="text-align: center;"><b>Disposition:</b></p> <p style="text-align: center;"><b>PLACED ON FILE</b></p>
<p style="text-align: center;"><b>TIMES CERTAIN</b></p> <p><b>1164 TIME CERTAIN: 9:45 AM</b> – Improve land use regulations through the Accessory Structures Zoning Code Update Project (Ordinance introduced by Mayor Hales; amend Title 33) 1 hour requested</p>	<p style="text-align: center;"><b>PASSED TO SECOND READING NOVEMBER 18, 2015 AT 9:30 AM</b></p>
<p style="text-align: center;"><b>CONSENT AGENDA – NO DISCUSSION</b></p> <p><b>1165</b> Appoint Jennifer Anderson to the Home Forward Board of Commissioners for term to expire November 11, 2019 (Resolution introduced by Mayor Hales and Commissioner Saltzman) (Y-5)</p>	<p style="text-align: center;"><b>37166</b></p>
<p style="text-align: center;"><b>Mayor Charlie Hales</b> <b>City Attorney</b></p> <p><b>1166</b> Authorize City Attorney to participate in legal proceedings with states and local governments nationwide to oppose efforts to vacate the proposed federal Clean Power Plan (Resolution) (Y-3; Fritz and Novick absent)</p>	<p style="text-align: center;"><b>37167</b></p>

November 12, 2015

<p style="text-align: center;"><b>Office of Management and Finance</b></p> <p><b>*1167</b> Pay claim of Jerry L. Johnson in the sum of \$10,000 involving the Bureau of Transportation (Ordinance) (Y-5)</p>	<p><b>187435</b></p>
<p><b>1168</b> Create a new nonrepresented classification of Accounting Manager and establish a compensation rate for this classification (Second Reading Agenda 1130) (Y-5)</p>	<p><b>187436</b></p>
<p><b>1169</b> Create a new represented classification of Accountant IV and establish an interim compensation rate for this classification (Second Reading Agenda 1131) (Y-5)</p>	<p><b>187437</b></p>
<p><b>Commissioner Nick Fish</b> <b>Position No. 2</b> <b>Bureau of Environmental Services</b></p> <p><b>1170</b> Amend contract with BergerABAM Inc. for additional work and compensation for the Tryon Creek Trunk Sewer Upgrade Project No. E10251 for \$325,025 (Ordinance; amend Contract No. 30003097)</p>	<p><b>PASSED TO SECOND READING NOVEMBER 18, 2015 AT 9:30 AM</b></p>
<p><b>Water Bureau</b></p> <p><b>1171</b> Authorize an Intergovernmental Agreement with the Board of Governors of the Colorado State University System for Laboratory Services for Cryptosporidium Wildlife Scat Analysis (Second Reading Agenda 1134) (Y-5)</p>	<p><b>187438</b></p>
<p><b>REGULAR AGENDA</b></p> <p><b>Mayor Charlie Hales</b></p>	
<p><b>1172</b> Amend loan agreement with Oregon Infrastructure Finance Authority for the Levee Ready Columbia effort to extend project completion deadline (Ordinance; amend Loan Agreement) 30 minutes requested for items 1172 – 1174</p>	<p><b>PASSED TO SECOND READING NOVEMBER 18, 2015 AT 9:30 AM</b></p>
<p><b>1173</b> Amend Intergovernmental Agreement with Metro, Port of Portland, Multnomah County Drainage District No. 1, Peninsula Drainage District No. 1 and No. 2 for the Levee Ready Columbia effort to accommodate certain changes to the arrangement among the parties (Ordinance; amend Contract No. 30004151)</p>	<p><b>PASSED TO SECOND READING NOVEMBER 18, 2015 AT 9:30 AM</b></p>

November 12, 2015

<p><b>1174</b> Authorize cost-sharing Intergovernmental Agreements with jurisdictions participating in the Levee Ready Columbia effort for expenses not covered by the Phase I Loan and for repayment of Phase II Loans (Ordinance)</p>	<p><b>PASSED TO SECOND READING NOVEMBER 18, 2015 AT 9:30 AM</b></p>
<p><b>City Budget Office</b></p> <p><b>*1175</b> Adopt the FY 2015-16 Fall Supplemental Budget and make other budget-related changes (Previous Agenda 1147 ) (Y-4; Novick absent)</p>	<p><b>187442 AS AMENDED</b></p>
<p><b>Commissioner Steve Novick Position No. 4 Bureau of Emergency Management</b></p> <p><b>*1176</b> Authorize application to the Rockefeller Foundation for a grant in the amount of \$1,000,000 to develop and implement a citywide resilience plan, become a member of the 100 Resilient Cities Network, and create a Chief Resilience Officer within City government (Ordinance) 10 minutes requested (Y-5)</p>	<p><b>187439</b></p>
<p><b>Bureau of Transportation</b></p> <p><b>*1177</b> Authorize application to the Oregon Department of Transportation for grants in the amount of up to \$7 million for four non-highway transportation infrastructure projects: Flanders City Greenway, Red Electric Trail, Streetcar Vehicle Purchase, Naito Crossing (Ordinance) 10 minutes requested for items 1177 and 1178 (Y-5)</p>	<p><b>187440</b></p>
<p><b>*1178</b> Authorize application to the Oregon Department of Transportation for grants in the amount of up to \$5.5 million for two non-highway transportation enhancement projects: SE 70s Neighborhood Greenway and I-205 Gateway Green Connector/HOP Neighborhood Greenway (Ordinance) (Y-5)</p>	<p><b>187441</b></p>

At 11:48 a.m., Council recessed.



November 12, 2015  
**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.

**NOVEMBER 12, 2015      9:30 AM**

**Hales:** Good morning, everyone. Welcome to the November 12th meeting of the Portland City Council. Would you please call the roll?

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

**Hales:** Good morning, everyone, welcome. We have only one citizen signed up for communications -- we'll get to him in a moment -- then we have some time certain items and our regular and consent agenda. At this point, I have a request on our consent calendar to pull 1166 to the regular calendar for discussion, and likewise, 1170. Any others? OK. So, let's then please hear from Mr. Lindekugel, Item 1163.

**Item 1163.**

**Hales:** Good morning.

**Bill Lindekugel:** Good morning, Mayor Hales and City Council Commissioners. My name is Bill Lindekugel with the Argay Terrace Neighborhood Association. We're asking for your help to protect our neighborhood from the traffic and density of the proposed Castlegate Apartment homes at 3001 NE 148th.

Argay is known as a quiet neighborhood with streets intentionally designed some 50 years ago to limit traffic. The design has worked well. Our streets are used daily by walkers, joggers, bikers, and playing children. We do not want these people-friendly streets compromised by this development's traffic.

Our discussions over the past two years with the City and developer over how best to incorporate Castlegate into Argay have resulted in two concerns. First, PBOT wants the Castlegate traffic to use Argay's NE Rose Parkway, which for the past 50 years has been a dead-ended street. Opening this street would force the permanent residents to travel through Argay over one mile just to reach the arterials of NE 122nd or Sandy Boulevard. These are winding local service streets posted at 25 miles per hour that pass through a grade school crossing and past two City parks.

Our position is that the most logical connection is for Castlegate to connect to NE 148th Street because it's a designated as a district collector. Castlegate has full frontage on NE 148th. PBOT, however, has declared such access as to be unsafe. Our view is that NE 148th is safe and used for well over 30 years by 200 plus households living directly across the street from Castlegate. They use NE 148th as their only way to get to and from homes.

PBOT reports no significant accident history at these locations. If access to NE 148th right across the street from Castlegate is proven safe for them, why is it declared unsafe for Castlegate residents? Further, PBOT staff has in its possession two traffic engineer studies conducted within the last year. One states there is no safety issue at this location. The other states that northbound traffic could pose a danger. One of our photo shows suggests an alternatives both temporary and permanent.

Our second concern is that the 56-unit density and three-story design of Castlegate is not consistent with the current R3 zoning. As the code reads, R3 zoning is to be one and two-story buildings. It would allow up to 42 units on this site, but the 56 units is a lot closer

November 12, 2015

to 62 units in an R2 zone. 56 units are also totally inconsistent with the R5 zoning that is anticipated to be approved for this site under the 2035 Comprehensive Plan.

We would greatly appreciate the opportunity to meet with any Council member or other staff to answer any questions, and we've provided both PBOT and BDS with this information. Thank you for your time and consideration.

**Hales:** Thank you. I don't know if there are members of the Council that want to comment on this because obviously there's discussions underway between bureaus and the neighborhood, but you've obviously given us a coherent, organized presentation of the issue, so thank you.

**Novick:** And my staff and Kurt Krueger from PBOT are available to continue the discussion.

**Lindekugel:** Thank you.

**Fritz:** I just want to highlight for everybody that Argay Terrace is a neighborhood formerly known as Argay. It's the whole neighborhood, right?

**Lindekugel:** Correct.

**Fritz:** And you've changed the name of the neighborhood association.

**Lindekugel:** Correct. Just changing now. In fact, that was the original name, Argay Terrace, but then it got shortened to Argay.

**Fritz:** Thank you very much.

**Hales:** Appreciate you bringing this to us this way. Thank you.

**Lindekugel:** Thank you.

**Hales:** OK. Let's move on to taking a few items before time certain because we want to make sure we address them while we have Council members here. So, let's deal with the consent calendar first. We pulled 1166 and 1170 to the regular calendar. We'll get to those later. Let's take a vote on the balance of the consent calendar.

**Roll on consent agenda.**

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

**Hales:** OK. Then let's move before our time certain to items 1176, 1177, and 1178, please.  
**Item 1176.**

**Item 1177.**

**Item 1178.**

**Hales:** OK, these are all grant applications but they involve different bureaus, so I put both under Commissioner Novick's management. We'll start with the first one, please.

**Novick:** Colleagues, I had to get up too early this morning to go to a JPAC meeting -- [laughter] -- so I won't try to be coherent for too long. All I'm going to say is that as Commissioner Fish says, it's always good to be able to use the word "resilience," and I also think it's always good to take [indistinguishable] from the Rockefellers. With that I will turn it over to Jonna Papaefthimiou.

**Jonna Papaefthimiou, Portland Bureau of Emergency Management:** Thank you very much. I'm Jonna Papaefthimiou from the Portland Bureau of Emergency Management. I'm here to speak very briefly about the 100 Resilient Cities grant application. This is the third time we've talked about it, and it'll be the last time, I promise, because they are choosing their last 100 cities this year. It is the City's opportunity to join that network of 100 cities across the world that are focused on resilience. If we were awarded the grant, we would receive funds for a Chief Resilience Officer plus resources to support their work.

A receipt of this grant would support our bureau and I hope the citywide strategic focus on resilience. In keeping with that strategy, the application describes resilience work that would focus on engaging residents and local civic groups to really do the work of resilience on the ground and building on existing citywide plans like the Portland Plan and

November 12, 2015

the climate adaptation strategy and also building on people's energy and concern around earthquakes, which definitely has been strong in the last year.

Our hope is to channel these efforts to build resilience to those hazards across the city and particularly to use an equity lens in doing that work and to focus on communities that we know are most vulnerable. Of course, we're eager to have more resources to do this work. There is no specific matching requirement for this grant, but they do ask that we consider continuing the position and the work when the grant expires in three years. I think of course, we want to continue our resilience work, and we can come forward and ask for funds to continue the position if it demonstrates value.

**Hales:** Great. Questions for Jonna?

**Fish:** I think we discussed this before, Steve, but I don't probably remember how we left it. Currently, I think of Carmen Merlo to the closest thing we have to a chief resiliency officer. When these come up in my bureaus, we reach out to her, and she has a great working relationship with the directors of both utilities. How will this position work with the Director of the Bureau of Emergency Management?

**Papaefthimiou:** This person will report directly to Carmen Merlo. So, they will be housed at the Bureau of Emergency Management and their position will be within that bureau. As our bureau exists to be a connector between all bureau in continuity of operations planning, emergency preparedness planning, we would seek to be a connector among all bureaus for resilience.

**Fish:** Steve, is it your intent to do the equivalent of an annual check-up with each of the bureaus the way we do with equity and other areas of citywide concern to see how we're doing against the citywide goals in resilience?

**Novick:** I hadn't thought of it that way, but now that you have said it, that it is definitely my intent. [laughter]

**Fish:** I would urge that. That gives us a chance to set some citywide goals each year. And then if we're going to have this person who is sort of the resilience czar, I think it would be worthwhile to sit down with each of the bureaus and check our progress. I think that would help us at budget time identifying projects. We're going to be heavy this year in my bureaus on projects that have a resilience component, but to the extent it fits into a larger plan and we're sort of being evaluated to citywide goals, we would welcome that.

**Fritz:** It might be a resilience czarina.

**Papaefthimiou:** Thank you.

**Saltzman:** Does the grant fund this position?

**Papaefthimiou:** It does fund this position for three years. And I'll just say, they don't say quite how much money it is, but our anticipation is it would be a senior program manager position within our bureau, and if funding is in excess to what the position pays, we would reprogram that money just to do the work.

**Saltzman:** So what would be the annual salary, roughly, for that position?

**Papaefthimiou:** I hesitate because I know it changes, but in the 80s, I think, is what a senior program manager pays. And it's very anecdotal what CROs get paid in other cities, but I think it's generally a bit more than that.

**Saltzman:** So part of the grant is we maintain that position for at least three years?

**Papaefthimiou:** Right, and we get money to keep it for three years.

**Saltzman:** OK.

**Hales:** Other questions for Jonna? Thank you very much.

**Papaefthimiou:** Thank you.

**Hales:** Anyone want to speak on this item?

**Moore-Love:** Yes, we have one person signed up.

**Hales:** OK, come on up. Good morning.

November 12, 2015

**Don Baack:** Good morning. I'm actually here to speak about the Red Electric projects. Since I'm here, I'll speak about it -- I don't think it's that far out of order. I pass to you a copy of the brochures SW Trails put together on the Red Electric. If you look at the map on the side, the part that we're talking about is out by Alpenrose -- the segment in this area right here -- the map is inside the brochure. And basically, this is a really important next step in the Red Electric trail. We enthusiastically support it.

I want to make a footnote also and congratulate Commissioner Novick on his efforts with ODOT to get the bridges on Barbur down to three lanes so we can have a safe bike and ped connections, because this enables -- if you look at this, the other end, it looks a little complicated, but it enables us to get through the east end of the park on to the bridges and across and then use the road. So, that basically takes away the blockage we have had from moving forward. We are looking forward to that. That is really important.

This is something we have worked on since 1998. The first money appropriated for the Red Electric in '99. The study was done in 2007. We have a bridge that's under design in Hillsdale that would be a very important connection and this will be the next step in this. We enthusiastically support it. Thank you.

**Hales:** Good morning.

**Lightning:** Good morning. My name is Lightning, I represent Lightning Watchdog PDX. I have a few concerns on this application with the Rockefeller Foundation. My number one concern is that you've been denied -- my understanding -- two different times, possibly three. Now with that in mind, you have on this that you want to go with the Portland Bureau of Emergency Management and also with the Bureau of Planning and Sustainability to apply for this grant. Now, if you have done that in the past and have been denied, I don't think that is a good direction to go.

One of the biggest concerns I have on this is, Mayor Hales, you have declared the City of Portland a state of emergency in housing. As you know, the Rockefeller Foundation grant is obviously very concerned about affordable housing and homelessness. I would suggest that you also put in Portland Housing Bureau on this grant due to the fact that you have declared a state of emergency pertaining to housing for the city of Portland. I would like the Rockefeller Foundation to look at this very close and understand we are in a state of emergency in housing. They also have the ability not only to grant the \$1 million loan -- or grant, I'm sorry, in the amount of \$1 million. They also have the ability to grant a higher amount if they feel it is necessary. My opinion -- the Rockefeller Foundation will look at this very close, understand that Portland, the city of Portland has been named state of emergency in housing, and I hope that they will provide this grant due to the fact, Mayor, you have designated this city in a state of emergency in housing. Thank you very much.

**Hales:** Thank you. Appreciate that. Anyone else want to speak on this item? To that point, Commissioner Novick, we do mention housing actually in the findings. Would it improve or dilute our prospects, I guess, is the question? I don't think we have to -- we don't have to do anything to the ordinance to change the verbiage in the application, but I guess I'd like to at least hear if you want to take that suggestion under advisement.

**Novick:** Let's ask Jonna.

**Papaefthimiou:** Actually, I appreciate Lightning bringing this up. I'm trying to be concise this morning, but the Rockefeller Foundation looks not just at shocks -- sort of those sudden events like floods and earthquakes that we often think about particularly with emergency management -- but also at chronic stresses, which diminish our resilience over time and also make people vulnerable to even small floods, for instance. And so, the application actually does talk a great deal about the affordable housing crisis and that being the greatest stress that threatens our city's resilience. My hope is that if we fill this position, they will be able to channel some of the energy to do something about

November 12, 2015

earthquake preparedness to connect those folks with people working on affordable housing, because I do see them as related.

**Fish:** How many times have we applied for this?

**Papaefthimiou:** Twice.

**Fish:** I just want to put in a plug for sticking to it. I seem to recall that twice the voters of the City of Portland said, "not yet" when I ran. It was actually the third time that I got this unique opportunity. And I take it you are going to add -- include in the application a copy of the New Yorker essay?

**Papaefthimiou:** Absolutely. Thank you.

**Hales:** Good. And obviously, based on Lightning's point and your explanation there, if you need to call on other bureaus to help support the application -- you probably have already done so -- but don't hesitate and come to each of us for any support because we would like to win the grant this time and do the work.

**Papaefthimiou:** Thank you very much.

**Hales:** Thank you. OK. Unless there is further testimony on that item, we will take a vote on that one and move on to the other two that are transportation applications.

#### **Item 1176 Roll.**

**Novick:** Thank you so much, Jonna. Crossing fingers. Aye.

**Fritz:** I very much appreciate Jonna and Carmen Merlo for working on this after I raised concerns last year. I think this application is way better than last year's. It's stronger and more robust. It has the appropriate level of funding for the manager which therefore will leave more funding for actually doing stuff. So, I'm very pleased with it. And I appreciate when I met with Jonna in the office, she called out the fact that immigrant and refugee communities, while certainly communities of special concern, are those who have already endured pretty horrific conditions in their home countries and refugee camps, etc., so that we can learn from them as well as providing services. I appreciate that insight. Aye.

**Fish:** Steve, we're wishing you luck on this one. The first thing that I encountered when I was elected in 2008 was a winter storm that was coming our way and a very disjointed system for dealing with homeless individuals and families that were on the streets. And it was your bureau and Carmen Merlo in particular who called together all of the players and hammered out a written plan and educated us about things like incident commander and PIO and all the various components of a plan. So, I've learned firsthand the benefit of communication and coordination around this work, and I think this is vital. Thank you for bringing this forward. Aye.

**Novick:** Commissioner, I saw you on TV during that event, and you did a great job.

**Saltzman:** Aye.

**Hales:** Commissioner Novick, thank you for keeping the focus on preparedness and resilience, because it's critical. There's years of work to do -- this is a piece of it -- but I just appreciate your consistent advocacy for this part of our work and this is one more opportunity. So, again, anything the rest of us can do to make the third time the charm and actually get the funding, call on us. Thank you. Aye.

Let's take the next item, please -- and you've already read it. Steve, staff, do you want to bring up on these two?

**Novick:** I think so. Who wants to talk about these four great things?

**Hales:** Good morning.

**Mark Lear, Portland Bureau of Transportation:** Good morning. Mark Lear, Portland Bureau of Transportation, here with Brett Horner from Parks. We're here to talk about the start of what's going to be six month, year-long transportation grant process. We're here to talk about Connect Oregon enhance grants, and we'll be here in a few months to talk about the bigger funding allocation that comes out of the regional flexible funds. But today,

November 12, 2015

we wanted to give you an upshot of work that we have done to put together current grant requests for your review.

We were driven by three principles. The first one we wanted to be sure that we got the priorities right for the projects we picked. So, we really had to do a better job than we've done in the past of looking at the trial priority projects, the transportation priority projects. Recently, we've [indistinguishable] on our transportation system plan to help us with that.

The second thing that's becoming a huge problem for us is we really looked hard at where the match is going to come from. With limited resources, our ability to make sure that we have -- in this case, five of the six projects have system development charges from Parks or Transportation, the other project has capital operating funds from streetcar that they would be using from that project. We've done a good job -- maybe than sometimes in the past -- to make sure that we have a lot of good coverage for match.

The last thing is we want to win. We worked really hard to develop projects and really go back to the different scoring people at ODOT and talk about what projects will be most competitive and move projects around a little bit to make that work. So, that's the boring background piece. The exciting part is the projects.

The first project that we're proposing to ask for out of ODOT Enhance -- this is \$30 million statewide -- this just available for ped and bike improvement in right-of-way or not in the right-of-way. The first project is what we're calling I-205 pathway to Gateway green. This is the extension of the Sullivan's Gulch trail. It was a really good project last time we asked for it, but we have made it better. We figured out ways to make the crossing under 205 safer so that people won't be out of sight in places that have public safety problems.

In addition to that, we connected to this project an element of a neighborhood greenway, which was one of the first or second highest neighborhood greenway in Northeast Portland called the Holladay, Oregon, Pacific that would extend out to the east from this project, as well as a third phase -- if there is funding available for it in the grant -- that would connect the Gateway green and the I-205 path project into the Tillamook neighborhood green so that it would connect to the whole system.

The second project we're looking at within ODOT enhance is the 70s neighborhood greenway. Again, this is a really important project for our city and our network. It's a neighborhood greenway that would parallel 82nd, connect some of our most diverse schools like Vestal. As someone who worked in the programs in the past, there aren't really good connections like this to connect schools and parks. This project we think is very competitive at ODOT Enhance because, like the I-205 project, it provides a direct benefit to state highway, to 82nd, to a degree to minimize some of those crashes that occur at 82nd with this proposal, we think it makes it a strong candidate.

Now, moving over to the Connect Oregon grants. Connect Oregon is a lottery-funded program issue bonds to pay for projects. Initially, it was focused on projects outside of the right-of-way. It's still pretty much focused on that, but in the last few years, they added some ped and bike as an element in addition to rail and some of those other system improvements.

We have three projects -- or four projects, two of them are kind of combined. The first one is the Flanders city greenway. This is a \$2.5 million grant request which would be matched with SDC funding and a 500,000 to improve safer crossing of Naito.

One thing that I think is really exciting about this project is with Connect Oregon, you have to estimate how many people will be using the facility. Right now, our modeling numbers say if we build that connection it will be about 8000 people per day annually using it today and in 2035, as growth occurs and as the mode split changes, there will be over 13,000 people using that facility. This is also maybe --

**Saltzman:** Which one is that for?

November 12, 2015

**Lear:** This is for Flanders -- the bridge. The other thing -- I'm hoping to get a gold star or something from the resiliency czarina on this one. Because of the use it's gonna get, it needs to be 24-foot wide. When we looked at it -- this is a recommendation that came up in a public discussion -- someone said, why can't it be a lifeline route after an earthquake? So our engineers are looking at it and we think that could work and we think that makes it a much more competitive project as well -- and hopefully blessed by the resiliency czarina as well.

Next project on the list is streetcar purchase. Seattle is doing some changes to how they operate their streetcar -- conflicts with overhead electrical lines. It made it so three streetcars they purchased they now want to sell. So, we have the opportunity to buy those at basically a third of the normal price. It has major benefits to the streetcar system in the sense that you can run the system more efficiently if a car is down or if there are other things happening. It doesn't compete against these other projects in the sense that Connect Oregon has its own competitive categories. We think it's a good, strong project and really could benefit and reduce some of our ongoing operating costs for the streetcar.

The third project, which Don Baack mentioned earlier, is the Red Electric. So again, Connect Oregon is one of the only funding sources we have to pay for trail improvements that are outside of the right-of-way. Gas tax is constitutionally restricted to improvements in the right-of-way, so these kinds of projects come to the top. As Don mentioned, this connection would connect Southwest Portland all of the way from the Willamette River to the Fanno Creek trail. Metro estimates when the project is complete, there will be 3000 to 4000 people a day using the facility.

Again, I think this has been a nice community process. Parks has been really supportive. If you look at -- I mean, just being here a week ago and talking about the comp plan and the transportation system plan and how we are going to make this stuff work, I think it is through these kinds of projects that have a lot of users and a lot of benefits that we see the path forward.

**Brett Horner, Portland Parks and Recreation:** Great. Good morning. I'm Brett Horner, I'm the parks and trails planning manager at Parks. I would just like to reiterate that it was a very collaborative process this year -- probably the most collaborative one that I've been in since I have worked here in the eight years that I have worked here. We worked very closely with PBOT over the last six months, I believe, to line up priorities. They are very compelling projects. I think they will score highly, and hopefully we will be receiving the funds.

We feel like these projects are very responsive to not only neighborhood and advocacy groups, but also your previous direction. You may recall the Council directed us to really put Sullivan's Gulch forward in the next round of applications and we are doing so here. It's a very important connection to Gateway green and connecting east and west sides of the I-205 freeway. And we just wanted to thank you for your support on these grants and funding for the match. It was a very good process this year.

**Hales:** Questions?

**Saltzman:** What's the total capital costs for the Flanders bridge?

**Lear:** The amount that we're asking in the grant request is for --

**Saltzman:** Yeah, you're asking for two and a half million, but what's the total?

**Lear:** Right. I think -- I was going to see if there is a note on this, but we are still in the final design and working that through. The range of cost -- I think right now, last numbers that I saw were between five and seven million for the options they were looking at. This would provide about half, and the other half of the funding likely would come out of the system development charge revenue. I can provide a packet that has more detail.

**Saltzman:** That's fine.

November 12, 2015

**Lear:** OK.

**Hales:** Other questions for either of these guys? Thank you both very much. We'll see if there is any further testimony on either of these grant applications. Anyone want to speak on these items? Let's take a vote please, 1177.

**Item 1177 Roll.**

**Novick:** Thank you. Aye.

**Fritz:** I very much appreciate the collaboration between Parks and Transportation. Like Commissioner Saltzman, I'm concerned about the high cost of the Flanders Street greenway. I recognize that's a decision that has been made by the Commissioner-in-Charge of Transportation. Aye.

**Fish:** Aye.

**Saltzman:** Aye.

**Hales:** These are really exciting projects. Again, anything the rest of us can do to help support the Commissioner of Transportation as he contents at JPAC for our list, let us know. By a strange coincidence, I was the manufacturer's representative for the sale of those streetcars to Seattle. [laughter] So, what goes around comes around. I can vouch that they were properly constructed and delivered in good condition -- [laughter] -- so hopefully Seattle is delivering them in good condition to us. We'll ask Mayor Murray to vouch for them because I think if we are going to buy a used streetcar from this man, he should stand up and say they're OK for us. The opportunity to buy three vehicles at that kind of price is really compelling. Really happy to hear that. Aye.

**Item 1178.**

**Novick:** I should note that at this time we have no plans to purchase Seattle's tunnel boring machine. [laughter]

**Fritz:** I'm very pleased to see Gateway green having this great partnership. Aye.

**Fish:** Steve, I'm embarrassed to say we actually surplused that after the Big Pipe. Aye.

**Saltzman:** Aye.

**Hales:** Aye. Great work. Great projects. Thank you very much. OK, I think it's time to return to our time certain item, which is 1164.

**Item 1164.**

**Hales:** Mr. Zehnder and Mr. Scarlett are ready to walk us through this proposed tune-up of our regulations. Good morning.

**Joe Zehnder, Bureau of Planning and Sustainability:** Good morning, Mayor and Commissioners. I'm Joe Zehnder with the Bureau of Planning and Sustainability. I'm here with Paul Scarlett, the Director of the Bureau of Development Services. We're just gonna introduce what you will hear today and turn it over to staff to do the presentation.

The topic today is an update of the zoning code for accessory buildings, accessory structures. This is part of the work of the regulatory improvement program, which is a joint initiative of Bureau Planning and Sustainability and Bureau of Development Services. This program gives us the ability to address programs and inefficiencies in our current code. It's also the way that we address new approaches to development and new issues to keep the code relevant to the way the city is being built today, to keep it relevant to changing trends, and keep it aligned with City goals.

The accessory structure project you're going to hear about today does both of those things. With that, I'll turn it over to Director Scarlett.

**Paul Scarlett, Director, Bureau of Development Services:** Thank you, Joe. Good morning. Paul Scarlett, Director of Bureau of Development Services. Very happy to be working with BPS and the collaboration between BPS and BDS in forwarding these improvements to the zoning code. Extremely glad to have Matt Wickstrom and Kristin Cooper, who have been the main staff working for BDS with BPS staff in working with the

November 12, 2015

stakeholders in the community in identifying improvements that will result in consistency, reduction in time, reduction in money, streamline procedures for dealing with all detached accessory structures regardless if they're a garage, an ADU, a shed, a fence, a trellis.

Those things will come back to be huge benefits for the bureau. We'll have less of these things to deal with, whether they're through a complaint or information. There won't be adjustments that in some cases are \$1000 or up to \$2600. That's a huge cost savings for our customers in the community. There won't be the aspect of having to wait eight to 10 weeks to figure out if these things would be allowed within the setback.

So, accessory structures now have been sort of uniform to allow all different types in the setback, whether it's a five foot setback, it will allow the structure be three feet or four feet away. These are, I believe, all good improvements. And ultimately we are, again, I believe, bringing to you a project that shows really good partnership between BPS and BDS. And ultimately, BPS writes the code, BDS enforces and administers. In working together, we have developed a pretty good partnership and pattern resulting in some really good results over the years. So, glad to be a part of this process. Thank you.

**Hales:** OK. Let's bring up Phil and Matt and walk us through the specifics of this, please. Thank you. Good morning.

**Phil Nameny, Bureau of Planning and Sustainability:** Good morning, Mayor and City Council. My name is Phil Nameny with the Bureau of Planning and Sustainability. With me is Matt Wickstrom, and we're here to provide the background for the hearing in front of you here that includes the Planning and Sustainability Commission's recommendation on the accessory structure zoning code update. I also want to just give a thanks to Kristin Cooper -- who is sitting in the audience -- from BDS, and Julia Gisler from BPS who basically were our partners in working up the research and the code proposal.

I'm going to go over some of the background and some of the issues before we dive into the actual proposal. So, first off is what accessory structures are -- and they can be a wide variety of types of structures. The code actually defines them as structures of a secondary importance on a site and generally not the location of the primary use. So in the case of single-dwelling development, they're usually other types of structures that support the household living use such as the house.

The code does split them into four types of structures. This has been historically the case. If you look at the PowerPoint from left to right, we call them covered accessory structures, uncovered vertical, uncovered horizontal, and mechanical equipment. Each type of structure has its own set of regulations.

If we dig down a little deeper, even within the covered accessory structure subcategory, you can have a wide variety of types of structures. They can include things such as sheds, pool houses, artist studios, workshops, accessory dwelling units or ADUs, or garages. Our setback height and design standards based on what occurs in the structure as opposed to necessarily how the structure is placed on the lot and what its size is. The complexity of the different sets of regulations have led to issues and suggestions for regulatory improvement, which is why it got looked at as part of this project.

Going into the project, we had some simple objectives. One was that we decide to simplify the zoning code regulations, especially those that apply to detached accessory structures that are accessory to houses and duplexes. That's where the current regulations are the most complex. We did not want to dive into making changes to other City codes or building codes, as that can oftentimes result in larger project and involve other agencies such as state agencies. And we wanted to base these standards more on the bulk and form on the structure rather than on what you're doing inside the structure.

The project kicked off in 2014. We spent the first few months researching the issues and coming up with some of the regulatory issues that have come through the years. We

November 12, 2015

did some history on the permits with accessory structures and some of the land use reviews, and collaborated with BDS on some of their issues that they see in their implementation.

From that, we started to work with the focus group. The focus group is made up of -- selected by Planning and Development Services staff and was made up of both neighborhood representatives and small-scale builders, folks that build ADUs or other types of accessory structures, and architects. The focus group was kept relatively small to be able to keep this going through pretty quickly. We met several times from January to April, and we provided information and examples. We also talked to members of the other bureau technical staff dealing with fire, life safety, stormwater. And from that, we worked out the proposal that we then shopped around to the public.

I wanted to mention we do have a couple of folks from the focus group that are out here I think in the audience. I believe they are planning on coming and testifying. But their help was valuable in coming up with this proposal.

Once we had a draft going, we released our discussion draft in May. We had meetings with six of the seven district coalition offices. And also for the one that we didn't meet with, we provided them with the information. We went to the residential infill expo that was held in Northeast Portland in June. Had a table there and provided information. Had an open house on July 9th. Generally, in all of these situations, we found general support for the regulatory changes that we're bringing before you. And in the interest of the project was definitely greatest with ADUs, but I do want to reiterate that the changes affect all types of accessory structures.

The PSC held their hearing September 22nd and passed the recommendation on to you with the recommended draft. I'm going to pass it on Matt to go over some of the issues.

**Matt Wickstrom, Bureau of Development Services:** Hi, I'm Matt Wickstrom with Bureau of Development Services. I will go over some of the issues that we currently face with our accessory structures and regulations.

But first, I want to just bring up a term that's going to be used a lot just to make sure that we're all on board, all aware of it. The term is "setback," and that refers to the distance a building is required to be from a property line. So in this situation, you'll look at graphics and you will see we have side, rear, and front setbacks. And so on the left side, the darker blue building is shown to be outside of the side and rear setbacks. And then on the right side, you'll see the darker blue building -- the setback is essentially the light blue border around the edges of the lot. On the right side, you can see the building is located within the setback. That's just what we are getting at when we talk about that.

**Saltzman:** The one on the left properly sited or constructed setback?

**Wickstrom:** Not sure if I'd use "properly sited" because some buildings are allowed to be in the set back and some are not. But you're right, the one on the left is a building that's outside of the setback.

**Fritz:** And currently, what's on the right is what's proposed?

**Wickstrom:** Currently, what's on the right is what's allowed for some structures, such as a detached garage, but what's being proposed for more structures that fit that same envelope as the detached garage.

**Hales:** So -- maybe you'll get to this -- are you creating more scenarios in which structures will be allowed in the setback or less?

**Wickstrom:** I think what we're doing is creating a uniform approach because right now, detached garages that are under a certain size are allowed in the setback. And rather than differentiate between the function of the building, it will would be more the form of the

November 12, 2015

building -- so, smaller buildings similar to the size of a detached garage would be allowed in the setback.

**Nameny:** I think you'll see we have a series of slides. This is sort of laying out the issue, and then we will get to the nitty-gritty.

**Hales:** OK. Thank you.

**Wickstrom:** OK. To just go over some issues that we have with accessory structures. What you see here three different types of accessory structures. The one on the left is a detached garage. In the middle is a garage with an ADU above, and on the right is a shed over six feet in height. The detached garage, like I said, is allowed in the side and rear setbacks provided it's under a certain size and provided it's a certain distance from the street property line. The detached garage has no design requirements and it can't be more than 10 feet in height. The middle picture of the accessory dwelling unit isn't allowed in the setback and it does require -- it does have design standards associated with it. It's also limited to 18 feet in height. On the right, you'll see a shed, which also -- if it's over six feet in height -- is not allowed in the setback. And it does not have design standards. So, just three sets of standards applied to three fairly similar types of structures.

This is really good example of the same situation. On the left, you will see a detached garage and on the right, you will see a shed. The detached garage is actually larger than the shed, even though both appear fairly similar. The detached garage is allowed in the setback whereas the shed would not be allowed in the setback. This just creates issues for compliance and confusion for neighbors when trying to site these accessory buildings on their property.

Similar situation here. We've got a carport on the left. The carport is allowed in the side and rear setback. We've got a covered patio on the right. Covered patio -- even though they both have about the same amount of activity and use -- they covered patio isn't allowed in the setback, whereas the detached carport is allowed in the setback.

This photo here -- what you're looking at is two houses and then behind those two houses are accessory structures -- so, on the same lots as those houses. On the left, the detached structure doesn't have a kitchen and therefore, it is allowed to be up to 30 to 35 feet tall. So, it's not an accessory dwelling unit, it's just accessory living space. It's not required to match the house. And in this situation, it's actually quite a bit taller than the house itself.

On the right, you'll see the detached structure is an accessory dwelling unit -- so therefore it has a kitchen -- and it is required to match the house and is required to be limited to 18 feet in height, which in this situation makes it probably comparable or less in height than the house.

And then finally, I want to wrap up with some numbers as far as permits and land use reviews go. We get a large number of permits for accessory structures, about four to five per day. Most permits were for garages, but there has been a large increase in accessory dwelling unit permits since 2010. And then there has also been an increase in the number of land use reviews -- or adjustment reviews, specifically -- associated with accessory dwelling units. Between January 2010 and October of 2014, we had approximately 400 adjustment reviews. 83 of those were for accessory dwelling units' setback in height adjustments. So, that's about 29% of the overall number of adjustments and that's a pretty disproportionate amount of adjustments being required for accessory dwelling units.

We can't say that this project would get rid of all of the adjustments, but we're estimating of those 83, between 27 and 40 of them would no longer be necessary.

**Fritz:** You're saying that like an adjustment review is a bad thing.

November 12, 2015

**Wickstrom:** I'm not saying that an adjustment review is a bad thing, I'm saying in some situations, there's such little controversy and such little amount of really thought that needs to go into the adjustment review that by eliminating it, we're saving applicants time and money.

**Fish:** Is this a time for questions?

**Nameny:** No -- [laughter]

**Hales:** Keep going.

**Fish:** We do what we're told up here.

**Nameny:** I'm going into what the proposed regulatory changes are covering. We're going to focus on covered accessory structures because that's where the bulk of the changes are occurring.

What the Planning Commission recommended was to create a uniform set of standards that apply to all detached covered accessory structures in areas where currently a garage can go in the side rear setbacks -- so, the R7, R5, R2.5 zones -- as well as single family development in multidwelling zones. Currently, a garage can go into the setback if it's 15 feet tall, has walls up to 10 feet high, and does not have a dimension more than 24 by 24. So, those same kind of standards are going to apply to all covered accessory structure. So if you're building a woodshop, if you're building an art studio, if you're building an ADU, this essentially one-story structure that means these dimensions, you can be in the side and rear setbacks.

The building coverages for accessory structures remain the same building coverages and overall mean the same for the site. It's not necessarily that you're going to start seeing a lot more additional accessory structures, there are still going to be limits on overall building coverage.

Also, we want to mention because it of possible concerns with things like privacy and noise, we are putting some provisions in the code that aren't currently in the code that if you are building within that five-foot setback, if you're building a wall, that wall cannot have any windows or doors facing the property line. And if you're building an open structure, such as a carport or patio, that it be screened with a fence or landscaping. And these are things that are not necessarily in the code currently but are a way to kind of screen the structures and provide for privacy if there's not an -- if they're being built in the setback. The idea is if you're kind of meeting the garage standards, you can go into the side and rear setbacks in the zones.

If you're taller or aren't able to meet the standards -- so, if you're taller than 15 feet tall, if you have a dimensional requirement that's more than 24 by 24, you have to meet the five foot setbacks. We are creating a hybrid height limit for detached accessory structures of 20 feet, and this is in between the current 18 feet limit that's allowed for ADUs and the 30 to 35 limit that's allowed for any other accessory structure.

The intent is that the purpose of an accessory structure is to be sort of a smaller structure, a subsidiary structure to the house, so we felt a uniform height limit that was less than the height limit allowed in the base zone was appropriate. At the same time, we have seen situations where if people are building an ADU above the garage, the 18 foot height limit can be very limiting and causes people to do all kinds of creative things with dormers to get the head room on the second floor. When we talked to the focus group, the 20-foot height limit was found to be a good balance.

**Saltzman:** In this last figure, there's no restriction on windows in that case when it's outside of the setback?

**Nameny:** Right. For example, if you built your primary structure, if you built the house, you would only have a five-foot setback and you could have windows. And building code doesn't limit openings until you're actually three feet away or closer.

November 12, 2015

I did want to also mention that we are expanding what we currently have as design standards for ADUs. We're expanding those to apply to all accessory structures more than 15 feet tall. So, if you're building an accessory structure from 15 to 20 feet tall -- generally a two-story structure -- you will have to meet some design standards that are very similar to what we have for the ADU standards currently. And I will go into those in the next slide.

Building coverage limits stay the same as what we currently have.

So just to reiterate on the design standards, these would apply to all covered accessory structures that are 15 to 20 feet tall. They do expand on the ADU compatibility standards that we have. They add a little more flexibility. We've borrowed some language from our community design standards. The ADU standards generally require you to match the house without really any kind of variation. This allows you to either match the house or provide materials that are similar to what we require in our community design standards which are usually higher quality materials.

We do allow adjustments in case, you know, somebody wants to propose something else or can better meet the purpose with another type of material or another type of form.

And just to give you a summary, the things we look at for design standards are the exterior materials, the trim, window openings, the roof pitch, and the eaves.

Most of the interest we had -- I assume some of the testimony we have will probably focus on ADUs. One of the things that I wanted to reiterate on that is how this affects the ADUs. And because we're creating a consistent set of standards for what's allowed in the setback or out of the setback, this does allow potentially for some things to occur for ADUs that can't currently. So for example, a smaller ADU could potentially be built in the side and rear setbacks. It would have to meet the 24 by 24 dimensions in height limits. ADUs will not have to meet design standards if it is a one-story, small structure. The idea once again was that taller structures are the ones that are going to be more noticeable from neighboring properties, more noticeable from the street, whereas a one-story structure similar to a garage is not going to be as noticeable.

And then the ADU height -- we did increase that by a couple of feet while reducing the height on all of the other accessory structures.

So, that's the bulk of our changes and that's where a lot of the interest was, but I do want to just quickly talk about a couple of other changes we're making to our accessory structure standards. For uncovered vertical structures, which can be trellises, arbors, flagpoles, statues -- it's a wide range of things -- the one thing we're changing is we're adding a flexibility for things like trellises and arbors. And similar to the covered accessory structures, we're allowing ones up to a certain size and height to be in the side and rear setback. The thought of that was if we are going to allow a covered carport or covered patio to be in the side and rear setback, the act of taking the roof off shouldn't suddenly force that to be out of setback. So if you are proposing a similar kind of structure, you can put that on the side and rear setback.

Once again, similar to the covered structures, if you are going to be in the setback, you do have to screen it with a fence or landscaping in those cases.

We also did clarify some of the code for uncovered horizontal structures. That can include things like decks, hot tubs, pools -- you know, things that are generally low to the ground. We didn't actually change our code on that but we did clarify -- there has been some misunderstanding between if something is attached to the house versus something free-standing. And so we just clarified the code so that if a deck is providing access to the house or attached to the house, it has to meet the projection requirements of our code. If it's free standing, it falls under our detached accessory structures.

November 12, 2015

The last thing I wanted to mention was with mechanical equipment. This can include heat pumps, H-VAC units, radon detection equipment, and things like that. Currently, mechanical equipment is not allowed in the setback at all. So in R7, R5, R2.5 zones, it has to be five feet away. We are proposing to allow mechanical equipment that is stand-alone - - such as the picture on the left there -- to also be in the setback, but it will have to be screened with a fence or landscaping. What we found in talking to our noise officer and so on is when you're dealing with noise, five feet doesn't really make a whole lot of difference in terms of whether you're exceeding the noise level or not. And Title 18, the noise code, does apply to this kind of equipment and it will continue to apply to equipment so if complaints come up, they have to rectify it. But in talking with some of our BDS reps who work on mechanical inspections, there's also quite a few new mechanical units that are able to be much quieter than existing ones. With the requirement for a fence, that's another possible reduction in visual and noise impacts that we don't currently require.

For things that are attached to the building, like radon filter that's shown on the right, we're going to treat those similar to other projections from the building such as chimneys, eaves, things like that so that they can project 20% into the setback. And that will help with some of the situations because oftentimes, radon filters have to be in a certain spot on the house to get access from the basement, and sometimes it is hard to turn them around. This allows a little more flexibility for those kinds of equipment.

**Saltzman:** I'm not sure what you mean by a 20% projection allowed.

**Nameny:** In the example of a five-foot side and rear setback, a 20% projection means we allow that item to go one foot into that five foot setback, or 20% into the setback. So for example, if you have a five-foot setback, you can have an eave before a foot, you could have a chimney before a foot, even bay windows. This is the same kind of logic that this equipment if it's attached to the building can be four feet away instead of five.

**Saltzman:** OK, thanks.

**Nameny:** It is not a lot but it allows a little flexibility.

The Planning Commission had the hearing on September 22nd. They generally moved that forward as staff proposed and so the PSC recommends that the Council adopts the ordinance that adopts the recommended draft. Amends Title 33, planning and zoning code, as shown in the draft, and adopts the commentary and discussion as further findings of legislative intent. And that does conclude our presentation.

**Hales:** OK.

**Nameny:** We're available for Q and A and I think there's also some people signed up.

**Hales:** Questions.

**Fish:** I have some, Mayor, if I could. I did what I often do on something as complicated as this, which is I reach out to Bonnie McKnight and I ask her for her thoughts. She told me she had seen a rough draft but not the final draft. What was your level of engagement with the citywide land use committee?

**Nameny:** We talked to the citywide land use during the discussion draft stage, and that was also when we talked to the other district coalition offices. And really, the proposal from discussion draft to proposed draft to recommended draft did not change very much. The one change I can recall is that for covered existing structures, we also had a limit of 500 square feet, which would be slightly smaller than 24 by 24. We took that out because we currently allow a garage to be 24 by 24. So, the sense of adding another measuring stick would add more confusion than it was worth to have a little more of a limitation.

The other thing I want to mention with the covered accessory structures is we limit the cumulative effect that can occur in somebody's back yard. If somebody builds a garage up to the property line, they can't then -- you know, that's 24 by 24. They can't then also

November 12, 2015

build a small ADU at the property line and then a woodshop next to the property line. They have to limit what it is that can be on the property line to a dimension of 24 feet.

**Fish:** Let me frame a couple of concerns she had and give you a chance to respond to them. One is a concern about how Title 11 dovetails with what you're proposing, and particularly, you know, the protections for old growth trees and what cross-references there are in this new code language to ensure that we're protecting trees.

**Wickstrom:** Title 11 will still apply, and the same tree protection requirements and tree planting requirements will apply as well. In fact, when you build a -- when there's exterior development on a site, that triggers title 11.

**Fritz:** But if I might jump in here -- Title 11 covers the lot where the development is happening. If there's a tree on the neighbor's property, there's more likelihood that the roots will be impacted by development on the property line versus five feet away. So I think Commissioner Fish's question and maybe Bonnie McKnight's concern is how do we look after the trees on the adjacent property?

**Wickstrom:** Oh, OK. That's a good question. Do you have a response to that?

**Nameny:** I think the thing -- we're not doing anything that -- we are creating more flexibility in the type of development that might be put in the setback, but the overall amount of development that somebody can do isn't necessarily changing. And so I don't see that there's -- other than the one point that you might be able to have more flexibility about what you build close to the property line, it can't just only be a garage. I think that is a point that probably should get addressed with the changes that are going to happen with Title 11 about how you look at neighboring property resources, such as trees. But I don't think it is necessarily changing the development on the site to a great extent.

**Fish:** Well, it's an issue given recent history. I'd like to have some follow-up on so that we have some clarity on it. There's a couple of other things she mentioned, I'll just put them on the record and see if they trigger any discussion.

There was some concern about noise criteria generally. And the closer that you move equipment to a property line, the greater the impact. I have to say, I have some personal experience with this since the house next to me, a bungalow, was torn down and a monster house was put in its place that has significantly enhanced systems because the house is twice the size. And the systems are very robust and it's actually been surprising to me how much the noise impacts my house. And I'm right across from it. And there's a fence, which is one of the things that we look to as a mitigation, but this system goes on and off all night and when it's on, it sounds almost like someone drilling next door. And I -- we're talking about moving equipment closer and particularly -- this is actually a system that's in the house with a vent. This isn't a big piece of equipment that's adjacent to the house that's moved closer to the property line.

We have, you know, one person who monitors sound for the entire city, really -- one or two. And increasingly with this kind of development, we are creating noise impacts. So, as we allow equipment to go closer and closer to someone's property line, aren't we opening the door here to a significantly more noise conflicts?

**Wickstrom:** I think what we were looking at is the fact that currently, the equipment, if it's five feet away or further, there's no screening requirements. And in discussion with both Paul van Orden, who's the noise officer; and Carl, who works for BDS under mechanical equipment inspections, the sense was if something is five or two feet away, it's not going to necessarily have a large impact on deflecting the noise. I think Title 18 has a fairly robust noise limit -- I think it's something like 45 decibels for the nighttime. So, you know, we have the mechanisms in there. I mean, does it maybe create more opportunity? Possibly. But I don't know if placing it five feet instead reduces that. I mean, our neighbor

November 12, 2015

just put an H-VAC unit in this summer and similar thing. They put it behind the house but it is definitely noticeable in our back yard. I think that's --

**Fish:** You think this is something we should address through just other parts of the code -- noise code and encouraging quieter equipment, if it is -- I mean, setting up maybe a more stringent standard as to noise. 45 decibels is -- my guess is that the noise standard for the equipment that we're talking about is enforced in a very limited way. My guess is that the standard is more honored in the breach than the observance. And there's more of it now. We have higher density. So, I think it's going to become an increasing challenge. It may not be something that we address directly through what you're presenting today.

Would you remind me, when does the SDC waiver for ADUs expire?

**Nameny:** That's scheduled to expire July 31st of next year.

**Fish:** Does it make sense to continue it through July, or have market forces changed sufficiently that we should consider an earlier sunset?

**Nameny:** I think that's a matter of opinion. We have information that shows a definite correlation between the waiver of SDCs and the ramp up of ADUs. I don't think there's necessarily been an analysis that placing those SDCs back on -- whether the ADU market is robust enough to be able to absorb \$15,000 in new fees.

**Fritz:** But we've also changed the regulations so they can be rented out as Airbnbs, so that's changed the calculation on the other side, too.

**Fish:** That's right. We've monetized a lot of space in the last couple of years, and we're seeing I would say foreseeable and unforeseeable consequences that are quite staggering in our marketplace.

I'm going to pause there. I just want to make an observation. It looks like you have done a very robust job of community consultation on this -- you have had some hearings -- but generally I have found that citywide land use committee is very thoughtful in the kind of comments that they have. My guess is that they would have more to say if they had been more engaged, but that's just an observation.

**Fritz:** I concur with Commissioner Fish that you have done a very good job of looking at all of the issues around here. My concern is with accessory dwelling units. With the monetization of them, as was said, I think there will continue to be more and more. And to me, it does matter what goes on inside a structure. A garage where a car is going to be taken in and out a couple of times a day maybe -- and maybe you'd have some gas or something stored in it, but not generally a lot of activity -- is really different from a living space where people are coming in or playing their electric guitars and doing all kinds of other things that would impact the neighbors. So, I have several concerns about that. In the first diagram that you showed us showing the setbacks and showing the blue rectangle right in the corner, what's to stop the other neighbors putting a similar ADU in their corners and having them all smack dab against each other?

**Wickstrom:** Nothing, really. Building code would require a fire wall for fire protection.

**Fritz:** But that would be for the second one. Whoever got in first wouldn't have to do that.

**Wickstrom:** I'm sorry -- any wall within three feet of the property line, whether the first or the second, is going to trigger that fire wall requirement.

**Fritz:** OK.

**Nameny:** These regulations are intended to partner with the building code regulations. So even if you are building a garage currently and you want to be closer than three feet to the property line, you do have to make those walls that are adjoining the property lines fire walls as well as you have to limit the eave and things like that. And that's even if there's nothing next to it. The only time they may waive that is if the owner gets some sort of a no-build easement on the property next door.

November 12, 2015

To get at the other concern, the thing we have to grapple with a lot of times is people may build a garage, half of the time they may not use it to store a car, they're using it as their woodshop, they're using it to play guitar. So, you know, it is one of those things where it's hard to control what somebody does within a building. And about 10 years ago, the Council agreed to allow people to convert the garage to other types of accessory structures if that garage was in the setback. The thing that comes up is oftentimes people try to do that and the garage itself is not structurally robust enough to be able to support being converted to another type of structure. And so in the act of converting the structure, if they want to expand and make the structure wider, they have to meet the setbacks, and that also creates confusion.

**Fritz:** I do have a concern about cumulative effects, though. It would be bad enough to have an accessory unit right next to me right on the property line that was 15 feet high. It would be even worse if then the other neighbor on the other side of that corner decided to put one there, and suddenly you've got two corners, 24 feet wide, 15 feet high, blank wall because we're not allowing windows. Those new structures -- they're going to have to come on to my property to do any kind of painting of said walls. That's of concern. Setback -- I think I remember the purpose statement. The purpose of setbacks is to promote air and light and to allow for circulation. So, I'm very concerned about going to zero setback for ADUs in particular, and actually wondering whether we should go the other way in requiring new detached garages not to be on the property line. I don't know how many new developments are doing detached garages rather than incorporating them into the building, but as I say, I'm guessing that there would be more that are ADUs.

I have a question. On page 39, it's talking about rebuilding garages and it says it has to be rebuilt on the same foundation. Why is that and why not just allow -- what was the reason for having that particular regulation?

**Nameny:** The original intent of that was actually I think -- and this is a set of regulations is probably used more often in those cases in older neighborhoods where somebody actually has the garage right up to the street. So not only is it in possibly the side setback, but it may be in the front setback. You see in Irvington and other older neighborhoods where the land of the house veers up from the street and the garage is set right into the land there and may only be three or four feet away from the sidewalk. And so, this allows somebody to rebuild their exact garage. It can also apply to garages in the side and rear setback, but because we have existing regulations that allow you to build a new garage in the side and rear setback or expand your garage, this doesn't usually get invoked because of limits on total size. But I think it was originally done for more of the ones right in the front.

**Fritz:** That's helpful context. It just seemed a little incongruent to say that in this particular situation if you have a garage, you would have to use the existing foundation and you can't do something else. I would like more information about that.

**Hales:** Any other questions you have, Commissioner Fritz? Do those cover yours?

**Fritz:** I would like to get to testimony and I may have more after that. Thank you.

**Hales:** Any others for now? Thank you both very much. Stand by and we'll see what we have lined up in the way of testimony.

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

**Hales:** Good morning. Welcome.

**Kol Peterson:** My name is Kol Peterson. Nice to speak with you all about this. I was on the focus group and just for a little background, I run the citywide ADU tour. I am a homeowner, I'm not a professional architect or professional builder, not a professional anything in terms of ADUs, but I do a lot of ADU education advocacy consultant work for homeowners who are interested in building ADUs on their property. And I guess I'm in the fortunate position of probably having spoken to more homeowners than anybody else

November 12, 2015

about this issue because BDS isn't really in a position to be talking and consulting with homeowners about the impacts of the changes.

I've spoken to roughly 200, 300 people since kind of learning about the changes, and I just want to kind of convey that these changes are extremely popular amongst homeowners. A lot of people are actually -- they're waiting to see whether these pass before submitting permits because these are so advantageous in terms of being able to build smaller, more affordable ADUs.

Right now, the codes effectively create, you know, incidentally create an incentive for building an 800 square-foot ADU essentially because as you add on additional square footage, it's not that much more money. So, there's almost like a fixed cost for any size ADU that you build. What this set of codes does is basically gives a regulatory incentive for building a small one-story ADU, which is really nice. That means more affordable ADUs and more accessible ADUs -- meaning more accessible design for people who are elderly, people with children, people with disabilities. So, it's a nice kind of benefit that these codes provide. I guess I just want to express that there seems to be extremely broad homeowner support for these codes, and I think they're fantastic as well.

Speaking to something that was brought up a moment ago about SDCs -- I know it's a little off topic but feel it is pertinent. After the ADU tour that we had last weekend and after the spring ADU tour, I did a survey of all of the participants on the tour and in both cases, 74% and 75%, respectively, said the return of the \$17,000 SDC fee come July would deter them from building the ADU. It's not a formal survey, but it's pretty indicative now that two surveys have said 75% of people would not proceed with building an ADU if the SDC returns. I think that's something to think about. It's really a question of whether the City wants to see more ADUs or not. It is not a question of how big the impact is going to be. It would be pretty devastating in terms of the development of ADUs moving forward. [beeping] I think I'm out of time.

**Hales:** Let me ask you a question, because I want to make sure that I understand the heart of the matter with respect to the changes. So, the change that makes it more practicable to build a smaller, perhaps single-story ADU is allowing the unit to be in effect slid into the setback, right?

**Peterson:** Correct, yeah. Effectively, right now people are being incentivized to convert garages that don't really lend themselves well to being ADUs and it's more expensive to convert garages than to build new construction -- or as expensive -- but then they end up with this less than ideal form. But people do it. Roughly one half of people who come to my class are people who want to convert the garage. In reality, it's not a very practical solution. What this does is says now we're basically going to say that as long as it's short, you can build within the setback, and there's not really an incentive to convert the garage, which didn't make sense to begin with. So people are like, "oh, finally, there's a code that allows us to build something small within the setback so that we can preserve some of our yard and not have huge impacts on neighbors because it's not towering." It's just like what you currently allow for garages.

**Hales:** OK. That's helpful, thank you. Eli, I think you're next.

**Eli Spevak:** Hi, my name's Eli Spevak. I'm a developer, general contractor, with a focus on small homes and clusters of homes in Northeast Portland.

I want to first commend staff. They did a great job of simplifying what was a difficult sections of codes and coming up with a compact language and elegant language that actually simplifies zoning code. And I think Kol a great job of describing some of the things that he called "allows" but I and also want to share things the code prevents with this code change.

November 12, 2015

It's sort of a wild west out there for detached accessory structures. I have seen 30-foot tall structures that have no match to the main house that are totally legal and we figure there's no rhyme or reason for someone to build a structure that big. So, part of this code update brings that limit down to 20 feet. And oftentimes, large structures get converted illegally to ADUs and give ADUs a bad name, frankly. So, I think this is helpful.

Also, they had no design review, and now they would be subject to design review now like accessory structures have already been.

It also deals with the issue that right now, when an ADU, you have to match the main house, even if the main house is butt ugly. So, if you have like T111 siding on the house, you have to go through a design review to not do the same thing with the ADU. This code addresses that issue.

I totally agree with Kol's point that we need more one-story living options for small households and elderly households, and providing a path to that is great that the code supports.

There's a couple of things I wish that were part of this code that didn't make it in. I'm hopeful they can make it in to the residential code update that's starting off now. One of them is to allow an ADU on the duplex lot. That's sort of fuzzy in the current code. I know properties 100-by-100 lot, walking distance of downtown that the most you can do is the duplex there. You can't build anything else on that property, which seems like a land use use. And I sent a letter out to you guys that has a couple of other things on there.

Lastly, I'll give a little pitch for tiny homes. I was thinking, if you have a hard time figuring out where to do that, you can make them legal and safe and do them in Cully neighborhood. I think that's the best field test spot and it's happening already, frankly, pre-legal. That might be one way to encourage another kind of housing type that wasn't included in the code update because we were told to reign in the scope and focus on the items. I think staff did a great job with that piece of it, but there's a couple of things left on the table.

**Hales:** Thank you very much. Good morning.

**Susan Beal:** Good morning. Thank you so much for the chance to speak. My name is Susan Beal. I'm a homeowner in the Richmond neighborhood. I took Kol's class in April of last year and my husband and I have had a long-time dream to convert our garage into a small home for my mother, who's just retired. We're at the stage where the floors are in and windows are trimmed and doors are trimmed but it's been quite an experience, and I wanted to share a few things about our particular path that might inform a really positive interpretation of this.

First, we spoke with every neighbor on our block. Our adjacent neighbor, Laura Wood, was outstanding. She and three others wrote letters of recommendation when we had a land use review because our garage was built a foot and a half from the property line in 1950 when these codes were not as rigorous and we were able to preserve the foundation and bring it into a three foot setback after successfully negotiating with BDS. I am so thankful that we were, because that meant we were able to reuse two walls and the concrete foundation rather than just demolish the entire thing and start off. While that might be cheaper, it's certainly not greener. The change to reuse the structure that stood for 65 years -- very solid -- was wonderful.

I also wanted to mention that we were able to -- through negotiating with the City, since it is close to the property line, we were asked to add three small windows with obscured glass so there wasn't a blank wall facing our neighboring property. The solution suited everyone. It wasn't one we would have asked for, because we are very aware and wanted to be sensitive to everyone's privacy, but we now have three small windows. It gives more of a house façade without the loss of privacy and does lend natural light.

November 12, 2015

I also wanted to mention one more thing, which is different for everyone, but it's possible whether within code or through encouraging, I would say the change to have spoken to all of the neighbors about this -- which isn't mandated, but made an understandable and clear project. Everyone supported it, even neighbors who I think had a little skepticism about us creating a rental. Most of them had met my mom. It's an important family project for us. That was an incredible correction. My husband and I both spoke with at least 30 of our neighbors. As a result, when I called Richmond Neighborhood Association to ask if we should appear at the next meeting because it would be on the docket, they said because they had received absolutely no objection, they had taken us off, which is very unusual in this era of massive construction and a lot of change happening.

So, I just wanted to thank you for a chance to potentially clarify some of these things. We were able to use that setback very positively.

If I may add one other quick related thing. Speaking of my neighbors, who are wonderful, we banded together to hopefully improve safety for the Clinton greenway enhancement project and I was able to come to the town hall and speak with you, Mayor Hales, and you, Commissioner Novick. If I could beg your indulgence, may we please leave materials for you?

**Hales:** Yes, certainly.

**Beal:** We were able to present at the meeting that PBOT hosted on Thursday the 5th. I'm very proud to say that our neighborhood coalition, more than 20 families were able to convey our positive ideas for improving safety. We would be appreciative for your eyes on this. And we were able to bring in the bike community as well. Thank you very much.

**Hales:** Thank you for going to the trouble in both cases.

**Beal:** I appreciate it because I love the city and I'm proud to be here. I love the neighborhood and it is changing fast, and to make these careful incremental changes with some safety would be incredible for us. Thank you.

**Hales:** Thank you.

**Fritz:** I have a question for you. I really commend you talking to all of your neighbors. Did your project require an adjustment review?

**Beal:** Thank you. It did. Our garage was built at one foot, eight inches from the property line. So, everyone had lived with a blank cinder block fire wall for 65 years. Not very attractive -- you know, a one-hour fire wall -- safe but very ugly. We ended up successfully negotiating the setback with the BDS person on our case. It was a \$1898 fee. We were able to successfully adapt our design so they accepted the three-foot setback. And I think our neighbor endorsement, including the adjacent neighbor, really helped that as a positive statement. The other thing that was helpful with that was we were able to create a 560 square foot apartment that wasn't artificially narrowed, while using our structure, which is important for us. I know some people start from scratch, which is wonderful, but I've seen too many people taken down with excavators. A chance to save our wood -- and the other [indistinguishable] from the walls we are reusing in the interior.

**Fritz:** So were the windows with the inclusive panes -- was that required as part of the adjustment review?

**Beal:** It was. And again, I was pleasantly surprised that when the City asked us to add the windows, they specifically said from a BDS perspective that they didn't want a blank two-story wall on a property line and that these windows would add an enhancement visually for the neighbors while not peering into their yard or providing that too-close that has been mentioned with noise and with kind of privacy.

November 12, 2015

**Fritz:** Thank you. So when staff comes back, I'd like to know if there's a requirement for similar things. If we're going to make this a standard, I would like to know, are we requiring those kinds of windows? Thank you.

**Beal:** Thank you.

**Hales:** Thanks very much. That's very helpful. Thank you. Let's hear from others, please. Come on up, please. Good morning.

**Dana Denny:** Good morning. My name is Dana Denny, and I've been here before. I was here during the housing state of emergency meeting and I am constantly plugging for tiny homes. I really appreciate what Eli said. I really appreciate what the others are saying also about allowing these smaller units in two areas.

I think we really need to look at inclusionary zoning for lots of different reasons. For all of us that may not fit the structure exactly, I know that a tiny home is different. I would certainly -- listening to all of the rules and regulations, we are below the height requirements, and I think I personally would like to not have windows on the side of the neighbors so I wouldn't be encroaching on their privacy. And I think there's definitely a way of working them in to the existing systems in Portland because I really feel you guys listen and you care, and we do seriously have a housing problem. I'm willing to give up all of my stuff, build a little tiny place, and just need a place to go. And I hope you will include us in this latest zoning upgrade. Thank you.

**Hales:** Thank you. Thanks very much. Good morning.

**Elaine Budlong:** Good morning. My name's Elaine Budlong. I'm here -- actually, I came here with my mother just to listen because I'm in the planning stages actually with Joe to build an ADU. But as I'm hearing testimony and as I'm hearing questions you guys are asking, I'm recognizing that my perspective isn't necessarily being represented in the media or in conversations, so I'd like to offer that.

One is regarding the setback. It's probably not going to impact me. I live in a very tiny house now that's only 648 square feet. So, I'm taking a small house and building a smaller house. Many of the ADUs that are being built are larger than my existing house. I have a lot of trees in my back yard -- which, if I was a developer, I might have a greater chance of removing. I don't necessarily want to. My plan is to build a two-story house and it won't be in the setback because of just how my lot is. But I want to tell you that I'm flanked by neighbors who, one, has built an illegal structure in his setback right next to my fence that he and his wife use as a bedroom. He built it larger than the size allowed at the time. My other neighbor is somebody who has a garage who does not use it as a garage. It is his family's, essentially, rec room. There's five people live in their house. He works on motorcycles in the garage. They actually have an electric guitar in their garage. They play very loud music from their garage, and so the noise that is generated from their garage is collectively in a day more than comes from my house in a year. So, having different setback rules for a garage versus an ADU doesn't make sense to me, because I don't think people use a garage for driving a car in and out.

The design issues that impact me now are the height, and I encourage you to consider the 20-foot height, being that my lot is set how it is and I need to do two stories. If it's at 18, my ceilings are gonna have to be below eight foot, which is pretty closed-in. So, the 20-foot rule would help. Also, matching the windows and the roof pitch and the siding is really awkward. I live in the Sumner neighborhood. It's an older house, not particularly attractive -- similar to what Eli might have called an ugly house. I just spent a lot of money re-plumbing it and fixing the inside of the house. So, my theory is to build an ADU, I would live in the ADU -- because if you're going to build something new, you may as well live in it yourself -- rent out my house, and eventually be able to fix up the exterior of my house. So,

November 12, 2015

if I have to build to match my existing house, it's not doing the community any favors, frankly. It would be better to design the ADU in a way that makes sense.

**Hales:** Thank you. Very helpful. Good morning.

**Joe Robertson:** Good morning. My name is Joe Robertson, I'm owner of Shelter Solutions, which a small design-build company here in Portland. I have been building accessory structures and accessory dwellings for 16 years now in the city of Portland

I must say when I first heard that there were some zone planning changes in the works, I was bracing myself for a "uh-oh, what now?" kind of a thing and when I actually read them, they perfectly made sense to me. I look at it as clearing up some inequities within the planning code between accessory structures and accessory dwellings. So, I am here in support of it.

I think it relaxes some design constraints that's hampered designers and architects. As Elaine mentioned, I'm designed a structure for her right now -- didn't even know she was going to be here today -- but matching an existing house that may not be that favorable looking is just creating another structure that's not that favorable looking. So by relaxing those restrictions, by keeping them tasteful I think is very important. I think it gives homeowners more flexibility and consistency in siting their accessory structure on their properties. It removes some of the necessity for expensive and time-consuming adjustments, which I've had to put through for customers numerous times -- that were pretty much, you know, going in it's gonna pass, but it's because of these restrictions they're cleaning up a necessity to go through first.

Lastly, I'd like to say that as far as the uses of ADUs, I've built pottery studios, glass-blowing studios, home offices -- all these other accessory structures -- but I have built approximately 50 ADUs over those 16 years. And when I first saw that as a potential niche market, so to speak, I first thought, wow, people are going to build those for rental income and increase their investment. As it turns out with my customers over those years, less than half have turned into full-time rentals. There are so many other uses for these. A lot of elderly housing for single elderly parent or both, adult children that come back between careers and education, all kinds of other uses. I've had some elderly people that we built the ADU for them so they could afford to stay in their house and pay their taxes. And they moved in it, made it accessible. I do a lot of accessibility designs for elderly. So, there's a lot of uses for these structures rather than just the typical rental scenario. Thank you.

**Hales:** Thanks very much. Anyone else?

**Moore-Love:** That's all that signed up.

**Hales:** Could we get staff to come back up, please. The question I think occurred to both Commissioner Fritz and me about the window with obscured glass option.

**Fritz:** Is that required?

**Wickstrom:** That would be required as part of the adjustment review. Typically, we wouldn't approve a two-story accessory dwelling unit in the setback. In this situation, it seems there was a compromise made where -- and that's because of the privacy and the light and air, etc. -- and in this situation, it sounds like based on the circumstances of that review, we were able to write findings to approve it at three feet with obscured glass windows.

**Fritz:** Well, that shows the value of the adjustment review. The question the Mayor and I have is, does the code where we're moving it to be allowed by right with standards -- does it include any required windows?

**Wickstrom:** We aren't allowing two-story accessory dwelling units in the setback by right. They would still need an adjustment review.

**Fritz:** I know.

November 12, 2015

**Wickstrom:** Oh, OK.

**Fritz:** I believe what your proposal says is it has to be a blank wall.

**Nameny:** Let me clarify. What we're proposing is that with a 10-foot wall and 24 by 24 and 15 foot overall height that can be in the setback that there be no openings on that wall. So, there is no provision. If you wanted to put glass block, sight-obscuring windows, you have to go through an adjustment to adjust that process. We do have some conversations about whether we would allow some other types of openings. Part of an issue that can come up is then if they are closer than three feet, then the building code comes into play, so they have to negotiate whether that can still work as a firewall. We also considered the fact you can build an eight-foot fence by right in your side and rear setback and we didn't think the difference between an eight foot solid fence and a 10-foot wall was necessarily that large of a difference. So, it felt like the line in the sand was better to be placed just not allowing openings than to start making the code more convoluted by requiring a certain number of windows and also have reference potentially to building code as to whether things offer fire separation.

**Hales:** There's a difference in that situation of requiring them and allowing them by right, right? In other words, don't we want to at least consider -- maybe you have considered -- allowing obscured glass windows by right in that situation rather than requiring people to go through the adjustment to get to a more neighborly structure, right?

**Fritz:** Right, because it's about the livability of the structure as well. Especially if you're in the corner, you've got two completely blank walls with no openings for light. That's going to make a pretty dismal living experience.

**Nameny:** There's also the ability to put skylights in those situations as well. Once again, the idea is if having windows are that important to folks, then they move the building five feet away. I mean, that was part of the idea. If what you really want to have is a window in one of the two walls, you can go ahead and meet the setback and then have a window just like with a regular house. So, I think there is flexibility there, but it has to do with that line in the sand about whether you want to project into the setback or not.

**Fritz:** My other question is about engagement, getting back to what Commissioner Fish was talking about. I see in the ordinance that you mailed notice to all the neighborhood associations. Did United Neighbors for Reform or any of the neighborhood associations participate in the Planning Commission hearing?

**Nameny:** When we went out with the discussion draft and talked to some district coalition land use chairs, there were some folks that were part of United Neighbors for Reform that we engaged during those meetings with the land use coalition offices. Generally, there was support for the development. The one thing that we did hear at the discussion draft stage I think from one of the members -- not necessarily representing UNR -- was that from an ADU standpoint, they felt that it would be better to limit ADUs to only be built with houses that had been there at least five years. And we weren't really addressing that policy about whether ADU should be part of an existing house or not. Because we would also allow ADUs are basement conversions, garage conversion, house expansion, and we hadn't done enough research or had knowledge of whether that was an issue or not.

**Fritz:** Having been on the Planning Commission when we first put in accessory dwelling unit code, I'm pleased it's apparently now completely noncontroversial and everybody is fine with it. On the other hand, I'm surprised that we haven't had anyone today talking about being concerned about having potentially two ADUs on their property line looking into their -- not looking into, but towering over their property. So, it worries me that we haven't heard from anyone in opposition. Because I often do hear from people who are emailing concerned about accessory dwelling units that are noisy, being rented out, those

November 12, 2015

kinds of things, because people don't get notified when there's going to be an ADU built, right?

**Nameny:** Right. When we went to the commission offices -- I mean, not that we intend to try to engage them in a way to have them react, but we mentioned that this would allow more flexibility and you could build more structures right to the property line. And generally, the response was people were interested in doing that themselves. It didn't seem like people were hearing complaints about that when they were bringing it up. So both Julia Gisler and I, who did a lot of the outreach, were surprised at actually the lack of concern on either the privacy or the noise issues on that. There was a little bit of concern with the mechanical equipment, but not so much for the structures.

**Hales:** Another question I have is -- so obviously, Susan mentioned an illegally built unit. There are nonconforming structures out there today. Does this set of changes -- I assume the set of changes reduces the size of the universe of nonconforming structures? Or does it?

**Nameny:** Potentially, because many people will build a tool shed and building code does not require a building permit for anything under 200 square feet or 10 feet tall, at least in the residential chapters, zones. So, you could have a tool shed or a little workshop or things like that that technically needs to be five feet away, and this provision would allow it to be there so it would lose its nonconforming status. Once again, those things tend to be complaint-driven so unless somebody complains about it, they stay.

**Saltzman:** So, these obscured windows -- they're windows that cannot be opened, is that correct?

**Wickstrom:** True. Kind of like glass block or what you've got behind you there.

**Saltzman:** And then the testimony by Elaine -- I can't remember her last name -- but about garages being used for other things and how most garages are probably being used other than parking a car. So what is our philosophy of why we will allow garages to be built in the setback? What is the underlying policy rationale for that?

**Nameny:** I think it's been in the code since prior to '91, actually -- I don't think I went back further than '91. I believe the sense was especially in our older neighborhoods, that was a standard development pattern. You would build your detached garage in the back of the lot. Oftentimes, if they were building in the '20s, they didn't have concern for firewalls or fire life safety and so they were just built. Some more recent ones were often built with things like concrete block wall because I think that may have satisfied the one-hour fire. Currently plans actually allow you don't have to build a concrete wall, you can just add a layer of chips and board to make it a one-hour firewall. But it's just that sort of history there. We at least since prior to '91, we've allowed garages to be built in the side and rear setback. Even in the '80s, we allowed greenhouses and other small structures to be in the side and rear setback in the zones.

**Saltzman:** So, it's current policy.

**Nameny:** Right.

**Saltzman:** Not changed by these new rules. [speaking simultaneously]

**Nameny:** We've always considered the garage, yeah, so the garage has always been that way and we're just expanding on that philosophy to address other structures because people tend to now want to do other things in their backyard with structures.

**Saltzman:** I guess what I'm trying to get at -- does that make the case for -- and I don't know if the world will end by doing this -- but saying for new garages, they have to be outside of the setback because people are living closer together now, they are building ADUs, and so we have so many activities going on in a closer space. Would it make sense just to say that new garages would be subject to that five foot setback?

November 12, 2015

**Nameny:** Well, that's something to consider. Essentially, under the regulatory improvement program where we're usually trying to work within our current policy directives and keep things how they've been, we did not necessarily want to rewrite policy on is a five-foot setback -- or in some zones, a 10-foot setback -- overrule everything? I think the idea was we have gone in a different direction. We've over time allowed garages in the setback. I think 10, 12 years ago we started allowing garages to be converted to other types of accessory structures in the setback. So, the intent was not necessarily to wipe all that out.

The other thing that can come up if you have an older one-car garage, 12 by 20 and it's in the setback, if we now said you had to be out of the setback, if you wanted to expand that garage at all you'd potentially have to expand it out of the setback as well. We didn't want to change that policy.

**Hales:** My sense is we're not seeing a lot of new garages per se. We're seeing lots of ADUs, we're seeing lots of conversions, but my sense is we're not seeing people just building a new garage. Some?

**Wickstrom:** Yeah, we do see some garages, and even some new detached garages where people are wanting to not rely on parking on the street but to park on their own property. Just the other thing -- Phil kinda got at this -- but if we were suddenly requiring detached garages to be outside of the setback, we'd suddenly have a really large number of nonconforming existing detached garages.

And while we're at it, could I make sure I'm understanding your point, Commissioner Fritz, about the openings? Are you saying that it may be more appropriate just to say silent on that in this code rather than make requirements so that somebody has the potential to, if they were three feet back from the property line, put glass block or something in?

**Fritz:** Not even three feet back. Instead of saying you have to have a blank wall, you could say you may have the obscured glass block or whatever.

**Wickstrom:** Provided that building code requirements are met.

**Fritz:** Yeah.

**Hales:** Yeah, I'd be interested in that approach as well.

**Nameny:** The one thing we maybe have to check -- I don't know, Matt, if you would know from a building code standpoint -- if it's a situation where we require that and so they place some sort of window into there with a sight-obscuring glass and then after the fact change the glazing or whatever, that's not something that we would actually even be aware of because they often don't need permits to swap out windows and things like that. So once again, that was why I think we were kind of drawing the line at the opening itself.

**Hales:** Let's consider that and think about that.

So at this point -- this is going to come back for second reading next week. I think there are some issues we may want to think about, so we certainly -- we don't have to act on it next week if there's still an interest in those kind of amendments, but I'll schedule it for second reading and we can take up amendments if there's a member of Council that wants to. That sound good? Well, great work. Thank you very much. You've obviously really thought this through and worked well with folks in the community that are interested. Appreciate your good work, and we'll schedule this for second reading next week. Thank you.

OK, let's get to -- I know we've got some folks waiting on a couple of these items, so let's move to our package of issues about the Columbia River levees, 1172 through 1174.

**Fish:** Mayor, I think our rules are that when we pull something from consent, we take that first.

**Hales:** Oh, you want to do that first?

November 12, 2015

**Fish:** Well, I don't want to, but they -- I mean, one was pulled by your office. The other one --

**Hales:** I'm content to wait on those if there's no objection because I know we've got people here on the levees, so I'd rather move into that first.

**Fish:** Alright. I have staff people who came over just to hear that right now.

**Hales:** Oh, alright, let's handle this then.

**Fish:** We could do 1170 since they came over specifically --

**Hales:** Sure. Let's do 1170.

**Item 1170.**

**Hales:** You pulled this, Commissioner?

**Fish:** Mayor, I pulled this one. As you know, our threshold for putting it on the regular agenda is a half million or more. After getting a briefing on this, we thought it would be appropriate to pull this to the regular agenda and give you a quick update. I've asked Scott Gibson to walk us through it. Scott, good morning.

**Scott Gibson, Bureau of Environmental Services:** Good morning. For the record, my name is Scott Gibson, I'm a principal engineer at the Bureau of Environmental Services. This morning, I'm here to request authorization to amend a contract.

This amendment adds scope to the work performed by the contractor and increases the contract amount by \$325,025. Before I get into the detail of the amendment, I'd like to give you a brief description of the project.

As the name implies, the Tryon Creek trunk sewer upgrade project is located adjacent to Tryon Creek with much of the sewer alignment inside the Tryon Creek state park. This sewer is unique in that it's elevated on piers. It runs overhead rather than underground.

The objective of the projects are to increase reliability of the sewer by mitigating risks associated with damage due to landslide, high creek flows, and associated erosion as well as earthquake. The project also contains the objective of enhancing Tryon Creek habitat in the reach adjacent to the sewer. The current budget for this effort for design and construction all in is about \$4.3 million.

The original contract was authorized by Council three years ago in November 2012 in the amount of \$471,410. The Council also authorized a prior amendment in March of 2014 in the amount of \$267,267. The current amendment request increases the scope of work to design up to 10 new stream habitat enhancement elements, which were not originally envisioned. It adds permitting tasks to update the project approvals, which are quite expensive if you consider being in the state park and also a sensitive resource. It also adds support for construction by the designers and scientists associated with the stream enhancements.

If you have any questions, I'm here to answer them. Before we move into those, I just [indistinguishable] you a quick review of what's been done at a staff level to look at this. We'll go ahead and move to questions, then.

**Saltzman:** My question is philosophical, and I've raised this when I was in charge of BES, but it's truly a citywide issue. You know, at what point do you through contract amendment increase the scope of the project versus taking that additional scope and putting it out to a request for proposals from additional firms?

**Gibson:** I think philosophically, you would do that if you lacked confidence in the firm's ability to move forward or felt they were somehow not performing adequately or if you think the scope has changed so significantly that you could get a more qualified firm, could bring extra expertise into the project. Of course, the down -- those are the positives. The downside is the additional time, effort, and schedule spent do the procurement. So, you're sort of hedging the bets. Am I going to get a better firm? Am I going to perform better long-

November 12, 2015

term if I take a short-term hit? And I think in this case, we made the assessment both with the project team and management that it's best to continue with BergerABAM firm.

**Fish:** I guess, Scott, what Dan is saying politely is he would frown on us using the amendment process to skirt the contracting process. The situation I guess the most egregious example hypothetically would be scoping out project A, but through amendments, it becomes essentially project B, and we've avoided our normal procurement process. And I assume that you would flag that for us if at some point the scope went beyond just dealing with unforeseen events.

**Gibson:** I would do that. This contract was originally procured through an open, competitive, formal process, so it went through the most rigorous procurement process at that time.

**Saltzman:** Thanks.

**Fish:** But it's precisely that question, Commissioner, that I think makes it appropriate for us to hear an amendment of this kind. Even though it doesn't reach the half million dollar threshold it has the effect -- if you look at the table that we provided -- of essentially doubling the cost of the contract. And I think that requires a skeptical review of Council to make sure in fact we're still operating within the same framework of the contract and that you're satisfied with the rationale for these amendments.

**Saltzman:** OK. I appreciate that.

**Hales:** Thank you. Thanks, Scott. Anyone want to speak on this item? If not, then it passes to second reading next week.

**Fish:** Thank you, Mayor.

**Hales:** You bet. OK, let's move on to please the levee items that I just mentioned -- the three of those, please.

**Item 1172.**

**Item 1173.**

**Item 1174.**

**Hales:** We have Eric Shaffner, Jackie Dingfelder, and Steve Greenwood lined up to update us on this big project that we're a partner in. Good morning.

**Jackie Dingfelder, Office of Mayor Charlie Hales:** Good morning. Thank you, Mayor. My name is Jackie Dingfelder, I'm policy director for Mayor Charlie Hales. Hopefully, our presentation might be shorter than the title of these ordinances, but we'll do our very best.

We are pleased to bring you these ordinances that approve intergovernmental agreements to fund phase two of the Levee Ready Columbia and build upon our successful partnership to pursue recertification and accreditation of the levee system within peninsula drainage district number one, known as PEN 1, and peninsula drainage district number two, other was known as PEN 2 in North Portland.

I'm sure you're well aware that we have major assets that are protected by the levee systems, including the Portland International Airport, public road and transit infrastructure as well as large industrial, residential and commercial land and natural areas. The levees protects thousands of jobs and residents -- an important part of our tax base -- and hundreds of acres of parks and natural areas as well.

These agreements are the result of months of discussions with our collaborative partners to find a fair division of the costs among a number of jurisdictions benefiting from the project. You probably recall, Mayor, of course, because you were co-convenor of this project through Oregon Solutions for a year, and you'll hear a little bit more from Steve Greenwood, who's here from Oregon Solutions.

Fiscal responsibility is shared across cities, drainage districts, and regional partners, with cities being asked to pay based on the acreage within the jurisdiction protected by the levee system. The signing of these IGAs will represent another important milestone in what

November 12, 2015

has been a successful regional collaboration through the Oregon Solutions program and builds upon the declaration of cooperation signed by all the parties earlier this fall. Specifically, the first ordinance authorizes the amendment of a loan agreement between the City and the Oregon Infrastructure Finance Authority to extend the deadline for completion of phase one of the levee analysis project. You'll hear more about the details on that from Steve Greenwood shortly.

The second ordinance authorizes the amendment of the intergovernmental agreement that allocated the costs of the phase one analysis among the various jurisdictions and established the loan repayment process. This is necessitated by the formation of a joint contracting authority among the drainage districts and a change in the loan repayment schedule. I want to note that neither ordinance will increase the cost to the City.

The third ordinance does two things. It authorizes a cash payment of approximately \$88,000 -- which was approved in the BMP -- to the drainage districts to pay for public outreach and similar activities not covered by the state loan, and to formalize the City's financial participation in phase two of the levee analysis project by authorizing the execution of an intergovernmental agreement that will commit the City to repaying it by 2024, just under a million of the second loan by the state.

I have with me today Steve Greenwood, who's going to provide a brief update on the Oregon Solutions project and timeline. I have Eric Shaffner, City Attorney, to answer any questions about the specific language in the IGAs or the ordinances. We also have on deck Jennifer Cooperman, our City Treasurer; and Jonas Biery, who was whisked away to BES, but he was involved in the financial negotiations for the payment. With that, I'll hand it off to Steve.

**Hales:** Good morning, Steve.

**Steve Greenwood:** Good morning, Mayor Hales and members of the Council, I'm very pleased to be here this morning because I think that this is a really big step in the regional cooperation and collaborations on this project.

As Jackie said, the purpose of these ordinances in front of you are really to authorize the intergovernmental agreements that will fund this next phase of the project, essentially funding the declaration of cooperation that you signed earlier this year. I think it is, from the Oregon Solutions perspective -- you know, we get involved in a lot of projects - - this is a great example. And this step, which will be the second time that the regional partners have come together to jointly fund the effort, this is a great example I think of regional cooperation.

I was two nights ago at the city of Troutdale, which is one of the newer members of this coalition that now calls itself Levee Ready Columbia, and that Council passed their ordinances unanimously. So, we were happy about that.

One of the things I want to emphasize to you is that this next stage is more complex in the sense that we're going from two districts to five districts, and that's actually I think a result of our success in phase one. The City is paying for engineering assessments only within the city of Portland. Not in the other jurisdictions. I might add that the other jurisdictions want to make sure this same holds true for them, which it does.

The main interest of the City in the expansion is of course in the Multnomah County drainage district where the City is the majority jurisdiction. And that district alone is greater than the size of the two previous districts that we talked about, PEN 1 and PEN 2.

I really want to thank the City for its leadership in this regional collaboration. The City really stepped up in phase one and created the leadership, provided the administrative leadership for the IFA loan with the state of Oregon. And partly because of that leadership, Multnomah County is now stepping up in this phase and will play that role

November 12, 2015

rather than the City for phase two. So, I think other people are stepping up in part because of the model that the City provided in phase one, and I really appreciate that.

Just as a reminder, there are a number of bureaus involved in this project. Sometimes it feels like all the bureaus are involved in this project in one form or another, but BES, Parks, Development Services are really the principal bureaus that are at the Oregon Solutions table along with the Mayor's office. Because we've expanded this particular set of negotiations and agreements was frankly considerably more complex and complicated than in phase one. I really appreciate the work of Jonas Biery and Jackie Dingfelder and Eric Shaffner, who all put in a lot of hours in helping work through an agreement that everybody could support.

**Hales:** Thank you. Questions for the team?

**Fish:** I have a question for you. We're kind of moving into a critical phase of this project and it's going to have a life that goes into the future. So, you've been the quarterback in the Mayor's office, but you're leaving us for greener pastures. How are we managing that transition?

**Dingfelder:** Good question. We've been actually talking amongst ourselves in the different bureaus in the City, about who should take on that leadership role. Part of the reason that it fell in my sort of plate, so to speak, was because the Mayor was co-convenor at the time of the Oregon Solutions process. And obviously, I ended up sort of acting as a part of the coordination team among the different bureaus. I have recommended that Fred Miller -- that there's somebody at a level that can work across bureaus, and I recommended to Fred just the other day he may want to think about taking this on. It's really a decision of you all. I think it does -- there are benefits to having somebody in a central place that can work with all the different bureaus because it doesn't really fall neatly into any one bureau's portfolio.

**Fish:** I would say just as the Mayor's leadership in Superfund is essential to the success of that endeavor, I think having the Mayor's office providing some leadership is important here. I'm less concerned about who gets the handoff than to there being a clearly-designated high-level person on the third floor that does so, because I'm a huge fan of both the Oregon Solutions and the regional solutions process, but we have to coordinate our various bureaus. I think you've done a great job at that, Jackie, but we don't have the power to prevent you from leaving.

**Dingfelder:** I appreciate that, Commissioner. I certainly will recommend to the Mayor that somebody continue in that vein. I think, though, that the next phase -- there's really now sort of a digging in and waiting for the results of the engineering analysis. And the remedy -- once we're at the point of reviewing the remedies -- that's going to be a really key time for collaboration and coordination among all the different partners and obviously internally in the city. So, certainly, I would advise the Mayor and staff that continues that this type of coordination is very important.

**Fish:** If Fred may even consider asking Betsy Ames to be his point on it, but just having someone who can handle the high-level coordination. Because we are -- sort of in the future, we're going to be heading to a set of decisions which will include real money, so that continuity of leadership I think is absolutely essential along the way.

**Hales:** Thank you. Other questions? Thank you all very much. Good work. Is there anyone signed up to testify?

**Moore-Love:** Yes. Mr. Lightning requested to speak.

**Hales:** Thank you very much. Come on up, Lightning.

**Lightning:** Good morning. My name is Lightning. I represent Lightning Watchdog PDX. One of the concerns I had on the IGA agreement is I noticed SIDIC Sauvie Island did not want to participate in the IGA, if I'm correct. I don't know why that would be, if that's a

November 12, 2015

positioning of legal responsibility on the levee or not, but I did notice that and I wanted to bring that point up.

Another issue of concern that I have on this is that again, when we're talking the acreage sizes such as like on PEN 1, 986 acres, PEN 2, 1612, MCDD, 8500 acres, and SDIC, 1550 -- and again, the SIDIC, 15,000. My biggest concern on this is to have a clear understanding not just on the obligation per the acreage size, but the understanding on what type of valuation we're having on the assets on these properties such as when you brought up the Portland International Airport. I want to have a clear understanding on where their current values are on these businesses, properties that we're discussing.

Another issue I have is, as I have stated before, which is up along the airport, is all the properties that are on the water side of the levee -- primarily the marinas, Salty's restaurant, up in that location just off 33rd. In my opinion, FEMA and the Army Corps of Engineers -- and talking specifically with FEMA is that I don't think you can have certification or accreditation on those properties due to the fact that they're on the water side of the levee. Again, I've stated in the past that I would like to see these properties proposed to be put into eminent domain and to be purchased at the fair market price because if we're going to truly have this certification accreditation, we cannot have these properties on the water side. I can't see how that can possibly be done, and that is a concern to me.

Another issue I have again is on rail transport that we've discussed. Where does the railroads come into effect on the levees? Where do they come into play on what their responsibility is? If we have to rebuild the levee, is it not true that we might suspend their operations for quite a long time and they will not have access on those railroads? I want to have a clear understanding of that to see where we're at on the studies on dealing with the railroads and understanding that if they're transporting whatever they're going to transport across these levees, what is their responsibility to make sure that the certification and accreditation is brought up to today's standards of the New Orleans levee, and not some old levee put in there many years ago to protect the farmers' interests? Because we're far from that on the valuation of the properties at this time.

**Hales:** Thank you. Good points, appreciate that. Thank you very much. The answer on the Sauvie's Island issue is that they are under a separate agreement, so it's outside of the scope of this particular intergovernmental agreement. Unless there's any further testimony, we'll pass all three of these to second reading next week -- 1172, 1173, and 1174. And then, let's take up 1175, please.

**Item 1175.**

**Hales:** OK. This is a continuation and vote and further guidance.

**Andrew Scott, Director, City Budget Office:** Yes, good morning. Andrew Scott, City Budget Director. I think all we need to do today -- unless there's anything else -- we talked about the BMP last week. There were two amendments to it, so it does sit as amended. It was carried over. It just needs public testimony and then a vote.

**Hales:** OK. Any further testimony on the fall BMP as amended? No one signed up? OK, then let's take a roll call vote, please.

**Item 1175 Roll.**

**Fritz:** I am very pleased with this budget, particularly the 100,000 to pay for the summer Park Rangers which are so necessary, and to have 28,000 for the restorative justice program with Resolutions Northwest, which was promised earlier in the year. Very important to me. And thank you, Mayor Hales and the rest of the Council, for setting aside 1.6 million to pay for phase one of the arbitration settlement agreement for the Parks and Recreation workers. This provides much-needed certainty for Parks that we can continue providing services the public needs and wants at least for the remainder of this fiscal year.

November 12, 2015

I'm also glad that the Council voted to fund the Portland State University Institute on Aging request, which shows our commitment to follow through on our resolution to make Portland an age-friendly city. Finally, I'm happy to see we dedicated one million dollars towards the Sears building improvements that are needed to turn it into the westside operations center in the long term and potentially a winter shelter in the short term. Good job, Mayor. Thank you, City Budget Office. Aye.

**Fish:** I concur on everything Commissioner Fritz just said. I want to thank Andrew and his team. It's moments like this where it looks like it's a relatively easy and straightforward process, but a lot of work going into getting us to this day, so thank you for your work. I want to call out just one item that Commissioner Fritz just referenced, and that's the funding for the age-friendly Portland plan. In particular, I want to thank Mayor Hales and Commissioner Fritz for their strong support of this item. Since we adopted the action plan for an age-friendly Portland in 2013, staff and volunteers have been working hard to ensure that as Portland grows it does so in a way that's accessible to people of all ages and abilities. Today's decision to fund that work tells the community two things. First, that we value and want to support the important work that PSU is doing in implementing our plan; and second, that we realize the impact that our state of housing emergency is having on our elderly residents. Thank you both. I'm very pleased to support this budget. Aye.

**Saltzman:** Aye.

**Hales:** Thank you all. It was a good process, and we've gotten to a good result. I'm heartened by our continued commitment to housing and homelessness. Every chance that this Council gets to do the right thing on housing and homelessness, we have been, and that's great. We also need to just make sure we understand that we're going to be in some difficult budget choices in the near future because of the commitments that we've made. I'm happy to have that problem because I like the commitments.

Also want to continue to flag the concern I have about the Police Bureau and over time. There's a lot of pressure in the community to hire more police officers. We certainly need to hire the ones that we don't have on the payroll today and try to relieve the folks that are out there working too hard in a really difficult environment. But I just want to flag the issue in terms of compensation set-aside and other adjustments we may need in the spring that we have a lot of bureaus that have their accelerator all the way to the floor -- Parks and Police are two of them, and Housing is another.

I really appreciate the good work from the Budget Office and from all of us. Thank you very much. Aye.

OK, we have more item that was pulled from the consent calendar. There was a request --

**Fritz:** Mayor, I have an official engagement so I must excuse myself. Thank you.

**Hales:** Please do, and we'll see you then. OK, item 1166.

**Item 1166.**

**Hales:** Someone want to speak on this item? Is that you, Lightning? Did you want to speak on this?

**Lightning:** Yes. My name is Lightning. I represent Lightning Watchdog PDX. I was hoping that the City Attorney could have a discussion on this issue. , where my concerns are is that on this resolution, we keep referring to the climate change and they're using estimates on the pre-industrial levels -- on wanting to drop the two degree Celsius above pre-industrial levels. And, basically, we're talking 565 more gigatons of carbon dioxide into the atmosphere over 15 years. Now, when they keep using this term and they're saying the scientists are using this term that if we do not make some drastic changes in the next 15 years, we're going to look at some serious disruption to our climate, and when we're using this terminology and we're having City attorneys -- obviously on the clean power plan,

November 12, 2015

we're beginning to see litigation from the fossil fuel industry step up, and we anticipated this. So, my position is -- and I've stated this before -- when we're talking on the railroads and fossil fuel transportation, we are claiming -- this pertains to the levee -- we are claiming some disruption on the climate that is going to create such problems that they're talking on our weather that it's going to have an effect on our levee, too. And we need to look at this. And this is based upon the scientists stating this. That's why I'm saying on this levee, when we're doing the study, we really have to also look at do we need to rebuild the levee, do we need to have a better understanding from the railroads on their transportation of the fossil fuels? We need to have a clear picture on what they are willing to do little on rebuilding these levees because they do have a responsibility here, too. This is why this is all tying in together. This is kind of what I wanted to have the City Attorney, because I think this is one of the most important issues on this clean power plan that the fossil fuel companies are right now beginning litigation to go against that. And I was hoping they would speak today, and they're not here. I made my points, but I was hoping they would state their position.

**Hales:** Appreciate your points.

**Lightning:** OK, thank you.

**Hales:** Thank you. Let's take roll call, please, on the resolution.

**Item 1166 Roll.**

**Fish:** Aye.

**Saltzman:** Aye.

**Hales:** Supporting the clean power plan is very consistent with our City energy policy and our Climate Action Plan, so I think it's very appropriate that we weigh in. Aye. We're recessed until 2:00 p.m.

At 11:48 a.m., Council recessed.

November 12, 2015  
**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.

**NOVEMBER 12, 2015**

**2:00 PM**

**Hales:** Good afternoon, everyone. Welcome to the November 12th afternoon session of the Portland City Council. Would you please call the roll?

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

**Hales:** Welcome, everyone. Before we have Karla read the item, I'll just lay out some process points here. First, we're going to be continuing the hearing that we had on the second of our two resolutions on the subject of fossil fuel here in Portland. I want to welcome you all here for that discussion. We'll be taking testimony later. We'll have a little bit of a staff presentation up front to review the amendments that are in front of the Council that some of you may have heard us discuss last time, and then we'll take public testimony. First there were people who signed up to speak on this item and didn't get a chance to, so we want to give them the chance to speak first if they're here today, and then we'll take testimony just on the amendments.

We don't really want to go back to the original question for a couple of reasons. One, because we had an amazing and extensive hearing last week, and two, because I want the Council to be able to deliberate and take action at 4:00 today. We'd like to ask you to be succinct, and if someone has made your point, please say that you support the previous speaker, if you can, so that we can try to hear all points of view.

And to that point, our basic rules of decorum are pretty simple. We do want to hear all points of view on issues that face the city. So, if you want to indicate your agreement with somebody's point of view, a hand gesture or a wave of a hand or a wand or something is fine. If you disagree, a polite hand gesture to the negative is OK as well, but we ask that we not make vocal demonstrations or applause demonstrations in favor or against our fellow citizens in the room so that people don't feel intimidated and so they get to have their say. That's about it. Would you please read the item, please, Karla?

\*\*\*\*\*: Mayor, will you turn up the audio, please?

**Hales:** We will do that. Thank you.

**Item 1179.**

**Hales:** Thank you. Again, let me again set the stage for this. This is a resolution. What it does is it states the policy of our city and where we as a city want to go, and that we -- as we did last week on the first of these two resolutions -- are taking a stand that reflects the values of our community.

A couple of years ago, there was a survey called the Oregon Values and Beliefs study. And it was really -- I wonked out, because that's the kind of stuff that I read -- but it was really heartening. It showed that statewide -- not just here in Portland, statewide -- more than 75% of our fellow citizens said climate change is real and we need to make changes in how we live in our communities to reflect that. That's not just Portland, that's Grants Pass and Baker City and the whole state. And so as an Oregonian as well as a Portlander, that gave me a lot of hope.

This is a chance really for us to take a stand about the future versus the past, about the public interest versus special interest, about climate change action versus climate change denial, and I think it's a really important day. I'm really glad that you're all here.

November 12, 2015

Also in a national context, just Friday, last Friday, President Obama announced that he would not approve the Keystone XL pipeline from Alberta to the gulf coast -- [cheers] -- big news, exactly. A lot of people observed that the Keystone decision itself as significant, but it also might increase the likelihood that we would see more proposed fossil fuel infrastructure here in the northwest. So, it really heightens the importance, I think, of what we're doing here today.

So again, we look forward to hearing from those of you who signed up to speak at our last hearing first, but first, we have some proposed amendments. We want to take up those proposed amendments and call on staff for questions or anything that the Council needs. So Michael, why don't you come on up, please, and walk us through the amendments that we have in front of us? And then we can take motions on those. I think we adopted one set already, but you can refresh our memory on that.

**Fish:** Mayor, let me jump in. At the last hearing, I proposed Fish amendments two through five.

**Hales:** Right, we've got those here.

**Fish:** And those were seconded. I now would like to propose a substitute package. Can we call this substitute A?

**Hales:** OK.

**Fish:** There are no substantive changes to the amendments, there's just a little wordsmithing. Amendment two remains unchanged. Amendment three in the third sentence is changed to reflect any proposed code changes to advance the policies set forth in this resolution, which is tightened.

**Hales:** Right, OK.

**Fish:** Amendment four, second line, "the City and applicable bureaus shall seek and identify opportunities to invest in Portland's human infrastructure" -- again, the language has been tightened and clarified. And amendment five has an addition to tribal government partners in the state of Oregon includes local government and other key stakeholders including labor, business, environment, and neighborhoods. I move this as a substitute set of amendments A.

**Fritz:** Second.

**Hales:** OK, those are seconded. Any discussion about those? Again, for those who may not have followed this, these are amendments that require that the Council review our code changes when they come forward in executive session to make sure we know where we stand legally, because we want our decisions to be upheld in court and not overturned. Secondly, that we're going to undertake an economic analysis of those code changes because we want to make sure that we document what's happening in the local economy as we move forward on this. Third, that we make sure that we retrain people. If we're moving from more of a fossil fuel-based economy to more of a green economy, we want people to make that transition as well as businesses. Fourth, that we confer with the tribes, other local governments, and the other stakeholders that Commissioner Fish mentioned in making sure that it works.

**Fish:** Mayor, thank you for that eloquent and succinct statement of my amendments.

**Hales:** [laughs] Trying to translate government-ese, you know.

**Fish:** To my peril, I'll try to add one thing to what you said, which is Fish amendment two requires an executive session to review legal issues and a work session to review the proposed code changes. So, the entire community will have a chance as we get briefed to hear about the specific changes to our code.

**Hales:** Right, thank you. Further questions or discussion about those amendments? Let's take action on those and then we can take up others. So, let's take a roll call vote please on the Fish amendments as revised.

November 12, 2015

**Roll on amendments.**

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

**Hales:** Thank you. OK, what's next?

**Novick:** Mayor, I have two amendments I offered last week to withdraw and one more to put on the table. I would withdraw Novick amendment four, which added to the first "be it resolved" the language, "except for those infrastructure investments that improve the integrity of the current fossil fuel supply in Portland" and also withdraw Novick amendment five, which amended the fourth "be it resolved" to add language saying that this resolution is not intended to restrict the provision of service directly to end users, including improvements and new infrastructure needed to prevent fugitive gas emissions, improve seismic resilience, etc. So, I'd like to withdraw these two amendments. And Mayor, I believe you seconded them, so I'd ask you to withdraw your seconds.

**Hales:** I certainly withdraw those. That leaves Novick amendment number one, which pointed out that fracking increases the potential for earthquakes, right?

**Novick:** That's right.

**Hales:** And the second one where we added the word "expanding" fossil fuel infrastructure.

**Novick:** That's right. And then the new one I'd like to propose is to delete the fourth "be it resolved" in the current draft and instead add a modified version of that immediately after the first "be it resolved" clause. So this would be the second "be it resolved" clause which says, "now, therefore, be it resolved, the Council would actively oppose expansion of infrastructure for which" -- the first one is, "for which the primary purpose is transporting and storing fossil fuel in or through Portland and adjacent water ways" and then add "be it further resolved that this resolution does not restrict improvements in the safety or efficiency, seismic resilience or operations of existing infrastructure, the provision of service to end users, development of emergency back-up capacity, infrastructure that enables recovery or reprocessing of used petroleum products" -- which is something someone suggested this week -- "or infrastructure that will accelerate the transition to non-fossil fuel energy sources."

**Fish:** Second.

**Hales:** OK, I like those. Further discussion of those amendments? Let's take a vote to accept those amendments.

**Fish:** Are we taking them as a package, Mayor?

**Hales:** Yes.

**Roll on amendments.**

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

**Fritz:** So then what about Novick amendment three?

**Novick:** I believe that did not draw a second.

**Hales:** That's right.

**Fritz:** But if it did, you don't want to -- you're withdrawing that, too?

**Novick:** Yes, it's already dead. [laughter]

**Hales:** It doesn't need to be dead twice. OK. Anything further?

**Saltzman:** I have an amendment.

**Hales:** You have an amendment, Commissioner Saltzman.

**Saltzman:** I would like our attorney, Kathryn Beaumont, to come to the table while I offer this amendment.

Mayor, in reviewing the resolution last night, the resolve that the City Council will actively oppose expansive infrastructure whose primary purpose is transporting or storing fossil fuels in or through Portland or adjacent water ways, it struck me that that should be true certainly when we're dealing with comp plans or any kind of legislative action that the

November 12, 2015

City takes, but that the language to my mind is contrary to the oath of office we took to be neutral in quasi-judicial proceedings that come to us. In other words, I don't think we can blanketly say we are going to oppose something that may come to us through a judicial process where we're supposed to be impartial and act under the facts. So, I asked Kathryn Beaumont what her interpretation was and, Kathryn, you can give us your interpretation now. I will say I've offered an amendment which would add the words "oppose legislation allowing the expansion infrastructure," meaning City legislation. I feel that's --

**Hales:** City or other.

**Saltzman:** City or other, yeah. It could be City, state, or federal.

**Hales:** You're trying to make a distinction between the legislative environment --

**Saltzman:** But I do feel as the resolve as it sits now, it does create a conflict of the fundamental oath of office to be neutral in certain circumstances. Kathryn, do you want to -

-

**Hales:** Yeah, let's delve into that, please.

**Kathryn Beaumont, Chief Deputy City Attorney:** When asked by Commissioner Saltzman about that point, my response was, yes, that potentially it could raise a claim that the Council's impartiality as a quasi-judicial decision-making body is compromised because of the breadth of the language. My recommendation to him was that if it was restricted to express opposition to legislation that would allow the expansion of infrastructure, that would be certainly much, much less problematic and would not --

**Hales:** I'm trying to think through. So, if someone wanted to propose a comprehensive -- they wanted to seek a site-specific comprehensive plan amendment, which is a quasi-judicial action, and the purpose of that amendment was to allow the construction of, say, rail lines to serve a coal terminal, and that that wouldn't normally be allowed in the code, but -- I'm trying to think, what's the quasi-judicial decision that we would be potentially making in a situation like this?

**Beaumont:** Well, it could be something like a quasi-judicial comprehensive plan map amendment to allow the type of facility that -- to allow them to impose a zone that would allow the type of facility that they might want to build. It could be some type of other environmental review. I mean, I admit I'm a lawyer, I'm not a planner. I can't think of every possible situation this could apply to.

**Fish:** Kathryn, let me just follow up on that though. With the code changes this resolution would result in, to the extent in any quasi-judicial proceeding there's a balancing of interest, our code will be quite clear as to how we are to slice it, correct?

**Beaumont:** Once the code is in place, yes, the code will be clear. It's during this interim period of time if you were to have a quasi-judicial matter come before you with this broad statement, there could be a claim that the Council's impartiality is compromised.

**Hales:** Try to speak louder, Kathryn, move closer to the microphone. I actually don't think I'm going to support this amendment because quasi-judicial decisions in a situation like that are discretionary. The Council reads the comp plan and makes a decision about whether or not we want to amend the comp plan, but there is discretion allowed to us based on policy in how we make those decisions, right?

**Beaumont:** In a comp plan map amendment situation, yes, there is. In other situations, there are approval criteria to be applied.

**Saltzman:** It's my belief if anybody were to challenge a discretionary decision that this Council made after this resolution passes, they would be handing the opponent's attorney a resolution that says, well, you already said back in November of 2015 that you were going to oppose this because you passed a policy that said it, so how could you argue you were being impartial in the quasi-judicial --

November 12, 2015

**Hales:** We've already addressed in the resolution situations in which we would not interfere with the operation -- you know, existing facilities, all of these other exceptions, some of which we have just discussed -- reprocessing used oil, those kind of situations, getting natural gas service to an end user that doesn't have it today, but is within the network of the gas system in the city. Those are all permitted uses and wouldn't even be subject to a quasi-judicial decision. I'm struggling to think --

**Saltzman:** Yeah, I can't anticipate the specifics either, but as I just said a minute ago -- I mean, three years ago, nobody anticipated Uber or Lyft, and today we are spending a lot of Council time on Uber and Lyft-related issues. I'm just thinking this is an ounce of prevention may be worth a pound of pain.

**Fish:** Let me see if I can parse this out a little bit. We take decisions all the time at a policy level expressing approval or disapproval of certain things, and we embed it in resolutions and ordinances. So for example, we could pass a resolution saying we don't want nuclear power plants in Portland. It's conceivable we'll have a quasi-judicial proceeding in which as part of a request from a college or university, they have a little nuclear power plant that is a demonstration or has some scientific purpose or whatever. It doesn't seem to me it goes that it goes to our objectivity in hearing that that we have a strong policy statement on the books opposing some piece of it. We do that all the time. Most of our actions as a Council express a policy preference on one side or another. That's different than whether we are going to be objective in balancing often competing interests. The beauty of land use is we're often called upon to reconcile competing things. There's a statement in support and a statement against, and something that we have to harmonize. The objectivity -- the part of our oath as to objectivity is we say that we will go in to the best of our abilities and reconcile the matters, but doesn't preclude us from legislating on the underlying subject matter. Correct, counsel?

**Beaumont:** Certainly. The Council does balance many competing policy concerns at a very broad level but is still able to make individual land use decisions based on the facts of that decision. The language of this proposal is fairly broad. I was asked a question about could it conceivably create a problem in a quasi-judicial context by saying that the Council will actively oppose. Potentially it could compromise -- enable someone to claim that the Council's impartiality in a quasi-judicial setting was compromised, raise a claim of bias or pre-judgement. Would such a situation ever arise? I can't predict. You know, once code is in place that makes the Council's intent clear, that's much less of an issue.

**Fish:** Commissioner Saltzman, is your concern just with the period from today until we actually vote on proposed code changes?

**Saltzman:** No, it's really -- it's a concern that we should not pass something that could create a shadow of doubt about a quasi-judicial decision we make down the road to an appellate body, to somebody that hears an appeal of our decision. I think we should be fairly protective of the independence we need to exert under quasi-judicial proceeding. We should make sure the resolution we're talking about refers to our opposition to legislation, whether it's City, federal, or state legislation. I think it's just trying to protect our ability to have our decisions be upheld when they're appealed to appellate bodies.

**Fritz:** I appreciate the concern, Commissioner Saltzman, and yes, indeed, we want to protect the City's interest and indeed the interest of this resolution should a quasi-judicial request for a fossil fuel application come to Council. Unfortunately, I think just adding this legislation into this "be it resolved," weakens the whole "be it resolved." The policy is about more than just opposing legislation, it's about doing all kind of different things. So, I wonder if there is a way to capture your concern in a different -- by having another "be it resolved" that specifically says of course we're going to obey the laws of the land and being

November 12, 2015

unbiased and being careful and sticking to the approval criteria in quasi-judicial discussions.

**Fish:** Something like “notwithstanding the forgoing, this does not supersede any other obligation we have as a deliberative body in a quasi-judicial proceeding” --

**Fritz:** There you go, that’s beautiful.

**Hales:** That’s beautiful, but I don’t think we have to write it down because that’s in effect standing policy. Here’s my suggestion. I appreciate the concern, Commissioner Saltzman, and I know you want us to be able to make quasi-judicial decisions properly, but I would rather keep the policy language that we have here clear and then maybe do two things. Ask for a legal memorandum from the City Attorney’s office about how we should conduct ourselves on quasi-judicial cases if any come forward under this resolution, rather than try to craft a fence around a problem we can’t quite see here today. I mean, we’re all struggling to come up with a scenario where this would happen. Again, I believe in the integrity of that process, but I would say let’s pass the policy clean, ask Kathryn and the rest of our City Attorney staff to prepare a legal memorandum about any issues with the quasi-judicial process. But I’m kind of returning to Commissioner Fish’s first analysis of this, which is we always have to balance policies when we make quasi-judicial decisions. You know, we have --

**Saltzman:** I guess my preference would be to follow Commissioner Fish’s example and have maybe Kathryn and somebody in my office draft something while we’re hearing testimony and come back to that.

**Hales:** Well, I’m open to that, but let’s proceed. If you come up --

**Saltzman:** My only concern with your suggestion, Mayor, is suppose a legal memorandum comes back and says, well, you guys all said you were opposed to this, therefore you should abstain from this quasi-judicial process. And then what do we do?

**Fish:** There’s also another potential outcome -- and I have been in enough land use proceedings in my seven years where one or more colleagues have said, “if I wasn’t bound by these rules, I might reach a different result.” And I think we’re pretty scrupulous about describing what the landscape is and what our obligations are, and I’ve had colleagues say, I might have a different view personally but the rules require me to do X, Y, Z, and you have not met your burden or whatever and therefore I have to grant or deny the appeal. I do think we have a pretty good track record of following the legal advice that we get at the outset of each of these proceedings.

**Hales:** I do, too. I guess I’m still trying to think of examples. We make land use decisions often in cases where we have a policy disagreement. I’m making this one up, but it’s not a complete fantasy. We all oppose the availability of assault rifles, but we would make a quasi-judicial decision about the siting of a retail store that happened to sell assault rifles without respect to that. We follow the code and follow the requirements. I don’t think it is a strange place for us to be for the City Council to be clear here’s our policy on fossil fuel, oh, here’s a quasi-judicial that happens to touch on that, and we still have the responsibility under our oath of office to make that decision based on the law.

**Saltzman:** That’s a great example, but I still think it’s debatable one way or the other. My preference would be to have Kathryn come back with something and if people don’t like what I come back with, then so be it.

**Fish:** Kathryn, also to be clear, I’m not aware of any quasi-judicial proceedings that in the pipeline which would be impacted one way or another by our action today. Is that correct?

**Beaumont:** I’m not aware of any.

**Hales:** Alright. Well, we’ll let you go take a run at that. And Michael, anything else that you need to walk us through here now that we’ve reviewed those amendments?

November 12, 2015

**Michael Armstrong, Bureau of Planning and Sustainability:** I don't have anything specific to the amendments. I'm happy to answer any clarifying questions.

**Hales:** Any more questions for Michael?

**Novick:** Actually, yeah, I've got a couple. Michael, you said during the last hearing that this policy would allow new gas stations to be built in the City of Portland because of the language of the resolution indicating the policy does not intend to restrict the provision of service to end users. Could you just explain a little bit by what you mean by "end users," and when you think we'll get an actual definition of it?

**Armstrong:** Sure. If this resolution is adopted, it would initiate a code development process, and defining "end user" in that code is one of the really key -- it will be one of the key terms that has to be defined, and so that would come back to you having gone through the legislative development process. My understanding of what "end user" means is someone who uses the fuel directly. For example, someone getting fuel at a filling station, a utility customer, an industrial customer that may use fossil fuels either to burn for energy or as part of the process inputs or as part of even R&D that they're going through, they are using those fuels themselves. And so, capturing that in a kind of legally coherent definition will be extremely important, but that would happen through the code development process.

**Novick:** Thank you.

**Fish:** And Steve, on that point, just to be clear, under one of my amendments, we would have as many as three bites at the apple on that question. We would have a legal stress test in executive session, we would have a discussion at a work session where you presented the proposed code and we got to ask questions to make sure we understood it, and then whatever you file for consideration would come to a public hearing at Council and the public would get a chance to testify on that and ask further questions. So, I see at least three opportunities for us to make sure that we get it right.

**Novick:** Northwest Natural suggested an amendment to make it explicit that infrastructure necessary for the supportive of service to end users will be allowed under this resolution, and we asked what do they mean by that? They said systems and equipment such as transmission pipes, compressors, and valves necessary to get the product to the distribution system. Do you think that kind of equipment would be covered under the resolution as amended?

**Armstrong:** I do. And the language you used I think is really important where those things aren't necessary to supply the fuel to the end user, and I think it's that immediate chain -- that is the reason that that would be allowed under this "end user" definition.

**Novick:** Here's another scenario somebody offered up -- I can't remember who it was. Under the resolution, would a company be able to build new infrastructure needed to increase the amount of ethanol shipped into Portland via barge?

**Armstrong:** They would because ethanol is not a fossil fuel.

**Novick:** What if it was then blended with a fossil fuel?

**Armstrong:** So -- again, I guess if the infrastructure is to enable the ethanol to be brought in and blended, it's in service to the non-fossil fuel. And so as I read it, that would be allowed. I think you could get to scenarios where there needs to be a larger tank where the fossil fuel and the non-fossil ethanol are blended, and I think this is where the language in the amendment that gets specifically to infrastructure that -- I believe it's "accelerates the transition to non-fossil energy" I think is exactly responsive to that kind of situation.

**Novick:** OK.

**Saltzman:** I had sort of a hypothetical type question, too. Commissioner, Novick, are you through --

**Novick:** Yeah.

November 12, 2015

**Saltzman:** I was talking to the Mayor about this a few minutes before the meeting, but suppose Northwest Natural gas wanted to build a pipeline to serve Tillamook County, which I know for a fact has no natural gas. So, suppose they wanted to build a pipeline that would have to come through Portland, picking up natural gas from wherever they pick it up from, through Portland to serve Tillamook County. Would this policy -- and this may reflect on the discussion we just had a few minutes ago about our quasi-judicial rules, but would this policy in and of itself say that we would oppose that?

**Armstrong:** I wouldn't think so for the same --

**Saltzman:** Would or would not?

**Armstrong:** Would not for the same reason infrastructure Northwest Natural needs to serve its customers in the Portland or in the Portland area is part of serving those direct end users. We're not differentiating between the county lines.

**Hales:** Where the end users happen to live.

**Saltzman:** So if the end user is currently not a fossil fuel consumer -- of natural gas, anyway.

**Armstrong:** I don't think that would change it. I think what this is getting at is if any company wanted to build a natural gas -- for example, an LNG terminal whose purpose is to provide gas to other utilities or other distribution channels, they're not giving it directly to the end user. That's the scenario that I think this would put the City in opposition to.

**Novick:** I have one more question that I forgot, which is another local utility, PGE, had another question. They were saying that suppose they're trying to replace their existing coal generation with largely renewables but for right now, the sun doesn't shine all of the time, the wind isn't blowing all of the time, and for right now, we have problems storing energy from those sources. Hopefully the battery technology will improve dramatically as quickly as possible. But they are saying that gas is the best compliment because you can easily ramp it up and down when there is a gap. Their question is basically, would this resolution allow them to phase out coal and replace it with a combination of renewables and gas with the understanding that they're trying ultimately to move to just renewables?

**Armstrong:** Again, because that infrastructure is in service to their customers, I think that's covered by what's required to serve end users.

**Fish:** And Michael, can I make an observation? We've spent a lot of time both in my office and then through this forum defining terms and also presenting hypotheticals for you to respond to. One of the things that you've consistently reiterated with me that made an impression was the language in the third from the end resolved about it's not intended to restrict the provision of services directly to end users was deliberately designed in this resolution to be general in scope. And it is going to be our challenge as we move to code to actually consider the intended and unintended consequences. And because we're doing this in a public way where people have a chance to comment, if there are other examples that come up where people either are either concerned that it might capture something where we get to say, "no, it's excluded" or there needs to be tweaking in order to capture something that we didn't intend to restrict, we have that opportunity down the road as we move to code. Is that correct?

**Armstrong:** Yes, that's exactly right. And the examples -- because this resolution gives direction to staff to kind of go, come back with language to make this airtight, the examples are extremely helpful as we think through that and get a sense of how you intend it to be interpreted, because we'll try to bring back something that matches to that.

**Saltzman:** And I did have -- sorry to -- one more question. The Bureau of Development Services issues various land use related permits largely guided by state law. So, how would the Bureau of Development Services staff reconcile this policy with a decision that

November 12, 2015

that may be at odds with the state rules governing decision-making on a particular land use item?

**Armstrong:** Yeah, so there are certainly many instances where the decisions are governed by state law and not by City code, and in those cases, Development Services is obliged to apply the state law. I think what this is pointing toward in the arenas where the City does establish the legal code and rules -- this would apply to those situations. We're not trying to or in a position to go around or otherwise undo state law. There are other forums for that.

**Hales:** Right, so state law is superior and governs when it applies. Right.

**Saltzman:** I do have a revised version of my amendment.

**Hales:** Let's take a look at that now, ponder it for a bit.

**Saltzman:** I'll just read it out loud and we can decide later. It would be a new resolved that would say, "now, therefore, be it further resolved notwithstanding anything in the resolution, the Council will exercise the duty as a quasi-judicial land use decision making body in an impartial manner consistent with City code and Oregon law."

**Fish:** Commissioner Fritz, doesn't this just restate the status quo?

**Fritz:** Yes, it states the law of the land, so yes. But I think it's a good clarification. Thank you.

**Fish:** I think we can all agree to it then.

**Hales:** Commissioner Saltzman moves --

**Fritz:** Second.

**Hales:** Commissioner Fritz seconds. Any further discussion on that amendment? Roll call, please.

**Roll on amendment.**

**Novick:** Aye.

**Fritz:** Aye.

**Fish:** Dan, I appreciate you flagging this issue. I think it warrants a hearing, and I think this is an appropriate way to address it. I would just note for the people here for the first time, Commissioner Saltzman has a particular pet peeve about resolutions and ordinances that are not self-contained. To put it the other way, he likes to have everything under the same roof so that future generations looking at our laws can see that we captured all the moving pieces. I appreciate your attention to detail and I'll vote aye.

**Saltzman:** Thank you all. Aye.

**Hales:** Thank you, Dan. And I just want to say I appreciate the way we got to this language and the way that the rest of the Council's amendments have been put forward because in every case, you've helped make the clarity of this resolution better but have not watered it down. And that was my hope and my goal for how we would operate as a Council, so thank you. Aye.

**Novick:** May I actually clarify something? I think I may have got confused on the numbers of my own amendments earlier. I read off language for each of them, so I think it was clear what we were doing, but Commissioner Fritz asked if I was withdrawing Novick amendment three, which literally was adding the word "expanding" which we did vote. The one I with -- the one that didn't get a second was Novick amendment five.

**Hales:** Right. I cited number three and mentioned the word "expanding" when I went through them, so we've got that on the record. Michael, thank you. We'll call you back later if we need you.

**Armstrong:** Thank you all.

**Hales:** Let's move to folks that signed up for the last hearing who are here and would like to speak.

**Moore-Love:** I show eight people signed up. The first three, please come on up.

November 12, 2015

**Hales:** OK. And then how many do you have signed up total?

**Moore-Love:** On the amendments?

**Hales:** Yes.

**Moore-Love:** Probably about 40.

**Hales:** OK, so we're going to hold testimony to two minutes apiece so we have a chance to hear everybody. Welcome. We won't wait for your colleagues to come up. Go ahead.

**Alex Anderson:** My name is Alex Anderson. As a biology graduate of Concordia University, I serve voluntarily as the environmental justice community chair for the Portland Right to the City Coalition.

Council, it is evident that you are being encouraged by a select few that believe the myth that fossil fuels are necessary and that they are safe. Let's take propane, for example. The great opposition is built on two main points: that it raises CO2 in the atmosphere and linked by homeostatic forces -- the oceans -- and two, that it exists in a three carbon ring structure. It takes very little strain to disrupt this shape and renders it highly reactive. At large quantities, devastatingly so. No carbon-based combustible fuel is safe, not in this day in age. We implore you to look at the global picture, not just the slice of pie. We must divest from fossil fuels.

During my senior year at the university, I cofounded and resided as co-president of the commuter club. The premise was to engage students in utilizing alternative methods of transportation other than gasoline-powered vehicles. I helped set the precedence and led by example. In one year's time, I traveled by bike over 4200 miles. Now, I find an electric car keeps my conscience clear, my budget sustainable, and my travel times manageable. The moral is we can do better. We must. Mr. Novick, Mr. Saltzman, and Mr. Fish, will today you lead by example?

**Hales:** Thank you very much. Welcome.

**Nancy Crumpacker:** Hi, I'm Dr. Nancy Crumpacker and I'm a retired cancer specialist. Thank you, Mayor Hales, City Commissioners, for listening today and for voting for the oil train resolution last week. Today, I speak in favor of the Mayor's amended fossil fuel resolution.

All stages of fossil fuels present health hazards. Extraction, transport, refining, storage, and burning of fossil fuels introduce toxics into our air and water. Diesel engine trains spew carcinogens into the air, and their exhaust is linked to asthma in children and heart and lung disease in adults. Recent derailments and storage tank explosions show that fossil fuel infrastructure and even so-called safe trains are dangerous when carrying these dangerous materials. By taking precautions now, we can avoid deadly tank explosions, train derailments, pipeline leaks or explosions, and toxic coal dust in our air. An earthquake poses horrific risks. Please support this resolution to keep our health out of the hands of the fossil fuel industry. Thank you.

**Hales:** Thank you. Good afternoon, welcome.

**Bryon Tennant:** Hi, I'm Bryon Tennant speaking on behalf of the Northeast Coalition of Neighborhoods or NECN. NECN represents 12 inner Northeast neighborhoods, serves over 60,000 Portlanders, and works to make our communities safe, livable, vibrant, healthy, and inclusive. NECN would like to thank Council for passing the oil train resolution last week, and we also support the resolution being considered by Councilors this afternoon. We commend Commissioner Fritz and Mayor Hales for taking real leadership to safeguard our neighborhoods.

The Union Pacific Kenton rail line travels through two NECN neighborhoods in close proximity to local businesses, schools, and residents. NECN has long been aware that transportation of hazardous materials -- especially oil, coal, gas -- along this route pose unacceptable risk to our nearby communities. These risks compounded by the citing of

November 12, 2015

large fossil fuel storage facilities nearby in close proximity to the Kenton line, and the looming possibility of the catastrophic natural disaster. This resolution takes substantive steps to reduce traffic of hazardous fossil fuels and helps curb further expansion of storage facilities, which will dramatically increase the safety and resiliency of our neighborhoods. It also lays out steps to improve the safety of current fossil fuel infrastructure and bolster response and clean up in the event of an accident.

Again, we would like to thank Mayor Hales and Commissioner Fritz for the leadership role in protecting the City and its residents. We strongly urge all Commissioners to join and give support for these resolutions to protect our local residents.

Also as a representative of Woodlawn Neighborhood Association, I want to say that train noise does affect our community very deeply. I have heard repeatedly from residents that it has got worse in recent years, that there appears to be rumbling and prolonged horn sounds in the middle of the night, which is I assume the time when these trains will be passing through our neighborhood.

**Hales:** Thank you very much. Thank you all. Welcome.

**Harlan Shober:** Thank you. Like most of us in this room and all of us who are not getting paid to be here --

**Hales:** Just put your name on the record.

**Shober:** Sorry -- Harlan Shober, Southeast Portland, 97214. As I said, like most of us here and all of us not getting paid to be here, I'm here to cash the check you wrote last week. I'd like to address what I call a jobs blackmail. You're going to hear testimony that this thing ruins jobs. And it can't be denied that some jobs will be lost, but I want to bring you this -- the clean energy future report. Printed copies for you are delayed by a flat tire. A colleague is trying to get here by bus. But the gist of this report is that we can grow the economy, have more jobs, have cheaper energy, and have a clean environment. It's very well researched. I won't go through the citations here, I think I would run out of time. But the claims seem well-substantiated. The report acknowledges that there will be economic dislocations, but it demonstrates that there will be a net increase in good jobs, especially in construction and manufacturing, as we develop a sustainable economy.

Amendment seven -- I think that's the right number -- addresses the need to assure that workers in obsolete energy industries have a shot at jobs in the new industries. So, we do hope that you pass this. It seems like you've avoided letting it get watered down. Thank you.

**Hales:** Thank you very much. Thank you. Welcome.

**Deborah Romereiu:** My name is Deborah Romereiu. I'm business owner in the Portland area and it's an honor to speak before you all.

The Oregon Global Warming Commission recently warned the Oregon legislature that Oregon will fall further and further behind in its 2020 target of reducing our carbon emissions to 51 million -- a mere 10% below 1990 levels -- unless aggressive steps are taken in Oregon. Further, the state has set a goal for reducing carbon emissions to a little less than 33 million tons by 2035 and down to 14 million tons, which is 75% below the 1990 levels by 2050. If we have any hope of reaching these goals, we will need bold action and courageous decisions by our elected officials.

If we knew we had a massive asteroid that was on a collision course with earth due to hit on, say, November 12th, 2030, and we knew it would wipe out 70% of life on earth, alter irrevocably our carbon cycle, our hydrologic cycle, and the ocean circulation system -- clearly an emergency of the highest magnitude -- governments all over the world -- national, state, local -- would all marshal their efforts and call upon scientists, universities, business leaders everywhere to do everything in their power to avert such a tragedy. Well, we are in a huge emergency now. No asteroid, but we're on a collision course just as

November 12, 2015

destructive. And the warnings -- warnings like go back, turn around, danger -- those are legion and they're growing louder and more desperate.

We can't say we haven't been warned. For example, two weeks ago, maybe some of you caught the front page article in the New York Times that said, "Greenland is melting away." That is devastating for us. And there's this month's issue -- maybe some of you have picked up that, the current issue of National Geographic, which devoted its entire issue to warning of a dire future that awaits us if we don't boldly act today.

**Fritz:** Thank you for your testimony.

**Romereiu:** Just about done.

**Hales:** Wrap up please.

**Romereiu:** OK, wrapping up. Fossil fuel industry leaders sometimes talk about sacrifice zones, which is the destruction of one area and population sacrifice for the claimed greater good than the fossil fuel facility would deliver. Now, that sacrifice zone is the entire planet.

And lastly, we are often told we need to make a slow, measured, long transition to renewables. To them I say we just don't have the time. Thank you.

**Hales:** Thank you very much. Welcome. Good afternoon.

**David Schor:** Hello, my name is David Schor. I'm a local attorney and a candidate for Mayor, and I wanted to thank the Council here for the bold leadership they have shown in passing the resolution last week and that I hope you will show today in passing today's resolution, including the thoughtful amendments that have all been offered and approved here. I was happy to see that some of the amendments that had some reasonable objections have been altered or removed from contention.

I want to say that Portland has an opportunity here to be an example to other communities not just in Oregon or in the United States, but around the entire planet, and I think we can see the impact that this has on our planet when we look at examples like the tar sands in Alberta, Canada. Many of you probably have not actually seen these firsthand. I've had the humiliating pleasure of actually seeing them in person and I must say that photographs can do justice to the damage that they represent. Just as no photograph can demonstrate the beauty of something like Grand Canyon, no photograph can demonstrate the utter destruction we are wreaking on our planet. You must see it in person to understand. This is devastation that cannot be reversed.

By taking this stand here in Portland, we are starting the process that must be completed of moving all of our economy on to a renewable, sustainable energy economy. I want to thank you again for showing the leadership necessary for us to begin this transition globally and I want to thank you also for recognizing that this is an important issue not just for Portland but for the world.

**Hales:** Thank you. Thanks very much. Thank you all. Welcome.

**Donna Cohen:** Thank you. Hello, my name is Donna Cohen. First, I just want to mention that I brought a letter last week from the North Portland Neighborhood Association chairs, and they wanted me to say how much they support this and just to let you know that.

You know, they say when you find yourself in a hole, first thing you do is stop digging. This resolution is stopping digging, but as has been said in many different ways, we have to do more than that. So when I hear something like from Pembina that they are going to do things to offset the emissions that they're going to cause, I say that is not acceptable. That is just the status quo. Last week, there was a woman here from Bureau of Planning and Sustainability talking about bridge fuels, transition fuels like propane. And we hear about that a lot. Well, Pembina's plans for their project is to last from 25 to 50 years. I don't consider that bridge fuel situation.

Lastly, I want to mention, and I hope -- forgive me if I miss something in the discussion of the amendments -- but where it says about investing in Portland's human

November 12, 2015

infrastructure by supporting programs to retain our work force as the City transitions to clean energy economy, I would say by supporting programs to retrain our work force in clean energy as the City transitions. I mean, I think that is an important distinction. It's not any job. It's that we're going to help you get into clean energy jobs.

**Hales:** Good point. Thank you very much. Welcome.

**Jenny Holmes:** I am Jenny Holmes with Ecumenical Ministries of Oregon, Environmental Ministries Director. Mayor, City Council members, thank you very much for this opportunity to speak with you, and thanks for giving these issues the time that they deserve and for listening to your community. We really appreciate your leadership.

I'm pleased to be able to share input today from a faith perspective, and I would like all people of faith -- clergy first -- to stand up. And I know there are many clergy and other religious people -- would you stand up -- who would like to give testimony in this vein today, but for various reasons haven't been able to. And I also want to convey that Courtney [indistinguishable] and the Portland Green Muslims were not able to be here, and they support a strong resolution.

Last week, I submitted testimony on the positions of EMO and OIPL -- Oregon Interfaith Power and Light -- on fossil fuel infrastructure, and today I want to share ethical guidelines that might be helpful to you that were developed by the faith community thinking about energy policy. At this point, as far as our policy is concerned, we have officially opposed as Ecumenical Ministries, and OIPL the Pembina propane terminal, and we've called for regional environment impact statement for coal transportation. We're in the process of developing a comprehensive statement on fossil fuel exports rooted in faith teachings and principles.

I first want to give you -- provide a quick theological take on energy, and then I'll share some of those principles. God has provided an abundance of energy on our earth home. The gift of energy, especially when sourced from clean renewable sources, enhances human life. And when used carefully and skillfully, a vibrant human society and responsible energy stewardship are not mutually exclusive. A healthy environment intact, ecological functions, a biologically diverse world are foundations of a just and sustainable world.

So, I commend these ethical guidelines to you that I've provided here, and since my time is getting short, I just want to call out one of these principles and that is renewability of energy, the capacity of an energy source to replenish its source and reliance of renewable sources taking priority. The City of Portland is on record in its Climate Action Plan of supporting the transition to renewable energy. I would ask, how does fossil fuel export enhance the City's vision and identity as a climate leader?

**Hales:** Thank you.

**Fritz:** Thank you.

**Hales:** Thank you very much. These are great, these principles of equity, efficiency, adequacy, appropriateness, risk, peace, cost, employment flexibility, participation, and aesthetics could apply to more than energy but they certainly apply there. Thank you.

**Holms:** Thank you very much.

**Hales:** OK, so those are the folks that signed up last week to testify on the resolution itself.

**Moore-Love:** One may be come coming late.

**Hales:** Oh, OK. Good. Just one more?

**Moore-Love:** Yeah, he's not here yet.

**Hales:** Alright. We have folks signed up to speak on the amendments. Again, we'll give you the opportunity to speak on the amendments. If you think we got it right on the amendments, you can give us a thumbs up and not speak. But if you think we got it wrong

November 12, 2015

on the amendments, we should definitely hear from you. Feel free to exercise your prerogative there as you see fit.

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

**Hales:** Good afternoon. Hey, I like that.

**Edith Gregory Gillis:** Good afternoon, I'm Edith Gillis, and thank you very much for your vote on the oil trains and oil terminals.

When I moved to Portland 33 years ago, I came after living in Portland, Bend, Klamath Falls, and Eugene, because I love the bright, shiny, sunny perspective that we have of Portland. I used to watch the Rose Festival on TV. I heard that you had diversity, you had justice, you had sustainability, and you had livability. I love Portland.

I have been here for 33 years. But when I find out that you might be voting no on this resolution, that is a black eye on Portland and all of us that have given so much of our lives for Portland. And it gives me a black mood because when you have oil, coal, propane, and explosive methane -- let's not call it natural gas -- projects here, it's not jobs for us. It's outsiders that come in. The corporations are not going to hire people who are going to have a loyalty to the local people, the environment, and our rights. They're not easily exploited. They want outsiders who don't care, come in for a quick buck. And you know what those people do? They often come in for a quick [expletive] of our little children, too.

September 1993. My two and a half year-old little girl Grace and my seven and a half year old little boy Will according to the Portland police homicide detective were kidnapped to be sold into prostitution for drug money. Everywhere across Canada, United States, we have coal, oil, and LNG projects, outsiders come in and take the jobs, spoil the land, and hurt our children. It's been 21 years. You have not invested in protecting my children and help them heal and recover. [beeping]

**Hales:** Thank you.

**Gillis:** Do not allow them to come in, rape and ruin our country and our children. Vote yes so we can have our sunny future.

**Hales:** Thank you very much. Welcome.

**Kendra Hubbard:** Thank you for your time today. I'm Kendra Hubbard, and I represent the Oregon Solar Energy Industries Association, as well as my family and my future solar installer. Thank you.

I wanted to talk about how important renewables are to the city of Portland. Economically as a job creator, we have manufacturers here who have invested in our state and in our cities. We have jobs that are created from those manufacturers. I also represent contractors here in the state and in Portland, as well as the community. So, when we talk about revenue from renewable energy, I believe that the jobs that would be lost potentially by not having fossil fuels here would be more than made up for in renewables -- specifically, solar.

I also wanted to talk to you about fossil fuels. My family is from Kentucky and they worked in the coal mines and they all died from coal dust, and I don't want that future for my son. I want to ask you -- if not us, then who? And if not now, when? Now is our golden opportunity to divest.

I also wanted to pose our slogan in Portland is to "keep Portland weird," but I think we should consider changing that to "keep Portland clean." Thank you.

**Hales:** Thank you very much. Welcome. Get closer to the microphone, if you could, please, thank you.

**Cathy Sampson-Cruze:** Good day. My name is Kathy Sampson-Cruze. My Native name is Wey-ow'sux. I am an enrolled member of the Confederate Tribes of the Umatilla Indian Reservation in Pendleton, Oregon. Our real name of our people is the Wallulapum

November 12, 2015

People, the Walla Walla. We're a small part of the three tribes but we stand proud. My father is head man of our tribe.

I also want to introduce my daughter, Mariah Morning Rose Sampson, who has been with us constantly on this journey from the LNG terminals to the coal terminals that we're trying to stop to walking at New York through the climate march and stopping the mega loads that were trying to come through our homelands and head up to TransCanada.

I used to go to school here over on Alberta. And I went to junior high -- when it was a junior high -- over on Sauvie's Island during the relocation times when they told my father to come here to go to work. My mother became a nurse here. I went to Portland State. Portland is part of my home and my heart. I love Portland.

You have a daunting responsibility. You can really make a change here. It's not just the sea of red, but the sea of red to stop this line of destruction that is coming down through the Columbia Gorge. Every time I drive down that beautiful river -- we call it Nch'i-Wána, the great one, the big one. You have a chance to stop this fossil fuel infrastructure that is demanding, pushing its way through the heart of this country.

I have a dream back to 1491 I want to share briefly. It's when this land was all tall trees. Our traditional foods were here. Our medicines grew here. Fish were abundant. Then they start to call it "Stumptown." I don't like that name because we knew what was here. You have a chance for the future to take this good-heartedness of the people and the land and make it right. Be that leader. March to Paris. Tell them, be that change.

[applause] [cheers]

**Hales:** Thank you. Thank you very much.

**Fritz:** You are going to Paris, right?

**Hales:** As a matter of fact, I am going to march. Actually, I probably can't march to Paris, but I'm going to get there. [laughter] So let's take the next three. Welcome, good afternoon. Would you like to be first? Go ahead while the others are getting settled. Just pull that microphone a little closer to you.

**Kyle Smith-Doolittle:** Mayor Hales, members of the Council, my name is Kyle Smith-Doolittle, and I'm a senior at Madison High School. Thank you for listening to me speak today about the importance of passing the fossil fuel resolution.

Extending fossil fuel infrastructure is irresponsible and short-sighted. From every angle, voting no on the fossil fuel resolution is a mistake. The expansion of the fossil fuel industry is generally justified with local economic opportunities. The prospect that something creates jobs does not mean it is a good decision. The long-term environmental and economic costs with enabling the industry outweigh the minimal short-term economic benefits.

As a high school student I will inherit the benefits and implications of decisions made by current governments. The choices made by previous generations to ignore the consequences of our dependence on fossil fuels is having severe impacts on current generations. Fossil fuels are not a long-term solution to the energy crisis.

The end of the era of fossil fuels is already apparent. President Obama rejected the Keystone XL pipeline last Friday, indicating a trend in future national policy. We can either prepare for the future or cling to the past. We must prove to the world and ourselves that amidst crisis, we are capable of action.

The City of Portland has the opportunity to lead the charge in the inevitable energy revolution. Oregon used to be on the cutting edge in environmental efforts. We have fallen behind. We can regain our place as a leader in environmental policy and pave the road for future legislation across the country. I encourage you to pass this resolution. Thank you for your time.

November 12, 2015

**Hales:** Thank you very much. Marilyn, welcome.

**Marilyn Sewell:** Thank you. Mayor and Commissioners, I just want to thank you for your service to our city. It's not easy being in that position, but thank you.

I am Marilyn Sewell, minister emerita of the First Unitarian Church, a congregation of some 1600 individuals who are very involved in justice issues, including climate justice. I also represent Ecumenical Ministries of Oregon where I was on the board for six years, a group of over 165 churches, ecclesiastical institutions, and inter-faith organizations. Today, I want to question Commissioner Fish's amendment number two concerning the need for an analysis of potential impacts to local blue-collar jobs.

Every time I come to one of these climate hearings, business interests talk about jobs. What jobs will be lost? How can we secure more jobs? But the question here today is not how can we preserve just any jobs, the question is, first of all, what is the right thing to do? What is the right thing to do? And once we decide that, then we decide which jobs. I mean, we could build a bridge to nowhere. Jobs would be created, but at what cost to the community? So, business interests are saying "jobs, jobs, jobs." But you know what? I'm hearing "money, money, money." We want and deserve jobs that will be green and sustainable that will lead us to a transition away from fossil fuels. Those are the only energy-related jobs that we should be encouraging and protecting.

And I would like to say one more thing, if I may. I hear some people say, well, aren't these activists just hypocrites? Don't they come here in cars? And those kayaks -- aren't they made of plastic? We all use fossil fuels, they say. Actually, thanks to big oil, in this country we have been made thoroughly reliant upon fossil fuels. They are totally integrated into our living. This charge of hypocrisy is one that serves only to constrain the moral voice of the people. I hope I never hear it again from a business leader and certainly not from an elected official. [applause] [cheering]

**Hales:** Thank you.

**Fish:** Mayor, can I clarify something?

**Hales:** Please do.

**Fish:** I think you make an excellent point, I just want to clarify something. The Climate Action Plan contains a directive that we based on feedback from the public gave to Planning and Sustainability Commission that they consider a number of factors, including the economic impact. That was our directive to PSC. And the reason I have separated out that amendment with the retraining amendment is that in order to understand where we put our investments in helping workers retrain, we have to understand the economic impact. And finally, not a single amendment that I prepared was prepared with so-called business interests.

**Sewell:** Thank you for that response. I appreciate that.

**Hales:** I think it's important to note that we'll make sure that the economic analysis looks at both problems of people that might be moving out of an industry, and opportunities of all of the new industries that we're creating here. We have 12,000 people working green tech in Portland. Some of them are great blue-collar jobs because we actually make things here. For example, we make generators that fit into water lines, and Commissioner Fish has installed them in parts of our water system. So, there are blue-collar jobs in the new economy as well as in the old. We will make sure it is a truly economic balance that looks at them both.

**Fish:** Yeah, and let me even state more plainly -- amendment two is not a road block. Amendment two is the bridge to the next economy. And along the way I believe that blue and green link arms and we're a better community. Don't mistake the intent of it because that was not my intent.

**Sewell:** Yes, thank you so much for clarifying that. I appreciate it.

November 12, 2015

**Hales:** Hello, and welcome. Sit nice and close to the microphone and tell us what you think.

**Liel Voss-Anreae:** Hi, my name is Liel and I'm eight years old. Thank you, Mayor, for stopping all fossil fuel projects in the city. Because if nobody commits to stopping fossil fuel projects people have more fires often, animals extinct, and beauty black. Please make sure our city is safe. Commissioners, please vote yes. Thank you.

**Hales:** Thank you.

**Fritz:** Can we suspend the rules, Mayor? [applause]

**Hales:** Yes. We clap for students at all times.

**Fish:** We have had two, three hearings. We've had hours and hours of testimony. I think we can all agree that was the most effective advocacy we have had during the entire process. [laughter]

**Fritz:** Very succinct and well done.

**Hales:** Absolutely the best. Alright, who wants to follow that? [laughter] Good job.

**Novick:** May I add a new amendment to express our intent to reduce the voting age to six? [laughter]

**Hales:** Good idea. Good afternoon.

**Ted Gleichman:** Mayor, Commissioners, I appreciate you to letting me be tardy. The flat tire on my truck today has reduced my carbon footprint, improved my walking, biking, and train skills, and given two dollars in additional revenue to TriMet. [laughter]

Last week, I provided to you hard copy of documents around the climate impacts of natural gas. Commissioner Saltzman, this set is for you. I'm Ted Gleichman, I'm with the Center for Sustainable Economy and Sierra Club, and my little piece of this is to emphasize the fact that there is no fossil fuel solution to the fossil fuels crisis. And the three documents that I gave you last week and today -- and provided now electronically as well to you and your teams and as testimony submittal -- really demonstrate the current state of the science. It is not possible to characterize natural gas or any other gaseous hydrocarbon, including propane, as climate solutions based on the science that is now really definitively defined. And it's really important in terms of dealing with this kind of a broad approach to the climate crisis that we understand that.

And I want to turn quickly, though, to the clean fuels program conversation that occurred last week. There are two key points around that. One is to remember that this was an originally approved in 2009 under the administration of Governor Kulongoski. And at that point in time, we did think natural gas was the bridge to the future. So, the inclusion of natural gas and propane in that program was not unreasonable in that era.

The second point is if you think back on how vitriolic the struggle got in the last session of the legislature, as compared to how warm and friendly this has all been here, you will recall that this was a bitter fight over the simple removal of the word "sunset" and a decision was made by the organizations that were the primary advocates of the clean fuels program that it was not possible to work in the legislature this year for a broader redefinition of the program to try to get it to survive and to move forward, to collect the data, and to see what could be done in the existing model. So, thank you for your time.

**Hales:** Thank you. Thanks very much. Appreciate that context. Thank you. Good afternoon, welcome.

**Wiley G. Barnett:** Good afternoon, City Council, Mayor, and Commissioners. My name is Wiley G. Barnett. I'm a plus 40-year resident of Northeast Portland and I want to read a short statement that I made.

This resolution and its amendment herald a major constructive commitment to the health and safety of Portlanders and the protection of our environment. It further provides re-enforcement to strengthen the City's movement toward addressing the need for

November 12, 2015

alternative sources of the people's energy needs and jobs. But let me make something very clear at this important juncture. This city, its government, its people, and its social institutions will not succeed unless we all succeed together.

As by now we all know and as daily news reports remind us, the forces of racial injustice, segregation, ethnic isolation are endemic and systemic. Evidence abounds in the organizations of governance, justice, labor, business, schools, and even the environmental movement itself. So in the commendable initiative to protect this city from the dangers of hazardous materials, I therefore repeat: we all must be involved and engaged from the start and not just as an afterthought.

Therefore I assert that in the Fish amendment -- and since you changed the numbers around and around, I don't know what is what -- but the paragraph that includes things like business, labor, and so forth, the following word should be inserted after the word neighborhoods: the words "ethnic communities." Otherwise, we will be overlooked once again and our concerns and interests not taken into account.

**Hales:** Thank you very much.

**Fish:** Mayor Hales, I think it's a splendid suggestion and I'm prepared to accept it as a friendly amendment.

**Fritz:** Second.

**Hales:** Alright, if the maker of the motion and --

**Fish:** We accept the language change, and thank you for your proposal, sir.

**Hales:** Thank you very much. Good idea. Welcome.

**Rick Brown:** Thank you. Mayor Hales, Commissioners, my name is Rick Brown and I'm speaking today on behalf of 350 PDX where I serve as a member of the volunteer board. My background is in forest ecology and I've written on the implications of climate change in forest management.

Today, in support of the resolution and Commissioner Fish's amendment, I'll read a statement from Dr. Mark Jacobson of Stanford University, where he is professor of civil and environmental engineering and director of the atmosphere energy program. He and his team have assessed pathways to 100% renewable energy for the U.S. as a whole for each state and for more than 100 other countries around the world. His extensive and highly cited articles in top scientific journals have established him as a leader in this sort of analysis. His statement, edited for brevity, is as follows.

"We have developed a science-based plan for converting the energy infrastructure of Oregon to one derived entirely from wind, water, and solar power for all purposes -- electricity, transportation, heating and cooling and industry -- by 2050. The generation of such infrastructure would create 22,000 40-year construction jobs and 14,000 40-year operation jobs. It would eliminate 450 premature deaths each year from air pollution due to fossil fuels and eliminate global climate emissions from the state. It would stabilize energy prices because wind and solar fuel costs are zero. Each Oregonian would save about \$30 in fuel costs per year, but the state would benefit by \$5000 per person per year in health plus climate cost reductions. This roadmap would also eliminate Oregon's reliance on imported fuels and would reduce catastrophic and terrorism risk because most wind and solar would be distributed rather than centralized. Sincerely, Mark Jacobson." Thank you.

**Hales:** Thank you very much. Welcome.

**Peter Teneau:** My name is Peter Teneau and I'm here again, but this time with a different emphasis with some specifics that I think can't be overstated.

It's a gloomy subject, but here are some things we know. We know that a rush of oil train disasters, derailments, and consequent fires and explosions. Rail tracks are inadequately inspected and deficiently maintained. Much expanded air transport will only exacerbate the problem. DOT-111 tank cars carrying the bulk of volcanic and acid Bakken

November 12, 2015

crude are not likely to be upgraded, and a production of newer cars will not meet demand for years. In a Richter 8 earthquake, these cars will topple. Railroad bridges and trestles are dangerously faulted. Fire and hazmat teams simply cannot handle the larger threat of oil disasters. Ubiquitous oil trains and shorter car strings on sightings are an open target for terrorists and malefactors. And larger still, we know that the consequences of fossil fuel -- its mining and transportation, its pollution and use has placed the environment and the earth's population at a point of no return. So today, I urge you to pass this resolution. Among cities, let Portland shine.

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

**Jack Mosbrucker:** Thank you. Hi, my name is Father Jack Mosbrucker, and I'm a priest of the Archdiocese of Portland. I want to thank you for this opportunity to speak here today.

**Hales:** Get a little closer to that. You can pull the whole box a little closer to you there. There you go.

**Mosbrucker:** I'm not used to speaking with a microphone. The proposed resolution presents a pivotal moment for action regarding not only the welfare of our society but also of future generations -- our children and grandchildren. We have been given this wonderful gift, this planet, this earth on which we live. And that entails the responsibility to protect it and to make sure that future generations can also enjoy it and live on it. The problem with climate change is -- [microphone feedback]

**Hales:** Sorry, that's not your doing. We'll fix it.

**Mosbrucker:** The problem of climate change is certainly beyond denial and its effects upon people are obvious and certainly chronicled. The primary cause of burning fuels, fossil fuels, is something that you've listed in your resolution itself. Already, as you know, these concerns are concerns of elected officials because of all of the regulations that have been passed from cars and smog and from the regulations that have been passed for emissions and the decommissioning of coal-fired generating plants indicate this is already a problem, and you can do something about it.

It also implies a responsibility for these regulations and that responsibility ultimately lies with elected officials. We, the people, can push, we can urge, we can demand, but you can vote and you can make changes. You are charged, of course, with caring for the welfare of people, the welfare of people and the commons, and that caring for that people you have already exhibited -- affordable care, housing, \$15 an hour -- you say that is important. And within this responsibility, especially, those groups that you have responded to in affordable housing and in \$15 an hour are the marginalized. Those are the people ultimately we should care for first, and they are the ones who are going to endure the effects of these climate change.

**Fritz:** Thank you for your testimony.

**Hales:** I need you to wrap up.

**Mosbrucker:** It says 40.

**Fritz:** That's over -- 40 seconds over.

**Mosbrucker:** Oh, OK. You know you can't slow down a preacher. [laughter]

**Hales:** I know that. Yes. [laughter]

**Fritz:** We're going to try. Just for everybody, we really want to be able to vote today. You're making a good case.

**Mosbrucker:** I understand. In passing this resolution, there is also a challenge that is underlying it. And that challenge is to have an imagination, an imagination of an alternative society in which we don't have fossil fuel burning and an imagination that says we can live and benefit this society from that. This decision is not a limited issue to Portland. John Muir, who founded the Sierra Club put it this way. He says, you try to pick out anything by itself, and we find it connected to everything else in the universe. Pope Francis echoed

November 12, 2015

that by simply saying, everything is connected. What you do here today is connected to everything else. Thank you for voting for this resolution.

**Hales:** Thank you very much. Welcome. Good afternoon.

**Dawn Orange:** Thank you. Good afternoon, my name is Dawn Orange. I am here -- I'm a businessman from Vancouver, Washington representing Vancouver 101, which is 101 businesses that have come together in opposition to our city's oil terminal. The point is that business is not universally in bed with the oil companies. Small business needs our community. These are my customers. This is what we are about.

It needs to be said -- our oil terminal, which is supposed to pump five billion gallons into the Pacific Ocean each year, is said to provide 175 jobs. They tell me that there's jobs induced by this. We believe that it will induce failures of businesses. We believe it will induce businesses to pick clean cities to go to. Dirty little Vancouver will become a lot like Tacoma. For every one of the 175 jobs, we believe we will lose 15 jobs in computer services, in clean energy, in software, and other things. We have proven it on paper. This nonsense that this is a path to prosperity -- to put oil into the Pacific Ocean, whether it is going to Asia or to California -- they're going to use our beautiful Columbia Gorge.

Oregon and Washington are the same people, we breathe the same air, we share the same water ways. I was raised here. I've spent half of my life here. I've lived on both sides of the Willamette River.

You people need to go ahead with this. I appreciate that you are bringing this up. Business needs to back you up. You need to understand that this isn't a question. Good god, the teamsters used to run horses. And 100 years ago, that became impractical, that wasn't the way for the new century. This is the new century. It's not time to keep bringing this fuel down here. We don't use this fuel here. That's not what's being proposed in these oil terminals for bringing this filthy oil from the Midwest down into the Portland, Vancouver, Puget Sound areas. This is great for the railroads and great for the oil companies. For the people here and the businesses here and people that work here, it stinks. I appreciate your time. Thank you.

**Hales:** Thank you very much. Thanks for coming over. [applause]

**Lowen Berman:** Hi, my name's Lowen Berman and I'm a resident of Northeast Portland. Let me tell you something about myself. I've been a member of at least four trade unions and vice president of one of the largest union locals in Oregon. I've been a punch press operator, a truck dock loader, and a warehouse laborer. I've been a production assembler and a telephone wire inspectors. I'm a journeyman machinist. I've been union negotiator and arbitrator. I've been a paid and unpaid union organizer. I also have a Master's degree in labor studies.

I am offended about the crocodile tears shed by some corporate and business leaders about income inequality and the plight of the working class. We all want family-wage jobs. Older folks remember the news reels of World War II factories pouring out tanks and planes by the thousands. No shortage of jobs then. What we need today is a similar route of mobilization, but with factories pouring out wind turbines and solar plants and electric vehicles and new generations of energy storage systems. We need to build, install, and maintain a new energy and transportation infrastructure. We need to retrofit millions of energy-inefficient buildings. Such a mobilization would provide many times more jobs than the dying fossil fuel industry can produce.

Many labor leaders understand this reality and are supporting the fight for climate justice. Others are trying to hang on to the very few remaining union jobs by becoming allies to a dying industry. If this Council is truly concerned about the interest of labor, your concern must extend to the millions of farmers and workers in the U.S. and abroad whose

November 12, 2015

lands and lives are and will continue to be devastated by climate change and fossil fuel extraction.

I'm old. I'm retired. Unlike many who have testified from the business community, I have no financial skin in this game. But it's clear to me that the interest in my fellow workers and of all the world's children lies with the embrace of a sustainable future, not a dying inequitable catastrophic past. Please pass this resolution. Make it real, and begin a just transition to a new and better world. Thank you.

**Hales:** Thank you. [applause] [cheers]

\*\*\*\*\*: As a member of Laborers 3737, I will tell you a lot of us rank and file workers are 100% behind that. That's absolutely true when I talked to everybody on the job site -- [inaudible]

**Hales:** Thank you.

**Moore-Love:** The next three are three Sunnyside students.

**Hales:** Good afternoon. And backup. You've got reinforcements. Welcome.

**Ella Shriner [spelling?]:** Good afternoon. I'm Ella Shriner.

**Liliana Shilling [spelling?]:** I'm Liliana Shilling.

**Sella Hush [spelling?]:** And I'm Sella Hush.

**Shriner [?]:** We are students from Sunnyside Environmental School. Some of us testified before you last week. We are here in part to thank you for the decision that you made in passing the oil train resolution. We know that decisions like that are hard to make, and we're very inspired by the four-zero vote on Wednesday. We have also come today to urge you to follow up on that decision and to make a broader and bolder statement eliminating the expansion of broader fuels. We hope that the City Council will not do anything to weaken or delay this resolution.

**Shilling [?]:** Today, the extraction of fossil fuels releases megatons of CO2 and methane into the atmosphere, changing the very climate on this planet. For years, eighth graders have been taking an overnight trip to Catalina Island to study the unique kelp forest there. This trip is considered one of the most exciting things we do at Sunnyside, our rite of passage into high school. Last year, the Sunnyside eighth grade class on their trip to Catalina discovered that there is no kelp due to warming of ocean temperatures. Right now, global warming is looking pretty bad, but that doesn't mean that this has to be our future. Let's turn the clock forward 200 years.

**Hush [?]:** Mom, mom, hurry up, we don't want to be late to the 200th year commemoration of the 2015 fossil fuel resolution! [laughter] You know, the one that changed the course of history and the ideas of the time? Just think, it all happened in the small city of Portland, Oregon. The City Council said no to the ideas of time and became global leaders. They decided to protect and honor all children and all life on planet earth at all costs. They took a stand against climate change and it started with a promise, a resolution. They remembered that there was another way to live on planet earth and they knew they didn't have a moment to waste, so they listened to the children.

This is a possibility. We can work together to take a stand against climate change.

**Shriner [?]:** We as a future generation hope that you will be our heroes of tomorrow and that you will take a revolutionary stand with us to stop global warming. [cheers] [applause]

\*\*\*\*\*: [music] [singing] Come senators, congressmen, please head the call -- don't stand in the doorway don't block up the hall -- for he that gets hurt will be he who has stalled -- there's a battle outside and it's ragin' -- it'll soon shake your windows and rattle your walls, for the times they are a-changin' -- make the right choice for the good of us all, the times they are a-changin' -- [end singing]

**Hales:** Alright, thank you. [applause]

November 12, 2015

\*\*\*\*: We as students of Sunnyside Environmental School would like to honor you for being environmental champions with these awards. Thank you for going to bat for the planet. And together with this resolution, we know you can make a home run.

\*\*\*\*: For Commissioner Novick, the greatest threat to our planet is the belief that someone else will save it.

**Novick:** Thank you.

\*\*\*\*: For Commissioner Fritz, unless someone like you cares a whole awful lot, nothing is going to get better, it's not.

**Hales:** Dr. Seuss -- always a good source. [laughter]

\*\*\*\*: For Mayor Hales, it's better to look at a future with opportunities than to find ourselves looking back with regret.

**Hales:** Thank you.

\*\*\*\*: For Commissioner Saltzman, when the last tree is cut down and the last fish has eaten and the last stream poised, we will realize that we cannot eat money. [laughter]

\*\*\*\*: For Commissioner Fish, we do not inherit -- [laughter] -- we do not inherit the earth from our ancestors, we borrow it from our children. Is that the wrong one?

**Hales:** No, you got it right. Thank you very much. These are wonderful. Nice job, students. Let's hear it for the students! [cheers and applause]

**Novick:** Colleagues, I just have to say that I was told in advance that Liliana Shilling [spelling?] was going to be here today, and I made up my mind not to vote until after she testified. Now my mind is made up. [laughter]

**Hales:** She's pretty persuasive. Good afternoon.

**Bill Edens:** Dang, that's a hard act to follow.

**Hales:** You're in a tough spot. [laughter]

**Edens:** My name is Father Bill Edens. I'm a Paulist father and I recently arrived here about a year ago to work at St. Philip Neri Parish, a parish where they had the muddy boot festival for many years, which probably a number of people know about. That was based on the work of the bishops of the Columbia River area who got together and wrote a pastoral letter. This is Columbia River -- the watershed includes British Columbia, Alberta, Montana, Idaho, Washington, Utah, Oregon -- and they wrote about caring for creation and our common good.

The comments in historical terms that relates to the grassy area in a village that was used by everybody with all of their flocks on the same piece of ground. And in our day, that refers to the land and the river that belongs to all of us. The bishops say the commons belongs to everyone and yet belongs to no one. We hold this land in trust for our present use and also for future generations.

Pope Francis in his encyclical, which is caring for our common home, says there's pollution that crosses all boundaries that affects everyone, like transport of industrial materials and fossil fuels. Technology is presented as a way of solving all these issues, but it often is incapable of seeing the network of relations between all things. Pope Francis, says the earth, our home, is beginning to look like a pile of filth. Frequently, no measures are taken until after people's health has been irreversibly affected. These problems are closely linked to a throw-away culture that affects the excluded people just as it quickly reduces things to rubbish.

I spent several years ministering at the University of California, Berkeley, and they have many projects towards developing renewable energy, one of them being artificial photosynthesis which takes water and carbon dioxide and puts it together it into a fuel which can be burned in cars and trucks which is burned and then it releases -- it takes up all the carbon dioxide in the end, so it's energy-neutral. These are the kinds of things that

November 12, 2015

will be helpful for us to develop to use more of these things and not use fossil fuels. Thank you.

**Hales:** Thank you very much. Peter, welcome.

**Peter Wilcox:** Hi. Greetings, Mayor and Commissioners. I'm president of the Columbia Riverkeeper but I'm speak as the co-owner of two small businesses here in Portland. One of those companies is Sequential Biofuels whose hat I'm literally wearing today.

First, I want to thank you all for writing such an excellent policy. Thank you, Senator Dingfelder, for your contributions. I know they are significant. What is great about this policy is that you have included the direction to City agencies to actually put this into code. That's, I believe, historic. The timing couldn't be better as we know with Paris talks about to begin.

In my opinion, this hits the sweet spot of Portland's values and our goals for our community and our future -- the children have made that very clear -- and protect our safety and it will help steer future investment both in private industrial and also port investments in exactly the right direction, the smartest and most forward thinking way to go. So, thank you for that.

I believe this policy will do great things for Portland and our reputation, our brand, our economy, but equally for my two small businesses, and I think -- which are a green building business and also alternative energy. I think that I really urge you to make a unanimous vote. I think that would send a great signal to the world.

**Hales:** Thank you both. Good afternoon.

**Julie Chapman:** Good afternoon. I'm Julie Chapman representing the League of Women Voters of Portland. Thank you for clarifying the intent of the amendments today. It jerry-rigged my testimony, but I think we're on the same page.

The League of Women Voters of Portland continues to support this resolution. It's a statement of intention and a model for other local and state mandates to reduce reliance on the coal and oil industries.

We do have reservations about amendments that require further study and could delay implementation of the resolution. However, if approval of these amendments would not weaken the resolution or postpone the work of developing proposed code changes, we can be pleased to support resolution 1179. Thank you very much for your consideration.

**Hales:** Thank you. As I think you heard in Council's discussion, in my opinion we have not weakened it and none of these requirements for further action will involve delay.

**Chapman:** Thank you so much.

**Hales:** Thank you. Welcome.

**Claudia Keith:** My name is Claudia Keith. I represent the League of Women Voters Oregon. I would like to thank Julie today and all of you for your leadership in this very important topic. I, too, want to emphasize the fact that it's important that we pass this resolution today with a sense of urgency and a sense of leadership. Thank you.

**Hales:** Thank you. Welcome.

**Antonio Zamora:** Thank you. This is really fascinating that this is happening. Today is my birthday, so I spent the whole day here.

**Hales:** Ah, happy birthday. Give us your name for the record.

**Zamora:** My name is Antonio Zamora. I am an Oregonian, and so is my mother and my mother's side of the family are, too. I'm a Portland-born Chicano, I'm an activist. I participated with Occupy Portland, other social justice movements in our city, and recently, Portland versus Shell. I was in a kayak when the polar pioneer -- polar discoverer was towed into the port of Seattle, too. At the time, seven kayakers -- we held the polar pioneer ground for six hours without violence. Another world is possible. We can divest. We can change.

November 12, 2015

I'm going to the climate talks and I want to represent my home city that we are against climate change. Please support amendment four Fish. To all members of Council, do not be idle. Our legacy against climate change matters to generations after us. Please divest, Portland, divest.

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

**Sandy Polishuk:** Good afternoon. Mayor Hales and Commissioners, my name is Sandy Polishuk. I'm the divestment/reinvestment coordinator for 350 PDX. I wish to speak to the amendment that asks for an analysis of economic impacts of proposed code changes on jobs.

You've already voted to disinvest from fossil fuel securities, a wise decision given the increasingly risky nature, vulnerable to becoming stranded assets as the world acknowledges and acts on the necessity of keeping most carbon reserves in the ground. In your disinvestment resolution, you noted numerous ways climate will affect our economy negatively by impacting infrastructure and our built environment, creating new costs for families, businesses, and governments. You recognize the economic burden to households, power generation, agriculture, forestry, salmon recovery, snow-based recreation, coastal tourism and infrastructure, and public health. Our city under leadership has made us a leader in climate change response and planning. This resolution continues this outstanding leadership.

I'm very pleased by the amendment to the amendment, the addition that will now inform the city on how to support a just transition for workers to clean energy economy. None of us has a crystal ball to foresee exactly what the balance will be between blue-collar jobs lost in one set of sectors if we do this compared to blue-collar jobs lost in other sectors if we do not, but we can make a rational decision based on science to lower our carbon footprint and other risks from fossil fuels in order to save ourselves and our planet for future generations. There are no jobs on a dead planet.

I've brought copies of an article for you that was just published earlier this week entitled "Going off fossil fuels would boost disposable income and create a million jobs," that shed light on some of the alternatives to fossil fuel infrastructure jobs. Thank you so much for your time.

**Hales:** Thank you. Welcome.

**Nicholas Caleb:** Hi, I'm Nicholas Caleb currently at the Center for a Sustainable Economy. I'm a policy fellow and I teach at Concordia University. I'm kind of crawling out of my skin with excitement today, I have to say. This is great. I'm anticipating a 5-0 vote -- because who would vote against this? -- and I'm feeling very enthusiastic that the City of Portland is putting itself out there to be the leader we should be. And everyone who votes and has pushed for this, especially Commissioner Fritz and Mayor Hales, deserves a tremendous amount of credit for bringing this to the forefront. Thank you so much for this.

My role today was to speak sort of as a low wage worker. I think that the last hearing -- many of us were bothered by the idea that there's a disconnection between labor and environment, that there's some kind of wall that's splitting apart and people have labor interests and jobs and there's these wealthy folks that are environmentalists and they're kind of pushing all this forward. I think they are referred to as "special interest." And you know, the environment is not a special interest, it's a common interest that we all share. Young people are almost uniformly united to the fact that we're looking forward to a terrible economy in front of us if things keep going the way they are, and we don't want to compound that with a terrible environment.

Saying no to fossil fuel infrastructure and starting to set a trend forward is going to be good for everybody in the long term because it puts pressure on other sectors of the economy that we're going to have to reform the same way we reform our industry. These

November 12, 2015

are inevitabilities. And so when we say no to new fossil fuel infrastructure, we put pressure on the other sectors to be creative.

So, can't say it enough. This is a great day for Portland, it's a great day for the world, and it's going to be exciting to watch other people follow in our footsteps. Like the Sunnyside kids were saying, people will remember days like this when people say the right thing -- when they follow science and say exactly how we're supposed to be acting in the world. Thanks again. Appreciate it. [applause]

**Hales:** Thank you. Welcome.

**Eric LaBrant:** Thank you. Good afternoon. I'm Eric LaBrant, commissioner-elect of the Port of Vancouver, USA. I'm president of Vancouver's largest and most industrial neighborhood, Fruit Valley. In June of 2014, nearly 700 people publically supported Vancouver City Council in their resolution against oil trains, setting an all-time attendance record. Most are here today to support you, and we thank you for your leadership.

When Cortez reached North America, he ordered his soldiers to burn the ships. In spite of their fears, burning one's ships doesn't actually make the path forward more difficult. Commitment devices like this protect us from the temptation to turn back. Adolescence and mid-life crises are two other times where we face the choice to avoid responsibility and to backtrack or to move ahead to bigger and better things. Likewise, resolving to forbid the expansion of fossil fuel infrastructure does not impede our forward progress, it only makes it more difficult to regress.

Despite cries to the contrary, this resolution does not prevent us from building or growing. It provides forward direction on what we will build and how we will grow. As we continue to innovate and find cheaper, more efficient ways to power our homes and businesses, markets for coal and oil continue to fade. Your charge is to build and strengthen the city of Portland, and this resolution protects Portlanders from the hydrocarbon industry's rush to make one last quick buck off markets in Asia before their window of opportunity closes forever.

Greater Portland, Inc. and the Columbia River Economic Development Council are already working hard to attract and grow businesses in our area. Petroleum export simply doesn't have the long-term potential to make it into the Greater Portland 2020 plan. Coal, oil, and gas are actually distractions from the kinds of investments we need to bring jobs and growth to this region. Today, we support you in your resolution to not get distracted. Let's stick to the plan and make it easier to stick to the plan in the future by removing that dead-end temptation. Let's keep building and moving forward by resolving not to shift into reverse on down the road. Thank you.

**Hales:** Thank you very much. Good afternoon, welcome.

**Stephen Eldred:** Thank you. My name is Stephen Eldred, I am a continuing student at the National American University in Tigard. I'm also [indistinguishable] environmentalist. I would like to share three basic scenarios that I picture most of the time -- and admittedly, I'm no expert at the components of climate change. I'm still studying, you know, making notes of whatever I can to learn for future environmental careers, but I do know for sure that there's going to be one of three scenarios that turn out for our future generation.

One -- worst case scenario. We don't learn to change our habits and switch to more sustainable sources for energy and in turn, our planet gets depleted to the point of everyone dying of starvation, dehydration, and suffocation. That's scenario one.

Scenario two, I would imagine, is like a very rough transition to our future generation surviving just by a thread where there may be wars breaking out from other nations or rebellions viewing everyone -- consumerist societies -- as the enemy, and want to take what we're taking away from them. Hopefully, it won't turn out that way.

November 12, 2015

Or scenario three, the best case scenario, is that we quickly avoid wars by realizing our habits that have an impact, resources we use, how it affects everything as a whole not just in our little communities. our little so-called bubbles, but within this atmosphere that we all share. That's just how it is.

How I heard about this meeting was the 350 PDX, and I heard about 350 PDX by reading this book called EcoMind by Frances Moore Lappé because at the time -- and still is -- most of my information I get from reading current environmental articles and testimonial books. If I had not read that book, I probably wouldn't be here today. And so after hearing all these powerful, effective testimonies, I assume that most of you are aware of this as well or you probably wouldn't be here, either. Daily when I still do see contraries to what we are fighting for -- as in fossil fuel burning cars continue to be driven and trash to be on the street -- those are the moments I get discouraged but today I'm very much encouraged. I'm glad to have actually chosen to go to this meeting and get more personal inside viewpoints from like-minded people such as yourselves.

**Hales:** Thank you very much. Thank you both. Last panel? I think we probably are going to have to move to voting pretty soon. We still have quite a few folks signed up. Let's see if we can't take a few more before we get to 4:00 and vote. Take these six and see if we're ready to take action. Welcome.

**Harriett Cooke:** Thank you. Good to see you again.

**Hales:** You too, thank you.

**Cooke:** I was here a couple weeks ago basically promoting the same sort of thing. Different issue, same issue, which is our economic system. I want to begin by thanking you --

**Hales:** Oh, just put your name in the record.

**Cooke:** Harriett Cooke. Semi-retired physician, Master's in public health.

I want to thank you for the example that you give in the way that you have worked on this resolution and the amendments. I think it's beautiful and I'm proud to be part of the city.

This is the beginning. When I hear about the assessments that need to be made on the economic impact, my guess is that we're looking at it from eyes that are looking at the economic system that we exist in, which is not the economy that is going to sustain us. Fortunately, a book by economists just came out that I'm here to promote. Enough is Enough: Building a Sustainable Economy in a World of Finite Resources. And some of the weird lunatic ideas that I have been carrying forth on my torch -- I haven't been able to find others -- they're in here, so I feel kind of validated. And Mayor Hales, I understand you're about to leave on a sabbatical.

**Hales:** Ways off.

**Cooke:** I like to think of it that way. I would like to invite you and the rest of the Council to take a look at this book and really start to expand your vision about not only what's possible, but what's absolutely essential if we are going to preserve this planet and have jobs and food and meet the needs of everybody, which is absolutely possible. Thank you.

**Hales:** Thank you. Welcome.

**Baron Glassgow:** Thank you. Mayor Hales, Commissioners, my name is Baron Glassgow. I'm a senior director of the National Propane Gas Association and executive director of the Pacific Propane Gas Association. With the minister that was here earlier -- I just want to note that my dad was a minister and I'm a preacher's kid. When my dad was in the pulpit, they used to say the congregation needed a calendar instead of a watch and so I will promise to be brief.

I appreciated the comments in the discussion earlier today about the definition of "end user." For us in our industry, that's a really important discussion item. In the propane

November 12, 2015

industry, we have several organizations and customers that would like to expand their use of propane as a less carbon-intensive fuel than some of the alternatives. Examples of those are the Portland Public Schools. Currently, Portland Public Schools transport almost 8000 kids a day on propane school buses, and their ability to expand propane, the use of propane as opposed to gas or diesel, is important.

We also have landscaping companies who are adopting newer technologies such as propane commercial lawnmowers as opposed to gasoline or diesel mowers that spew out more carbon, require more maintenance, and are subject to spills of gasoline and diesel whereas propane is nontoxic and if you spill it, it doesn't contaminate soil or water.

So again, the ability of end users to be able to expand their use of those fuels as opposed to more carbon-intensive fuels is really important, and I appreciate your time.

**Hales:** Thank you. We'll take three more and then move to action. Welcome.

**Michael Colvin:** Mayor Hales, Commissioners, my name is Michael Colvin. I'm a retired teacher, pastor -- I'll be brief -- and I also had a career in emergency management.

My concerns today about the resolution have to do with emergency management issues and existing facilities that we have in Portland, particularly the tank farms along the northern Willamette. If you've seen OPB's Unprepared documentary, you've seen graphic animations of what is really expected to happen in that case. And it would be a massive disaster inside of an enormous disaster in a Cascadia subduction zone earthquake.

The companies that own those tanks have refused to mitigate or do any remedial work to keep them from sinking into the ground because they are on liquefaction soils. I'm wondering if there's anything that could be done in the language of these proposals, these resolutions, to ensure that those companies are made accountable for the profits that they've been making for years from these facilities. Would it not be possible -- as with service stations that are required to replace leaking gas tanks -- to have any companies that want to do new facilities of any kind here in Portland that own those tanks to mitigate those problems? Which are easily done. It's not a big thing. It might be a bit expensive. But that's basically my issue and I'm wondering if there's any response from you on that.

**Hales:** I think we've tried in the language to make sure we don't stand in the way of any resiliency improvements in those kinds of facilities. Moving to the next step of actually requiring them could be one of those code actions that comes from adopting this resolution. So, the resolution establishes the direction, then our staff will be bringing all kinds of code changes that reflect that in what we require. First step is to say we're certainly not stopping anyone from making resiliency improvements, because you're right. Commissioner Novick and his bureau constantly point out huge vulnerability you just mentioned. That will be the next stage of this work. Thank you.

**Colvin:** The other thing then -- I guess that means then that there is some possibility of putting teeth into this.

**Hales:** There is.

**Colvin:** As opposed to it simply being voluntary on the corporation's part.

**Hales:** No, we're not looking just for voluntary compliance.

**Colvin:** Thank you. I appreciate that clarification.

**Hales:** Thank you. Welcome.

**David Medford:** Thank you so much. My name's David Medford. It's an honor to have two minutes of your time, frankly. I'm a 40-year resident of Portland, 30-year member of the National Association of Letter Carriers. I'm also a union activist in a group named Climate Jobs PDX which spreads the word about climate crisis to the labor community and advocates to environmental groups about the need to fight for massive clean energy job programs as well as just transition for workers involved.

November 12, 2015

I want to commend Mayor Hales and Commissioner Fritz for their leadership on this issue. The science is overwhelmingly convincing about the oncoming disaster humans are facing. We know we have to leave dirty energy in the ground and a thoughtful, planned, rapid World War II size ramp-up of climate-healing and people-healing strategies. I want to voice any support for the City Council fossil fuel initiative. Please vote yes.

I also want to submit -- which was spoken of earlier -- the clean energy plan. It's an amazing document. I know you've got plenty of things to do, etc., but it's a serious comprehensive planned collaboration between labor network for sustainability, 350.org, and synapse energy. The report is a plan to reduce U.S. greenhouse gas emissions 80% by 2050 while adding a half million jobs and saving Americans billions of dollars on electricity, heating, and transportation costs. This detailed plan will help bring together policy makers, lawmakers, business, environmental, and labor advocates around their common interest in putting Americans to work and saving the earth's climate.

The reality is there's no conflict between the two, between good paying jobs and solving our environmental problems. For unions and other job advocates, climate protection is also a great jobs program. We can create many more jobs by protecting the environment than by expanding the fossil fuel infrastructure. Please take it seriously --

**Hales:** We will.

**Medford:** It's a really good document. Thank you so much.

**Hales:** Thank you. Welcome.

**John Nicol:** My name is John Nichol. I'm from North Portland and I'm going to assume that this excellent resolution is going to pass. And looking beyond that, I believe that you're going to face someday the need to actually remove the existing fossil fuel infrastructure from Portland. To that end, I would like to say take heart, the technology is there for you do this. We think of alternative energy as being wind, water, solar production of electricity. Within that, I would also add the largely ignored principles of passive solar design.

But beyond that, there are much more developments that have taken place already that are -- this is going to sound pretty wacky, but there has been secret development of new energy systems by the military. It's one of these justifications of the over-bloated military budget that we have that they have done this. You're going to be astounded when the time comes to change Portland over to much more sensible system. So knowing time is short, I hope you'll go right to a vote.

**Hales:** Thank you very much. Before we close the hearing, I did see some students come downstairs. In case they want to speak -- did I miss them? Don't want to miss anyone that has to do a homework assignment based on coming here today. [laughter] Wouldn't want you to leave empty-handed. OK, perhaps now. Again, appreciate all the great testimony. It is time -- oh, there are students. OK, students, you get to speak because we're going to make that always an exception. Come on up. Good afternoon. We always try to make room in what we do here for the next generation of leaders, so come on up and join your colleague here. Tell us what you have on your mind. Just give us your name. And what school do you go to?

**Issac Vergun:** OK. I'm Isaac Vergun and I go to the International School of Beaverton.

**Hales:** And you?

**Miko Vergun:** I'm Miko Vergun, his sister. And I also go to International School.

**Hales:** Welcome.

**I. Vergun:** I ask you to support the resolution introduced by Mayor Hales. I represent plan for the planet climate change recovery, climate change for families, and our children's trust. My sister and I are two of 21 plaintiffs who filed a lawsuit in August against the federal government for promoting the use of fossil fuels despite the government's knowledge since at least 1965 that fossil fuel use was causing dangerous climate change.

November 12, 2015

I've felt guilty due to climate change because my and my family went to great America this summer in California, and there was a water park, and they have a drought that's been going on for a couple of years.

While this case is ongoing -- the case I just mentioned, it is imperative that local and state governments also do their part to stop new fossil fuel projects and to put in place science-based climate recovery plans.

**Hales:** Thank you very much. Welcome.

**M. Vergun:** Hi. My name is Miko Vergun, and I'm 14 years old and I'm a freshman at the International School of Beaverton.

Going to a school that focuses on advocacy really helps a lot, especially when you go to monthly Beaverton City Council meetings that directly affect your future. I'm here to advocate not only for my own future but my rights and the rights of future generations and my people: islanders who are affected by the rising sea levels due to climate change.

What frustrates me so much is when elected officials don't see climate change as a pressing issue. My parents worked very hard to get Obama president for both terms, and right now, he's promoting Arctic drilling and not doing enough to discourage the use of fossil fuels. This upset me and my brother and 19 other kids in the United States whom we have worked with to file this lawsuit against the government and the president.

You see, the government and the president have been violating our rights to life, liberty, and property by allowing the use and extraction of fossil fuels. This will impact us in the future, and that's why we decided to take action. Please vote yes on the resolution. So many future generations are counting on you.

**Hales:** Thank you both. [applause] Alright, we appreciate everyone that was able to testify. Sorry for any that weren't able to, but we need to take action because we're going to lose a quorum. I think we have a slight refinement of that amendment, is that right?

**Fish:** Yes, Mayor. We've had some feedback from City staff that Fish amendment five would be strengthened instead of saying "including ethnic communities" we inserted "communities of color" which is intended to be broader and more inclusive. I accept that as a friendly amendment.

**Hales:** OK, that's noted as a friendly amendment and included. Any further amendments or discussion before we take action? So roll call vote, please.

**Item 1179 Roll as Amended.**

**Novick:** I think this is a great resolution, and I'm proud to support it. [cheers] [applause] But if Portland is to be truly a model of the rest of the world in climate disruption, it's not enough of course just to be against fossil fuel exports, we have to reduce our own fossil fuel imports. [applause] We've made some strides in that direction, we've reduced our carbon emissions in Portland by 13% in the last 25 years. That's good. We need to reduce them by another 80%. And that means that not only do you have to challenge us to do the right thing -- which you have done, and I thank you -- but it also means that in some context, we're going to have to challenge our own friends and neighbors. Because I think all of us have friends and neighbors that oppose policies that are actually designed in part to reduce our carbon emissions. And that's not because they are tools of the fossil fuel industry, it's because they're acting on what they see as common sense and the desire to protect their own neighborhoods and way of life.

I know and I'm sure you know people who are really irritated by all these bike lanes and want the City to stop spending money on bike lanes because they see bike lanes as a frill. But we do need to get people out of their cars, and bicycles are in fact an alternate means of transportation that in Copenhagen, for example, represents 30% of all trips. It's not a pipe dream to move a bunch of people from cars to bikes, but it requires expanding those evil little bike lanes.

November 12, 2015

And there's a lot of folks who are upset when there's a new apartment building in their neighborhood. And it might be counterintuitive, but having more people living in apartments is one of the ways we reduce carbon emissions because if we have a bunch of people living close together, then there will be a grocery store that springs up within walking distance that people are living spread apart are likely going to drive. So I ask you to remind your neighbors that apartment buildings actually can be good for the environment. And there are people who are especially upset about the apartment building without a parking space for every apartment. I ask you to remind your neighbors that if we keep building society around the idea that everyone will drive a car all the time, it becomes a self-fulfilling prophecy.

So, I ask you to again not just challenge us, not just challenge the fossil fuel companies, but to challenge your neighbors. And I know that if we were in a position to switch immediately tomorrow to all electric cars powered by all renewable energy, then we wouldn't need to make these kind of sacrifices. But right now, electric cars are too expensive for most people and we have a lot of work to do in terms of building wind transmission infrastructure and figuring out how to store solar before we get there. Until then, we have to focus on conservation, and that's a challenge and I look forward to working with you on those challenges. Aye. [cheers] [applause]

**Fritz:** There were a lot of individuals and organizations who worked on these policies -- the one last weekend, the one this week. I particularly want to thank Oregon Physicians for Social Responsibility, the League of Women Voters, Columbia Riverkeepers, the Audubon Society of Portland, Friends of the Columbia River Gorge, 350 PDX, Northeast Coalition of Neighbors and North Portland Neighborhood Services, Ecumenical Ministries. I'm sure I could go through the testimony from last week and add many more, so I apologize if I missed yours.

I do also need to single out some individuals who have been particularly strong leaders in the community. Bob Sallinger, Don Ceres, Mia Reback, Michael Lang, Sandy Polishuk, and Nick Caleb have been particularly helpful to me and my staff in crafting the resolution last week and this week. And talking of staff, Michael Armstrong, Jackie Dingfelder, and Christine Nieves -- the first two being Mayor Hales' staff and Christina being mine -- have been absolutely fantastic.

There's been a lot of great energy, a lot of good work that's gone into the resolution last week and the resolution this week. I particularly want to commend whoever invented the chopstick with the crepe paper. [laughter] Who was the inventor of the chopstick with the crepe paper? [shouting] Right there! Thank you very much. Last week, I took mine and I took it to the East Portland neighborhood organizations saying this is the next great thing in community organizing. [laughter] It's much less expensive than the T-shirts -- I appreciate the T-shirts, and yes, I wore red today intentionally. [applause] It looks like it's so much more fun to wave those than to do the jazz hands. So we'll certainly be encouraging folks from the budget session and from now on pick your color, bring your chopstick. I think it's a huge step forward. I saved mine from last week and it's in the vase that has the flag I got on the day marriage equality became the law of the land.

The Sunnyside students talking about celebrating in 200 years' time still makes me tear up. That's quite significant to think that cities can lead -- and I love the sign you have - - cities lead. Like paid sick leave, this is something that is going to go statewide, it's going to go national, it's going to go international. And little old Portland, Oregon, is paving the way -- except not paving the way -- [laughter] we're not adding to the impervious surface. We're keeping things green. And keeping Portland clean I think is another great suggestion that I heard today about what our new slogan should be.

November 12, 2015

Last week after we had voted on the oil train resolution -- and again, thank you for supporting that -- there was a big chant of, "vote on both, vote on both." I'm so glad we didn't vote on both. Partly because we had another great hearing today -- a lot of super testimony. More importantly, though, it gave us time under Mayor Hales' leadership to bring every one of the Council in on refining and making the resolution even stronger.

Commissioner Novick, thank you for making your amendments targeted and succinct and for not only voting for the resolution last week but for voting for it this week. Commissioner Fish put in an enormous amount of time and attention to detail on the language, even up to the very last minute making that change, and did an extraordinary job of helping to coordinate the Council. Commissioner Saltzman, I'm so glad you're able to be here this week and that your amendment also caught a particular nuance of the quasi-judicial system, which may end up being really important. And that's what we try to do up here. We try to think of things that that may be really important so we can address them ahead of time.

None of this would have happened without Mayor Hales and his courage in bringing this forward and also working on it really fast. He decided that we couldn't wait and that he was going to bring this resolution today at the same time that I had been working on the oil train resolution for months. And you and your staff, Mayor, were able to get it coordinated to work with all parties. I feel so proud to have been a co-sponsor of both of these resolutions with you. Cities can lead. Aye. [cheers] [applause]

**Fish:** Colleagues, today I'm proud to join you in support of this historic resolution. [cheers] [applause] When this fossil fuel policy was first proposed, I had a lot of questions. I wondered what it would mean for existing businesses that wanted to make safety improvements, especially around seismic resilience. I wondered what it would mean for our blue-collar workers. I wanted to better understand the intended and unintended consequences of our proposed action. I wanted to make sure that we took the time now and in the future to get it right. My job is to ask these questions. And I have in conversations with Michael Armstrong and Jackie Dingfelder, with citizens and with advocates, and during the hearings. And today, my questions have been answered.

I'm grateful to my colleagues for supporting my request that we find ways to invest in our workers as we transition from a fossil fuel economy to a clean energy economy. Today's action strikes a balance. We're sending a strong signal that we're moving away from fossil fuels and welcoming clean energy companies to our community, and we're signaling to our local workers that we care about their future -- what someone called a "just transition." You see, a healthy and sustainable future depends on protecting our environment and creating opportunities for all of our people. For me, it's never an either/or, it's both. I believe Portland has a chance to demonstrate the power of a blue and green coalition leading the way to a better future.

In my seven years on this Council, I've been proud to work with very talented colleagues to support a number of initiatives to protect our environment and to address climate change. Two Climate Action Plans, one in 2009, one in 2015; the City's financial divestment from fossil fuels; clean energy works; gray to green; new and important protections for our Willamette river and our Bull Run watershed; and yes, we're even turning human waste into clean energy and fertilizer.

The challenges of climate change are unprecedented, but they are not insurmountable -- no matter what our critics say. Today's vote sends a strong signal that Portland will continue to lead the way like we always have. Thank you, Mayor Hales and Commissioner Fritz, for your leadership on this historic occasion. I vote aye. [cheers] [applause]

November 12, 2015

**Saltzman:** I want to thank Mayor Hales for bringing forward this resolution. And I guess I'm old enough to remember putting a man on the moon in less than eight years from sort of conception to reality. And all the good things that came from that -- not only just the sheer amazement of it, but all the good technological spinoffs of an incredible ambitious effort like that. I'm hopeful that perhaps our effort to put a person on Mars or people on Mars will similarly lead to the technological breakthroughs that are necessary to truly attain a clean energy economy. As Commissioner Novick observed, there are several obstacles to clean energy that unfortunately fossil fuels fit the niche -- like moving around, storage, things like that -- but I think that it's up to cities like us and people like you and movements like 350 to keep us moving and pushing the envelope. And I do think that we can truly look people in the eye and say, "I can imagine a clean energy economy."

I know we still have a lot of people to convince. In a recent poll last week showed that fewer than 40% put climate change as the most important issue facing us today. So, we still have a lot of work to do. It's easy to proselytize among ourselves and feel a sense of excitement in the City Hall chamber parked with advocates but when you step outside, we've got a real world that has to be persuaded and convinced to change lifestyles. And the lifestyles need to change. Only look at the fact that the best-selling autos in this country are the Ford 150 and an SUV. So, we still have a long way to go to achieve clean energy economy, but I do believe every movement starts with a small step. This is a good step in the right direction. I think that I want to again thank my colleagues for being here and supporting this. Aye. [cheers] [applause]

**Hales:** Well, let me start by thanking my colleagues. You know, people come to this chamber in some cases frequently and in some cases occasionally, and I think you saw today how thoughtful this Council is and how we try to get it right. And I appreciate that very much.

A lot of folks have been thanked and they deserve it. I want to just touch on three of them as individuals. They've been mentioned, but I want to give them a little more love. Michael Armstrong is a quiet man, but he knows more about climate and about these issues than any of us. He not only is -- as you saw here today -- encyclopedic in his understanding, but he has this ability to get people to understanding whether they are opponents or advocates of a given idea. Michael, thank you, because this is great craftsmanship and great statesmanship on your part.

Jackie Dingfelder is about to go tell the Portland story down under in a Fulbright fellowship, and we will miss her in my office but having her leadership is wonderful. Thank you, Jackie.

And then, it's part of my job as a community leader to support and raise up new leaders and I have had the chance to get to know Mia Reback and see her in action. [cheers][applause] So, I appreciate your leadership and look forward to seeing more of it.

Those of you that know me know that I spend what little free time I have as often as I can in a boat. My earliest memory was actually sitting in the bow of my dad's sailing canoe curled up in the bottom listening to the waves slap against the water. And so when I try to put things that are deep for me into words, I often return to boat metaphors. Over the last months, I've spent more and more and more time thinking about climate change as maybe we all have. There's been so much this year and the Pope's encyclical and the President's clean energy policy and so many actions where it feels like things are accelerating.

And actually, that's the memory that comes back to me. My dad and I did a lot of whitewater canoeing. Once we were on the river and there was a waterfall around the corner but we couldn't hear it. It was a rapids and there was only one place to steer through. It was difficult rapids, but we couldn't hear it or see it because the river was

November 12, 2015

turning there, but we could feel it accelerate, we could feel the water moving faster, we could feel the change in the motion of the boat. We knew that something was coming soon. And that's the feeling that I have about this climate issue -- that we are accelerating. We have one route through those rapids that are just ahead and just maybe around the corner. And the future is not that far away, but if we are aware and if we feel that change and if we respond to it and if we steer it where we want to go, we can get to a safe and wonderful future. That's the hope, I think, that we hear in those students and that we hear in all of us that have worked on this issue. I am really proud to be a Portlander, and I'm really proud to preside on this City Council. Aye. [cheers] [applause] Thank you all, we're adjourned.

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