



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
 MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **13<sup>TH</sup> DAY OF JANUARY, 2016** AT 9:30 A.M.

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

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Ben Walters, Chief Deputy City Attorney; and Jason King and Mike Cohen, Sergeants at Arms.

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

<b>COMMUNICATIONS</b>	<b>Disposition:</b>
<b>29</b> Request of Carl Wikman to address Council regarding Cedar Crossings Covered Bridge 4th annual update (Communication)	<b>PLACED ON FILE</b>
<b>30</b> Request of Joe Walsh to address Council regarding justice (Communication)	<b>PLACED ON FILE</b>
<b>31</b> Request of Carlos Jesus Zillmer to address Council regarding enhancing advertisement possibilities while generating revenue for the City (Communication)	<b>PLACED ON FILE</b>
<b>32</b> Request of Lightning Watchdog PDX to address Council regarding Centennial Mills Legacy Project (Communication)	<b>PLACED ON FILE</b>
<b>33</b> Request of Jim Whittenburg to address Council regarding streets and bridges in Portland (Communication)	<b>PLACED ON FILE</b>
<b>TIMES CERTAIN</b>	
<b>34 TIME CERTAIN: 9:45 AM</b> – Accept report from Portland Community College on the current work of Future Connect (Report introduced by Mayor Hales)	<b>RESCHEDULED TO        FEBRUARY 24, 2016        AT 9:45 AM        TIME CERTAIN</b>

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<p><b>35 TIME CERTAIN: 10:15 AM</b> – Appoint Eli Spevak and Katie Larsell to the Planning and Sustainability Commission for a term to expire on January 15, 2019 (Report introduced by Mayor Hales) 10 minutes requested</p> <p><b>Motion to accept the report:</b> Moved by Fish and seconded by Saltzman. (Y-5)</p>	<p><b>CONFIRMED</b></p>
<p><b>36 TIME CERTAIN: 10:30 AM</b> – Amend Bond Ave roadway realignments in the South Waterfront District Street Plan, Criteria and Standards document (Previous Agenda 1301; Resolution introduced by Commissioner Novick) 30 minutes requested</p>	<p><b>RESCHEDULED TO JANUARY 28, 2016 AT 3:00 PM TIME CERTAIN DATE TO BE DETERMINED</b></p>
<p><b>CONSENT AGENDA – NO DISCUSSION</b></p>	
<p><b>37</b> Appoint Wendy Serrano to the Home Forward Board of Commissioners for term to expire January 28, 2017 (Resolution introduced by Mayor Hales and Commissioner Saltzman) (Y-5)</p>	<p><b>37182</b></p>
<p><b>Mayor Charlie Hales</b></p>	
<p><b>Bureau of Planning &amp; Sustainability</b></p>	
<p><b>38</b> Authorize a grant agreement with Friends of Zenger Farm to support their Nutrition Education and Food Access Project in the amount of \$30,000 (Second Reading Agenda 11) (Y-5)</p>	<p><b>187539</b></p>
<p><b>Commissioner Dan Saltzman</b></p>	
<p><b>Position No. 3</b></p>	
<p><b>Portland Fire &amp; Rescue</b></p>	
<p><b>39</b> Authorize Intergovernmental Agreement with Multnomah County Sheriff's Office for fireboat refueling (Second Reading Agenda 16) (Y-5)</p>	<p><b>187540</b></p>
<p><b>Portland Housing Bureau</b></p>	
<p><b>40</b> Accept an interest in title to a parcel of land inadvertently omitted from the original conveyance of the Headwaters Apartments to the City of Portland (Second Reading Agenda 17) (Y-5)</p>	<p><b>187541</b></p>
<p><b>Commissioner Steve Novick</b></p>	
<p><b>Position No. 4</b></p>	
<p><b>Bureau of Transportation</b></p>	

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<p><b>41</b> Accept a grant in the amount of \$557,227 from Oregon Department of Transportation for N/NE Columbia Blvd Intelligent Transportation Systems and authorize an Intergovernmental Agreement (Ordinance)</p>	<p><b>PASSED TO SECOND READING JANUARY 20, 2016 AT 9:30 AM</b></p>
<p><b>42</b> Authorize an Intergovernmental Agreement with Oregon Department of Transportation for construction of the I-5 SB: Broadway-Weidler Exit Ramp project for an estimated \$166,803 (Second Reading Agenda 18) (Y-5)</p>	<p><b>187542</b></p>
<p><b>REGULAR AGENDA</b> <b>Mayor Charlie Hales</b> <b>Bureau of Police</b></p>	
<p><b>43</b> Authorize an Intergovernmental Agreement with law enforcement agencies for the use of the Police Bureau Training Complex (Second Reading Agenda 19) (Y-5)</p>	<p><b>187543</b></p>
<p><b>Office of Management and Finance</b></p>	
<p><b>44</b> Establish a tax on the demolition of certain residential structures in the City of Portland (Previous Agenda 1251)</p>	<p><b>REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION</b></p>
<p><b>45</b> Authorize a participating agreement with U.S. Bank National Association for fleet credit card services for fuel for a not to exceed amount of \$4,250,000 for five years (Previous Agenda 1350; Procurement Report – Bid No. 00000180) <b>Motion to accept the report:</b> Moved by Fritz and seconded by Saltzman. (Y-5)</p>	<p><b>ACCEPTED PREPARE CONTRACT</b></p>
<p><b>Commissioner Nick Fish</b> <b>Position No. 2</b> <b>Bureau of Environmental Services</b></p>	
<p><b>46</b> Authorize a contract with the lowest responsive bidder for the construction of the Far North Nicolai Sewer Rehabilitation Project No. E08401 for \$4,090,000 (Second Reading Agenda 20) (Y-5)</p>	<p><b>187544</b></p>
<p><b>Commissioner Dan Saltzman</b> <b>Position No. 3</b></p>	

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<b>47</b> Authorize the City Attorney to appeal the declaratory judgment and permanent injunction in Joseph Walsh v Bryant Enge, et al (Resolution) 10 minutes requested	<b>CONTINUED TO JANUARY 27, 2016 AT 9:30 AM</b>
<b>Portland Fire &amp; Rescue</b> <b>*48</b> Authorize application to the Department of Homeland Security, through its Federal Emergency Management Agency for a grant in the amount of \$331,210 for operations level structural collapse training (Ordinance) (Y-5)	<b>187545</b>
<b>Portland Housing Bureau</b> <b>*49</b> Amend subrecipient contract with Rebuilding Together for \$50,000 for home repair services (Ordinance; amend Contract No. 32001219) (Y-5)	<b>187546</b>
<b>*50</b> Approve application under the Multiple-Unit Limited Tax Exemption Program for the mixed-use apartment project located at SE 9th Ave and SE Belmont St (Ordinance) (Y-5)	<b>187547</b>
<b>Commissioner Steve Novick</b> <b>Position No. 4</b> <b>Bureau of Transportation</b> <b>51</b> Grant revocable permit to Track Town Events LLC for street and lane closures needed for activities related to the 2016 World Indoor Track and Field Championships and USA Indoor Track and Field Championships (Second Reading Agenda 21) (Y-5)	<b>187548</b>
<b>FOUR-FIFTHS AGENDA</b> <b>Mayor Charlie Hales</b> <b>City Attorney</b> <b>51-A</b> Authorize the City Attorney to institute proceedings challenging the District Attorney's Order in the petition of Mark Bartlett (Resolution) 10 minutes requested (Y-4; N-1 Novick)	<b>37183</b>

At 12:01 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **13<sup>TH</sup> DAY OF JANUARY, 2016** AT 4:00 P.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fritz, Novick and Saltzman, 4.

Commissioner Saltzman left at 6:00 pm.

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

	<b>Disposition:</b>
<p style="text-align: center;"><b>FOUR-FIFTHS AGENDA</b></p> <p style="text-align: center;"><b>Mayor Charlie Hales</b> <b>Bureau of Planning &amp; Sustainability</b></p> <p><b>51-1</b> Adopt new and amended supporting documents for an update of Portland's Comprehensive Plan; accept report of the Citizen Involvement Committee (Previous Agenda 27; Ordinance introduced by Mayor Hales) 10 minutes requested</p>	<p style="text-align: center;"><b>CONTINUED TO APRIL 14, 2016 AT 6:00 PM TIME CERTAIN</b></p>
<p><b>51-2</b> Adopt a new Comprehensive Plan for the City of Portland, Oregon (Previous Agenda 28; Ordinance introduced by Mayor Hales) 2 hours requested</p>	<p style="text-align: center;"><b>CONTINUED TO APRIL 14, 2016 AT 6:00 PM TIME CERTAIN</b></p>

At 6:19 p.m., Council recessed.

January 14, 2016

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **14<sup>TH</sup> DAY OF JANUARY, 2016** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fish, Fritz and Novick, 4.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Ben Walters, Chief Deputy City Attorney and Mike Cohen and Jason King, Sergeants at Arms.

<p><b>52 TIME CERTAIN: 2:00 PM</b> – Accept the 2015 Management Plan for River View Natural Area as a guide for future protection and use of the natural area (Resolution introduced by Commissioner Fritz) 2 hours requested</p> <p><b>Motion to add resolved paragraph that a final decision on mountain biking will be made after the off road cycling master plan process is complete:</b> Moved by Novick and seconded by Fritz. (Y-4) (Y-4)</p>	<p><b>Disposition:</b></p> <p><b>37184</b> <b>AS AMENDED</b></p>
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At 4:40 p.m., Council adjourned.

**MARY HULL CABALLERO**  
Auditor of the City of Portland



By Karla Moore-Love  
Clerk of the Council

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

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**Closed Caption File of Portland City Council Meeting**

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

Key: \*\*\*\*\* means unidentified speaker.

**JANUARY 13, 2016**

**9:30 AM**

**Hales:** Good morning, everyone, and welcome to the January 13th meeting of the Portland City Council. Would you please call the roll?

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

**Hales:** Welcome, everyone. We have some citizens signed up for testimony this morning under our Council communications. We'll get to that in a moment. We have no requests, I believe, for removing items from the consent calendar and putting them on the regular calendar. Is that right? OK.

Welcome, and let's begin. We will follow the usual rules of Council decorum here which is you're welcome to speak on any item on the calendar. Let our Council Clerk know if you wish to speak. We typically allow three minutes for people to speak, and it looks like from the number of people here this morning that won't be a difficult standard to hold to. We also ask that people maintain basic courtesy here, which is if you agree with someone, feel free to give them a thumbs up or other wave of the hand gesture to show your support. If you disagree, same thing could go with a polite hand gesture to the contrary, but we ask that other than when we suspend the rules, we ask that we not have applause or verbal demonstrations in the Council chambers so everyone feels able to have their say. With that, let's begin with item 29.

**Item 29.**

**Hales:** Welcome back, Mr. Wikman. Good morning.

**Carl Wikman:** Good morning, Mayor and Council members. For the record, Carl Wikman.

After last year's update, I received phone calls and even letters of people are asking, what's the difference between satisfactory and good? These are the slides from last year's presentations. I don't know which is satisfactory and which is good.

Commissioner Novick, thanks to you and Erika Nebel for arranging a very productive meeting with David O'Longaigh. He brought engineering plans and I brought photos. Our area of concern was the southeast corner of the bridge. The issue? Sidewalk flooding and roadway ponding. The cause? Lack of maintenance. You can see that the catch basin is clogged with gravel and silt which results in the flooding off to the right.

We looked at the engineering plan and discovered that there is an existing gutter and an existing catch and lip, but the photographs show that they are buried underneath mounds of dirt, so who knew that they were there without the engineering photos? On December 9th, I got word that the USGS was going to conduct a survey at the site, and I drove through the mud slide on Flavel and at the turnout at the bridge, there was a tree that was down. You can see it crush the pickup truck. The USGS was documenting the records-setting stream levels and flow of volumes to be used in the computer modeling. The arrow shows the high water mark just two days prior.

The USGS is concerned that there might be scouring happening on the southeast abutment. These photos were from the same December 19th and can show that the volume is very intense that day.

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On December 22nd, when the wreath was put up, I was greeted with this and I was very concerned about what happened to the bridge. Not to worry, though, it was PBOT at work. They had reclaimed over 200 feet of gutter and exposed the -- what is that word? -- catch basin and into the ponding, flooding and the splashing. They also -- the asphalt was ground down to the wood subsurface and a waterproof membrane was installed and the surface was recovered.

So, what else needs attention? The interior walls on both the east and the north side have to be repaired. This is due from the splashing and flooding of the cars driving through the ponding, and the water was never allowed to dry. This has now been cured with the fix that PBOT did. I was out there just yesterday, and it was totally dry. Have to replace 100 feet of rotten pedestrian rail top. I would pay for the replacement of this bullet-ridden sign. It's not a very attractive way to welcome people to Cedar Crossing. Graffiti remains a problem, but it's not very much of a problem.

Cedar Crossing will have its 35th anniversary. Mayor Clark designated it as a scenic site. It was also included in the Comprehensive Plan as a goal five. Mayor Katz and then-Commissioner Hales made it the poster child for the Pleasant Valley comp plan.

These are the 2016 projects. A popsicle bridge competition at the local schools. A scenic bike tour ride with the city of Happy Valley and Clackamas County tourism to feature local sites, and a photo contest with a sponsor yet to be discovered. Thank you for your time, and remember that Cedar Crossing is the only covered bridge probably within 100 miles.

**Hales:** Thank you for your advocacy. You've really done a great job of keeping the community's and the Council's attention focused on this. Thank you. I thank you for your constructive work with PBOT.

**Fritz:** Thank you for working with the City. Just to remind everybody where this bridge is?

**Wikman:** It's off of Foster Road on SE Deardorff, way in the heart of Southeast Portland.

**Fritz:** And my understanding is it's the only covered bridge within the city of Portland, is that right?

**Wikman:** It was the first ever built in the city of Portland, and the only one ever built in Multnomah County as well. Clackamas County lost theirs in 1957, and Washington County's last was in the 1940s.

**Fish:** Commissioner Fritz, I have a question for you. Since one of the requests addresses graffiti, what is the extent to which citizens can engage in self-help on the graffiti removal?

**Fritz:** They are allowed to clean the back of signs. They are not allowed to clean the surface of the traffic signs because they're coated with a special reflective surface, so only PBOT can do that. We are actually just discussing that in the ONI budget meeting this Monday to see how we could improve the volunteer coordination.

**Fish:** Thank you.

**Hales:** Thanks very much, Carl. Thank you.

**Wikman:** Thank you.

**Novick:** Mr. Wikman, if there's any issues you want to follow up with my office, Laura Hanson from my office is right there. But thank you so much for your work at PBOT.

**Hales:** Thank you.

### **Item 30.**

**Hales:** Come on up.

**Joe Walsh:** Good morning. For the record, my name is Joe Walsh and I represent individuals for justice. To steal a line from Shakespeare's Julius Caesar's play, I come not to praise you, I come to tell you the truth. The sweeps have continued, so the mayor lied



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to us. Your police are giving out tickets to the most vulnerable among us. Your legacy, Mayor, is surely in danger. Two weeks ago, you had a man arrested here in the Council as he screamed for medical assistance. You had him arrested along with a citizen who was videotaping the incident, and then you barred the videotape guy permanently from the hearings. And of course, that was overturned by Judge Simon's decision and the hearing officer has now relinquished any jurisdiction on that. So the permanent injunctions that you think that you have, you don't.

A week ago, you all sat there and listened to a 30-minute report from the City Club about pending raising taxes for \$400 million. One bureau, the transportation bureau, according to the City Club, is in \$400 million, and you, Mayor, would not let us discuss it. There were at least four people that wanted to discuss that. After you go over two million, you ought to have a little discussion. A little bit. 400 million? A big discussion. What happened? Who's at fault? Nobody talks about that. They talk about the four taxes that this Commissioner is going to lay on everybody, but they don't say anything about the jurisdiction or the responsibility. None! Because you wouldn't let us speak. And if you let us speak that day, we would have said that. And you're wrong, Mayor. Ask the City Attorney about the charter. The charter only exempts two items that cannot be discussed - one, this communication, and the other, second readings. That's it. You are out of order.

Now, you're going to consider my appeal today and I would be a terrible activist if I didn't say something about it. You're going to make me a folk hero, Mr. Mayor, because let me explain something to you about the law -- because your City Attorney sent two, and I kicked their butts. So, let me explain the law to you. In the ninth circuit court of appeals, if you lose, you affect nine states. Nine states. That's going to make you really popular, Mayor. [beeping] I see my time is up, and I know that the previous speaker got all kinds of time but you come down on the activists all the time, and I am really anxious to see the door hit your butt when you leave. And you, too, Novick.

**Hales:** OK, next?

**Item 31.**

**Hales:** Good morning.

**Carlos Jesus Zillmer:** Nice to meet you. I'm a poor college student, so who listens to me, but we're kind of going through this boom as a human race of material sciences. We are seeing all kinds of materials being available at an industrial level, and one of them goes by the name of Kevlar. I have this idea of developing these Kevlar domes for local businesses that have signs on street corners, all around downtown. This idea kind of generated from developing iPads to be put onto these displays so that we can begin to -- you know, local businesses can program them to have like daily specials or reruns of SpongeBob, really whatever the [expletive] they want to program an iPad to do. And also while we do this, we can also program advertisements to be put on a scheduled basis. And with the revenue generated from these advertisements from local businesses paying, say, rent for these domes, we can take that money and utilize that in order to, say, fix bridges that are a historical landmark to our city, or whatever other concerns, small reasons we can see using that money for since we're obviously using a lot more money for transportation purposes than we probably should be.

I've looked into it and for a single dome, the cost of the materials would be about \$200. I estimated around \$500 to \$1000 for the general construction of a single corner for one of these domes. And if we were to industrialize these and make this at a larger scale - you know, obviously, the cost of the materials would go down because there would be an assembly line for these to be done. And so, as I was saying, I'm just a college student

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who's struggling to eat and to survive every day trying to be a nuclear engineer. So, I can't really get this off the ground and that's why I'm here discussing this in front of you, Mayor. I just hope that you guys took the time to listen and maybe took this into consideration. Thank you.

**Hales:** Thanks very much. Good luck to you.

**Item 32.**

**Hales:** Good morning.

**Lightning:** Good morning. My name is Lightning. I represent Lightning Watchdog PDX. We have a couple of big projects out there, as you know, the Centennial Mills project and also the U.S. Post Office project. And I guess from my position -- and again, I only speak on my own behalf -- is that I'd like to see the Centennial Mills project continue to move along. I think, in my opinion, that the choice to pick Jordan Schnitzer as the developer is the right choice. I like a lot of the plans that have been laid out, and I think that he's really developed something here that can be utilized by the public. And that's what I really like about it as far as on the docks, the open space, and a lot of various things.

So, what I want to have an understanding, I guess, with Patrick Quinton, is that -- and the Mayor, of course, and the Council members -- is that you have things moving forward on this. You have somebody there that can get the job done, and I think that it's more or less just putting together all the pieces of this at this time and to move this forward and understand it's been vacant for the last 15 years, it's costing the City a tremendous amount of money to have it sit vacant. We understand a demolition cost currently, we understand the cost to have the horses over there. Tremendous costs have added up, and now is the time to do something more productive with this property. It's the time to just communicate a bit better. I mean, these are big deals. They get complicated. And try to finalize this. You have a good developer there ready to finalize this to try to get things moving, and let's see what we can do. Let's go into it in an optimistic manner and try to just finalize this project.

Now, another thing that I like about that U.S. Post Office project is that I also think that when you are looking at PNCA being located there with all the artists, we have the potential to develop something out here all the way to Centennial Mills that a lot of people in the community can enjoy, and I especially want to see the artists step up on both these projects and start giving some ideas, because I think that overall, we have kind of the energy there that can really turn into something really great. It can be a legacy. Centennial Mills can be that legacy project. The post office project can end up being a legacy. Also, Mayor, I believe that you are in a position right now to finalize this -- especially on Centennial Mills. And I hope that we can come up with that extra money that might possibly be needed and finalize this. I think that there is a few hang-ups here, but I don't think that we're that far off from finalizing the Centennial Mills and really getting that moving forward. Thank you for your assistance.

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

**Item 33.**

**Hales:** Good morning.

**Jim Whittenburg:** Good morning, Mayor, City Council members. First off, I just want to tell you that I don't dislike any one of you. Even though I may seem like it sometimes, I don't. I'm not a hateful person. I can't think of anybody that I hate right now -- maybe Vladimir Putin or something -- but I can't think of any.

I looked at last night -- I got a letter from the bank that I had my card with. I noticed that I had given \$50 to Jay Inslee up in Washington State for governor. I have known him

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for 15 years about, probably when he was just an attorney in Washington next to Yakima. He ran for Congress, and I think he won the first time and lost the second and then he went over to the western part of the state where he fit in there. But he said today, we're not going to fix a few potholes. I thought, what a nice phrase that he used -- we're going to finish the job. I'm thinking how many times we started jobs and we have not finished them. We just haven't gotten around to it. It hasn't been important enough for us. But he seems to finish things. There reason I like him, and probably why I'm going to move up there and retire there. There's also a young lady up there that I've known for 40 years. So, he's also going to support the minimum wage initiative, \$13.50, so I thought that that was a good thing to take a stand at.

Also on the paper, I see an article -- I wasn't going to talk about this -- but TriMet -- the metro, I never ride the metro. I was thinking about it. And I never get on the darn thing. I ride the bus, and I get a ride in the car once in a while but I never ride the metro. Maybe it's because it breaks down so often, it has all kinds of problems with it here in the paper, if you read it. I wouldn't ride this out of the principle now.

The second thing, or the next thing is that I was in a hospital, and it made me start thinking about people who live out on the street. And when I made the copies, you have before you, I found a woman on 9th and Broadway in a sleeping bag. She must be 40, maybe -- 35 or 40. She was in a sleeping bag, wrapped up with an umbrella up above her. And so I was curious. I went over and talked to her. I talk to people on the street. I'm not too good for them, I know. I learned that from Mitch Schneider years ago in Washington D.C. He told me you should talk to people. It's a nice thing to do. They won't all ask you for money. She said that she can't find a place in the city. She can't find a place to get out -- she sleeps between two buildings at night, and her three kids are with relatives.

The next thing I will say is that you may wonder why I do these things -- [beeping] -- why I don't just get my \$30 or \$40 as a pharmacist and be a rich guy like all my relatives are. I don't have any poor relatives. The only one that was poor died, and he's gone. We're all pretty well off, pretty comfortable people. But these three little girls here are the reason that I do this. These three girls I grew up with are now 40 years old and have kids and live in Portland. I want it make it a better place to live and so they can get around. Why did I do the property tax limitation thing here a few years ago? It was on the ballot. Because of my dad. He was worried about his house. He was worried would lose his house. As an old man, just before he died, we got the thing passed in 1990, he died in 1990.

**Hales:** Jim, thank you. We appreciate you.

**Whittenburg:** Anyway, that's all -- you can look at these things. We had a big deal on Hawthorne a few years ago -- Charlie remembers. And I was just looking at what we can do. We need to fix this so I don't get run down by the cars that are really traveling through the streets and going through a lot of red lights. It's very dangerous out there.

**Hales:** Thank you.

**Whittenburg:** I have never seen it so bad, you know. Of course, I've never been in a walker before, either.

**Hales:** Well, take care. Thank you very much.

**Whittenburg:** You bet.

**Hales:** Let's move to the consent calendar. We have nothing to withdraw from it, so we'll take action on the consent calendar as printed. Roll call.

**Roll on consent agenda.**

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

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**Hales:** And then let's move on. We have time certain later. Let's take up item 34. That's going to be rescheduled.

**Item 34.**

**Hales:** This will be rescheduled to February 24th at 9:45. Let's go to the regular calendar, please. Mr. Davis, could you sit down? Mr. Davis? Could you sit down, please? Thank you.

\*\*\*\*\*: [inaudible]

**Hales:** Not here in the Council chambers, sir. Please have a seat. You're welcome to testify later if you'd like to, but please have a seat.

**Item 43.**

**Hales:** Any further questions or concerns about this? Second reading, roll call.

**Item 43 Roll.**

**Fritz:** I appreciate the discussion last time and your commitment, Mayor, as the Commissioner-in-Charge of the bureau of police to look into whether some of the fees to be charged could include a portion of cost recovery for the dedication of the Portland taxpayers of \$18 million to build this facility so that we do more than cover the cost of opening it and keeping the lights on, but in fact -- especially for premium services like the village -- that we make sure that we recapture some of the expenditure. Aye.

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

**Hales:** Thank you very much. Item 44.

**Item 44.**

**Hales:** If there is no objection, I will return this to my office and we're going to come back with the revised regulations through the residential infill project.

**Item 45.**

**Hales:** Good morning, Christine and John.

**Christine Moody, Chief Procurement Officer, Office of Management and Finance:**

Good morning, Mayor and Council. Christine Moody with procurement services. Today you have before you the Chief Procurement Officer's report recommending a contract award to U.S. National Bank for fleet credit card services for the Bureau of Internal Business Services, City Fleet division. The contract cost is based on the purchase of approximately 250,000 gallons of motor fuel for City of Portland vehicles for not-to-exceed \$850,000 per year or 4.25 million for the five-year agreement.

In accordance with City code, the City is able to participate in cooperative procurements without needing further competition for establishing price agreements for the purchase of goods or services. The western states contracting alliance competitively solicited and the state of Oregon issued a corresponding participating agreement to allow Oregon municipalities to utilize this agreement. The City public noticed the intent to utilize this agreement on November 24th, 2015, and no protests were received. John Hunt is here from City Fleet to answer any technical questions, or I will turn this back over to Council.

**Hales:** Any questions about this?

**Fritz:** I had some questions last time and I very much appreciate all of your and your staff's responses. It turns out that the majority of the expenditures are from the Fire Bureau, and I have gotten a copy of where the fueling stations are. Commissioner Saltzman, it looks like there's some opportunities for some significant savings if we could figure out how to refuel the fire trucks at City facilities compared with using this contract. And I know with your fiscal responsibility that you can look into that.

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I'm also very troubled that there is no requirement -- that it is bureau by bureau as to what the rules are. Certainly, something I'm going to do in Parks, which is the third largest user, is to require that every time a driver fills up at a non-City site they fill out a report saying why they needed to do that, and just -- and we'll have some accountability on that. So, I would encourage both the second-highest users, police -- I would encourage us all to ask our bureaus if ever you are using these cards, you need to document how much further was it to the fueling station, why did you not fill up when you left the car the night before, those kinds of things. Because obviously, \$4.5 million over five years is a lot of money.

**Hales:** Good point. Other questions for Christine or John? Thank you very much. Anyone want to speak on this item? If not, then it's carried forward from last week, right, we can vote on it now -- the previous agenda? It's a report, that's right. So, there's a motion to accept the report. Is there a second?

**Saltzman:** Second.

**Hales:** Further discussion? Roll call to accept the report.

**Item 45 Roll.**

**Fritz:** Well, it's going to be a very tight budget year, and we're going to be needing to scrub every bucket. This is, I think, an opportunity to -- particularly for the Fire Bureau -- to achieve some significant savings, and so I know that Commissioner Saltzman will look into that. Aye.

**Fish:** Aye.

**Saltzman:** Thank you, Commissioner Fritz, for your line of questioning last week. And certainly, I will make sure that we do check into our policies and with respect to refueling the fire engine and fire trucks. Good points. Thank you. Aye.

**Novick:** I also thank Commissioner Fritz for her attention to detail. And it does seem like we should do everything that we can to make sure that we're buying cheaper when we can. So, I will also ask my bureaus to make sure that we aren't -- that we justify and document when we're not buying at City facilities. Aye.

**Hales:** I believe senator -- [indistinguishable] -- said it first -- a million here, a million there, and eventually, you've got real money. Thank you. Aye.

**Item 46.**

**Hales:** Second reading, roll call.

**Item 46 Roll.**

**Fritz:** Thank you, Commissioner Fish, for the bureau's usual diligent report on this expenditure. Aye.

**Fish:** Thank you. Aye.

**Saltzman:** Aye.

**Novick:** Aye.

**Hales:** Appreciate the way that you, Commissioner Fish, and the bureau figured out how to do this with less disruption to the industrial district that it serves and it runs through. I thought that that was creative project management on the bureau's part, so thank you.

**Fish:** Thank you, Mayor, although we are copping to the fact that given it's a failed intersection now, it will have negative impacts on the neighborhood -- [inaudible]

**Hales:** Appreciate that. Aye. OK, Item 47, and let's also do 51-A. So, read 51-A first, please, and then 47, and we'll have the City Attorney staff present on both.

**Item 51-A.**

**Item 47.**

**Hales:** Good morning.



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**Harry Auerbach, Office of the City Attorney:** Good morning, Mayor Hales, members of the Council. I'm Harry Auerbach from the City Attorney's office. With me is Dan Simon, who was one of the lawyers who litigated the Joe Walsh matter. I'll start by speaking to the Bartlett appeal.

Mr. Bartlett requested certain City Attorney opinions through a public records' request. We denied the request on the basis of the attorney-client privilege, and he appealed to the District Attorney. The District Attorney issued an order ordering us to disclose the records on the basis of the ORS 192.495, which provides that notwithstanding any of the exemptions in the act, all public records are disclosable if they're 25 years -- after 25 years.

We believe that this is contrary to our obligations under the statute that maintains attorney-client privilege. We think it's -- it will make it more difficult for us to provide you with sensitive legal advice and to get sensitive information from -- candid and sensitive information from you and the folks who work for you in order for us to provide you with the legal advice and representation that is our obligation to provide. So, we are asking for authorization to seek review of this through filing an action in circuit court.

**Fish:** Harry, do you want to take questions on each separately?

**Auerbach:** Yes, whatever pleases the Council.

**Fish:** Thank you for your presentation. Let me pose a concern. I'd like to get your reaction. Given the current timeline on Superfund, it is entirely likely that the Superfund process -- which is the federally-mandated process for addressing the cleanup of the river -- will not be concluded within a 25-year time frame.

**Auerbach:** That's entirely plausible.

**Fish:** In fact, given that we're now, what, 11, 12, 13, 14 years of drift and great uncertainty about what's going to happen going forward, it's possible that Superfund and some of the most important decisions on Superfund will not be resolved within a 25-year period.

In Superfund, the City is a PRP, meaning a potentially responsible party, and there's a doctrine in the law that applies to Superfund which is called joint and several liability. It essentially says whoever is standing at the end has to pick up the tab for people that can't pay, which for a public entity, puts taxpayers at particular peril.

Under the ruling of the District Attorney, if we are still in the midst of determining the City's share of responsibility for Superfund and determining how to allocate that share, could we be required to turn over confidential attorney-client privileged documents in which we received legal advice from the City Attorney's office about our potential liability and how we should address those issues?

**Auerbach:** Yes. The current opinion doesn't address live controversies that have gone on for 25 years, but unless we were able to convince the District Attorney to change his mind, that would be true.

**Fish:** So, I just offer that as a cautionary tale because Superfund is not the only example of a federal regulatory action, which goes on forever. The federal rules about reservoirs have gone on for a long time, and the City's response to them. There are other sensitive areas where, under the theory that you've presented to us, we could still be in a complex, contested proceeding where someone could successfully appeal to the District Attorney to have attorney-client privileged documents turned over even though the matter has not been resolved.

So, that's a concern that I have. And it does strike me that without clarification of the contours of the statute, we could be in a situation where we're forced to turn over documents that greatly disadvantage the Council, the City, and the taxpayers.

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**Auerbach:** That would be true.

**Hales:** I'm sorry, I missed part of this discussion, but I just read District Attorney Underhill's letter this morning, and particularly on page two, he cites the statute and says it's unambiguous. So, if there is a need for statutory repair, maybe we should make the case that there's a need for statutory repair, but if the District Attorney says this is the law on this particular subject, I guess that I'm -- I find that fairly persuasive, and I'm not sure why we would mount an appeal for a 25-year-old record. So, I'm a little perplexed by this one.

**Fritz:** Well, it's unfortunate you just missed the discussion by Commissioner Fish, because he just gave a really good reason.

**Hales:** I'm sorry.

**Fish:** Also, this technically is your resolution, Mayor. I mean, the reason is --

**Hales:** No, it's actually not. It came from the City Attorney.

**Fish:** Who reports to you.

**Hales:** Yeah, well.

**Fish:** If you had a concern about this, I think as a colleague, I would appreciate a heads up about that.

**Hales:** I didn't know about it until last night.

**Fish:** You didn't know about a four-fifths that we had to sign on to the agenda?

**Hales:** Sorry, I didn't know.

**Fish:** OK. So, the issue that I have flagged for you and my colleagues is Superfund, where it's entirely possible that within the 25-year period covered by this ruling, we would have to turn over opinion letters from the City Attorney's office before we've resolved the liability and the allocation process. And I think that's a real problem. As you know, Mayor, one of our frustrations with Superfund is that it's going to outlive our grandchildren at the current pace. And under this ruling, even with Superfund still pending, we would have to turn over in response to a public records request at some point legal opinions we got at the beginning of the Superfund. So, I was persuaded on that basis that it would be prudent to get -- to file an appeal just to make sure that the statutory interpretation of the District Attorney -- who, by the way, I have a lot of respect for but has yet to be declared infallible -- is addressed by a court of law. And I also think we should pursue potentially a statutory fix for the reasons that you have identified. I see it as a dual track. But if the statute as Harry interprets it can be read in a certain way that's different from the District Attorney, I'd prefer to have a court decide that -- particularly where we have documents that could be picked up by this ruling that would put us in a detrimental position on Superfund.

**Fritz:** I have a different course of questions, and that's regarding your statement that there's another segment of the Oregon statute that addresses attorney-client privilege. Has attorney-client privilege ever been ruled on by the Supreme Court?

**Auerbach:** Well, frequently. The rule is a rule of evidence. There's a rule of evidence, there are rules of professional conduct that require us to maintain the confidences and the secrets of our clients. And the District Attorney basically said that both of those gave way in this instance to that catch-all provision in the public records law that made all public records disclosable after 25 years. I am not aware of a situation in which this issue has reached the appellate courts yet, otherwise we would have had a clear answer.

**Fritz:** About a public body?

**Auerbach:** Yeah.

**Fritz:** But for other entities, attorney-client privilege --

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**Auerbach:** Well, other entities aren't subject to the public records law, so in essence, what we're trying to do through this resolution is get a ruling that puts you on equal footing with the private clients whose communications with their attorneys are privileged forever.

**Fritz:** Thank you.

**Fish:** Can I make a qualifying point? We get different kinds of legal memos from our attorneys. So for example, sometimes we ask them to give us a memo that just outlines the legal landscape. What are the laws? What's been the case law? And what are the boundaries that govern our decisions? I have less concern about those becoming a matter of public discussion because they don't involve the kinds of strategic decisions that we have to make in light of legal risk. A memo that says, "in light of X, Y, and Z, the City might have this exposure and we recommend the following actions," no one in a complex, litigated, administrative proceeding has those legal memos put into the public record because they compromise people's positions. And if we can't get candid legal advice about the strengths and weaknesses of our case without fear of them becoming part of the public domain, then what the net effect will be, Mayor -- we won't ask for them. In which case, I don't think that we'll be making the same kind of wise decisions based on at least the best guidance of law the legal team can give us about legal liability. For that reason, in that narrow instance, I think that the District Attorney's decision doesn't make sense. And I'd love -- I would prefer to have a court try to reconcile the different provisions of the statute. Commissioner Novick?

**Novick:** Commissioner Fish, I have to say that I thoroughly agree with the principle that attorney-client privilege is attorney-client privilege, and I don't think that there should generally be a time limit on it, but I'm just wondering what your thinking is as to that language, "notwithstanding ORS192.501 to 192.505 and except as otherwise provided," etc., what's our argument that 192.501 to 505 does not implicitly cover attorney-client privilege?

**Fish:** If you don't mind, we have able lawyers who have been briefing us on it. Harry, what's your response to that?

**Auerbach:** The argument would be that the attorney-client privilege -- so, the public records law doesn't specify matters that are the attorney-client privilege, it specifies an exemption for things that are privileged or confidential under law. And the best argument I think we're going to be able to make is that notwithstanding the public records law, the attorney-client privilege itself continues to make those communications privileged. It's not a slam-dunk by any means, but we're trying to preserve our ability to give you the best legal advice that we can.

**Fish:** When I was briefed on this, Mayor -- and I don't claim any expertise on it -- and as you know, we are all committed to responding in a timely way to public records -- our office bends over backwards to expedite production of documents that we can and we believe strongly in the idea of transparent government. This question, though, about whether all privileged documents from the City Attorney's office that go beyond just advising us on the law and provides strategic advice and give us best judgment about risk in cases that are still ongoing seems to me to present a significant challenge. And I was persuaded when Harry briefed me that we should do both. We should raise this as a question for the legislature to ponder, but we should also seek an appellate ruling so that we have clarity about where to go next.

**Hales:** I hear you. I guess the situation in which an issue is still ongoing 25 years later is obviously rare. The Superfund, as you argue, is one of those instances. So, your



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understanding is the law makes no distinction between legal issues that are still ongoing versus just history that, for some reason, somebody wouldn't want to disclose.

**Fish:** Harry, is that right?

**Fritz:** The records that we --

**Auerbach:** The statute does not make that distinction, that is correct.

**Fritz:** I believe the records Mr. Bartlett wants are connected with the reservoirs, which we I'm not sure we're entirely done with either.

**Hales:** Right, so there are --

**Fritz:** Mr. Walters obviously has something to add here.

**Ben Walters, Chief Deputy City Attorney:** Ben Walters with the City Attorney's office. Part of the dilemma here is that Jennifer Johnston, who worked on the public records request response, is not in the office today and so Harry came in to help with this matter, but I know a bit more about it having conferred with Jennifer.

The dilemma that we face is that there is a very quick turnaround time for filing an appeal. We have to give notice to the requesting party and the District Attorney of our intent to file an appeal within seven days of the order being issued. And so we had to bring this before you on an expedited basis.

There was a question about if there's any interpretation out there that exists for a different outcome, and I would just note that Jennifer pointed out to me that the state Attorney General's office is, actually, not of one mind on how this provision, the waiver provision should be interpreted. They've issued conflicting opinions arriving at one conclusion many years ago that determined that the waiver exemption applied across the board, and subsequently, more recently within I think the last decade issued an opinion in which they concluded the opposite that the waiver provision was a general provision and did not control in specific circumstances, which is a different cannon of statutory construction.

So, there is some disagreement out there among the folks who have been asked to interpret this, so there is an opening there for our office to seek some clarification from the judiciary and get a determination as to which one of these analyses would control.

**Fish:** Mayor, I have a suggestion because this is obviously a complicated area. If we don't provide notice of intent to appeal, we can't appeal, so the door is closed.

**Hales:** Right, I understand.

**Fish:** And we have from time to time protected our right to appeal issues so that we can later decide not to or to proceed or on what basis. That's the first question. And that seems to be time sensitive.

The second has to do with the scope of Mr. Bartlett's document requests. I think it would be entirely appropriate for us to ask Jennifer Johnston to brief a Council member about the scope of that request and to see whether any of those things can be resolved informally because we have -- we would all prefer to have non-privileged, non-sensitive documents produced for obvious reasons.

And the third is that we could say that before -- since notice of appeal is different from appealing -- we could say that before City Attorney files any appeal, we have a follow-up discussion about the utility of that versus legislative relief. So today, we are just limited to getting approval to put a marker down for a notice of appeal, which we would otherwise lose, and then when Jennifer is back in the saddle, we can talk about a range of options including potentially not appealing.

**Auerbach:** Let me clarify. Excuse me, I'm a little under weather so I'm sucking on a lozenge here, I apologize. The statute requires that we give notice of our intent within

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seven days of the District Attorney's decision, and that we file the action within seven days after that or else we're required to pay the requester's attorney's fees whether we win or lose. So, basically what we're trying to do is save you the expense of having to pay Mr. Bartlett if he hires an attorney if we win the case. So, I just want to be clear on what's at stake with the seven and seven.

**Fish:** Again, I'd propose a dual track where we make every effort to produce all the documents that don't fall within any concern we have, and we get a clarifying ruling about when does the public records law trump, in any way, the attorney-client privileges and the ongoing cases where frankly producing those documents puts us at a disadvantage with other parties that would like nothing more than to know our legal strategy and use it against us.

**Hales:** Yeah, those distinctions do make a difference for me. I find that more credible than my first view of this. So, that's helpful. Thank you. Further questions for staff? Thank you both.

**Saltzman:** So, we're approving the notice of intent to appeal but we're also basically -- [speaking simultaneously]

**Auerbach:** That's correct. You're authorizing us to go forward.

**Saltzman:** Right. OK.

**Hales:** We'll see if there is testimony on this item and then we'll take action.

**Auerbach:** We'll be back --

**Hales:** I think that I will return briefly to a time certain item after this and then come back to the second legal case. But it won't take long, so, stand by. Testimony, please, on this particular item?

**Moore-Love:** For 51-A, I have Joe Walsh, Nancy Newell, and Charles Johnson.

**Hales:** This is only on this case, please.

**Joe Walsh:** My name is Joe Walsh, I represent individuals for justice. I'm a little confused. Are you going to ask us to give testimony on both items?

**Hales:** No, I'll call you back for the second item.

**Walsh:** No, I'm signed up for both.

**Hales:** OK.

**Walsh:** Which one are we doing now?

**Hales:** We're only doing the case that we just discussed, 51-A.

**Walsh:** 51-A, OK. That seems to me that an organization like yours that received an F in transparency would be bending over backwards to releasing documents to people to satisfy dissatisfaction going on in the community. It's hysterical to me that you're arguing something that sits on the fence. And your arguments, Commissioner Fish, are very good arguments. But they're not going to carry the day. It's not a slam dunk. You know? You're even saying it's questionable. Why in god's name would this body, with your reputation of not giving out documents, do something like this? What is it that you win if you vote on this and you win in court? What is it that you win? You aggravated a district attorney. That's what you have done. And you do that over and over again. You don't see -- what's that term? The big picture. You don't see the big picture, guys. Lady. Please, would you think about this? This is not a big deal with me, obviously. However, I don't go out of my way to aggravate a district attorney. That's what you are going to do. In his opinion, this is what you should do. And you're saying, "eh." And that's your attitude a lot. "Eh." We sit here and we dictate what we want, and you are going to eat this one, which is really sad. You're totally dependent on your City Attorney's advice, and their advice lately is not very good. Think about it. Maybe you ought to bring in lawyers from a place that's objective,

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and says, "hey, guys, release this stuff. Don't be jerks. Just release this." As far as arguing that you have the same privacy rights as I do when I go to a lawyer? That's a tough one. Because when I go to a lawyer and we talk and that's privileged communication, there is no huge federal agency looking over our shoulder. It's done. What you guys are asking is not done. And two lawyers on this Council should know better. So, don't vote for this. This is really bad stuff.

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

**Nancy Newell:** Good morning, I'm Nancy Newell. I've won a federal case with the county and the county lawyers being in error. And it was a significant one, because it was Enron controlling our electric grid. And it was critical because of the actual criminality happening in our own World Trade Center headquarters and the full approval of the state, the Public Utility Commission, and the City.

Now, I am here today because this is a big mistake on our part. You're spending legal money wasting time. We have a COAB process that's a very serious community effort -- hours that people putting in. Commissioner Saltzman's representative rarely shows up, doesn't even show up at committee work sessions. We're trying to get things done. They have been declared public officials. They didn't come in knowing this. They've been restricted in what they can say, how they can say it, and you don't know what the laws -- in this situation, which is critical, and the reputation of the transparency, and the lack of trust at the level this City is suffering is unbelievable, and people are dying on the streets. People are not being fed. And three out of four Americans now live paycheck to paycheck and they're homeless, and they're sick, and they're sicker, and they're freezing to death. What in the world is this Council about?

I've won the case. You know what the federal judge ruled? And this is when the ballots were sent out illegally and had an illegal ballot title and he ruled in our favor. They allowed them to send it out early, and you know what our recourse was? One page in the Oregonian on an illegal election. So, we don't have a lot of faith. And we have Warren Buffett running PacifiCorp and throwing coal trains and wasting our time and killing future generations. This is serious stuff. And people are out there being very upset because they should be because not enough attention to brought to it. And this is one of the areas where you can do some really good work. I'd like to see Mr. Saltzman get his rabbi representative to pay attention or replace him, because we can't get things done. We've been doing this for a year, -- hours and hours, not to mention the lawyer hours advising us what we can or cannot do, when Judge Simon just ruled against you, and he's the settlement judge for the COAB. So, where is our direction? What do we do? Are we going to end up in jail or something? I mean, it's really that confusing. So, let's waste less time, spend millions less, get much better results in cooperative relationships with Council, with police, and try to have a better atmosphere in the City. Thank you.

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

**Charles Johnson:** Good morning, Commissioners, Council members. My name is Charles Johnson, and it's tragic you're being grossly secretive. You're clearly demonstrating why, regardless of whether it's Fred Stewart or Chloe Eudaly, Steve Novick needs to be replaced, and while no matter it's Ted Wheeler or Jules Bailey who wins, we'll be better off than we are with Charlie Hales and this gross secrecy.

About this you have a two-page PDF attached to the agenda item. The only thing that's really relevant in there is swindler. It should say joe glicker [spelling?]. There's nothing to let the people know that there is relative -- I know you are taking the high road and saying -- just like when you did your idiotic stupid appeal of Judge Simon's ruling,

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which you lost -- sorry, you negotiated a consent decree, they changed some semantics -- this is the same crap from you and your 40 overpaid worthless attorneys making probably \$100,000 a year, nice -- four million dollars there. So --

**Novick:** Mr. Johnson --

**Johnson:** Yes?

**Novick:** It's OK for you to insult us, but do not insult City employees.

**Johnson:** Freedom of speech -- get an injunction to stop me. So, what we have is a situation where you're not telling the people what's going on. You're saying, "oh, we're protecting attorney-client privilege. We're noble." You are trying to hide facts about public actions regarding the reservoirs, which you're using as a tool to pump money through contractors so you can adhere to some ridiculous, unenforceable LT2 crap about the reservoirs. You're hiding that crap so you can say, we must do this today, otherwise we'll have to pay attorney's fees to a guy who doesn't even have an attorney, he's just a citizen making a public records request. Do not pursue this appeal. You won't be trapped by any -- this is the lowest level court decision, it's not going to constrain you by any horrible precedent. You can do whatever you want the next time the case comes around. Don't do it. Resign.

**Hales:** Next, please. Go ahead.

**Moore-Love:** We also have Mr. Robert West.

**Hales:** Come on up. Mr. Davis, are you going to testify? Go ahead. Go ahead while he's coming up.

**David Kif Davis:** Oh -- talk now?

**Hales:** Yes, please.

**Davis:** So, you guys are -- I actually wanted to talk to him and he left. So, maybe I'll let him talk.

**Hales:** Go ahead, please. He had to leave -- I don't know why -- but go ahead. You're on.

**Davis:** Basically, he's saying not to insult City attorneys. That's ridiculous in itself. That's called the First Amendment. And these same City attorneys, you know, are here as the hired gun to crap on the constitution, to [expletive] on our bill of rights --

**Hales:** Please -- come on.

**Davis:** If the City attorneys use toilet paper that has the Constitution printed on it, I think they're worthy of our insults. And you know, you guys presenting this appeal is ridiculous. What's all the big secrets here at City Hall? Are you trying to hide stuff? Because I know that you definitely haven't released the surveillance footage of me being arrested when I was filming on November 25th. So, that reeks of a cover-up. Why can't my lawyer see the real surveillance footage that shows that I did not push the G4S security goon of yours, Mike Cohen, who's a former cop from LA? You know. You're the Police Commissioner, and you are allowing your personal bodyguard to falsify police reports against me? You don't think that that's a conflict of interest? And why is G4S, an international mercenary firm, even policing at City Hall? These guys are being used as an extrajudicial wing of the police, and I actually think that you, personally, Mr. Police Commissioner and Mayor, conspired against me to have your G4S security goon tackle me and falsify a political reporter against me. I'm actually accusing you right now of being responsible for that because you've been trying to remove me from City Hall since the first day that I ever came in here when you guys altered and deleted my testimony. You blacked out the audio and you went over and blacked out the screen so people can't see what I'm talking about. I was talking about a child molester who's linked in with the police agencies around here who's now doing a 25-year prison sentence. And I just can't see what the big deal is why

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you guys can't allow a few voices of dissent in the City Hall, and you're so determined -- [beeping] -- to appeal this ruling.

**Hales:** Thanks very much. Thanks. Go ahead.

**Robert West:** My name is Robert West, and just the secrecy just boggles my mind. First of all, the City is a public entity. The Mayor's office, the City Council doesn't own the city. The people of the city of Portland, own the city. You guys work for the city. The City Attorney's office works for the city. If someone in the city wants some kind of documents regardless of if it's from the City Attorney or not, they should be able to get those documents.

I'm somewhat shocked at the way that the City has been handling things lately. In my civil case, the -- I showed Amanda Fritz when I was injured -- not last November, but November before that -- hospital documentation. City attorney goes, well, we're not -- the City is not responsible for what the Portland police does. When they announced -- when they went into the center of the street, you're all under arrest, and then they arrest the protesters for standing in the street after the officers told people to get into the street, the City Attorney goes, well, they voluntarily were arrested. OK.

The thing is, is we can't -- you are asking us to trust you guys, and you guys have constantly sat there and showed that we can't trust you. We can't trust that those documents, that -- what happens later on when those -- when there is a legal thing going on, and the City Attorney goes, well, I'm sorry, we don't want to produce those documents? Those documents are not people's individual documents. They're the city of Portland. They are owned by the public. They're not owned by the Mayor's office. They're not owned by the City Council's office. They're owned by every person in the city of Portland. The people of the city of Portland pay their taxes, you know, to make sure that everything is taken care of. That should also include the documents that the people want.

Filing this appeal is ridiculous. What you're saying is you're saying, well, we want confidentiality when there shouldn't be confidentiality. You guys are responsible to the public. The City Attorney's office is responsible to the public. You know, well, how can you be responsible to the public if the public can't see what you're doing? [beeping] I mean, to me, this -- there should be no appeal. The DA's office was right. And I hate to say it, they were right. The people of the city of Portland deserve better than what they're getting. They don't conserve confidentiality. They don't deserve confidential meetings. [beeping]

**Hales:** Thank you very much. Anyone else want to speak on this? So, further discussion.

**Davis:** Secrecy rules Portland, that's what it is.

**Hales:** Let's take a vote on the resolution.

#### **Item 51-A Roll.**

**Fritz:** Thank you for bringing this up. This is an important principle. There are many important principles at stake here. To me, attorney-client privilege is somewhat sacrosanct. The United States Supreme Court in my understanding has ruled that it survives the death of the client, it survives the attorney leaving the firm, it survives all kinds of what-ifs later. It's forever. And that's the United States Supreme Court that has said that. So, what we're asking for is parity on attorney-client privilege. I also liken it to the patient provider confidentiality in healthcare --

\*\*\*\*\*: We're not individuals!

**Hales:** Hey, hey -- let her speak.

**Fritz:** I'm no longer a healthcare provider, but I still do not reveal personal information about people I worked with. And it's distracting when people yell because I lose my train of thought.



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\*\*\*\*: [from audience, indistinguishable]

**Hales:** No -- one more time and you'll be excluded. She gets the right to speak just like you did.

**Fritz:** Commissioner Fish's example of Superfund is a really good one in that it's quite likely that it won't be resolved within 25 years and that privileged communications between Council and attorneys would then be available to the public and to other parties in the conflict. So, the natural conclusion, if there's -- until and unless we can get clarification from the legislature -- is that attorney-client advice to the Council will become oral only. There will be no documentation of it in case that could then be used against the City in future cases. And as a Council member who's not likely to be on for the next 25 years, I want to be able to ask my attorney, our attorney, the Council's attorney for the advice that they gave to previous Councils and to have some record of it. It's going to be really difficult for future Councils if there's no record because that advice might have been so sensitive that it shouldn't be -- it was not written down. So, I think that it's an important clarification that needs to be asked, I believe that there is a conflict between the different state statutes, and it's reasonable for us to ask for that clarification. Aye.

**Fish:** Commissioner Fritz, that was such a succinct and thoughtful statement, I'm loathe to add to it, but I'll just add one point. Someone who testified admonished us not to dictate somehow the outcome of this. Let's be clear. The procedure has been established by the legislature, and this is how it works. If there's a disagreement about a public record, it goes to the District Attorney, who, based on limited submissions from the party, makes his or her best ruling. The law says that if either party -- the citizen, or the government -- thinks that the District Attorney -- who, last I checked, doesn't fall within the zone of infallible -- got it wrong, either party has the right to go to an impartial judge. Mr. Walsh, you of all people it seems to me would be celebrating the fact that impartial judges decide this --

**Walsh:** Don't use my name unless you --

**Hales:** Hey -- he gets to say whatever he wants. Mr. Walsh, he's speaking. You're not.

**Walsh:** Don't use my name --

**Fish:** We should celebrate having independent judges decide these questions because that's the very issue we're going to take up later today about a judge's ruling. So, what we have been asked to do by our attorneys is to ask a judge -- an impartial judge -- based on the information from both sides to tell us clearly whether we're required to turn over documents, sensitive documents covered by attorney-client privilege after 25 years. It's a very narrow question. And if a court disagrees with our view of this, I think that we should take it up with the legislature and for the very reason that Commissioner Fritz alluded to, and that is Superfund. And I think that it would be substantially prejudicial to the public interest for us to turn over confidential opinions from our attorneys about liability and strategy in Superfund, which the polluters in that case that are perfectly happy to stick us with all of the liability could use against us in that instance. And I regret that the people don't sort of embrace the obvious logic of that, but I think it's worthy of having an independent judge tell us yea or nay. And I think it's entirely appropriate, and exactly what the law contemplates. So, I vote aye.

**Saltzman:** I appreciate this discussion. I have a lot of respect for our District Attorney Rod Underhill, but I do believe that given this discussion we have a valid issue to appeal for an impartial opinion. Aye.

**Novick:** I agree with all the policy arguments that my colleagues have made, and I respect the City Attorney's office, and I signed on to considering this matter today, but I

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have to say that just looking at the statutory language where 495 says “notwithstanding ORS 501 to 505” and it’s 502 that exempts the public records or information or disclosure which is prohibited or otherwise made confidential or privileged under Oregon law, I just don’t see a way around this, and I think that the law should be changed to make it sure that attorney-client privilege is attorney-client privilege. But given the law as it currently reads, I vote no.

**Hales:** Well, I had some reservations and still do about whether we should move forward with this, but I am persuaded by the Council’s discussion, so I appreciate my colleagues’ analysis of this. I think it’s gonna have to get resolved by the legislature. I don’t think this is going to get resolved in the court. But if our attorneys want to get a judge’s decision as at least one step in the process of resolving the conflict between the two statutes, then that’s a reasonable step to take. Aye.

OK, with the Council’s permission, I’m going to change the order and take up the time certain item because we have a couple of earnest volunteers here whose time will be demanded a lot by the City, and they are here this morning using their time again. We’ll get back to it but take 35 now.

**Item 35.**

**Hales:** I want to invite those two wonderful citizens to come forward because it’s with great enthusiasm that we bring this action here to the Council today to appoint these two folks to our Planning and Sustainability Commission. We are grappling now with how to grow and grow a lot and also to do it in a livable and equitable way, and I can’t think of two people whose commitment to those ideals and practical ideas for how to make it work could come along at a better time.

As we know, we spend a lot of time with Katie. She’s a member of our citywide budget advisory committee but she’s also a charter member of the East Portland Action Plan, a consistent advocate for East Portland in all things but also able to see the whole picture of the whole city. Eli Spevak serves on our residential infill project stakeholder advisory committee. He’s the owner of Orange Splot LLC, which specializes in small, sustainable development and thinks a lot about affordability and how to make it real in our city. So, we think that the combination of these two people coming onto the Planning Commission is just in time. So, thank you both for being willing to serve and give you a chance to say anything you’d like and answer any questions that Council might have.

**Eli Spevak:** My colleague on the commission has laryngitis so she can’t speak.

**Hales:** [laughs] Katie is rarely silent.

**Spevak:** She pointed out that she can speak very little right now. I didn’t know that there was a time to speak so I think I will let you continue on with other business, but I’m honored to be serving on the commission and look forward to having that role a bit on the inside -- I’ve been on the outside for a long time -- and we’ll see how it goes.

**Fish:** Mayor, can I make a couple of comments?

**Hales:** Please.

**Fish:** First of all, I want to applaud the Mayor for bringing this forward and nominating both of you. Katie, after the Mayor listed all your credentials and all the work you’ve done, I was thinking that the only thing missing was no good deed goes unpunished. You have given this time and we’re going to double down.

Each of you, I think, brings a unique voice and perspective to planning and I just want to encourage two points. Katie, you’ve been relentless in your focus on parts of the city that have left behind, and parts of the city where a one-size-fits -doesn’t quite work. I think that that’s an important voice, both in the comp plan discussion and in the hard work

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that follows the comp plan, and in looking at all of our built environment zoning land use proceedings. Asking the question, are there parts of the city where we have to be more flexible in the look and the design and the like, taking into account different historical patterns? And should we at least be open to considering alternatives?

And Eli, one of the things in the last few years that I feel we've tried to tackle but probably have fallen short is figuring out how we promote a smaller footprint home, and at the same time in doing so, restructure the regulatory framework so that our policies don't in effect discourage the development of smaller footprints. So, for example, I was heartened that Commissioner Fritz, when she brought forth her proposal for parks SDCs, she tailored them in such a way that if you had is a footprint below 700 square feet, there was an affirmative kind of incentive around that footprint. And in the past, we've been encouraged to encourage smaller footprint, less expensive, more sustainable kinds of housing, more flexible housing arrangements, but our code often worked across the purposes. I think you're uniquely positioned to help us look at things like SDCs and regulations and other things so that we are not working like this at cross purposes, but if we really want to have smaller footprint, more environmentally-friendly, green, sustainable housing, and co-housing and some of the things that you pioneered, how do we make sure the code supports it and does not work across the purposes? So, I'm excited about both of your nominations, but I think you each bring a unique perspective that will be very helpful on that commission.

**Hales:** Thank you. Other comments or questions for our two nominees? We'll have to get Katie to write down her responses.

**Spevak:** I think there's a lot that the planning department can do to help affordable housing more than happened so far, so I hope that there is a role for the commission on that. And also, thank you to our partners with us here because this is a lot of time commitment, so it takes other people handling other things in our lives to serve on it.

**Hales:** Yes, it does, and thank you. Thank you both very much for being here today, we'll see if anyone wants to speak on this report before we take action on it. So, thank you both. Thanks for coming. Come on up.

**Charles Johnson:** Good morning, Commissioner. Again, for the record, Charles Johnson. And I do want to apologize in part to Commissioner Fritz for my previous interruptions. It's a hotly-contested issue whether governments and corporations should have the same rights as individuals. I think generally, she and I are on the same page, but she was elected to protect the City government's interests, and there will be contentious matters, so I apologize to her for my outburst. As for the entire City Attorney's office, we'll deal with that when the other agenda item comes in.

The reason I came up here is because we're missing something that happened, and it's City government is a bit of an octopus with many more tentacles than that. In the past few months, the people of Portland have tried to bully the developers through the volunteers on the tree commission, so the pro developer people on the tree commission resigned -- four of them. That relates to this agenda item because we're talking about recruiting public members to assist this Council and the City in developing sensible development policies, planning, and sustainability. So I hope that regardless of the new designation of COCL/COAB members as public officials, I hope that the people that have just been appointed will not feel that their free speech is constrained when they talk about the important issue of how we can protect the tree canopy and make sure that our tree commission is full of people who realize that for the sake of quality of life, even though



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density may be important, we cannot go around and slaughtering trees to line the pockets of the developers. Thank you.

**Hales:** Good morning.

**Nancy Newell:** Good morning. Nancy Newell. I have a very long experience in energy efficiency and promoted it for many years. We are the lead in the northwest in the energy efficiency capacity and the rate that we are doing it. We have is a very big problem with the nuclear plant on the river up in Hanford. It directly relates to this Council because you're paying bills that provides that service. We do not need that plant. It's dangerous. The risk now -- because the grid has been compromised throughout the United States. And we need to get to further energy efficiencies as fast as we can, and if we close that plant, we capture 1200 megawatts. And we can do that. The report has been issued by the northwest -- the northwest energy coalition, I believe it's called -- it is like a 300-member organization that are experts, and after led the lead, and that's why this City has a tremendous record on the energy efficiency. So it's all logical, all we need a resolution agreeing with that, and if you want to keep doing the great stuff, I think that it would be a wonderful move. Thank you.

**Hales:** Thank you very much. OK, is there a motion to accept the report?

**Fish:** So moved.

**Saltzman:** Second.

**Hales:** Further discussion? Roll call, please.

**Item 35 Roll.**

**Fritz:** Thank you very much for your willingness to serve. And thank you to your partners, also, for being willing to support that. Aye.

**Fish:** Thanks to both Eli and Katie for agreeing to serve. Mayor, these are tremendous nominations, and I'm delighted to support this application. Aye.

**Saltzman:** Well, I also want to thank you, Mayor. I think these are two outstanding appointments to our Planning and Sustainability Commission. Eli and Katie are both very smart people. I think that Eli has provided me with lots of insights on how our comp plan can support affordable housing, and I hope we will address some of those issues when we adopt the comp plan. But I do think that, you know, Katie with her longstanding roots in East Portland and Eli knowing both the development side of the world and as well as land use and socially responsible are just two outstanding appointments. And my respect and esteem for the Planning and Sustainability Commission has only grown since we labor through the comp plan hearings on micro-issues that are very hard, I think, for us to track, and I know they track and deal with all these issues. I really respect the amount of time that they devote, and I'm glad that they both brought their partners here today because it is a very demanding time experience. We appreciate it. Aye.

**Novick:** It's an honor to live in a city where people like Eli and Katie are willing to serve the public for free time and time again. I think I first talked to Katie about 10 years ago when she was one of the first school board members I called to get help in opposing a right wing ballot measure in 2006 and have had the pleasure of working with her numerous times since then. Eli Spevak presented perhaps the most fascinating chart I have seen in three years, at our comp plan hearing a couple of weeks ago. I really look forward to having them in the commission. Aye.

**Hales:** This is the biggest volunteer job in the city at the most important time in our history -- or at least one of those most important times -- because we're going to grow by 200,000 people, we're told, over the next 20 years, add 140,000 jobs, and not physically change the size of the city in order to accomplish all of that. That's a big deal. And what you're

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willing to take on is really important work, so thank you. And again, to your partners, because there are a lot of hours involved.

A couple of admonitions I always try to deliver to the Planning and Sustainability Commission about how this work goes. One, I think it's important to remember that every plan is a plan for things to stay the same and a plan for things to change, and we have to sort out which are which and how we get the result that we want in each case. There's things about Portland that we love that we want to keep, that we want to defend, that we want to preserve. How do we do that through planning and regulations? And there's some things that we know that we need to change in order to be the city that we want to be. And to be clear about that.

Secondly, the other principle I always try to articulate to the Planning Commission is that their job is to get the proposals that they bring forward to somewhere around the 85th percentile. This is not a rubber stamp Council that expects to just have all the work done by the Planning Commission and where we simply, you know, go through an exercise of listening to people and adopt the recommendations. We expect you to go something close to what we think is the ultimate document, and then shape it further in public testimony. It happens here all the time when people show up and are surprised that they can still make their case about their property or about their neighborhood or about the city in general and have the Council say, you know, that person is right, we're going to make a change here. That's good. That's not indicating bad work by the Planning Commission, it's indicating a healthy public process, and that's why we have two layers for the effort.

Finally, the one most recent admonition that I guess that I would give to the planning commission is as I've worked on the comp plan, and as we have had hearings, I think it's an excellent piece of work, but I'm looking in several places to make the document even bolder because I think there are some cases where maybe not so much the commission but the staff were trying to be cautious, and in some of the aspects of the plan given the challenges we're facing, we have to be pretty bold because we won't get the future that we want under the pressures we are facing if we aren't. So, I would say, don't hold back. Get us your best shot at what you think the future should be and let us figure out the politics rather than try to give us a place of safety. If we wanted safety, we wouldn't have volunteered for these jobs just like you would not have for that one. Thank you very much. We're looking forward to your service. Aye. Let's return please to item 47, and I want to give Commissioner Saltzman a chance to make some opening comments.

**Item 47 continued.**

**Saltzman:** Thank you, Mayor. I wanted to speak about why I support bringing this resolution and why I'm urging my colleagues to pursue an appeal in Joseph Walsh v. Bryant Enge.

First off, this is not directly about Mr. Walsh. And let me be clear. While we may disagree on much of the business that we conduct here, I absolutely support his and other citizens' rights to testify and express disagreement in these chambers. Secondly, this is not about decorum or hurt feelings. We all know democracy is messy. My staff take in hateful speech of all stripes every week and have a thick skin. But they also have the right to come to work in an environment free of discrimination, harassment, or retaliation of any kind. This is about the precedent of this ruling severely limiting the Council's ability to exclude persons for violent, threatening, or intimidating behavior. This ruling should be chilling to everyone, including Mr. Walsh, who should be able to come here and redress

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their government safely. This appeal is not about limiting free speech, it's about encouraging it.

We've had many violent and disruptive things happen in this building and in these chambers. In recent months, an unknown man with a knife menaced City employees near the back steps of this building. There have been telephonic death threats to multiple offices in the building that have gone unprosecuted. I have other examples, but most distressing to me was what happened on November 25th, about six weeks ago, in these very chambers. City business was disrupted with shouts and aggressive behavior, furniture being knocked over. And amidst all the screaming and distraction, someone planted a backpack with a beeping smoke detector in it. I don't know if this was a hoax, but I have no doubt the intention was to invoke fear.

I support this resolution to square with the reality of our present day environment. Here and across the country, in our own state, this very moment, dismay with government has reached new levels. And this is the environment that we live in. And while I signed up for it, the employees in the building did not and neither did the public or members of the press that come here with a reasonable expectation of safety. Recently, a City employee in an email said, "it's very difficult for those of us who have open offices and open doors to feel secure in our building." For this reason, we must absolutely reserve the right to prospectively exclude people from City buildings for valid reasons.

Now, I'm not a constitutional scholar, but I served many years with somebody who is, Commissioner Randy Leonard. He used to sit on the seat that Commissioner Novick serves in now. And while Randy and I disagreed on a lot of issues, I certainly respect his knowledge of the constitution and his history, and one thing I learned from him was Justice Oliver Wendell Holmes in a ruling said free speech has limits. You don't have the right to cry "fire" in a theater. And I think that's true as we consider this appeal. We must act to protect and have the ability to control violent, aggressive, behavior directed towards us or people who work in this building or our public who comes to these meetings. So, I thank you for your consideration. Harry Auerbach and Dan Simon are here to provide any perspectives they wish, and I would urge approval.

**Harry Auerbach, Office of the City Attorney:** Thank you. Mayor, Council, I don't think I can add much to what Commissioner Saltzman said, so I'm happy to answer any questions that you have.

**Fritz:** Is the ruling about City Council meetings or about exclusions from City buildings?

**Auerbach:** It's fairly broad, actually. And I'll let Dan speak about this a little, but basically, it -- the ordinance you have, the City code provision authorizes the Mayor or his designee to exclude a person from City property, and that ordinance has been enjoined in its entirety to prohibit prospective exclusions.

**Dan Simon, Office of the City Attorney:** That's correct, Commissioner Fritz, members of the Council. What the decision of the judge in that case was was that the code provision as written is unenforceable. So at this point, there is an injunction granted against the enforcement of that provision.

**Fritz:** It seems to me that those are two different things, that people expressing their views however loudly and potentially obnoxiously in City Council is different from threats of violence either in the Council chambers or in City offices. And I'm wondering if the appeal could be -- either the appeal could be narrowed or could we quickly change City code to distinguish between those two things?

**Auerbach:** I think the answer to the question is yes, both parts. First of all, I don't think that anybody -- certainly the judge didn't suggest that you can't exclude people from your

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meetings when they disrupt your meetings. The only issue is if somebody disrupts your meeting today, do you have to let them come back and disrupt the next meeting before you exclude them again?

**Fritz:** That's not my question. My question is for somebody who threatens violence --

**Auerbach:** Right. And we will certainly make that argument.

**Hales:** Does the ruling encompass both?

**Auerbach:** Yes. The ruling simply prohibits you from enforcing that ordinance at all.

**Fritz:** My contention would be that someone losing their temper today doesn't mean that they will lose it again next week but whereas somebody who says "I'm going to kill you no matter how long it takes" should indeed have some time where they are not coming in on a daily basis to tell me that they are going to kill me.

**Auerbach:** Right, and I understand that, and we will certainly make that argument. The thing I would say is it is true that one person might have a bad day today, and if excluded on day one, may get the hint and conform his or her behavior. Some people frankly don't do that, and you have to end up serially exclude people who come and disrupt your proceedings frequently --

**Fritz:** We do, and that's disruption. That's disrespectful to other citizens who might be waiting to testify, but it's not a threat of danger. So does our code currently allow us to exclude people prospectively who are dangerous?

**Auerbach:** It does, it allows you to exclude people who violate the rules of conduct established for City buildings, and those include disruptive, threatening, and violent behavior, among other things.

**Fritz:** Could the Council establish a policy that we uphold free speech, and although we are concerned about disruption of Council meetings because of that impact on other citizens, that that will not be -- that will be subject for exclusion for the day, whereas for people who have threatened bodily harm to us or City employees we may continue to exclude for certain periods of time?

**Auerbach:** We are happy to review the code and propose amendments that will accomplish that for you. We will do that. We would prefer to have to -- we think it's in your interest -- let me say this, this is your decision, your meetings, it's your ordinance, so what you do about it is up to you, it's not up to me. But our advice is that you should do that on a parallel track with an appeal of this decision because we think the consequences for you are significant.

**Fritz:** Similar to the previous one, is there a particular timeline by which we have to appeal?

**Auerbach:** Yes, the appeal must be filed by the end of the month. It's 30 days from the date of the judgment.

**Fritz:** So it's not as immediate as the previous one where we had seven days.

**Auerbach:** Not as immediate as the public records one.

**Fritz:** Thank you.

**Hales:** So, let me make sure I understand the judge's ruling. That is, under the judge's ruling, our ability to both exclude people for disruptive behavior in Council chambers and to exclude people for threatening behavior are both encompassed by this decision? The judge made no distinction between those two scenarios?

**Fish:** Let's ask the lawyer who argued the case.

**Simon:** No, he did not, Mayor Hales.

**Fish:** Did we make that distinction?

**Simon:** We attempted to, Commissioner Fish.

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**Fish:** Let me ask you a question. If someone engages in disruptive behavior in a courtroom, what is the judge's recourse?

**Auerbach:** Well, as Dan pointed out in the briefing in this case, the judge can exclude a person from the courthouse. We cited to Judge Simon a case from his own court in which another judge had upheld the exclusion of a person from the Washington County courthouse who persistently disrupted proceedings in the courthouse, and that was upheld.

**Fish:** That's for disruptive behavior. But to Commissioner Fritz's point, when it goes beyond just disruptive speech to conduct which is threatening and -- doesn't that violate other law? We're talking about this tool of using exclusion, but if someone threatens bodily harm, don't we have laws around assault and battery and attempted harm and things and can't they also be prosecuted?

**Auerbach:** They can. And in fact, I believe there is such a prosecution arising against at least one individual out of the events that Commissioner Saltzman was referring to from November. Whether that is -- yes, they can.

**Fish:** Harry, does this ruling -- I'm a little unclear about the scope of this ruling. Does this ruling prevent the City from issuing exclusions to people in other settings, like parks and other purposes?

**Auerbach:** This ruling does not. The ruling is directed only against the provision in Title 3. The ruling does not affect the park exclusion code which is in Title 20.

**Fish:** And the consequence of this ruling is that if citizen X comes in and is disruptive and ignores the Mayor's admonition and is warned, citizen X can be excluded from the meeting but can come back next week.

**Auerbach:** That is correct.

**Saltzman:** Or the next day.

**Fish:** Or the next day.

**Auerbach:** We may have some disagreement about that, but, yes. It depends on how you define meeting.

**Fish:** Let's talk about the case law for a second. I asked you this question when we met yesterday. Has any court squarely addressed this question?

**Auerbach:** In the sense of public meetings, prospective exclusions have not specifically been addressed that I could find. The Supreme Court of the United States has held that you can prospectively exclude people from public forums, streets, and parks for violating rules of conduct, for violating law, for non-speech related purposes. So, our belief is that that rule should hold in this public forum, as it did in the Virginia versus Hicks case from the Supreme Court.

**Fish:** If the Council chose to change its code to build in, let's say, an escalator clause so that there's a difference between the first disruption and chronic disruption, and it's cumulative. Do you believe based on the judge's ruling that that would have -- that that could have an impact on at least how Judge Simon views this case?

**Auerbach:** Well, if we were to pursue that course, we would then probably go back and ask Judge Simon to lift the injunction. I do not pretend to be able to read Judge Simon's mind and I don't know whether he would then believe that the -- we had sufficient protections -- whether that would then pass constitutional muster or not. But I do think it would enhance its defensibility if we had to go further to the ninth circuit.

**Fish:** And what's your general view on the following question -- under our constitution, state constitution, we have a very broadly written First Amendment, and it's quite unique actually compared to a lot of other states. Does the -- do the federal courts accord more



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protection for what's purely speech or for speech that crosses the line into something that is unlawful, and therefore constitutional criminal protections attached?

**Auerbach:** I'm not sure I follow the question.

**Fish:** So, speech that is not protected speech because it involves threats of violence and other things is looked at one way by the courts.

**Auerbach:** Right, that's correct.

**Fish:** Pure speech is looked at another way. Which is entitled to greater protection?

**Auerbach:** Well, pure speech. I mean, there is -- the First Amendment -- the courts have interpreted the First Amendment to protect most speech, but there is some speech that historically has been held to be unprotected -- actual threats, primarily. "Clear and present danger" is the test the courts use. Both the federal courts and the Oregon courts recognize that the government can impose some limits on free speech. They analyze them somewhat differently, although I think less differently than they used to. They analyze them somewhat differently, but basically recognize that the government has legitimate interests that sometimes require it to impose limitations of one kind or another on the time, manner, and place in which people speak. But we don't regulate the subject matter of people's speech. We try to avoid all kinds of content-based restrictions, primarily.

**Fish:** There doesn't seem to be a claim in this case that any action taken by the City was a pretext for punishing speech -- the content of speech. Is that correct?

**Auerbach:** Right. Mr. Walsh can speak to that himself --

**Fish:** The judge who issued a ruling.

**Auerbach:** But, no. No contention. The judge found that your ordinance is, in fact, content-neutral.

**Fish:** Thank you.

**Fritz:** Are we currently continuing to exclude people who have been threatening to anybody?

**Auerbach:** I do not know what people are actually doing. I think our advice is not to until we get this clarified, at least under the Title 3 code.

**Fritz:** Does the ruling apply to the City Council or our delegates as well? My understanding is, for example, the Office of Neighborhood Involvement being right at the entrance to City Hall occasionally helps folks who are having significant difficulties --

**Auerbach:** No, it applies to the City as a municipal corporation. All of us.

**Fritz:** Thank you.

**Fish:** So Harry, just to be clear about the options before us today. We can support this resolution, we can oppose the resolution. We have until January 29th actually to decide the question, so we could continue this discussion if the Council wanted to see whether there's a broader consensus around one approach or another. And then there's a related question about whether linked to this appeal or independently we want to take a look at revising our code to address some of the concerns that the Council has in the courthouse, is that correct?

**Auerbach:** Yes.

**Fritz:** If we were to appeal it, would that stay the judge's order?

**Auerbach:** I believe we would have to move for a stay. And we could certainly do that. I don't know if he would grant one or if the ninth circuit would grant one if he denied it. But it would not -- I will go back and double check, but my belief is that it would not automatically stay the ruling.

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**Fritz:** I could support some version of this that is amended to talk about clear and present danger as opposed to what's stated in it right now, which addresses almost entirely speech within the Council chamber. I wasn't aware that this decision also applied to the safety of our employees. So, at the very least, I'd like to carry it over so that we could work on amending the language so that when we appeal to the judge, it's clear that -- and I think we have some more conversation about and hear from the public in terms of what their view is as to how to keep City employees safe versus their right to make our lives as unpleasant verbally as they would like to do.

**Hales:** I'm interested in that as well. As this discussion has illustrated and Dan's remarks had highlighted, there are two separate questions here. One is how do I or any other presiding officer in the chamber deal with obnoxious behavior in the chamber in which somebody monopolizes the room for their own speech-making or otherwise doesn't follow the rules? That's one issue. And there needs to be a process by which people are excluded who are not letting other people speak. That can be episodic or that can have some duration. That's one question.

The other question is, if there are people who need to be excluded because they're dangerous or potentially dangerous, that's a completely separate matter to me. We need to address both. We don't need to necessarily address both with the same ordinance language. So, it seems to me that ordinance repair is in order regardless of what we do with this appeal but that we need to fix our ordinance so that we lay down more clearly and we will go defend -- once we've debated it and heard from the public and adopt it -- whatever process we need to operate under in this chamber so that people can be heard and that people aren't rude, obnoxious, or dilatory in taking over the room for their own agenda versus letting us conduct the public business and hearing from people in some sort of order. That needs to be resolved. The judge said the way we do that now is not acceptable. Fine, let's fix that. I don't know whether we have to fix that by going to court or by working on the ordinance.

Secondly, if the judge's ruling is so sweeping that it invades the common sense matter of making sure that people that are issuing violent threats aren't routinely allowed into a building that doesn't otherwise have perimeter security like most government buildings have, then that's a serious problem. And other government agencies respond to that potential threat by having metal detectors and such at their doors, and we -- in this City, at least, for now -- have not. So, we have to address that question. And Commissioner Saltzman is right to highlight it, and it's important, but those are very different matters. And I guess that's my -- those are my feelings about the issue. I'm interested in having this discussion today, having further discussion at the Council level, and then deciding on the resolution. But I'm also interested in getting some work started and some discussions started about our ordinance --

**Auerbach:** We'll do that.

**Hales:** Because we might need a better ordinance to defend in court than the one we apparently --

**Fish:** Mayor Hales, I appreciate your comments and I appreciate Commissioner Fritz's comments. I had a chance to meet with counsel yesterday afternoon and then got some follow-up information, and the thing that I've struggled with is a lack of clarity about what we're approaching and in the context of a very important set of questions governed ultimately by the First Amendment. Just to give you an analogy, if this was not fully baked but was a routine policy question that came before Council, we would all vote just the way we felt about it and if there's a split vote, so be it. This is a little different. This goes to how

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we do our business as a body. In which case, our general rule is we seek consensus. We seek to find the broadest possible support.

Second, it's ultimately governed under a very high bar, standards set under the constitution that Judge Simon addressed. And one of the concerns that I've had is absent that broader discussion and understanding all of the options, with the First Amendment being the touch tone, my inclination would be to vote no if I couldn't be persuaded. So the additional time to find out if we could narrow this or come up with a strategy that gets to the real problem is helpful for me because my default would be to go the other way and I would -- and I am very appreciative of Commissioner Saltzman's comments about public safety, and that's different than pure speech.

**Hales:** Right. Other questions, comments, concerns? Let's take testimony.

**Auerbach:** I just want to thank Commissioner Novick for his defense of City employees. I appreciate that.

**Hales:** Thank you. OK, who signed up to speak?

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

**Hales:** Go ahead, Joe.

**Joe Walsh:** My name is Joe Walsh, I represent individuals for justice and I am the plaintiff in this case. I am amazed that it was obvious that many of you did not read this decision, because you don't know what the judge said. It's very simple. It's 28 pages long, but it's simple. A politician cannot sit in his office and make a decision to exclude somebody that he doesn't like. That's it. Because if you look at the timeline, when I was thrown out -- a week later, I was served with papers. So it's kind of like getting me twice. You throw me out, you threaten me with arrest, and then you exclude me for 60 days. That was arrogant. That was obnoxious. That had nothing to do with people fearing for their safety, Commissioner. There was nothing in the record. And I really resent you saying that. Point to the record. Outside of one person giving testimony to the G4S people, and that was a business alliance representative who really disliked me because I dislike them. And they know it. And they said, "I was really terrified, so I had a security guard take me to the front door." And where was Mr. Walsh? He was on the street. So how could she be so terrified if I wasn't even in the building and she had to pass me in the street? There was nothing in the record. I am a very non-violent person. Mouthy, obnoxious, pushy -- I'll take those, because that's what activists do. We don't look for making friends. I once told that to Commissioner Fritz. I don't want to be your friend. I want you to put your head down when I walk into this Council and say, "oh, damn." That's what I want. That's what a good activist does. I'm not an advocate. I'm not a diplomat. I throw rocks. And, Mayor, you do not have dictatorial powers. Sorry. Not only Walsh says that, but Judge Simon says that. If you want to appeal this case, Commissioner Saltzman, you're going to get egg all over your face. Because there is not a court in the land that would appeal or give you the decision that you want in the First Amendment. And you all -- the lawyers have it wrong. It's not free speech. That's part of the First Amendment. It is the last part. I have a right to come here and yell at you. It's called petitioning for grievances. I have a right to do that. [beeping] The constitution says I have a right to do it. It's not some backroom deal that you can do, Mayor. And I sent you a request in the beginning of this whole process for settlement. You know what I asked for? A public apology and all exclusions from the City Hall building stopped. That's what I asked for. What did the judge say? Permanent injunction. Stop. Will you give me an apology? No, because you don't have the ability to do it.

**Hales:** Thank you. Next?



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**Craig Rogers:** Good morning, Commissioners, Council. My name is Craig Rogers. Before the street fee, I rarely appeared down here at City Council, but I've been getting a little bit more dialed in. And after a while, I began to understand that coming events cast their shadows before them, and I felt that, regrettably, some members of Council under certain circumstances were not all advocates of the right to vote or freedom of speech. So, here we are now with the First Amendment issue, and I feel that in the case of Mr. Walsh, it's somewhat making a mountain out of a mole hill. And this is going down a road that I don't think we should continue. And what it reminds me of is when Tip O'Neill, speaker of the house, said this of Nixon: he's a lousy president but he'd make a hell of a king. Thank you.

**Hales:** Good morning.

**Mat dos Santos:** Good morning Commissioners. My name is Mat dos Santos and I'm the legal director of the ACLU of Oregon. Thank you for allowing me to speak here this morning. It will likely come as no surprise that we're here today to urge you not to vote for Resolution 47. We think that U.S. District Court Judge Michael Simon got it right when he held it unconstitutional under the First Amendment to exclude members of the public from future City Council meetings.

The City of Portland has long sought to have its democratic process open and accessible to all members of the Portland community, and we think that this kind of exclusion hurts the City of Portland by creating barriers of access and transparency. We acknowledge that for the government to work, it may be appropriate to remove a disruptive person temporarily from City Council proceedings. The ACLU doesn't believe that free speech should trump the City Council being able to do its work safely. But there are options other than long-term prospective exclusions. In fact, Judge Simon covered this very point in his opinion when he said, like judges in their courtrooms, Mayor Hales has the continuing ability to maintain decorum in Council meetings by ordering a disruptive individual immediately to leave the City Council chambers. Maintaining decorum does not, however, require prolonged and prospective inclusions from a forum intended for a public discourse and debate. I would also add that we are not aware of any appellate decision favoring the City's case, so the City will have a long uphill battle, especially at the ninth circuit.

For these reasons, we hope you will not pass this resolution to appeal the U.S. District Court decision. And although we have not been involved in this case at the trial level, it would be fair to assume that the ACLU of Oregon has a strong interest in any future legal proceedings. Thank you.

**Fritz:** Mr. Dos Santos, I totally agree with what you just said and I respect everybody's right to come in and be as disruptive as they want for three minutes and as often as they want. Could you address the second part of the concern about safety and people who are actively threatening to hurt us or City employees, and whether a prospective restriction on their visiting City offices in that case might actually be better for them than prosecuting them for those threats?

**Dos Santos:** I appreciate your sentiment there and I certainly don't want to add to the criminalization to anyone in the city of Portland. I think that a simple fix to the ordinance would create exactly what you're trying to do, which is to identify -- as I think Mayor Hales stated -- a distinction between something like City Council meetings where people are disruptive, and stuff that creates an actual threat. That is not protected by the First Amendment and has never been. And I think that it was Commissioner Saltzman who made reference to screaming "fire" in a theater. That kind of thing is not protected by the First Amendment. So, here, while the judge's order may strike down that ordinance, the

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ordinance is too broad. And I think there's a quick fix and a way to resolve that without undoing Judge Simon's order.

**Fish:** I really appreciate what you just said, because I was looking at some notes that Harry gave me about a Supreme Court case that seems to apply. So, what we're essentially saying is that if -- what I think you're saying is that if we come up with a tailored rule which focuses on non-expressive conduct, we're out from under the First Amendment and now it's just a question about how reasonable we are in implementing. Is that fair?

**Dos Santos:** I think that's a fair statement.

**Fish:** And the case that I guess is in the opinion is the Virginia versus Hicks case where the Supreme Court upheld I guess a permanent bar from someone from coming into a court and made a distinction between non-expressive conduct -- conduct that was threatening and disruptive -- and speech, and then also identified alternative ways that someone could still participate, either electronically or through surrogates. So, I appreciate the advice you've given us to take a look at narrowing our statute, our code, so that it captures the non-expressive conduct clearly not covered by the first amendment, where we might want to consider using exclusion in lieu of the heavy hand of a criminal prosecution to someone who's in engaging in not just annoying speech, but legally unprotected speech.

**Dos Santos:** Yeah, I think that's right. And I think there's an important distinction between a courtroom and City Council chamber, which I think you'll run up against if you litigate this case further. So, I mean, take that for what you will because obviously I can't also read the tea leaves of what the ninth circuit will say, but courts have historically treated courtrooms differently than they've treated city meetings.

**Fish:** Article three judges just have a sense that their lives are worth a little bit more than the random legislators.

**Dos Santos:** Perhaps.

**Fish:** There you go.

**Saltzman:** Mr. Dos Santos, appreciate your testimony. Going back to the real situation we experienced on November 25th -- a backpack with a smoke detector in it left in the chambers. What should be the consequence for that behavior? "See you tomorrow"? I mean, you're gone for the rest of the day but we will see you tomorrow?

**Dos Santos:** I think that the judge addresses this when he talks about things that are, you know -- well, let me back pedal a little bit. There are a couple of tiers that we are talking about. We're talking about actual disruptions at a meeting, something like someone screaming out and preventing people from talking and --

**Hales:** We think those should be regulatable.

**Dos Santos:** Yeah, those are regulatable in the moment.

**Hales:** So a completely hypothetical situation of someone laying on the floor of the Council chambers, mooing loudly, prohibiting other people from speaking -- would regard that as behavior that would be reasonable for us to regulate.

**Dos Santos:** I think you could.

**Hales:** Exclude someone for doing that.

**Dos Santos:** I think you could -- for that day.

**Saltzman:** For the day.

**Dos Santos:** Something like creating a bomb threat -- I don't think you'd find a court that would protect that as speech. You know, there may be an instance where there is some kind of -- I mean, look, I can get into hypothetical situations with you where there may be some instance where someone is creating some kind of artistic installation or something

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along those lines. But what you just described sounds pretty threatening, and I think that you could have a cogent argument that that is not protected speech. And so that actually wouldn't come out the auspice of this order. That would be a completely separate thing that you could handle, regardless of what Judge Simons said.

**Saltzman:** I mean, that's a little different from what our attorneys told us, but appreciate your opinion.

**Walsh:** I would like to make a final comment since I am the person involved in this. Your example, Commissioner Saltzman, has nothing to do with me. Please keep it to me because that's what this case is about.

**Hales:** We can't do that because we have to change the ordinance --

**Fritz:** That's the problem --

**Hales:** -- so it won't just --

**Walsh:** No, you don't have to do anything right now. You may have to change your wording between now and next week. But I'm saying if you say to me, "well, Mr. Walsh, you know, you're very disruptive and we just had an explosion in Iraq and killed three people and we had to do something" -- that's the connection you're making. I had nothing to do with that. And as Judge Simon said in his decision, there is nothing in our entire record that your City Attorney submitted -- which was mountains -- that shows, number one, that I was threatening; number two, that the worst possible thing that I said in foul language was I was pissed off. That's it.

**Fritz:** Mr. Walsh, the case is about you. The ruling is about all City exclusions, including for safety.

**Walsh:** You brought that on yourself. When I went to federal court, you brought that on yourself. And if you vote on this to take it to the ninth circuit -- and you can ask the ACLU this -- it will affect nine states.

**Hales:** Understand --

**Walsh:** You will make me a folk hero in nine states, and I'm too old for that.

**Fritz:** You're already a folk hero. [laughter]

**Walsh:** Not in nine states.

**Hales:** Thank you.

**Walsh:** You realize, if you lost this case, how many lawyers would have to read it and say, "What does that mean?"

**Hales:** Thank you. OK. Come on up. Go ahead, Mr. Davis.

**David Kif Davis:** Why does he leave every time I start to speak? I don't know what's up with that. So, Dan Saltzman, you were arguing like City Hall is a safe space or something that you can just exclude people for any type of speech that you don't like or -- do you have anything to say about that? You're acting like someone saying some naughty words is a bomb threat. Like, what is this -- can you give us some more information on this person who supposedly left a backpack with this beeping --

**Hales:** Mr. Davis, you need to testify, not cross-examine Council members.

**Davis:** I'm allowed to do whatever I want --

**Hales:** We're allowed to not answer, so go ahead --

**Davis:** Yeah, I already know you guys are slimy and corrupt. That's what this thing is all about. It's about limiting free speech at City Hall. It's not about your personal safety because some guy had a knife outside of City Hall a month ago or something -- sorry, that's not even in the building, OK. You can talk about, yeah, wasn't there someone stabbed outside of City Hall a while ago? Yeah, a few. Well, you know, you didn't bring up that, either. You talk about, oh, someone left a backpack with a smoke detector, and, you

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know? Well, let's hear more about this. I want to hear you guys actually -- let's see the surveillance footage, you know? Let's see the altered surveillance footage of you guys when I got arrested on November 25th. You're talking about this November 25th issue. Well, what happened was there was a man in mental crisis mode who is actually the guy who gave Joe Walsh the idea to appeal this thing to a federal judge. OK? So, I don't know if you guys know that or not. But I think Barry Joe Stull was targeted by you guys and taken out of the Council chambers. Amanda Fritz, you're a registered psychiatric nurse, you have plenty of experience dealing with mentally ill people. And you know Barry Joe Stull. And what did you do? You did not call the behavioral health unit. You did not call any ambulance. What you did do is you ordered G4S security goons to clear the chambers and then Todd Angstrom, a known instigator cop, showed up and proceeded to throw haymakers on Barry Joe Stull. You need to release Barry Joe Stull out of prison. Go to the YouTube video, Portland's abysmal treatment of journalists and the mentally ill. This is about excluding activists -- [beeping] --

**Hales:** Thank you. Time is up.

**Davis:** -- and voices of decent at City Hall. This is not about your personal safety, and you know it. You don't want the lies and corruption and all of this other stuff exposed that's actually going on here, and you don't want to be ridiculed by the general public --

**Hales:** Thank you. We're going to let the rest of the public speak now.

**Davis:** -- you guys are corrupt and --

**Hales:** Mr. Davis, you've used your time. We've got a citizen next to you who wants to speak now. Mr. Davis, you're done. Thank you. Ms. Newell, go ahead.

**Nancy Newell:** I'm Nancy Newell. I want that on record. It's interesting that you quote the Supreme Court as a decision, and I would be very curious what we suffered during the Reagan as well as the Bush Administration and the changes in our Supreme Court. So many of the rulings are really oppressive to public discourse, characterizing people as terrorists rather than citizens trying to protect rights that were established at the founding of our country.

I understand your feelings about safety. We ride buses. We ride trains. We de-escalate. You would be so proud of citizens during de-escalation and trying to get to work and in trying to get home. Or women at night being subjected -- and I have been subjected -- to police action just because I'm a woman on the streets and I have been questioned. So, these are very critical rights for people to function in their daily lives. And the protection of that, and you are the protection, I understand, of your own safety. But there's a limit to how much you should be acting on and still protecting the very basis of what this country is founded on.

So, I think Judge Simon has been very helpful in this latest decision protecting First Amendment rights. There are a lot of things that the public can disagree on because if you're taking -- three quarters of Americans are now paycheck to paycheck. Three-quarters of Americans close to homelessness. I understand pressures that you're under. I understand the limitations of funds that you have. But we really have to work better on de-escalation, rather than removing people's civil rights. That doesn't work. And it will just come back at you with more violence and a more violent society. We create way too many instruments of attacking people in our own streets -- just regular citizens. So, I would like to see remedies and some positive actions from this Council to get better results in those protections. Thank you.

**Hales:** Thank you. Good morning. Just put your name back on the record.

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**Robert West:** My name is Robert West. I am like totally against appealing this. Number one, everyone is talking safety and stuff like that, the backpack and stuff. That's what the police are for. OK? If someone is in here threatening someone with a gun, you call the police. You don't exclude them for 30 days. If someone comes in here with a bomb, you call the police. You don't exclude them forever. Once the case goes to court, the judge can decide how long or if the person can never come back, or something like that. As far as threatening people that work inside the building, that can be handled through anti-stalking, or restraining orders or stuff like that. You know, if someone feels they're in danger, they've been threatened a few times, they can get an anti-stalking order. A judge sits there and says, well, you can't go around this person, you can't go around where they work There's other -- I mean, you're throwing all of these things -- oh, yeah, there's a smoke detector in a backpack. OK, fine. That's illegal. I see all of these cameras all over the place. Well, you know, the courts have ruled several times that video evidence can be used in court. That can persuade a jury. If I threw a backpack right here and said there was a bomb in it and I took it to a jury trial, there's a camera there, there's a camera there, there, and there, and there's probably a few cameras that I haven't even see. I have G4S security on both sides. That would be convincing to a jury if they sat there and seen that on videotape. If someone threw something at someone in here, I would expect the police to be called. So, my issue with you guys arguing security -- you're just looking for reasons to appeal what Judge Simon says. Kif Davis right here sitting right over here videotaping is not grounds for exclusion for 60 days. Just because someone doesn't like what someone said or they go over their time, that's not worthy of a 30-day exclusion. You're punishing people for doing stuff that they have a constitutional right to do. And that's what the judge sat there and said. Excluding someone for 30 days, 60 days, 90 days, permanent -- that is punishment. That is not a cool-down period. [beeping] A cool-down period is you're out, you know, if you come back and you do it again, then you're out that day.

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

**Davis:** I was permanently excluded --

**Moore-Love:** The last person who signed up is Charles Johnson.

**Hales:** Come on up.

**Charles Johnson:** Good morning, City Council members. My name is Charles Johnson. And contrary to what Commissioner Saltzman is saying, the Reichstag fire did not happen on November 29th right here. What happened is that a political prisoner was created. I'm telling you again, the five of you created a political prisoner. His prisoner number with 1357219. He's in jail right now. Barry Joe Stull, a man who was obviously engaged in a mental health crisis and now the County has been paying correctional costs for him because this City cannot live up to its duties under the United States of America versus City of Portland, the consent decree you're in. So, this smoke screen of safety I think is something that every one of you has seen through and you will choose to not pursue this appeal.

This Council has serious problems that are germane to this case. One week ago, right here, on agenda item number 7, you violated your own printed policy on the agenda and suppressed public input on the City Club's report. It says on your own paperwork that public comment is taken on all items except communications and second readings. So, part of me wants you to appeal this to the ninth circuit so that the 40 attorneys I previously mentioned who collectively are responsible for about four million dollars or more in salary can be crapped on again by the ninth circuit telling them that they're not doing it right.



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The other thing that's happening that should be -- is an insult to everybody who voted for you or against you, is that instead of fixing the real problem -- your crappy public comment and protection exclusion policies -- rushing off to the ninth circuit saying, save us, court, save us, court! Do some hard work. Earn your money. Fix the City ordinance. Voila! That is the problem here. In the entire three years that I have been coming to the Portland City Councils, we keep telling you that your public comment policy is crappy and ineffective compared to what the County has. You need to partner that with fixing this ordinance. You need to let people come every week. If they present a threat to public safety, there's huge books of Oregon statutes that pertain to public safety. Even Mr. West pointed out there's stalking laws, there are laws that can protect you. But do not rush into a flawed doomed-to-fail appeal based on the fact that 25th, you bought G4S goons in and police in to rough up a mentally ill person. And then when those people are in jail -- surprise, surprise -- their backpacks remain in the building. This was not a wise forum to raise the issue of possibly a smoke detector beeping in a backpack as a possible hoax bomb threat on a day when you all cleared the chambers because Mr. Barry Joe Stull, who's now a political prisoner, was having a mental health episode that is of today is not being properly treated. Get Judge Nan Waller to release him on Friday when they have court.

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

**Lightning:** My name is Lightning, I represent Lightning Watchdog PDX. I would like to ask for this to be a continuance on this at least until January 29th. I think there definitely needs to be more discussions on this issue. Another problem I'm having is on understanding on what your definition is going to be for being disruptive, what your definition is going to be for being considered a public safety issue. I want to have a clear understanding of exactly what you mean when you make these statements. What your definition is of a backpack with a fire alarm inside of it -- what that means to you opposed to me. It's just a backpack with a fire alarm. But you considered that a public safety issue. Again, I want to have a clear understanding on your definitions when you're making those statements.

Another thing that I believe I stand for and want to make a stand for is of course I want to have people have the right to come in and speak, come in and do their speeches, come in and try to relay their ideas and their concerns, and not feel as though they don't have a right to do that in the Council chambers. This is the place to do that. This is the place to look at people and say, I disagree with you. This is my idea. This is my opinion. I'm going to sit here and say it and I don't need to be removed out of the Council chambers. I don't need to feel like I don't have the right to come in here -- don't feel like I have the right not to be in here and be welcomed in here because someone else is going talking to you in a soft manner and maybe going to special committee meetings and various things like that. I come in here to do my speeches in front of the Council members because I feel I have a right to do that. And if you feel you have a right not to allow me to do that, I think that is being challenged right now. And I think really that is what Joe Walsh is standing up for -- the right to be able to do that. And realistically, he has never been threatening. Realistically, people can claim he's threatening, but, you know, they would still need to prove that. They haven't proved anything. They were escorted out by security. It means nothing. It means absolutely nothing. And, again, I feel that he has had his freedom of speech and what he wants to say in here limited and restricted. And who has that right to do that? If this isn't the place to stand up and stress what we want to say, where is it? Where is the place to do that? And it comes under open meetings law. It comes under exactly what we're challenging right now, federal Judge Simon. And this is

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going to get very complicated and there is going to be a lot of issues pertaining to this. This is a very complicated issue. Thank you.

**Hales:** Thanks very much.

**Fish:** Mayor, I have a proposal.

**Hales:** OK.

**Fish:** Actually, I should address myself to the sponsor of the resolution. Dan, I have a proposal. I asked Harry Auerbach what's the deadline for filing the appeal and he said it's January 29th. And that is a ministerial function. It's a notice of appeal, it doesn't require the appeal. That means that we have up to two weeks to consider whether the appeal is the right route or whether a change in the code along the lines that the ACLU suggested is a more tailored approach. And I would just urge, Mayor and Dan, that we set this over for two weeks. We confer with City attorneys, maybe even invite the ACLU to help us, and decide whether we want to pursue the appeal and or whether there is an amendment to our code which more strategically gets at the concern of the Council. Since we have the two weeks and we have Martin Luther King's birthday on Monday, I would urge us to take the full two weeks to get it right.

**Saltzman:** I'm certainly amenable to that. I guess my preference would be to -- and we can deal with this in two weeks -- is as Harry Auerbach suggested, we pursue a parallel track of the appeal and appropriate code changes. So, I think we'll have some time to consider that and mull that over in the two weeks.

**Hales:** That's what I would like to do as well. I won't be here next week. I will be here on the 27th. So I'm going to continue this --

**Saltzman:** All here, Karla, on the 27th?

**Moore-Love:** Yes, I show everyone in.

**Novick:** I actually might not be.

**Hales:** Alright.

**Novick:** And I should say that I'm inclined to vote against the appeal because I think that the safety issue is a different issue, and it sounds like maybe we need to make some targeted changes to the code perhaps to focus on that, but I think that we should accept Judge Simon's ruling as to our current ordinance, and I don't think this would be a good case in which to address the safety issue because, Mr. Walsh, as he points out, he's not a safety threat. He's not dangerous, he's simply boring. And the First Amendment does protect the boring.

**Fritz:** I concur with that. I was also going to vote against the resolution because I -- it wasn't clear from the resolution that the other issue of safety was also concerned and I believe we can move expeditiously get to where we need to be. I think the right response for disruptive behavior is to be excluded for the rest of the Council session that week rather than for a prospective 30 or 60 days.

I would also note as a former community activist that one often does better by being calm and measured in one's testimony rather than yelling. And that's completely up to the choice of the activist. I also respect the right of other citizens who come to talk either on the same issue or others to have their turn to talk before the Council gives up in exhaustion. I just want to put that on the record and still absolutely uphold people's right to say and do things however they wish for the three minutes as long as it doesn't involve a safety threat.

**Hales:** I want could concur with that comment. As someone who was raised in the south by a woman who never raised her voice in my entire life, I've always been persuaded by thoughtfulness rather than by rudeness, although some people in the public arena never

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seem to notice that, at least in my case, that the best way to my heart and my head is thoughtful argument, not yelling. But yelling is protected, at least within time limits, so we will certainly always give people the opportunity who feel like they want to yell a chance to do so.

But we need to proceed on this set of questions. I want to set this over for two weeks and convene a working group, as Commissioner Fish has suggested, of the City Attorney staff, of Council staff, and I do want to invite the ACLU to participate and see what our options are with respect to ordinance changes and then we can return to the question of whether an appeal still makes sense as a parallel track or not. I don't know whether we need to appeal or not, but I do know we need to change our code. That much I have learned already in the -- in this discussion.

I want to set this over until the 27th, convene that working group, and give both Council offices, City Attorney and staff and others who are interested in the question of what should be reasonable rules of conduct here and what should be reasonable grounds for excluding people who are a threat. I do believe that, as Commissioner Saltzman has articulated, there is a level of threat in a public building that maybe doesn't rise to a criminal act but nevertheless needs to be regulated. Again, other public buildings -- including Judge Simon's chambers -- are protected by things like metal detectors, which we don't currently operate at the Portland Building or here. So, I think there's a reasonable grounds for regulation of conduct including threatening conduct like the one that you describe. So, I think there is work to be done here and there's a place where most reasonable people can agree, and I think we can get there in two weeks and I look forward to returning to this discussion then. Let's move on.

**Davis:** If you're so scared of cameras --

**Hales:** Please let us move on. We've been here all morning and we still have a little work to do.

**Davis:** It's really about --

**Hales:** What do we have left?

**Moore-Love:** I still show Item 36, the 10:30 time certain that's been rescheduled but not read yet.

**Hales:** Thank you. Would you read item 36?

**Item 36.**

**Hales:** And that is rescheduled to January 28th at 3:00 p.m.

**Item 48.**

**Hales:** Commissioner Saltzman.

**Saltzman:** I'll turn it over to Deputy Chief Nohr who has been very patient in waiting to describe this item.

**John Nohr, Portland Fire and Rescue:** Thank you, Commissioner, Mayor and Council. Thank you for having me here today. The Fire Bureau would like to apply for a grant through the Federal Emergency Management Agency and Department of Homeland Security for \$331,000. We have a 10 percent matching portion, so 33,000 will come out of our training budget for that. This will allow operations level training for the 10 ladder truck companies in the city. There are four on the westside, six on the eastside.

The ladder trucks carry a lot of different tools that could be used in a structural collapse incident. As you know and have taken great interest in, one of our greatest threats here in Portland is a Cascadia subduction zone earthquake. And with over 1800 unreinforced masonry buildings in Portland that are going to suffer the brunt of that earthquake, we would like to distribute the training out to the apparatus that already have



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the equipment and make them more useful in that. So, that is an approximately 40-hour training course. The funds would be used to support the training as well as backfill to ensure that people are still in the station staffing the stations at the time that the crews are at the training center receiving the training.

**Hales:** Questions? Thank you very much. Anyone else want to speak on this item? If not, it's an emergency ordinance. Toll call, please.

**Item 48 Roll.**

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

**Novick:** I really hope the application is granted because this training is really important. Thank you. Aye.

**Hales:** Yes, it's important work. Thank you. Aye.

**Item 49.**

**Hales:** Commissioner Saltzman.

**Saltzman:** Thank you, Mayor. This amends the contract with Rebuilding Together to provide critical home repairs for low income homeowners in North and Northeast Portland. Last year, the City Council allocated \$850,000 in general funds to augment the North and Northeast Strategy to provide home repairs for low income households who were not covered or who do not live within the urban renewal boundaries. This contract would utilize \$50,000 of those funds.

**Hales:** Questions? Anyone want to speak? Roll call, please.

**Item 49 Roll.**

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

**Item 50.**

**Hales:** Commissioner Saltzman again.

**Saltzman:** Thank you, Mayor. I'm sorry our Housing Bureau Director Kurt Creager had to leave, but he's testifying in Salem on inclusionary housing proposals.

**Hales:** Good.

**Saltzman:** But he really landed this multi-application here, which is to grant the limited tax exemption to Killian Pacific, who is going to provide 20 of their 100 units to be affordable to moderate income households close-in eastside Portland. This project is located on 9th and SE Belmont in a neighborhood that is quickly expanding to include more residential uses since it offers transportation, direct access to jobs and amenities, and top-notch schools. The developer, Killian Pacific, has committed to engaging a consultant to provide more minority, women, and emerging small business contracting opportunities; working with the Housing Bureau to connect with those most in need of housing to available units through relationships with community partners; and the project will also make at least five percent of the units adaptable-ready in order to be fully accessible to meet the needs of people with disabilities and seniors. Dory Van Bockel has also has been waiting patiently all day and she is here to answer questions or provide additional comment. We want to thank Killian Pacific for working with the City. And as I said, it was really Kurt Creager and his relationship through his previous jobs with Killian that helped bring this proposal forward. Dory, did you have anything you wanted to add?

**Dory Van Bockel, Portland Housing Bureau:** No, that's it -- other than to say, yes, with Killian Pacific participating and applying to the program, they have also been supportive of having other developers who maybe haven't been familiar with the program or thought about it or considered it to actually explore if it might work for them, too.

**Fish:** I just want to note -- first of all, congratulations to the bureau for landing this. We still are facing stark statistics. Over 22,000 new private sector apartments last three years,

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and less than three percent affordable. And even though this is a win for what I will call workforce housing, we're talking in the studio here about a 470 square foot studio that will rent for a little over \$1000. So, we are not actually addressing the documented area of need in our housing crisis, which is why I hope the legislature gives us the flexibility to address inclusionary housing and I hope we don't take our eye off of providing housing for people that we have clear evidence that are being priced out of the marketplace, and that is certainly well below 80 percent MFI.

**Hales:** Thank you. Any other questions? Thank you very much. Anyone want to speak on this item? Come on up.

**Charles Johnson:** Good morning, Council members. My name for the record is Charles Johnson. I do want to preface my remarks by saying when we have three minutes, we don't get to include any of the good stuff that we might think about you. We have limited time, so our comments are usually -- if we feel an issue is bad we have to focus on the negative and hope you will fix that. In this case, it's all good, except not enough. And of course, that's not the fault of this particular developer. It's great to see a project where it looks like we're looking at 20 percent of the capacity is going to be adjusted below market rate. And I hope -- recently, Alissa Keny-Guyer went out to IRCO, a community forum on housing and rental issues, so I hope citizens can rally in the sentiments of all of you -- especially the remarks that Commissioner Fish just made -- that we need help. Ideally, all preemptions from the state go away, but especially inclusionary zoning and \$15 an hour minimum wage.

When you look at these policies and when you're talking about the legislative agenda, please also remember to keep in mind the overall portfolio of any landlord, large-scale landlord. So on one project it looks beautiful -- 20 percent adjusted for below market rate, but some of our large property managers that can do that at one property and still have very, very little. So, I hope the state -- with your guidance on legislative agenda -- would be able to make sure that the best credits go to those companies that have the largest percentage of their portfolio available to low income tenants. Thank you.

**Hales:** Thank you. Anyone else? This is an emergency ordinance. Roll call.

**Item 50 Roll.**

**Fritz:** Aye.

**Fish:** Thank you, Dan, for really being a bull dog around getting the MULTE program to work, and that includes the amendments you brought to Council to respond to some concerns that we had from the development community. This is one of our most important tools, and frankly it's not just an affordability tool, it's a fair housing tool to ensure that we put affordable housing in high opportunity areas. Thank you for your work on this. Aye.

**Saltzman:** Aye.

**Novick:** Aye.

**Hales:** Great outcome, thank you. Aye.

**Item 51.**

**Hales:** Second reading. Roll call.

**Item 51 Roll.**

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

**Hales:** And we are recessed until 4:00 p.m. this afternoon.

At 12:01 p.m., Council recessed.

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**Closed Caption File of Portland City Council Meeting**

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

Key: \*\*\*\*\* means unidentified speaker.

**JANUARY 13, 2016**

**4:00 PM**

**Hales:** We'll get started here. I know the other council members will be here shortly. Welcome to the January 13 meeting of the Portland city council. Please call the roll. [roll call taken]

**Hales:** Welcome, everybody. I want to give you some ground rules and logistics for this afternoon. This is a continuation of our hearing from last week from January 7th. We're in continued deliberation on two items before the council, both related to comprehensive plan. One is item 27 that adopts new and amended supporting documents, the other is item 28, the comprehensive plan itself, which is where most people signed up to speak and the item we will take first. Regarding those who signed up last week at SEI, we have reserved testimony for you in the order in which you were signed up before, so hopefully most of you made it back. If time allows we'll hear testimony from others who signed up today who weren't there last week. Want to acknowledge we have received additional written testimony that's going into the council record that each will have access to. Any additional electronic testimony received by the end of today's hearing will also be added and we'll see if we don't add some time for people to be able to get further documentation in to us. As we did the other night we're going to limit testimony to two minutes per person to make sure we try to hear from everyone. Obviously, it's helpful to be succinct. Also be very specific and talk about a specific recommended policy or if you're talking about a specific site let us know what that address is so that we have that clarity in our record and for our follow-up. Obviously, it's also helpful if you don't repeat what other people have said. This is not a numbers game in the sense that we're trying to get all the issues and questions about should we zone this property this way or that way before the council. So it's most important that you be specific and tell us why we should do something rather than that you have 50 people with you on the topic. This is the last of five initial hearings dedicated to the comprehensive plan. In the next steps the council has scheduled three work sessions to decide with each other and with staff the testimony we have heard and to craft amendments. Those sessions will be here on January 26, February 2 and February 23. They are public meetings and you're certainly welcome to attend and listen or watch via cable or web, but we won't take testimony. They are council work sessions. We ask staff questions, we debate potential amendments. We don't take action at those work sessions but we do vet what changes we might make to the draft in front of us. Ask my colleagues and I'll hold myself to this to identify the amendments that they are interested in at the first of those work sessions so that again there's plenty of time for council deliberation. Although today is the last of the initial hearings on the recommended plan, we will schedule a hearing in April, reopen the evidentiary record at that time to allow the public to comment on the council's amendments as well as, obviously, on the plan as amended. So it's my hope that at that point we can make decisions on the amendments and take a final vote by the end of April. So that's the plan and schedule. Welcome. Thank you for your patience. Some of you signed up and were there for a long hearing

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last week. We look forward to hearing from you this afternoon. We'll take up the list where we left off on item 28. I guess you need to read that item.

**Moore-Love:** And item 51-1 and 51-2.

**Hales:** Okay.

**Moore-Love:** You want just the second item?

**Hales:** Read the second one for now. Sure.

**Item 51-2.**

**Hales:** Okay, then let's just return to the sign-up sheet please.

**Moore-Love:** First is Christe white. Martha Stiven and Jesse Gayomali. That's number 51 and 52. Martha --

**Hales:** Come on up and join Ms. White at the table and we'll let her kick off this afternoon's testimony.

**Hales:** You're on first.

**Christe White:** Christe white representing Esco. We submitted our written testimony earlier and submitted another copy here today. If you have two you can recycle one. We recognize this phase is just the comprehensive plan as it relates to esco and we are requesting mixed employment designation. It's currently split designated. We have mixed employment and industrial. The reason for the request is multifold. First, we have a corporate headquarters there on the property. Corporate headquarters is there on the property because there's currently manufacturing and production at the foundry. The foundry will be closing down over the next year which makes the corporate headquarters a nonconforming use making it an at risk development for a 100-year-old business and they are interested in staying in Portland, growing their headquarters, potentially their research and development and office. The mixed employment designation allows them to do all of that on all of their property in a comprehensive way. The mixed employment designation is recognized as an industrial and industrial related designation and continues to allow all of the industrial uses that esco or others might engage in. It also does allow some office uses but what's important about the proposal is esco is in the giles lake industrial sanctuary plan district. We're not asking to get removed from that plan district. All of the protections that come with that industrial sanctuary plan district will stay on the esco site. We would advocate for expansion of sub district b, limiting office uses to a one-to-one, very low far. And any additional far you have to pay into a transportation management fund. To the extent -- are 17 seconds? The extent any of this has traffic impacts those will be studied if we get part of the map and then there's a second step to get the zone change which would then be another traffic study and if this property was ever sold there would be yet another traffic study because of the land division. With those protections we asked to be included on the map.

**Hales:** That's helpful. I had not realized about the far limitation before now. Thank you. Welcome.

**Martha Stiven:** Thank you. Good afternoon. I'm Martha stiven here on behalf of Belmar properties. It manages the properties controlled by the john pasentini family of which 30 are affected. Most of those sites are retail businesses. We are supportive of the city's effort updating the plan but we have a concern about the mixed use dispersed plan designation. Six properties have that proposed for them. On three we think it's an inappropriate designation. Two of those three sites are adjacent to one another at the corner of southeast 60th and southeast Belmont northeast of that intersection. They are identified on the plan map as change 254. Its mixed use dispersed designation is the lowest density of the mixed use plan designation and it's proposed to be implemented by

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only two zones neither of which allow uses and density we think appropriate for the location. On the opposite corner is a five-story medical rehab facility well served by transit and other services and we would like to see a higher density zone. Unfortunately that designation only implements two zones, very limited. We think that the mixed use dispersed zone should allow cm2 zoning. Another solution would be to rezone it to mixed use neighborhood. The other site with the same situation is on southwest Gibbs. It's a retail site now but we believe it's appropriate to have higher density on it as well. It's zoned commercial store front. The two zones that are proposed to implement the mixed use dispersed zoning don't allow the far or height allowed in the existing zoning today. So if the plan designation is mixed use dispersed the only zones to implement it would not allow the level of development that is allowed today. We think that's a problem. The solution would be to redesignate both those sites to mixed use neighborhoods which would allow us to put higher density zone on it or to allow the cm2 zoning to be implemented in the mixed use dispersed zone.

**Hales:** These occupied by retail uses now?

**Stiven:** The 60th and Belmont are two vacant lots. We submitted written testimony on all of the properties into your record.

**Hales:** Thank you.

**Stiven:** You're welcome.

**Hales:** Good afternoon.

**Jesse Gayomali:** I'm Jesse Guyomoni, a spokesperson for a family that owns and lease a property at 6724 southeast 82 avenue in Portland, Oregon. Together with at the two vacant lots, which is five and six, located to the south of said referenced address, historically the parcel to the north and south, vacant lots were grandfathered since it was currently being used in a commercial zoning classification. The two lots were zoned residential and it was vacant and not being used in a commercial zone capacity. We hereby request that the zoning be changed for the vacant lots five and six to the same zoning as the two commercial parcels that is to the north and south on the vacant lots that are currently in automotive repair and sales. I have legal descriptions and plat maps if you would like to see them.

**Hales:** Make sure you leave those for us. Those will go into the record and we'll all get them.

**Gayomali:** Thank you.

**Hales:** Thank you very much.

**Moore-Love:** Next three are

**Hales:** okay, can't remember who is first. Go ahead.

**Ken Diener:** Okay. Thank you for the continuation. I'm ken Diener. I'm a resident within this plan change area just south of stark called plan change 348 between 16th and 19th. The one thing that's working against us in this continuation is that the mood was set strongly and clearly at the hearing last week about the themes of gentrification and destruction of neighborhoods, what is being lost along the way. Commission novick spoke passionately about his thirst for density, but I would like to suggest that that thirst is making drinking the wrong Kool-Aid, actually. If you look at the 63 lots proposed by the planners, these 62 lots are not on a commercial corridor, not on a transit. For some reason the planners decided that this was a spot zone that they wanted to try to rezone. Every one of these 63 lots has been developed. We have been living in this neighborhood the least of the people speaking here 15 years. I have been there 18. We have residents that have been there for 40. The only reason for doing a change in zone in



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a place that's not broken is to encourage tearing down these houses. If you look at the second page that i'm presenting to you, we have 15 lots of the 63 that are single family historic homes that could be torn down for six units. Three lots, two units per lot. We have 110 units in this area already. The only reason to bring these further into density is to tear down 110 units which are already multi-family. Obviously much less affordable. I have statistics from preservation and green council that says renovation creates only 15 tons versus a new home, 50 tons of co2 each time you tear down something you build new. In other words single family existing is 12 percent of the co2 green impacts compared to new construction.

**Hales:** What do you think the designation should be? I understand you don't support what's been mapped.

**Diener:** We're zoned r5 right now. Leave it alone. There's no reason to do 348 or 928. 928 literally is that blue area and that literally tears down two very historic homes. If you look at the picture there, tear them down and build townhouse courtyards there's ten low-income housing units on the north end of that blue block. What planner was misguided to think that he's creating anything of benefit by tearing those existing low-income housing down if not being encouraged in a worse than innocent way.

**Hales:** Nonconforming use status of some of that multi-family is not a problem for you?

**Diener:** They have been nonconforming for the last 50 years.

**Hales:** I get that.

**Diener:** They have all been rehabbed. Everyone has been redone in the last ten years. They have been condominiumized, rebuilt. My house is circled by apartments that have all been reinvested in. They are all grandfathered. We have 110 units at risk of being torn down just to build new. It makes absolutely no sense.

**Fritz:** I believe this is an area that's a mosaic of different developments and makes a beautiful mix. The kinds of thing that was called for in other areas where there's more blanket development. At the last hearing I mentioned maybe we should consider freezing the zoning in this area and do a plan district where it would be easier to do improvements and harder to tear things down.

**Hales:** That's my concern on the flip side is obviously every plan is a plan for change and a plan for preservation, right? You have to figure out where you want each one. In some cases preserving a pattern that doesn't fit the palate of zoning designations either in the old or new plan.

**Fritz:** This doesn't have a pattern. It's a beautiful mishmash.

**Diener:** That's exactly the issue. It doesn't fit the planning bureau -- when you're looking at it down 4th street from 50 miles above looking at having some neat thing on paper, this is an existing neighborhood that's one of the highlights of Portland. This is why Portland is Portland. We have been here thousands of volunteer hours have don't go into this neighborhood to make it what it is and you're trying to move us out and i'm here to lose money.

**Hales:** We're not trying to move anybody out. [speaking simultaneously] something that's administrable for everybody. You made this point very well. I appreciate this. Thank you.

**Diener:** Thank you.

**Hales:** Welcome.

**Christine Yun:** I want to make sure you have handouts before I start talking because they are relevant. I'll be following up ten points.

**Hales:** Thank you. I think we're set.

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**Yun:** I'm Christine yen. I'm requesting council amendment to eliminate proposed changes 348 and 928. I believe good design historic preservation and minimizing co2 emissions are not mutually exclusive. I'm addressing historic preservation issues in buckman as part of the coalition for historic resources and as a resident. I was part of a volunteer team that tried to nominate a national register district in buckman. You can see the district's boundary in red on page 1. There are other maps of the district on page 2 that show contributing properties. Contributing structures are the foundation of the historic district and have historic worth. This nomination was enthusiastically supported by the state advisory committee on historic preservation. Shippa and the national park service. The neighbors voted against the nomination because they feared regulation and gentrification oddly enough. We asked for determination of eligibility from the park service which means that the application can be resubmitted in the future as long as there are no drastic changes and no opposition from residents. 49 of the 63 properties in this area are contributing. Six could become contributing with minor renovations and eight are noncontributing. Of the eight that are noncontributing, five are larger apartment buildings with 11 or more units. So by encouraging this up zoning and demolition, you're actually destroying density, losing affordable housing, and you're also losing this wonderful mix of historic structures that span the period from 1880s to about 1939 to have a mono culture of our 2.5 single family houses, \$700,000, 3,000 square feet plus. So the new zoning will encourage demolition and determination of eligibility and potential viable historic district and with goal 5 Oregon statewide planning goals which ask to preserve historic areas.

**Hales:** Thanks very much. Good afternoon.

**Barbara Hamilton:** Wonderful. I'm barb Hamilton. I'm at 1405 east 53 avenue. I'm here to oppose rezoning of a single r5 lot at the corner of northeast 53 and halsey to the too broad cm1 or commercial multi-use designation. I provided you this snip of the recommended comprehensive map with this single r5 was located. The pink island surrounded by blocks and blocks of residential mostly small scale single family homes. Also included is the rose city park neighborhood association's previously submitted testimony on our behalf. They also asked that this cm1 rezoning be denied. This stack of signed opposition statements one of which is attached, which is representative of just a couple hours of my time that I had to devote to this. Over 40 of my neighbors, a 100 percent hit rate, once this was explained to them they all agreed that this is cm1 scale is incongruous to our neighborhood. Northeast 53 is already a very busy street, a jog street at halsey. There's a light and cafe on this residential site. It's heavily traveled, a bike pathway, there's a lot of residents and pedestrians already. The cm1 would typically generally on average allow a 35 foot or taller building with no parking required. So very few of these people are against change or think that halsey street won't eventually evolve. Our concerns are that this broad designation apply to this one single r5 lot. At this point in time will not fit with the small scale of our neighborhood and would pressure an already burdened parking and unsafe traffic situation. Some years in the future most likely when the next comprehensive plan is discussed, this development would make more sense as you can see by the map when commercial development has filled in from northeast 43rd heading east and from northeast 60th heading west. So my neighbors and I as well as the rose city park neighborhood association are asking you to please remove this small pink square from the comprehensive plan and cm1 rezoning due to improper scale and lack of parking concerns. Honestly, the lack of a smaller scale or more limited option within the multi-use designation. I thank you.

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**Hales:** Thank you. Staff mentioned this to me earlier today when we were getting ready for the hearing. Dumb question I failed to ask them, how did the cafe get developed on this site in the first place?

**Hamilton:** It's been a long time historical retail site. It's an r5 zoned but been retail for years. Back in the '40s I was told it was a barbershop. It was a little market. It's been --

**Hales:** Predated the zoning ordinance or at least the modern version of it.

**Hamilton:** I think there may have been a house with a barbershop in it.

**Hales:** We have a bunch of those.

**Hamilton:** I think a plan view, you look at a list and it's already a cafe, it might make sense. If you go to that corner and you see what other homes and how small the scale of everything is right there, it makes no sense to wind up with a 35 or 40 foot facade on that site.

**Hales:** Thank you very much.

**Hamilton:** You bet. Thank you.

**Hales:** Thank you all. Let's take the next three, please.

**Hales:** Welcome. Good afternoon. Please.

**Frank Milan:** Mayor, council, I'm Frank Milan. I live in northwest Portland. First I want to thank councilor Fritz for voting against the west end quadrant plan to be reconsidered this year. In my opinion the most critical development is out of control creating lack of affordable housing and adding to homelessness. Uncontrolled development is not. From my viewpoint the comprehensive plan appears to be rigged in favor of developers. The permitting process of the bureau of development services appears to be rigged as well. Monstrosity projects are being permitted by the bds, impacting our city. Just about any building is being torn down if the developer requests it. This is being promoted as inevitable however in my opinion this is not inevitable its development out of control. Portland has been a city with a history of public policy that has protected our future for the common good and for future generations to come. In my opinions it's subverting this process in favor of special interests. Perhaps, mayor Hales, you can tell us how they have been allegedly rigged in favor of developers since this has all happened since you took office in 2013 but it's also my understanding that the attorney general's office has been approached with this question. Under what circumstances will the attorney general's office open an investigation into the relationship between Portland mayor Charlie Hales and the developers who are active in this city? The media may be very interested in response to this question. Councilors particularly you, councilor Novick, councilor Saltzman and councilor Fish if he was here, I encourage you to consider the long term effects of your decisions. You can choose to distance yourself from this mayor and from this development which is out of control. Protect the city from even more unnecessary destruction which cannot be reversed.

**Hales:** Thank you. Welcome.

**Nancy Chapin:** Good afternoon. Nancy Chapin. You all know about the five-story building that is being proposed at 3423 southeast Hawthorne between two one-story retail buildings. It's as you can see definitely a sore thumb. It's being asked to be approved. I believe it's not only your right according to the criteria of context but your responsibility as guardians of Portland's liveability and history to not allow that development to go through. As an alternative rather than approving a sore thumb in the middle of an historic center suggest it be developed as it was intended to be. I have driven in that area. There's all kinds of property that could be developed now. There is some money coming through for affordable housing. If you have to do an incentive to get builders out there in that far

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reach of Portland, do it. If we don't get affordable housing we're going to under up with an exodus from Portland. We don't need those 300,000 units for people to live in because it's becoming unlivable as you know if you attended the concern about housing and lack of it. Apartments can be built and occupied within as few as four months on southeast 50th, 52, division, Powell, and now that those funds are available, please use them to develop affordable housing in an area that is waiting for it and ready for it, the gateway district, and please leave our historic districts so that they maintain their beauty and their history. Five stories in the midst of two one-story retail buildings with no retail and no parking is an abomination.

**Hales:** That's 3423 did you say?

**Chapin:** Yes.

**Hales:** Nancy, you have been around land use. You know how it works. City council doesn't make site specific permitting decisions. We adopt a zoning ordinance and people have entitled rights which they can build to and get a permit for. It's not a political decision, it's a ministerial decision. What's the zoning on this site now?

**Chapin:** Commercial. No retail is planned. No parking is planned.

**Hales:** Store front commercial. That allows either multi-family or commercial, right, under the current code?

**Chapin:** Yes.

**Hales:** Five stories, is that by right or by bonus?

**Chapin:** It appears to be some bonus and the fact that it's on a little hill. Somehow they figured out that that gives them another right to have another story on it.

**Hales:** You think this should be zoned what?

**Chapin:** Well, I think it should be zoned so that it matches the area at least no more than three stories, which you have across --

**Hales:** The new mixed use 1 designation, right?

**Chapin:** Right. The other thing is if you were to do that two-year moratorium until the plan is approved which is what I understand you can do, I think that that would be a wise decision until this plan is done. Its ten years later than it was supposed to be. I worked on the one approved in the '80s and it was supposed to be done ten years ago and we wouldn't be going through this if it had been done in a timely matter.

**Hales:** Thank you. We're going to try to speed it up.

**Andrew Paget:** Mr. Mayor, councilors, thank you for the opportunity to testify. I represent PepsiCo. Our adjoining properties at 2627 northeast Sandy Boulevard and 2505 northeast pacific street are home for over 60 years and home to close to 300 Pepsi employees, local residents. While we are enthusiastically support the comp plan we recognize that the mixed use urban center that's proposed for this area will impinge on our operations. It's our understanding the general employment zones eg1 and eg2 will allow commercial truck parking with some limitations but that would require a change in designation from mixed use urban center to mixed employment in order to allow eg1 or eg2 zones to be implemented. PepsiCo is formally requesting city council consider implementing such a change. Thank you.

**Hales:** So plan to keep operating for the foreseeable future.

**Paget:** Yes, sir.

**Hales:** Redevelopment is not in your plan?

**Paget:** No, sir.

**Hales:** Thank you. Next three. Welcome.

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**Kristin Greene:** Good afternoon. I'm Kristin Greene. By training and trade I'm a comprehensive planner and managing principal here in Portland. Our business is advancing best practices in community planning. We also convene across generational multi-cultural community practice dedicated to diversifying thought and practitioners of community planning. In our 40 years of practice this year we have studied just the issue before you how to avoid the mistakes of past planning and investment strategies as we plan for a better future. Proud affiliate member of the anti-displacement coalition our committee urges you to adopt the recommended measures in their entirety. To do so with both historical justice and equity lens city-wide and without exception. We believe we owe it to current and future generations to create inclusive communities that create commission diversity and opportunity while advancing our shared obligation to affirmatively further fair housing, while complying with goals of housing choice and opportunity areas throughout our great city. By adopting the anti-displacement policies you will usher in a new era utilizing best practices including the equity lens tool. We need with your leadership supporting, firmly requiring all communities to be inclusive, to take up their share of needed housing and overcome fear of change. One thing good cities do well is evolve and we can evolve beautifully as well as equitably. You have the best planners in the state to support you in this regard. By adopting these recommendations and implementing them you'll achieve what you seek to achieve a racially equity and just city. Please say yes for past, current and future generations.

**Hales:** Thanks. Welcome.

**Dana Denny:** I'm Dana Denny. I think this is my fourth time in front of you. I have some information I'm providing you with today to document how while I'm here to address tiny homes. Fresno, California, just recently allowed tiny homes into their city. This is how they did it. I thought I would share that information with you. You can look at it. So I'm -- I reviewed the housing section of the proposed comprehensive plan and have my findings here. There's goal 5 a, housing diversity, goal 5 d, affordable housing, and 5 e, high performance housing. Our little homes are very efficient and have a minimal carbon footprint. In the policies 5.3 potential we can serve low and middle income needs. 5.4, types, our houses are new and innovative and very small. Housing access, 5.12, provides stability. 5.15 curtails involuntary displacement. 5.16, land banking providing land for our little affordable units to be on. My favorite, 5.18, aging in place with dignity. Housing location section 5.20, please provide access to opportunities. Housing affordability, 5.29 housing cost burden, 5.3, housing prosperity, various types. 5.35, impact on affordability. 5.42 variety of homeownership opportunities. 5.44 regional balance. Health and safety, 5.49, high performance houses are our houses are energy efficient. They have great quality. So as you can see our tiny homes do fit in the comprehensive plan. They are free to the city of Portland at no cost. So I encourage you to please include these small homes in this proposed comprehensive plan. Let me age with dignity in my little house. Thank you.

**Hales:** Thank you. You may have heard council earlier today approved appointment of Eli Spivak to the planning commission.

**Denny:** I'll start working with him as well.

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

**Margaret Davis:** Great news about Eli. I'm Margaret Davis. My comment is on public comment. Along with many people here I have already made specific comment on the map and other forms but I worry those comments are being erased instead of forming the decisions as intended and I believe as required by the comp plan. Here's why. I had a



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recent discussion draft issued by the mixed use zones project by the bureau of planning. Our neighborhood has had a representative closely following this project. Jack buckwalter is a retired city planner, lives in Beaumont. He really knows his land use. Under his direction we worked hard to comment on the project which contemplates many of the same issues under discussion today. We submitted a letter details our concerns and ideas for northeast Fremont Street. I am providing that letter to you. The planners for that project gathered public comment into one document which I have here and which I have also provided to you in pertinent part. We see our comment has been significantly altered. Some examples include our stated strong opposition to cm2 zoning for northeast Fremont is gone. Our description of the meeting with trimet where we were told frequent service would never be in the offing for Fremont is gone. Our gotcha where we found planners had changed the wording of cm2 criteria from well served by frequent transit to just well served by transit is gone. The unsuitability of the infrastructure on Fremont to support high density development such as narrowness of the street and other factors is gone. Every criticism in our letter is gone. The only thing left is the praise for the planners. We are stunned that a thoughtful researched contribution to city planning would be so changed and demand transparency in the public comment process. All the comments people have made on the map app and elsewhere will the decision makers see them or are they already deleted by staff who don't want others to learn what Portlanders on the ground believe and know? If the city wants to maintain and build public trust this is not the way to do it. We have time and again worked to make our voices heard but when our efforts are deleted it makes us wonder what forces are at work. This is evidence you are not receiving the truth from the voices at the ground level. Before approving any plans we urge and audit of the public comment received so far. We urge you to bring integrity and value to the public comment process.

**Hales:** Thank you very much.

**Hales:** Good afternoon. I think Mr. Washington is first.

**John Washington:** I'm going to pass.

**Hales:** Welcome.

**Alem Gebrehiwot:** Thank you, mayor, commissioners. I'm here to testify on north Fremont. We are asking to change the zoning from residential to mixed use. I have been in the neighborhood for the last 30 years.

**Hales:** Fremont and what?

**Gebrehiwot:** From Mississippi to Vancouver.

**Hales:** Okay.

**Gebrehiwot:** I have been in this neighborhood for the last 30 years and seen a lot of changes going through which at a time that we is quite a lot of development coming. In the last 30 years or so we have seen quite a lot of gentrification that has been done and still is quite a lot of disparity of housing and businesses. There's improvement to the streets around us, Mississippi and commercial I think there's a lot that could be done on Fremont on north Fremont from Mississippi, and Vancouver. I am asking you to change this zone from residential into mixed zone. It is about ten blocks and has pretty much on each block two houses. Which is about 1,000 square feet. Changing this street into mixed use would bring a lot of the community that has been moved out to come back home. It could be built large buildings on the street. This street is so close to the downtown or to anywhere and practically actually it should be a commercial or mixed use street. This doesn't destroy any historic impact to the street or to the housing because the houses don't have any historic significance but human history. And bring back this

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community that has been moved away far away like last week people have been talking I think this would be a good solution to change that street into a mixed zone and given the opportunity have been there for many years people are being left that the only remaining ungentrified people could benefit by changing this zone. Of course there's a lot of issues that are going on, this will be a? Good solution. Thank you.

**John Washington:** Good afternoon, mayor. Commissioners. We appreciate you guys allowing us to come and sit and testify. I'm here on behalf of north northeast business association. One of the things that is primary that I was sent down here to do is to make sure that I continue to inform you that the issue of the plan of economic development just doesn't -- is not inclusive only of housing. Low-income housing. We're also concerned about retail space. The fact in the northeast is that the retail space for the demographic has been pushed out basically dwindling. One of the things that north northeast business association is in support of is the Fremont request for the Fremont change. That is for mixed use. Also trying to maintain some affordable retail space in the district for some of the businesses to return that was forced out of the environment. We also want to let you know that the issue around neighborhood associations and business associations and the conversation around the fair involvement of both organizations and land use matters. We would like to see more business associations involved in land use matters as the plan progresses on and that's one of the things we have a serious concern about.

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

**Michael Robinson:** Good afternoon, mayor Hales, members of council. I'm Mike Robinson here on behalf of province health and services Oregon. I submitted a letter to you dated January 7 of this year so I'll limit my testimony to a few things. First I want to offer a compliment to your professional staff and the public. This comprehensive plan in my opinion continues your tradition of having the best written and best edited planning documents in the state. We may not all agree with everything that's in it but it will serve the public well. Two substantive things, in our letter Providence suggested two additional plan policies. The first is new policy 6.61. That's a policy that would require the implementing land use regulations to provide for the continuation and extension of existing conditional use master plan for institutions. We appreciate the city recognizing importance of institutions to the region's economy and we appreciate the allowed use it would provide but really is we have a real investment in our master plan. We worked hard with our neighbors to see that it works and its neighborhood friendly. The proposed regulations unfortunately terminate existing and improved zoning and don't provide for extension. We think it's important there be a plan policy recognizing investment that the neighbors and institutions have made. Secondly new plan policy 6.62 part of our planned cump has a very effective transportation to land management plan. Providence has implemented reduction of single vehicle occupancy travel each year since implementation. We would like this to be considered by the council so land use regulations and administrative rules would provide for continuation of successful and effective tdms. Thank you for your time.

**Hales:** Help me understand how this would work. I need to go back and look at the campus institutional portion of the plan and what the policies would be, but the purpose of that was to enshrine and legalize the use of -- the uses like campus institutional uses there under the master plans. This theory I get it that we would adopt this in planned and in code and you wouldn't need a conditional use master plan any more. What's the substantive difference of continuing and extending existing master plans versus having it

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down in chapter and verse in the code? I just need to understand how that would work in practice differently.

**Robinson:** The mayor providence has two concerns. We're fine with the concept of the ci2 zone district that enshrines the use. The issue is the cump terminates and under administrative rules that will be promulgated by pbot we have to do a new tdm. We don't know what's required or how extensive it's going to be so we want to keep the cump in place. We have a good tdm that's working for the public and for us and we would like to keep it in place through its vested period which I think is 2023 and be able to extend it. We're not saying don't adopt the plan designation or the zones but we're happy with how we have been able to work with the cump, with the neighbors without the ability to keep that in place we're going to be forced at some point to do a different tdm. We would be less concerned if we knew what those were going to be. By the time they get adopted cump will be on its way out and we're concerned about that. I think your staff has been responsive to us. They have convened a meeting tomorrow with pbot. We're going to listen and we may have additional comments but that i'm not trying to make a simple issue complex but it's intertwined.

**Hales:** That helps. Thank you.

**Fritz:** I know neighbors have different but similar concerns the other way particularly where there's going to be a new institutional rezoning yet there's no master plan. That's what guides the rules for us. I think we have heard a lot about not adopting the mixed use zones until we know what the implementing rules are and what's going to be allowed. I hear similar concern from many sides on the institutional zoning.

**Robinson:** That's correct.

**Robinson:** One other quick thing. We the pfc is a very interesting organization to testify in front of. They actually listen and engage you in discussion. No one at that hearing on the 14th said they wanted the cumps to go away. All the institutions that testified expressed support for them. I think people would tell you they were tough to get done but one of the values I think providence and I see, my client, forced us to engage our neighbors and do a better job of working with them. I think there were a lot of early skirmishes but i'm comfortable saying that the relationship is much better. If we hadn't had the instrument of the cump to help us i'm not sure we would have gotten there.

**Hales:** I have been through that process a time or two. You're right. Thank you very much. Thank you all.

**Hales:** Welcome.

**Deborah O'Neill:** Good afternoon. Mayor hales, members of the Portland city council, I'm Deborah O'Neill and I'm speaking today on behalf of the architectural heritage center and the bosko milligan foundation. Other individuals have and will testify on behalf of the architectural heritage center and the foundation. The purpose of my testimony will be to highlight elements of the proposed comprehensive plan that are strongly supported by the center and the foundation. First the architectural heritage center and the foundation support the proposed comprehensive plan's recommendation to downzone the Elliott conservation district. This was specifically requested by the neighborhood which looked to match zoning with conservation district guidelines. Second, we also support the elimination of the no net laws housing policy which has limited flexibility when neighborhood and/or area plans are updated given that existing zoning already supports substantially more residential capacity than is required by 2035, we believe that there should be flexibility in protecting our historic districts and undesignated historic areas. Finally the architectural heritage center and the foundation also support the efforts of the

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infill design task force and emphasize the importance of its work, especially as it relates to confirmation -- lot confirmation issues. I thank you for your time and for this opportunity.

**Hales:** Thanks very much. Welcome.

**Soren Impey:** I'm Soren Impey. I have rented in the buckman neighborhood for 16 years. In fact 80 percent of my neighbors rent. Nevertheless buckman and much of Portland is experiencing a housing crisis with record low vacancy rates and epidemic of displacement of long term residents. As a renter threatened by displacement myself I strongly support up zoning in the buckman area and inner southeast as a whole. I ask that you support changes that allow for greater low rise density in exclusively residential zoned areas. Inclusionary up zoning is critical for increasing housing equity in this city. I want to talk about a recent comprehensive study of 95 large metropolitan areas which found density restrictions increase economic segregation by promoting segregation of of affluence. Density restrictions are a culprit in the social fragmentation of areas and should be relaxed wherever possible. Give more weight to equity and less weight to what are often you've minimums for. Charm and economic character I'm also here as a board member of bike live pdx and a founder of livable streets action. I would like to thank the commissioners and mayor for approving vision zero plan. The neighborhood greenway report and recently approving and starting to implement bike share. Nevertheless, Portland is falling well behind its bike plan goal of 25 percent road share by 2030. Multiple projects in the comprehensive plan that we believe are essential to reaching these goals have been pushed back. We urge you to push for projects as Hollywood town center, Beaumont Morrison bike way and Holgate bike way into the first decade and we urge you to prioritize the inner Burnside bike/ped improvements. Many points have been made in a letter I believe that was sent to the mayor and council.

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

**Joseph Weston:** Good afternoon. I'm Joseph Weston. We have property in Portland. I'm going to limit my comments to three areas that I'm very concerned about. The first is up at sellman. You look at the packet I gave you there's a map here. When we develop these properties in the 60s they were referred to as living walkups. It is one where you don't have an elevator that you have to walk up the stairs. The site is ideal for a class a office complex. It's close to the city, on light-rail, an area that shouldn't be zoned in my estimation eg2. I ask you to give that consideration. We get calls all the time on that property. I will not redevelop. It will be done after I'm long gone but it should be redeveloped to its highest and best use, a zone of eg2. The second area is close in central east side. We have acquired over the years real estate owned by Jansen, nationwide insurance, Salvation Army, what they owned on the north side of sandy. The remainder of lineman stock motors and Oregon plaza building. We have 175,000 square feet of land there. It was my intent when I assembled that to perhaps do another Hoyt street property now known as the pearl but at my age I don't have the patience I admit to you that I probably will not be developing that but it should be developed to its highest and best use. Washington capitol owns property there and we ask that that be broad under the city as central city. It's the largest piece of property under private ownership in the central city. Please give it some consideration. The third is at the east ends of the Broadway Bridge. He said we would like to develop the east end of the Broadway Bridge. That's when they were doing one of many, many, many, many, many studies of memorial coliseum. I said you rezone, we'll build something there. There's a rendering of a building we're going to build. I get a call he says, Sam Adams changed their mind. They want to do the Burnside Bridge at the east end. So don't waste any more time on your project

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there because we're not interested any more. Now in central city I want to leave it in central city. Your cooperation in amending it to go to these zones on these three undeveloped or not developed to its highest and best use would be appreciated. We own property in almost all the air other people have talked about. I'm not worrying about. Fully developed, maybe nonconforming use but we'll be grandfathered in. When I'm gone somebody else can worry about it. Thank you for your consideration.

**Hales:** We hope you're not gone any time soon. We appreciate you.

**Weston:** I'm going to go pick up my lottery money now. [laughter]

**Hales:** Thank you.

**Hales:** Good afternoon.

**Tamara DeRidder:** Good afternoon. I'm Tamara DeRidder, chairman for rose city park neighborhood association which I'm representing today. There are three concerns. First passenger vehicles may change to electric over the next 20 years but they will not go away. And right now the comprehensive plan predicts that 30 percent of all households in the city will reduce to one or no vehicles at all. So I don't think that's real. Also number two, the public parking needs to be planned for and implemented in centers and civic corridors or you will lose your small businesses. This issue is not addressed at all. Number three, request support of provisional map amendment for Euclid heights subdivision and northeast 60th avenue station area. On behalf of our number one on behalf of our neighborhood association and central northeast neighbors please remove or level the transportation use hierarchy contained in section 9.6. Right now 9.6 identifies bicycles as second only to pedestrians and handicapped uses for all uses on public roads. Bicycles are prioritized over transit, over freight, over carpools. Over electric cars. Last but not least passenger vehicles. This policy is cast the same for all roads in Portland, not just downtown. Instead create a best practices transportation as they do with science and slide one -- this is a new car. It's an electric car. They are making these or looking to make these for the average citizen. This is for my son actually invented this. So already the language that you had in this plan is antiquated.

**Hales:** Thank you.

**DeRidder:** Number two --

**Hales:** Go ahead quickly because I have a question for you.

**DeRidder:** Public off street parking needs to be planned and implemented for the center city corridors. I represent both our neighborhood and central northeast neighbors on this as well. I represent the neighborhood both of these groups in the centers and corridors parking task force. None of the staff in that committee or in the draft of the comprehensive plan have addressed this critical issue that mixed use commercial will contain high density residential units requiring 72 parking spaces for each 100 units. The third is the provisional map amendment that we have.

**Hales:** You have a new proposed map for that area?

**DeRidder:** Yes, I do.

**Hales:** You don't have to put it up on the screen.

**DeRidder:** It's in the handout.

**Hales:** As long as we have that in the record, I know you were working on this with the staff.

**DeRidder:** Red carpet of commercial along 60th from halsey down to the max station.

**Hales:** Good. Thank you. That has the support of the neighborhood?

**DeRidder:** It does. That's one of the things we're good for is --



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**Hales:** I've got it. Thank you very much for working more on that. That was one I was particularly interested in seeing some additional thought and you have done it. So thank you. Welcome.

**Vivian Satterfield:** Good afternoon. Vivian Satterfield representing local environment justice Oregon. This council is familiar with my organization and the scope of our work. Just a slight remind they're leadership and accountability for reducing risks and enhancing beautiful public engagement are necessary at every level of government. Must integrate achieving environmental justice. Important to remember that government at every level has not always been proactive in addressing environment justice concerns. In short land use access, housing and transportation are all environmental justice issues and are reasons why opal is a member of the anti-december placement coalition. They speak to environmental justice concerns, 2.4, 2.4a, and b. I want to highlight one particular site, 1639 southeast holgate. My understanding is there's a current proposal of a change from designation from eg1 to cm2. I understand even though i'm not a planner that this is considered & up zone. Up designation should deliver some public community benefits. Public agencies in particular have a responsibility to mitigate potential displacement and for example trimet with the yellow line. I regret that commissioner Fish is not here. I understand that. That he brought up we should be getting more from the orange line. Huge public investment. This trimet site, 1639 southeast Holgate, is near the orange line. Coincidentally a neighborhood I was displaced from in 2011 as a renter due to increased rental rates that I attribute to the orange line. As i'm working with community members on Powell, division, this is something we're thinking about critically in terms of land banking and what sort of community benefits we can be looking at as we're planning for large scale public investments on transit.

**Hales:** This is a site owned by trimet.

**Satterfield:** That's correct. My understanding is it's been given up zoning which essentially allows them to do more with that land.

**Hales:** I guess the issue there in that corridor -- it's a question in my mind about whether we try to preserve that area primarily for employment or whether we do allow housing to sort of come down the hill from Milwaukee avenue closer to 17th. There's couple of schools of thought on that. One of which is we got to preserve all the employment land we possibly can, the other is we need more housing.

**Satterfield:** Yes, we do.

**Hales:** You say it be would better to be left at eg1 than to change it to cm2.

**Satterfield:** I haven't thought about how the designation should be. When we're looking at sites in which another agency such as trimet is receiving additional benefit to look critically at those sites at the intersection of housing and transportation especially.

**Hales:** Okay. It's a public benefit question.

**Satterfield:** Absolutely.

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

**Rose Kowalski:** Good afternoon. I'm rose Kowalski. I live at 627 northeast 20th avenue and i'm speaking on behalf of the bosko Milligan can foundation architectural heritage center. We support the proposed downzoning in the Elliott neighborhood as a positive and important step since such detailed review greatly increases the consistency of both zoning and development guidelines. We encourage you to continue this work in other conservation and historic districts specifically we request additional downzoning of high density areas in three existing historic districts, the alphabet, Irvington and kings hill. We feel the very high far allowances in the rh zones do not support the heritage conservation

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goals of these adopted historic districts and request council include a refinement plan work element as part of the implementation phase of the comprehensive plan. Sadly, we need to note that Portland's historic resource inventory was completed more than 32 years ago and has never been updated. Portland's planning process is therefore unprepared to assess the historic importance of its very large stock of post war and midcentury modern historic properties. By very large stocky mean the hundreds of buildings constructed between 1934 and 1966 which became eligible after the completion of the 1984 inventory. We encourage council to arrange for an update of this important resource.

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

**\*\*\*\*:** We would like to share.

**Hales:** Pull up another chair. Please go ahead.

**Nikki Johnston:** I'm Nikki Johnston it the Irvington community association. Irvington is outlined by the center lines of northeast Broadway to Fremont and northeast 7th to 27th. City plan establishes there's enough density in the present zoning for the next 50 years so why the need to up zone areas in the historic district? Also because of the zoning is entirely consistent with the plan to reduce zoning in certain areas in the Irvington historic district. The rh zoning with its floor area ratio of 4.0 is incompatible with the fabric of the district and rh zoning should be restricted to floor area ratio of 2.0. North of schuyler the rh zoning should be reduced to r1. Maximum height of 75 feet along Broadway on the north side between 7th and 16th is not justified either by market needs nor by consistency with the compatibility with historic development pattern and should be adjusted downward in that stretch to match the 45 foot height currently established along the north side of Broadway between 16th and 27th. The cx zoning along the north side of Broadway between 7th and 16th is also not compatible and should be changed to cm2 but without the benefit of bonuses. The bonuses are too much for an historic district. Changes affecting the historic district on the comp plan map are 24th and Fremont commercial known change from cm2 to cm1. This is acceptable. 7th and knot, commercial, no change from cn1 to cm1, this is acceptable. Half block east of 7th between schuyler and Tillamook and full block between 7th and 8th, schuyler ho Hancock change from ex to cm2, this is not acceptable and cm3 should be changed to cm1. Broadway between 16th and 27th, change cs to cm2. This is acceptable if bonus are not allowed else.

**Hales:** I'm going to stop you. I want to make sure we have this writing. It's so detailed, one, i'm not going to be able to remember it all. That's okay as long as we have copies of it. There are a number of members this council who will walk out and sit down with the map and look at it in detail with your testimony. Make sure we have a written copy in the record that would be extremely helpful.

**Johnston:** I will. The last point is there's a commercial node on 15<sup>th</sup> brazee which is nonconforming. It's been there for years. Everybody has known about it. We don't want it changed at all. Just leave it as it is. It's surrounded by residences.

**Hales:** It's r5 now?

**Johnston:** Yes.

**Hales:** Make sure we have a copy of that, please. It's very helpful.

**Johnston:** Thank you.

**Kathryn Beaumont:** Mayor hales, unfortunately we have lost a quorum.

**Hales:** no, we haven't. Thank you. Who would like to be next? Go ahead, please.

**Tastonga Davis:** Good afternoon Mr. Mayor, commissioners. Thank you for having us. I'm Tastonga Davis. I represent micro enterprises of Oregon. What we are requesting

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that the city include at 4008 northeast martin luther king, 4009 northeast grand and 4003 northeast grand and the comprehensive plan to change the zoning to exd zone, central employment zoning. We would like these properties, their history of these properties have been commercial use and they have been always used for commercial but they are zoned residential use.

**Hales:** Got it. Thank you. Please.

**Felicia Knott:** Thank you. Again. For the extended opportunity. I'm Felicia Knott and I'm also represented niso. I want to say the building in which we are leasing has been always been commercial space. Since moving, we moved there in 2011, and it's in a parking lot. But it's becoming a staple in the community since we have been there. We are serving many, many, many more people than we did when we were on Alberta and 28th. We served at least over 40 percent African-Americans. We just would like for you to really consider rezoning as a commercial space.

**Hales:** That's 4009 mlk, 4003 and 4009 grand?

**Knott:** Yes.

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

**Wendy Chung:** Good afternoon. I'm Wendy chug. I live in the alphabet historic district in northwest Portland. Thank you for the opportunity to testify. You'll note that you're receiving a packet that will supplement the testimony of the nwda, as well as some testimony that I provided in writing last week. I also want to respond to the comment made in earlier testifier about the use of the word historic to oppose density. I just want to point out I live in the most dense neighborhood in all of Portland and we are most certainly not opposed to density. So I would just like to point out that the comments here are indeed intended to support the preservation of historic districts, much along the lines of folks from Irvington, Elliott, bosko mulligan, architectural heritage foundation have previously testified. In your packet you'll see I have made specific comments to the comp plan language but today I want to draw your attention to two specific suggestions for changes to zoning that will support goal 5, Oregon statewide planning goals and guidelines which requires local government to adopt programs that will conserve for future generations. First as others have commented, the far needs to be changed in rh properties within the alphabet historic district as well as other historic districts from four to one to two to one and I would like to encourage transfer of air rights from historic properties to non-historic properties but outside of the historic district. In other words, in some instances there's been especially in our neighborhood where we have a lot of development an attempt to transfer bonus rights on to properties within the historic district. I would ask that you consider the possibility of prohibiting that kind of transfer.

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

**Hales:** Mary Ann is coming up. We got all three of you. Karen, why don't you go ahead?

**Karen Karlsson:** Okay. I'm Karen Karlsson here representing the mwda, northwest district association. A letter is about to be given to you that has testimony, detailed testimony from our planning committee and our transportation committee. But I would like to just point out a few items that are in there. First is that the northwest is called out in the comp plan as an inner ring neighborhood and a town center. After reading the descriptions of both it's pretty clear that the town center most clearly defines our neighborhood both its traditions and aspirations. Inner ring. Shoot. Great. We're asking to have the town center designation removed from northwest. The other is something you heard a little bit earlier about campus institutional zoning designation. In northwest the good Sam facility is actually very unique in nature the way it's integrated and functions

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within the neighborhood. Both mwda and legacy agree this designation should not be placed on the good Sam facility. The institutional conditional use master plan serves the community and the institution well and in fact, the -- the new zoning would actually downzone the campus right now. It's a 3.89 to one under conditional use master plan. Institutional zoning would move it to three to 3.1 far. The last is outside the central city all ex property which is an employment zone designation is being changed to a commercial mixed use. This does not actually recognize the reasons that some ex zoning has been placed in certain neighborhoods. Many inner ring neighborhoods have this designation to preserve low scale use. Industrial and services uses that we have and co-exist with the residential and commercial uses. These areas are already being eroded even through the ex-zoning, and I have included a map which I think is really enlightening. All of that is in green is employment in those -- this is what we call our eastern edge. The properties identified in red are new mixed use high density mixed use. The intent is all of the area you're seeing would be rezoned to cm3. We think this is not a good idea. It will cost jobs and take away from our neighborhood what we think is a wonderful patchwork of mixed use commercial, housing and employment. Thank you.

**Hales:** Quick question. It's always dangerous for policy makers to think out loud at public hearings but we have heard a couple of criticisms of the new institutional zone. If we were to create a mechanism by which existing conditional use master plans lived on, would that ameliorate your concern? At some point the new rules would kick in at the expiration of that original conditional use master plan but they all have expiration dates. What do you think of that notion?

**Karlsson:** Well, I think in northwest we have more issues than the conditional use master plan. One ever the things about the institutional designation is that it locks in the boundaries of what that institution is. The good sam one is a little convoluted. It was designed basically in the 1980s to protect as much housing as possible but it's also created some pockets that would be hard to redevelop for the hospital and it may be viable for us to do some swapping of land too. But if it's in the comp plan it has to be a comp plan amendment. I don't think that's beneficial. One of the things we have been thinking about in northwest is actually adding a sub district to our plan district. That would be the Good Samaritan campus. With would be able to combine some things that institutional zoning is trying to accomplish but also some things that have been long negotiated under our condition at use master plan that we're all happy with. All satisfied with. So that may be our solution than to try to continue a conditional use master plan.

**Hales:** That's helpful. Thank you. We'll stay in northwest for a little while then come back --

**Karlsson:** Actually not.

**Rick Michaelson:** Maybe not. I'm here for the first time to talk about a particular piece of property I own. I own property on north Williams between ivy and Fremont. Comp plan is proposing to rezone from rfd, to rh. I oppose that. I have met with the neighborhood association and northeast coalition of neighborhoods both of who prefer to see that site remain rx, rather than rh, for a variety of reason. One is rh does not allow ground floor retail in that space. That would be the last piece in that block without ground floor retail. Secondly, the height limit is 75 feet. Under the present rx zone and the agreement reached with you for the rezoning portions are limited to 65 feet and others are listed to 40 feet, the height we want it to rather than 75. Thirdly under the present situation projects would have to go through design review. If this were changed to rh, design review would not be required which we think is a step in the wrong direction. We're caught in a



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transition area where city staff has tried to move the rh zone -- there are a few locations where that would be a mistake. We should keep what we have today for the betterment of the neighborhood and the city.

**Hales:** Thanks very much.

**Mary Ann Schwab:** Good evening. Two guesses whose computer crashed. I will give you my documentation at the end of this. I have them all over here. I'm here to go through some oopses with goal number one. When you have a coalition office, we have seven, they write city council regarding something beneficial to those communities and we wait seven months to get a response, that's not nice. What I will address is street fees. We filed a public request for information, waited 53 days and then we were asked to pay a \$2500 fine to get the information. This is happening any time there's a blooper with conditional use. She just mentioned the institutional zones. Once you get them in there, I have read your document here, 148 pages, there's loopholes in here that's not written very clear. I'm really happy to see that I read the 15 hospitals and colleges, I support that. But I also respect her right to say, wait a minute, this is my neighborhood. You need to hear the people that live in those areas. Sunnyside has been lobbying for a recreational center now for almost 35, now 40 years. The school closed in 1980. Sarah King came in and said I didn't know I had to go to buckman and address this. She submitted a letter march 13 asking to rezone open space to cm3, and to the credit of your staff working in the planning they said absolutely no spot for industrial zoning. Why is it we have to wait so long to get our pool? I'm at the jumping off point and I'm not sure I'll be able to jump in it. I supported the bond to fix our parks and I support what Amanda is trying to do but every time she moves two inches she gets back to back. Ask that you consider buying this land. You have that surplus money. One more thing, not talking to each other, I just found out about a design committee that came into St. Francis apartments, 106 units. Only 11 are deeply subsidized. Why is it when Dan Saltzman says we need six to 800 low-income housing 100 are plopped in our neighborhood and how is it the design committee can make them make smaller windows, one person said no, did not vote on that, and now we lost 32 to 34 on site parking spaces. Why must we have to pay three faces to challenge this? I'm angry all the work the comp plan reads well on paper but there's no, no enforcement. If I'm a little testy I want to jump in that pool.

**Hales:** Make sure you leave us your information and I think we might also keep the record open a little bit longer.

**Schwab:** That was my last statement. Please keep this open so other people who are just knew figuring out what happened. I was here for the Portland plan when seven citizens -- the school property and public involvement piece. I can name those seven people and seven years later we haven't moved an inch. Thank you.

**Hales:** Thank you.

**Ike Harris:** Good afternoon mayor Hales, city council, I'm Ike Harris. 39-year resident of northeast Portland. Member of the Concordia neighborhood association board. I'm here today to present gentrification from a pastoral point of view. Let's do gentrification from a cultural, political, historical, economical context. First historical. What makes Oregon unique? Negatively is that the black population is only two percent. When Oregon was granted statehood in 1859, it was the only state in the union admitted with a constitution that forbade black people from living, working or owning property here. Wallace cafe, the post, Kaiser shipyard, van port, black laws, exclusionary laws, and York, a slave that worked with Lewis and Clark, an Afro-American, after the expedition was over he received six mules and a wagon and everyone else got 325 acres of land. The parallel with



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Oregon past and Oregon present are draconian to say the least. After Socrates read Draco's laws he stated this came from a sick person. Gentrification is economic Darwinism because it produces survival of the fittest which robs afro Americans from. [audio not understandable] successive generations. Gentrification is also the -- enforced by Adolph Hitler which produced the enforcement and sterilization and elimination of all opposition within the political, economical, cultural and historical african-american influence in the state, northeast Portland in particular. Solutions. Infuse new, bold policies and the Oregon Supreme Court that favor strengthening -- economic and housing sectors so that testimony from the state of Oregon will full fill the u.s. Constitution of self-determination. Dr. King's dream of equality and the words of all mighty god who said of one blood, god made all of men to dwell in places of the earth. [audio not understandable]

**Hales:** Thank you very much.

**Rod Merrick:** Good afternoon I'm Rod Merrick. East Moreland land use co-chair, and I have two slides. We're queuing up.

**Hales:** It takes a village to operate our AV system.

**Merrick:** I want to highlight—we've given extensive testimony but I wanted to highlight a couple of issues of things I think need to be addressed in this plan before its finalized. In many ways there's a lot of wonderful things in it, but there's a couple of areas that really need attention and they're in front of you on your screens I'm presuming. The first areas in chapter 3 pattern areas, and that is we need to clarify the five Portland's are a notion that undermines completely inadequate to address the complex specific themes in the plan. I have heard this over and again for many people and I assume you guys have as well. We need to come up with a better definition of what contextual design is about. Chapter 10, land use designations, paragraph referring to alternative development options should be removed from the plan because it locks in many of the worst aspects of the residential code as policies. Others have testified that this -- specific code sections not be included in the plan, but I don't think I have a problem with that. I do have problems with talking specifically about particular areas of the zoning code, which, in fact, are under consideration for reform. Recommitting to complete neighborhoods based on planning, integral role of neighborhood and business associations in the process. As you heard from the coalition leaders -- and the neighborhood associations are all but ignored in the plan as integral to that planning process. And finally, I would just like to say something about preservation, the theme, missing theme of preserving what we love and improving what is neglected and unloved needs to be given more emphasis. The second -- if I can get this -- go to the second -- what do I do to make it go to the second slide? The second slide is specific to our neighborhoods' repeated request to be zoned r-7. And I just want to give you kind of a quick picture of what r-7 means and where the numbers fall out in our neighborhood.

**Hales:** Hang on and we will find the map.

**Merrick:** It is about to come up. Page 2.

**Hales:** There we go.

**Merrick:** No, page two of that slide.

**Hales:** It is in the same pdf there?

**Merrick:** In the same pdf. You just have to go to next.

**Hales:** Sliding down --

**Merrick:** There you go.

**Merrick:** There you go. Just to remind everybody, r-7 allows lot sizes for a minimum of 4,200 to 12,000 to a maximum of 12,000 square feet. The chart here shows what different

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quadrants of the neighborhood, lot sizes, all well over 4,200 square feet and they are very much in this range, and this is the appropriate r-7 is the appropriate designation for this neighborhood and the fact that the -- the lot sizes have varied significantly from the basic density standards is the trigger that has caused a lot of problems and needs to be addressed and we're asking that our area be given the r-7 designation.

**Hales:** Thank you. I know you submitted written testimony. But Karla, would you make sure that we get copies of the slides since they're in the record as well. That is handy reference for us.

**Merrick:** I will provide some additional supplemental testimony. We have given many pages of testimony previously, and we will provide this as well.

**Hales:** I mentioned this earlier, but it is my intention to leave the written record open until close of business on Friday so that people can get additional information into the record if they haven't gotten it in today. Thanks to her computer problem and logistics in general we want to be sure that everything gets in.

**Merrick:** Thank you very much.

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

**Bill Failing:** Good afternoon mayor hales, fellow commissioners. I'm bill Failing, here to address the potential property change, number 1128, formerly number 644, a threat to the status of store property and to provide an overview of this immediate area as one who has been familiar with this combination of grocery and a joining park joined at the hip, and i've experienced this for about 70 years. My age. The neighborhood interaction in this park and the store has been a cultural definition of the area. Generations learned tennis, basketball, baseball, all kinds of organized sports. Me included. For almost -- well for generations, and after that would be -- the sports would happen, we would all go over to strohecker's, and have a soda pop, transitionalized to a beer later, and it was a social hub. And now it has coffee and it has people collecting there as kind of a social crossroads, a meeting place. There is more about this than just a -- being a grocery store, which, by the way, is going out of business January 31st. It's part of a neighborhood culture and character that has not been interrupted in my lifetime or in my families preceding me. I'm asking the council today do not allow to change to this property's zoning, which has protected this property by comprehensive plan ordinance since 1984. Grocery -- will surely fill this about to be empty space just as it has in the past. I worry about how the new property owner who lives in southern California and who can only be interested in the properties roi, can possibly understand the importance of neighborhood that exists in this area. A neighborhood, i'll say it again for emphasis --

**Hales:** Wrap up. We got the point about strohecker's.

**Failing:** I have 250 names of people who have signed this, names and addresses who have asked that this be represented and i'm here to make sure that it is done.

**Fritz:** What is proposed to be rezoned to?

**Failing:** It's preserving -- zoning right now, commissioner, is that the present zoning is supposed to protect and keep anything else beyond a grocery from occurring. But it can be changed very easily.

**Hales:** Conditional use now, is that right?

**Failing:** This goes back to 1984, mayor.

**Fritz:** We will look into it. Thank you very much.

**Hales:** We get it. Thank you.

**Failing:** Thank you.

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**Moore-Love:** The next three, 107, 113, and 114. They will be followed by 67, 118, and 119.

**Hales:** Go ahead, tom.

**Tom Karwaki:** Good evening. My name is tom Karwaki, vice chair of the University Park neighborhood association and we have several other members of the board here. We came and we request that you consider the following things. First of all, we really agree with all of the comments dealing with neighborhood associations and suggest that you add a policy number 6.8. Neighborhood associations with respect to the planning and comp plan just like business districts. Main issue, main issues number one, we don't like the institutional campus zone, number four in the written statement. And we support the idea of it becoming an fe-2 for the baxter mccormack property, but in general where an important process for us, 700 people within our neighborhood get involved in that process, far more than you have had actually in this. So, quite a bit. Water bureau is the main property that is concerned. We try to make comments on using the map app and didn't accept them. So, dealing with the idea of open space for what was in the water bureau land on the Carrie Boulevard, and peninsula trail. We would ask that the name classification of r-5, the current one, be maintained rather than going to r-2. And suggest that you consider a policy, 8.93 dealing with recreational trails to have a 50-foot setback on new trails and we are willing to pay \$1,000 to help the city and create a stakeholder master plan for the water bureau land where everybody can live with whatever is decided. So, we would like to start working with the city on that. You heard about the issues we've had with south of Willamette boulevard before. And our main issue besides that would be that we would consider that you -- that you consider affordable housing impact statements as a policy perhaps 5.45, Dan, for your -- this is the very useful thing, new Orleans, Atlanta, san Diego, all using these impact statements as a way of mechanism of implementing affordable housing and policies that are in this document.

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

**Joe Rossi:** Good afternoon. I'm Joe Rossi. I'm representing three families that are farm families in the park rose area. We're multi-generational four, five generation family farm in northeast Portland. We have a unique 22 continuous acre site within this comp plan that has some zoning on it that I want to address. I talked to the -- to the families and I really studied the 2035 plan and I want to say that we're all very enthusiastic supporters of their goals. Mostly because of the number one goal of creating complete communities. We're in the bull's eye center of park rose. If you look on the map, we have park rose high school on the left corner. U.s. Post office, we swing around to Beach Park and Schaffer School. I want to say thank you. Our community is excited about our new park and they touch our properties. We have r-7 and 3 we swing around to park rose middle school. It is an exciting site because it has the potential for a complete walking and biking community. We have k-12 schools. We have -- what we're missing some very key pieces to make it a complete community. We're obviously missing neighborhood grocery, neighborhood supporting businesses, and appropriate densities to support all of that. It is also exciting that we have north, south, east, west transit and we're one of the entryways to the corridor. We engaged Rudy kadlub here, coast pacific to help us meet the goals of the comp plan and specifically create a complete community for our park rose.

**Hales:** Thank you. Welcome.

**Rudy Kadlub:** Mr. Mayor, commissioners, I'm Rudy Kadlub, coastal pacific communities. Over the last couple of decades we have been involved with master planning, developing to major master planned communities, renco station in Hillsboro, and in Wilsonville. And

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we're just delighted to be able to team up with the Rossi family on this site and apply what we have learned over the years in creating complete communities. This is a classic potential infill site here. We have thousands of jobs to the north, north of airport way, which is void of housing now. By increasing the density in the housing in this area, we ostensibly reduce vehicle miles traveled in the region. Many people travel many miles to get to airport way could live close by. We are -- i'm a little concerned about if you look at the three -- the three maps, if you would go to the third map, which is the latest proposed zoning, you will see that there is r-3 to the east, and then mixed use civic corridor along 122nd. And in between, is an eg zone, employment zone. We feel that that is strategically at a place in this area, require -- would become a dead zone in the community if it was just an office park or industrial. It is inappropriate being close to the schools, and the return on investment we can get by increasing the number of housing units in the area, housing that is more affordable than what r-5 or r-7 would be. And would provide enough rooftops hopefully to support a grocery on the east -- or excuse me on the west side of 122nd. 122nd on the west -- airport way people. The best spot to do a local grocery. And so to that end, we are requesting that we not have the eg zone, that we expand the r-3 and mixed use corridor zone on the east and expand the mixed use civic corridor zone to the west. That zone will allow us to get a palate, if you will, that will allow us to do a creative, integrated diverse neighborhood of mixed use retail variety of residential types, and service retail as well.

**Hales:** Couple of questions. In fact, I was meeting earlier today with the planning and the transportation staff about future street plans for large areas where redevelopment would occur. I assume that you're still at the notional stages of how this might get redeveloped or developed, because it has been agricultural land in much of this area for a long time. There would be some requirement for, if it was mixed use density, for some kind of gridded streets to marry into the neighborhood grid around it. I assume your plans incorporate that sort of planning 101 notion.

**Rossi:** You're familiar with the projects that we have done in the past. All grids, not necessarily east/west grids because they follow the topography. But no dead-end streets. Most of the products are alley loaded, rear loaded products.

**Hales:** And the site shown in light yellow, between the middle school and your property, that is not in your ownership or these family's ownership.

**Rossi:** I think that is a mistake. That is park rose middle school property.

**Hales:** That is school district property.

**Rossi:** Correct.

**Hales:** Part of the middle school campus.

**Rossi:** That's correct, yeah.

**Hales:** So there is no other property owner between your property and the school district's property.

**Rossi:** That's correct, yeah. We border the school district property. And back to your question, yes, connecting walking paths and biking paths on the whole site, not creating rectangles of disjointed development.

**Hales:** Okay. Questions? Thank you all. Thanks very much.

**Fritz:** I have a question. I'm wondering about having all of it zoned r-3 rather than some of it r-7 like some of the surrounding areas for more of a mixed income neighborhood did you consider that.

**Rossi:** I would like to address that. We have a big ocean of r-7 in all directions around us. There is really no r-3 except for on the north side. There is some r-3 touching us. So, to

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get the appropriate mix of housing, I really think we need some higher density, which means some people don't want to mow their yards, and maybe -- anyway, to get the diversity of product I think we need r-3 because we have so much r-7 in all directions.

**Fritz:** Did you think about other zones, such as r2.5

**Rossi:** Mixed use commercial corridor, flexibility of some denser housing. I'm assuming we can incorporate some density in that. We are open to that, of course. We just don't want to ask for too much because presently a lot of that is r-3 and I think it gives us flexibility. If we really do some studies that might be a more appropriate density, you're right.

**Fritz:** It is obviously going to be a lovely development. You may be one of the few people that has been at every single one of these comp plan hearings. I appreciate your diligence in following the process. I think it would be fun to be a planner looking at that property and figuring out how to make it a nice mixed development, yards on the beautiful agricultural land. It makes me sad to think of so much of the land being covered with housing considering how fertile it has been over the last century and more. That was more to -- the thrust of my question, is there some opportunity to leave some open space and some space for gardening?

**Kadlub:** We do have a lot of open space adjacent to parks and schools surrounding it so.....

**Fritz:** But you can't plant stuff on my parks or on city parks.

**Kadlub:** A community garden area there, I think that would be appropriate. The rossi's are committed to doing a legacy project there. I suspect that it will have some type of farm theme throughout. So we're excited about it. We have done some initial studies that -- one of the lowest median family income and housing price in the whole city, and frankly, the cost of someone who want r-5 or r-7, cost of developing 5,000 and 7,000 foot lots and the housing that would go on it, median family income in that area simply wouldn't support that.

**Fritz:** I was thinking something more like Fairview village where there's so much--- dense townhouses, there's mixture of different stuff. I'm not all that familiar with the r-3 zone as to how flexible that is, but I want to make sure that you have a designation that allows you to do something innovative and really --

**Kadlub:** We think that after meeting with the planning staff, we think that the mix civic corridor will give us the flexibility to do a variety of housing types.

**Fritz:** Thank you.

**Hales:** A great opportunity.

**Kadlub:** Thank you.

**Hales:** Not very many sites this size in city. Thank you very much. Okay.

**Moore-Love:** Next three.

**Emily Guise:** Good afternoon. My name is Emily guise, one of the co-chairs of bike route pdx. In that capacity I wanted to say that we support the comp plan overall. But, of course, we would still like to see a bit more bicycle infrastructure projects included so that it is closer to what is in the 2030 bike plan. We have emailed a letter with more detail about what we would specifically like to see. And then just as a personal citizen, I just wanted to say I am a huge fan of smart infill development, especially the kind that allows for green space preservation like duplexes, tri, four-plexes, and adus. I currently live in a seven-plex and I would like to see more smaller apartment like that in more residential neighborhoods, multifamily zoning -- I think this would help our city grow more responsibly without sacrificing walkability and bike ability. Thank you very much.



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**Hales:** Thank you very much.

**Allan Rudwick:** I want to talk about a big void in the middle of our neighborhood that is currently a bunch of land that is owned by legacy Emanuel hospital. Which by the way is a great hospital and I have in -- nothing against the hospital, but they also have several blocks of structured parking, surface parking, and some empty land, even enough to put a big community garden on. There are -- their land -- hopefully you're familiar with the site, but all of the hospital is west of Vancouver Avenue. And the lots -- there is one half block east of Vancouver that has been developed. Although according to their new campus manager, that is essentially, there -- we would like to get the lots to the east of Vancouver between Vancouver and Williams developed into a high-density mixed-use zone. We think that is appropriate given that the Lents corridor has been growing quickly. This is a missing link. South of Russell Street, there is really a big development and a couple of more developments being proposed. And north of the hospital's property there are a number of large developments and -- proposed as well. This -- intersection of Russell and Williams was formerly the heart of this community, although I was not here at that time. But it's kind of a logical center to have on three main corridors to have a big space that is away from single family homes. A good space in the neighborhood to increase density, which I know that is one of the goals of this plan. We would like to not only see the zoning change on this property, but also we would like to see the city actively try to get this property developed whether through community Development Corporation or some other mechanism. It's basically a land bank for the hospital, and it's been 40 years. The city helped them get this land by the way.

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

**Moore-Love:** Next three. 120, 121, and then from the new list for today, number one, brad perkins and they will be followed by two, three, and four.

**Hales:** How many on the new list total?

**Mark Bello:** Good afternoon, let me personally say this is quite poetic by being one of the last to testify, in 1980, one of the first to introduce the 1980 comp plan. Urban forestry commission, and we thank you very much for allowing our commission to come to you and it is a part of several crucial policies. We are very supportive of policies on three chapters, testify to the positive impact of trees and the importance of our urban canopy. They are in chapters three, urban forum, chapter 7, environment and watershed health, and eight, public facilities. You should have a copy of the sheet.

**Hales:** Yes.

**Bello:** And this is -- this is to make it very simple, I will keep it very short, that the urban forest policies were very supportive. We suggested some language changes to make them more directive. Chapter three, since tree do play a significant role in making Portland trees positive for residents. We also suggest that we talk about large form trees rather than the more vague current proposed language such as extensive tree plantings or permanent trees. This is a very exciting time for forestry. The management plan is kicking in title 11 is off to a successful start and we have been able to do research. Key thing that we have learned, David, urban forestry commission, Douglas firs, large form, have, for example, almost a five-fold positive benefit to the city. The trees are worth \$4.9 billion if you were to replant them. If you could order them up. And actually in terms of what they do for storm water control, carbon sequestration and air pollution removal, that is 40 million per year. If you want more bang for your buck, plant larger trees. Finally, we would like to urge that you not change -- that you support policy 8.41, trees and rights of way. Logic behind that we are going to lose land to private development. We will retain

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our rights of way and the width of our rights of way and through creative design we can actually support canopy goals and support transportation functions.

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

**Brian Bosewitz:** Good afternoon. My name is Brian Bosewitz, thank you for the chance to testify. I live in the Sellwood neighborhood, in particular, four blocks south of the new season's market on Tacoma Street there. I have owned a house in Sellwood since 1986. In the time I have been there, I have seen a lot of change. I've seen houses torn down, industrial buildings torn down and seen them replaced by a lot of different things, apartments, townhouses, skinny houses and by things people would call monster houses. I've seen these -- I've seen the changes result in more density and in taller buildings and some of this has happened very, very close to me. All of this has significantly changed the character of my neighborhood and there is a lot of pros and cons with all of these changes, but in general, I have to say that all of these changes have made my neighborhood a nicer neighborhood to be in. I wanted to just come down here and support what I understand to be a couple of general principles of the comprehensive plan, recommended draft. One is the principle of a compact urban form. Both through more height and more density. And the other is the principle of concentrating development around centers and corridors. I support these general concepts, both for environmental reasons because I think it results in less driving and less sprawl and also just for aesthetic reasons, because I think they produce more interesting and vibrant neighborhoods. So, I support these changes and I think in exchange for these benefits, that we should be willing to accept some changes to the existing character of neighborhoods. In fact, I think it is a little unreasonable to think in a growing urban area that your neighborhood is not going to change over time. I think it has to. And I've got 10 seconds to get down in the weeds with you a little bit. I'm generally pretty happy with the changes proposed for my neighborhood. The two exceptions I think the down zoning in northwest Moreland is a little too aggressive. On 13th Avenue south of Tacoma, I think the mixed use zone should go to the end of the street and not -- traditionally it has been a mixed use area in that part of town.

**Hales:** End of the street meaning city limits --

**Bosewitz:** I think 13th basically ends on the southern end at Garthwick, and all of the way down at that southern end, there has been industrial buildings, there has been retail shops and for some reason the mixed use stops at Sherit and it is residential only after that. I live very close to there.

**Hales:** I know where you mean. Thank you. Spring water corridor about to be continuous right there.

**Bosewitz:** Exactly.

**Hales:** More pedestrian and bicycle activity soon. Thank you. Okay. Brad, welcome.

**Brad Perkins:** Hi. Thank you for hearing us today. North --

**Hales:** Put the name in the record.

**Perkins:** Brad Perkins, land use chair of the northeast business association. North, northeast business association believes it is long overdue for Emanuel hospital to follow through with the signed promise it made in March of 1971, city of Portland and community. -- begin the process by rezoning Emanuel three vacant lots on North Vancouver from I-1 to N-3 zone. Our goal to heal past wrongs by reviving once thriving -- center for diverse population and uses such as retail, housing, and medical vocational school. On February 28th, 1957, Emanuel hospital announced its four-stage plan for removal and development of 22 blocks of nearby properties. On May 30th, 1970, pdc

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announced receiving \$5 million from the federal government to acquire 209 households for Emanuel. The threat of this eminent domain powers were illegally used for private benefit to force some unwilling land owners to sell. This process of displacing families, eliminating jobs, and demolishing historic properties tore the heart out of the once prominent black community. A decade of planning by Emanuel hospital and pdc occurred before the first public hearing. Emanuel -- edpa, formed soon after, but it was too late to stop Emanuel's and pdc's plans. Household project moved forward. After edpa pdc signed an agreement, March 1971. Zone -- of these three blocks has caused a greater blight to north Portland community than it was before the demolition of the popular historic district. No jobs, property taxes, or housing has occurred in the three blocks for 42 years. Emanuel hospital has no interest in developing housing or hospital-related uses in the near future on these blocks. In closing, the Portland city council, besides rezoning these three blocks, should also help create Development Corporation involving the community, legacy and pdc, plan and develop the 300 housing units and other community-based uses.

**Hales:** Thank you.

**Perkins:** Thank you for your time.

**Hales:** Put that letter in the record, too. Thank you. Thank you all.

**Moore-Love:** The next three. [names being read]

**Hales:** Go ahead.

**Blythe Olson:** My name is Blythe Olson and I have lived in Southwest Portland --

**Hales:** Do not take that personally --

**Olson:** I don't want to repeat what bill failing already said and I will make this very short. I want to perhaps clarify the neighbors' concerns, neighborhood's concerns. We have over 200, I think almost 240 people who have signed on to the comments that I wrote and have submitted in writing before, but more people kept adding their names. I will submit the entire list tonight. To clarify, the change in the comp plan for that property is just a name change. I think from neighborhood commercial to cm-1, I believe it is. And we have been told by the planning commission that those will considered comparable in terms of the 1984 ordinance that restricts use of that property. City attorney's office has reviewed that and said those would be considered comparable and at ordinance would remain in force. This is what we want and need in order to have a voice, for the neighbors who live all around that area to have a voice in what happens to that property and what the new owner, the developer from California who bought it may try to do with the property. The only way we feel we will have a voice is if that ordinance remains intact and we have been told maybe a few words will be tweaked in months to come to make sure that those zones are comparable so that that will be the case. Thank you.

**Hales:** Thank you very much.

**Fritz:** I wanted to thank you for not sending us 240 emails but rather collecting your petition and -- that is helpful.

**Olson:** You're quite welcome. Some did send in individual.

**Fritz:** Not 240.

**Olson:** No.

**Fritz:** Thank you.

**Hales:** Thank you. Others still on the list? [names being read]

**Hales:** Come on up. Yes, please. Anyone else who plans to speak? Okay.

**Moore-Love:** Allan kessler.

**Hales:** He's here. Go ahead, thank you.

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**Janet Freeman:** Thank you for having me at short notice. My name is Janet freeman and I'm happy to own a beautiful house on northeast 28th avenue between Everett and Davis in the kerns neighborhood. That house is not zoned mixed use. There is a little pocket between Everett and Davis on northeast 28th that is zoned r-1 and we're sandwiched in with mixed use. We have the Coca-Cola syrup plant right kitty corner across the street, as the gelato, bishop's barber shop and the restaurant and the pocket is zoned residential and I have submitted testimony via email to this fact. I have been working with marty stockton. She has helped me. And the kerns neighborhood association have written a letter on the property's behalf that that little pocket be rezoned as mixed use because it is becoming engulfed in development, which I think is, as it should be, because it is such a great area. So, i'm here just to point out that oversight. I looked at the new -- at the comprehensive plan map and it still is all showing r-1 and so there are a lot of nonconforming businesses there now. So, I just thought I would come down and say, hey, it's a great area and if we could have mixed use, people could make the best use of the properties.

**Hales:** Thank you very much.

**Freeman:** Thank you.

**Hales:** Welcome. Go ahead. Whoever would like to be next.

**Allan Kessler:** Sure. My name an Allan Kessler. Three quick points. First one is thank you for the policy that seems to be adding density throughout the city. In the corridors, the fact that you are adding density, all of the benefits that have been talking about before, walkability, affordability and the environmental impact. For all of those reasons we should be embracing the growth and putting it there. I live in Richmond neighborhood. I happen to be a member of the Richmond neighborhood association board although i'm not speaking for them tonight. I have seen the push back that you can get on this. I appreciate commissioner novick's comments and I would like you to stand firm on doing the right thing in those regards. You may have seen some letters come in supporting a personal campaign of mine to try to remove civic corridor designation, and replace that with mixed use -- Powell but probably throughout the city, Oregon department of transportation has not adopted vision zero. They engineer their roads -- decided as an engineering problem that some death is okay. We do not want freeways in our cities. I think by switching to mixed urban use center, send a message to odot that pbot plans to take these over and we want to build them out like neighborhoods, not like freeways. Last issue, not to -- you can take it, I think, your neighborhood of east Moreland, 1.5 percent African American population. If you look at what you are proposing to do in east Moreland is just as beige as your neighbors. There was a great article, great publication from the journal of the American planning association in this issue that emphasizes that lower density zoning leads to segmentation of wealth, especially creating pockets of wealth like your neighborhood is. And I don't think that's okay. I think that in order to add some diversity to your neighborhood, we need to add some color to the map and not doing that there and all of the other neighborhoods is unacceptable.

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

**Andrew Paddoch:** My name is Andrew Paddoch. I live in buckman. It is often said that a beast can be brought down by a thousand small cuts I'd like to propose a similar thing with regards to transportation, increase spread of sidewalks throughout the city, pedestrian's connections. Lots of little projects. In many cases a lot of small ones that I think would make a big difference in terms of mobility throughout the city and maybe more intelligent -- in my neighborhood, we have had several of the curbs rebuilt, and they have

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been very nice and they have been unnecessary while other parts of the city have gone without sidewalks completely. That is one point that I would like to make. Secondly with regards to planning for future transportation, I would like to advocate a caution in remembering that new technologies that are being proposed, everything from driverless cars, small pods, things like that, our future unproven technologies that are not adopted, especially the driverless car anywhere in the world in actual commercial practice and perhaps we shouldn't put our eggs in a basket that has not yet been proven. What the future holds, we will see then. But I would advise against planning for it in the present and of course it does nothing to counteract automobile reliance. Especially for households who either cannot drive for economic reasons, health reasons or for people like myself who are temperamentally unsuited for driving. This is the one big dream I would like to see, in particular to the max system throughout the city. I would like to see future investment going towards improving what we have presently. Not to put down future expansion, but I would like to see things like -- downtown of the lights so that it can move through more quickly. Things like double tracking parts of the red line and maybe rebuilding gateway station on the line that the rose quarter is, how the yellow line splits off. That would allow a two track connection and a much faster progression. A system that is notoriously unreliable and slow.

**Hales:** Thank you very much. Some people who are temperamentally unsuited for driving but nevertheless still drive. I appreciate your point very much. I think we have one more person to testify. Anyone else who plans to speak before we close the hearing? You may get the last word.

**Veronica Bernier:** That's all right. I love having the last word. Hi, good evening mayor. It's good to see you mayor Hales, always good to see you looking well. Commissioner Amanda Fritz you're looking well and commissioner Novick, you're all looking well. I see Dan Saltzman skipped out for a minute and I'm sure he is attending to city business. I don't see Nick Fish here right now but I do welcome his input. I knew him from Sacramento, state board of engineers. He is a man with a plan for all seasons. I was hoping to see him today. Speaking of plans for all seasons I wanted to bring up one thing. It is Murphy's Law, if something can go wrong, it will. And we had ourselves a great little snowstorm that was fun, dusting of white fluffy white powder snow, six to eight inches and it fell lightly and it was a big surprise on Sunday and we all woke to it and it was kind of like a delayed Christmas. What happened after the snowstorm was pretty predictable. During the snowstorm, 211 kicked in, 211 card that they do give you and people, various people did call 211 for weather-related information, people were able to call 211 and get some help during the snowstorm. It is a good viable system and it helps even homeless and wayward -- not wayward travelers but people along the freeway. During the snowstorm, other things happened, too, and that therein lies the plot. I'm a nurse, former ICU nurse. I have been in open heart surgery, MICU, and orthopedic units all over the hospital. Amanda knows. She is a nurse herself. As nurses we feel committed to preserving and protecting life, you know, along the freeways and highways and byways and I know you all share the same values, too. Sometimes in a snowstorm, we can get kind of a deadlock in the freeway and the traffic patterns break down and people get locked in and locked in is what I wanted to mention.

**Hales:** Make it quick. You have to wrap up.

**Bernier:** Half minute. When people get snowed in like the 455 pound man up on Mount Tabor, did get desperate and he did catch a trimet bus but the bus crashed into a telephone pole and it was real unfortunate. Those are the kind of nitty-gritty issues we



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have to work for during a snowstorm and I hope we can come up with a better plan and I hope it doesn't snow again. But it may. You never know. It is a challenge for the commissioner of transportation and for you, yourself, mayor hales.

**Hales:** Thank you very much.

**Bernier:** Thanks for your help.

**Hales:** Okay. Thank you. If there is no one else here to testify. I will close the hearing for purposes of verbal testimony and leave the record open until Friday at 5:00 p.m. For those who would like to submit anything further in written form. Katherine, other advice, please, from the city attorney?

**Beaumont:** We have read one of only two items on the agenda.

**Hales:** Right, we have to go back to that one. For purposes of the comp plan, we will leave the record open until Friday at 5:00 p.m. We might do that on the other document as well. Open that hearing and see if there is anyone here to testify on what was item 28, but now has a different number. Help me again, Karla.

**Item 51-1.**

**Moore-Love:** 51-1. Adopt new and amended supporting documents for an update of Portland's comprehensive plan, accept report of the citizen involvement committee.

**Hales:** This is just about the supporting documents? Anybody here to testify on the supporting documents? Seeing none, I will close that hearing as well.

**Beaumont:** One very important thing, we need to continue the hearing on both items to a new date and time which I believe we have settled on as April 14th at 6:00 p.m.

**Hales:** Okay. Closing testimony, continuing the hearing until that date. And as I mentioned earlier, council work sessions in between in which we will consider the testimony and take up the question of amendments from each member of the council.

**Fritz:** I would like to thank the planning staff for your diligence both at and between the meetings. Particularly the logistics of helping people get in and out. It was extremely efficient and well done. Whoever schlepped the records to every single hearing, I am really impressed it's following the letter of the law and there it is sitting right there. Thank you very much for doing that.

**Hales:** I want to add my thanks as well. Most important document that the city ever writes. So, that is something that I care a lot about. I know the whole council does. We have just gotten a tremendous amount of excellent testimony from the community over the course of the hearings and appreciate that about Portland very much. Thank you all. And if there is nothing further that we need to address on these items, then we are adjourned for this week. Oh, tomorrow.

At 6:19 p.m., Council recessed.

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## Closed Caption File of Portland City Council Meeting

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

Key: \*\*\*\*\* means unidentified speaker.

**JANUARY 14, 2016**

**2:00 PM**

**Hales:** Good afternoon, everyone, welcome to the January 14th meeting of the Portland city council. Would you please call the roll? [roll call taken]

**Hales:** Welcome, everyone, we have a single item on the council calendar. I'll have our clerk read that in a minute. For many of you, you've probably testified here before. Simply let our council clerk know if you'd like to testify on the item after there's a presentation on it. We typically allow three minutes for testimony. We might not have to reduce that given the number of people here to make sure everyone is heard. Sometimes we reduce it to two minutes. We'll figure that out in a moment. On the subject of being heard, we maintain decorum in this chamber. If you agree and want to show support feel free to give a thumbs-up or a wave of the hand. If you disagree, a polite hand gesture to show negative is okay but we ask you not to make vocal demonstrations or applause so that everyone can be heard. Simple as that. With that I'll ask Karla to read the item, please.

### **Item 52.**

**Moore-Love:** Item 52, accept the 2015 management plan for river view natural area as a guide for future protection and use of the natural area.

**Hales:** Commissioner Fritz.

**Fritz:** Thank you, mayor, I'm going to ask commissioner Fish to begin since he started the project.

**Fish:** My notes say I follow you. Thank you, mayor and colleagues. My history with this natural area dates back to 2011 when I had the honor of being commissioner in charge of Portland parks & recreation. Parks teamed up with bes then led by commissioner Dan Saltzman. Metro led by former governor Barbara Roberts. And the trust for public lands to acquire 146 acres of the Riverview cemetery, one of the largest natural area acquisitions for the city in over a decade. I decided to pull up the editorially issued by the "Oregonian" in 2011, because I think it was frankly one of the most positive editorially, I've read since. I'm going to selectively quote. The city has long had its eye on that land. Parks & recreation coveted the area for potential trails, wildlife connectivity and stellar habitat, on a par with oaks bottom wildlife refuge across the river. The bureau of environmental services had targeted the area as a top priority to purchase for watershed protection. Seven streams run via culverts to powers Marine Park and the Willamette. It goes on with some other commentary and then closes with the following. No matter how long the city commissioners' careers may be, few will make decisions with any longer lasting reverberations than this one. That was a proud moment for all of us when we were able to capture this vitally important natural area. And as I mentioned, the land from the point of view of bes was specifically acquired to protect water quality, habitat and wildlife in the Willamette river watershed. In fact, acquisition and restoration of this property were the two top priorities identified in bes' river view sub watershed improvement strategies report. In addition, the site was identified in parks' acquisition strategy, and in the 2006

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natural area bond measures. In the four years since acquisition the city, along with river view's many stakeholders, has conducted large scale restoration activities to address erosion and invasive species. This includes the installation of over 75,000 native trees and shrubs. Today we take another important step forward. Receiving a proposal two years in the making that will guide our management of the natural area to ensure that this important resource is protected. I'd like to begin by thanking the members of my team, Commissioner Fritz, from the bureau of environmental services who devoted so many hours over the last two years to deliver this plan. They are as follows. Melissa brown, environmental specialist. Paul bushman, Willamette watershed. Mary bushman, ecologist. And Shana Anderson, land conservation. And finally before I turn it over to my friend and colleague commissioner Fritz, the bureau of environmental services has a great tradition of working collaboratively with Portland parks & recreation. I say that as someone who has had the honor of leading the parks bureau and now bes. I believe this plan represents the best tradition of that collaboration. I urge the council to adopt the plan to continue to preserve this jewel of a natural area. Thank you.

**Fritz:** Thank you, commissioner. So my association with this property dates back a long time I was the cofounder of the Tryon creek watershed council. This has long been the jewel of natural areas in deep southwest Portland. Working collaboratively with the neighborhood association, an area that we've long cherished and wanted to bring into public ownership. I'm particularly proud to have carried on the good work of commissioner Fish as the parks commissioner to now leading the effort over the last two years under the great guidance of our director Mike Abbate and our project leader Emily Roth. Along with Michael Jordan they are here to present the plan.

**Mike Jordan, Director, Bureau of Environmental Services:** My name is Mike Jordan director of the bureau of environmental services. There's not much I can add that commissioner Fish hasn't already said except one particular that folks may or may not be aware of. This is probably the most intact sub watershed in the entire city with only nine percent of its cover impervious surface as we know now. And to preserve it and acquire it is an amazing feat for the city as noted by the "Oregonian." I was not here for most of this process. And yet it is probably -- it is one of the things I've heard the most about since I have been here for seven months. This process and the incredible resource that it represents, and the potential there for helping us meet some of our requirement it is regarding species in the Willamette. As many people will remember last summer was a rough year for [Inaudible] in the Willamette because of temperature. It'll go a long way towards helping us maintain temperatures in the Willamette that will be conducive to species that we're here to protect. The last thing I'd like to say is I want to, having not been here but having heard a lot. I want to compliment not only the staffs but all of the citizens involved in this process. Regardless of how they feel about things in this, and I know there are a myriad of opinions that are heartfelt, to get to this place through a very open process is something that everyone who is involved really should complement themselves and each other for. It isn't easy to company do. This is hard work. To get to this place on something this important, everybody should be happy about having worked on it together. So I want to compliment everybody, having not been here, and hand it over.

**Mike Abbate, Director, Portland Parks and Recreation:** Thanks, mike, mayor and city council, parks & recreation director. I want to start by acknowledging this has been a long process but it's been a long and thorough process. I want to thank everyone for staying involved in this process over the past couple of years. Also particularly I want to thank

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Emily Roth, who has been our project manager and senior planner with the bureau. Maya Spencer who has coordinated the public involvement process. Rachel Felice, Jeff Hough, and Kendra Petersen-Morgan, staff ecologists. They have all been critical people involved in this process. I think we all should be proud of the river view natural area management plan. The plan meets the goals and guidelines developed at the beginning of the project including protecting 87 acres for habitat preserve in the center of the site for water quality and wildlife habitat, the streams that Mike Jordan just mentioned. Provide appropriate recreational access that provides a variety of experiences including a completely accessible loop trail at the upper part of the site. And innovative best management practices for trail development for the construction and management of trails, to make sure those natural resource values are protected. River view natural area is a key part of our natural area portfolio. It's connected to Powers Marine Park located along the Willamette River. These seven streams are incredibly important to the health of the Willamette River. They are not just seven streams on the site but they provide cooling water to the Willamette River. And the management of both the landscape at Powers Marine and the upland and river view are important and integral to each other. This plan will serve as a guiding document. I also would say for those who saw the site when we acquired it and have seen it recently, the transformation and restoration on the site has been so successful that within our bureau we see a vision of replicating that throughout Forest Park to take what we've learned at River View and expand that so Forest Park is as healthy as it can be. I'd like to introduce Emily Roth, our senior planning who will give a present sayings/overview of the management plan.

**Emily Roth, Portland Parks and Recreation:** Thank you. Good afternoon, Mayor Hailes and city commissioners. As you've heard, Portland Parks & Recreation and the Bureau of Environmental Services partnered with the purchase of River View Natural Area, the stabilization work and the development of the natural area management plan. River View Natural Area has been touched by many hands since it was acquired. City staff, contractors, and the public. The property was acquired from Watershed Health, habitat preservation and to provide public access compatible with natural resource protection. This 146-acre site is part of the Westside Wildlife Corridor and runs through the Creek State Natural Area. Through it across to Oaks Bottom Wildlife Refuge. It contains seven streams, multiple wetlands and provides cool, clean water to the Willamette River for endangered fish. The interior forests provides habitat for greater than 45 species of birds. And just as the director Abbate said, from purchase to present we purchased the property in 2011 in partnership with Metro and the Trust for Public Lands. At the time of acquisition the site was in poor ecological health. Invasive ivy and other species covered the forest floor and smothered the trees. Elaborate campsites were interspersed throughout the forest. A spider web of informal trails crisscrossed the area. Today when you visit it is transformed. The tree ivy is dead, native ferns and grasses and other plants are starting to cover the forest floor. Over 75,000 native trees and shrubs are planted and/or growing. Many of the trails through water resources have been closed. Through outreach to our neighbors they are also removing invasive species on their adjacent properties. Unfortunately, there are still management issues. We have illegal camping, we have dogs off leash, dumping and mountain biking which is currently a restricted use. So we all embarked on the River View Area National Management Plan. The city hired ESA experts. The technical advisory committee was made up of Metro and the Bureau of Land Management. We worked closely on input to the plan and reviewing documents. PP & R and BES reached out to neighbors, users groups, in addition to posting to our website to recruit nominations for the

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committee. 14 people were selected. The group met six times including a site visit. We had some very heated arguments -- not arguments, we had some heated discussions. At the final meeting the majority of members recommended moving the plan forward to approval. Two members representing the mountain biking community and adjacent neighbors submitted a minority report not recommending the plan because mountain biking was removed from the process. The project team also held two open houses. The first was to review the site analysis information and the second to recommend the access, to look at the access concept. There was a two-week online survey for the public to submit comments after each open house. We established five goals for the management plan. The first, to protect aquatic habitat. Next to, protect hydrology in the adjacent Willamette river confluence area. To improve forest health and structural diversity. Provide recreation access that is compatible with the protection of natural resources. Foster community engagement, environmental education and research. In front of you is the access concept. And I would just like to quickly walk through it as it's kind of hard to read on the screen. I'll use the pointer for everybody in the audience. At the top at the left-hand side is southwest palatine road, it is entrance -- I lost the pointer -- well. It's an entrance to the natural area. To the north is river view cemetery, which is who we purchased the property from. As we've talked about down here, this powers Marine Park and the Willamette River. And then here on the east side is our neighbor Louis & Clark. We will enter the site from up here. The access concept for the plan shows a habitat preserve of 87 acres within the middle of the site. This is for the protection of wildlife and aquatic function and stewardship education and research opportunities. There are two loop trails and an accessible out and back trail to the larger headwater wetland. The trail at the top of the site, loop trail, provides the users with a lower gradient experience. The larger trail is very challenging because of the steep terrain. We are presently working with Louis & Clark College to complete the loop on their property. We provide two viewing areas, the purple dots, where you can step off the trail and enjoy viewing in and looking at the wildlife. The trail placement meets the design criteria developed for the plan. And when built we will use the trail construction best management construction processes developed through this process. Our intent is that the trail will be sustainably build for whichever uses are allowed at river view natural area. If any additional trails were to impact the function of this site.

\*\*\*\*\*: Excuse me.

**Fritz:** To clarify on that one, the trail does not exist right now, right?

**Roth:** Is correct.

**Fritz:** And when we do construct it, it will be constructed so that's its suitable for several....

**Roth:** Whatever uses are decided to be appropriate.

**Fritz:** So potentially mountain bikes could use it as well as hikers?

**Roth:** Right. We are saying this is the trail plan for whatever uses will be allowed. We are not -- we have put this trail plan together thoughtfully with the protection of natural resources and we're not intending to put trails into the natural area.

**Fritz:** Thank you for the clarification.

**Roth:** We were actually proposing parking at river view natural area. We were proposing a half street improvement in front of the site on southwest palatine hill road to provide parking, storm water treatment and a sidewalk. Southwest palatine hill road is shown as a shared bicycle-automobile roadway. Both the trail and parking concepts will be refined when there is funding for design and construction. The construction estimate not



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including soft costs such as design, permitting and staff time, but including continued ecological enhancement is just over \$5 million. Really, river view, the management plan is all about the stewardship. How we as a city and our citizens and everyone else can protect this area. The component of the plan meets all the goals through the ecological prescriptions, the detailed actions need to do protect and enhance the health in the loop of the site safe trails are constructed and maintained. Water quality best management practices that protect the cool, clean water entering the Willamette River. The access content that provides for public enjoyment of nature. The functions that inform and welcome users. And our continued work with partners and volunteer stewards to achieve long term success. As I started out and said there have been many hands had a have touch required view natural area and many people. I would like to thank the technical advisory committee he and the consultant team for their valuable input, and there's insights that have continues the manage plan. Enhancement and recreation and stewardship of this valuable natural area. There are a few individuals I would specifically like to give a shout-out to. First, team esa. Steve rolloff in the audience with us today. Susan Robinson and Doug Zen. Though mike has done the shout-out, I have to repeat it. To Maya spencer who gracefully was involved in the entire process from start to finish. I could not have done it without her. And Kendra Petersen-Morgan who details everything to make sure we had it correct. I would especially like to shout out to Shana anderson who was strum at all in purposing the product. Making sure this is a valuable natural resource for all of us to enjoy. Questions? Comments? If not, I would like to introduce three members of the pac who would like to come up and talk to you about the process and the plan.

**Hales:** Questions.

**Fritz:** The \$5 million estimate, how much would say the trail cost?

**Roth:** We estimate the trail at about \$1.5 million. The hatchery improvement is very expensive. Any other questions? If not, I'd like to invite members of the pac. I'd like to invite three members to come up and address council. Fran laird, Chris Sautter, a south burlingame neighbor, and tony who is with the creek watershed council.

**Hales:** Come on up, please.

**Frain Laird:** Can I get it over with?

**Fritz:** The hard part is the committee work, thank you for being here.

**Fran Laird:** My name is Fran laird, I was honored to be asked to participate. The park representative from difficult to liens view to Sweeney, and the second vice president of the Sweeney board. November 7th, 2006, voters approved ballot measure 2680 which provided funds. The measure was designed to provide the ability to protect the region's significant natural areas, Fish and wildlife habitat, greenways, water quality and lands near streams and rivers. River view natural area is regionally significant because it provides protection for wildlife habitat and water quality, and is the wildlife corridor for wildlife and people and a refuge for salmonids. It's one of the last remaining urban natural areas in the Portland setting. I have stated that I would like to see a policy of regrowth and no usage permitted other than educational in the natural area. Infrared photos included presented at the May 15th, 2015, public advisory committee meeting shows there are very few cold sources of water feeding into the Willamette River and river view natural area provides three of them. The devastating images of dead salmon in the Willamette enhances how important cold water is. Specifically defined in the easement agreement signed at the time of the purpose of the property, cons values as designated on page 2 of the purchase agreement contract. Prohibited uses and activities includes

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any use or activity that is likely to cause soil degradation or erosion. It was stated as the highest priority, protection and enhancement of natural functions and resource values. It is a legal obligation of Portland parks & recreation, the bureau of environmental services, metro he and the city of Portland to ratify and reinforce as voted on by the citizens of Portland. Thank you. I apologize.

**Hales:** None needed. Thank you very much.

**Hales:** Good afternoon.

**Chris Sautter:** Good afternoon. I'm Chris Sautter, I'm one of the river view pac members and a long time neighbor of river view. I live in a south Burlingame neighborhood. I've regularly visited for the last 15 years as a cyclist, a hiker, a runner, a parent and a dog walker. I'm one of the three people that wrote the minority report. I can't support it in its current plan. Initially I was excited a nervous with the city acquiring this property. Would the city management make things better or worse? I was definitely fearful of loss of access based on a track record of excluding bikes from most trails in Portland. When I had the opportunity to join the pac and help shape River views future I jumped at the chance. In 2013 and 2014 we had a series of what I thought were very fruitful pac meetings. We had good, spirited discussions, I wouldn't call them arguments, on a range of topics. Then the meetings stopped for nearly a year in 2014. Around March 2nd, I think March 2nd, 2015, I received a call notifying me that bikes would be excluded from the plan effective march 16th, just two weeks' notice. This was a shock to me as two reasons. This wasn't the direction the pac or the tac were headed. That's much quicker than I expected anything to ever happen at River View. The theory on the bikes was in conflict with some of the findings along with the majority opinions from the public input process. If that process asked for input and then proceed to, significantly did it damage the credibility of park, the process and the cities he the river view practice. We reconvened and finished our job. The plan put forward exclusions for bikes. I can't support the proposed plan as is because it excludes the possibility of bike access even though the facts show there's little to know conflicts between bikes and the environmental goals. The proposed trail routing skirts the perimeter of the property for reduced user experience even while failing to follow the guidelines for the buffer zone around the core habitat, effectively the proposed trail will degrade user enjoyment from the current unmanaged or beginning of the managed system, trail system. The proposed plan effectively reopens the property to illegal camping and partying to the interior core habitat. Over 80 acres, I just heard 87 acres, with no trails for maintenance, security or access. In the past camping were long-standing uses in the property. Without eyes in the area will continue. I hope it's not representative of how we do things in this estimate in conclusion there's a lot of dedicated people putting in a lot of good effort to make this plan. And much of the plan, most of the plan is good. But the results were spoiled by a few key decisions. Because of that I can't endorse of plan. Thank you.

**Hales:** Good afternoon, thank you.

**Torrey Lindbo:** I live at 910 southwest maple crest drive. I appreciated the opportunity to serve on the river view natural area pac along with my fellow members. As a representative of the triune creek watershed council. I've had a long time with the council, whether it was hiking or running before it was owned. Watching the transformation during and after the public ownership, I completely supported the allocation of resources to ensure that watershed protection for the ecosystem services was provided. Primarily the contribution of cool, clear water from the numerous streams flowing to the Willamette River from the site. I still believe that to be the only objective this management plan is

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required to address. As the president of the tryon creek watershed council, I feel the plan you have before you is the best available science to meet the original intent of the purchase of this property, to protect water quality and critical can habitat to wildlife. A wide range of uses and opinions were considered, I believe. In addition to wildlife and natural resources the pac was heavily influenced by adjacent neighbors and mountain bike advocates. Who no one will feel the plan meets all of their desires, neighbors might not prefer to have the additional parking along the street there, and there's call for a bathroom I'm sure they are not crazy about. Not everybody got what they wanted. But the plan still represent as compromise for the groups represented. Despite the being the most discussed and considered use for river view, it did not explicitly answer the mountain bike question. It was left hanging out there, left to a broader discussion that's going to be punted to the off road cycling master plan. I say disappointing only because the off road cycling master plan process will not bring together the same group of concerned experts and citizens focused on accessing conservation on this specific place. I think the unique constraints and opportunities we have at the site are not the same thing that group is considering. Let's see here. The river view natural area pac was a group convened to weigh all of the factors, soils, water resources, habitat, et cetera, specific to the particular site and recommend policies that would best serve this unique city investment. As an environmental scientist and representative of an organization working to protect and enhance watershed resources I would have supported a plan that restricted all human access to this area. But citizens also need an opportunity to access nature. I would have appreciated trail alignments and trail guidelines in the plan. These came directly from the mountain bike association. Regardless of whether or not mountain biking becomes an allowed use at this site I believe the current plan before you balances the need for human access with the need to keep undisturbed areas of natural area for wildlife intact. And the trail design guidelines included in the management plan are the best available practices for ensuring that water quality benefits for which this parcel is purchased will be adequately protected. At least for a time.

**Fish:** Do we have a copy of your testimony? Will you give a copy to Karla for the record?

**Hales:** Thank you very much.

**Roth:** Before we open it up to the public I would like to ask the project manager for the off road cycling project to give a few --

**Hales:** That's good.

**Michelle Kunec-North, Bureau of planning and sustainability:** Good afternoon. I'm with the bureau of planning and sustainability and I'm not project manager for the off road cycling plan project, the citywide process the council funded last year. I'm here to provide a little bit of context on that plan since you're likely to receive testimony regarding off road cycling or mountain biking today. As I mentioned city council provided funding for the off road cycling plan in order to create a comprehensive plan for the development of management of off-road cycling, trails and facilities across the city. That is due in part to a recognition on the part of the city to existing need in the city, a recognition that was in part due to the public conversation in the river view natural area management plan process. In terms of the off-road cycling plan it really has two primary purposes. One is to establish a foundation about the needs, impacts, best practices for off-road cycling. Also to establish the way we think about uses on various public lands. Secondly, it'll make recommendations for a system of off-road trails and facilities for riders of various ages and abilities based on community needs and input, site objectives, constraints and opportunities. And best practices and design development and management. In terms of

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the relationship of that citywide plan to the river view natural area that's in front of you today, as Emily mentioned the river view natural area currently includes a prohibition on the use of the natural area and the trails for off-road cycling pending the development of the off-road cycling plan. It does clearly state the use of mountain bikes will be a prohibited use until completion of the city's off-road cycling master plan through which the river view natural area will be considered as a candidate for off-road cycling. Within the context of this larger city effort we are considering whether off-road cycling is a use at the river view natural area. If the recommendation is made we will bring it with the plan later in 2016. Should off-road cycling plan recommend off-road cycling at river view natural area that would supersede off-road in the river view management plan. If there was a later decision as part of the citywide process that decision would supersede any decision made today if they were contradictory. In addition, the off-road cycling plan may develop additional design principles, best practices or management strategies that are specific to the operation of shared use trails, particularly those where people on bikes and people on foot are sharing the same trail space, which could be used in the thinking about the design and construction steps that Emily mentioned would be coming down the road. So if there were additional users allowed in the future we may have some more kind of best practice information to inform that later design. So that's what I have for you today. Mostly just an assurance that we are ready to pick up that question and bring a recommendation to you later this year.

**Fish:** I have a question just to make sure I understand the protocol. When you say that the council action on any recommendation from the committee that you're leading would supersede, that's consistent with our normal practice.

**Kunec-North:** Correct.

**Fish:** The future council can modify a plan or whatever and in effect it supersedes or modifies. I understand that piece. The assurance I'm looking for is that the river view natural area management plan will have a dynamic role in your committee's work in terms of evaluating that question.

**Kunec-North:** Sure. So we would be looking to -- there's extensive technical analysis and other work done as part of the river view natural area management plan that we would want to kind of step forward from in the off-road cycling plan. In addition, Torrey was just up here, he is also a member of our project advisory committee trying to keep that link in terms of understanding and process. And then finally -- I should have mentioned this earlier -- the bureau of planning and sustainability is leading the process but we are working very closely with the bureau of environmental services and Portland parks & recreation and a number of other city agencies, particularly when we get into site specific details.

**Hales:** Go ahead.

**Fritz:** I just wanted to thank you for funding the off road cycling and for the bureau of planning taking on the project, it's something that's been needed and parks has desired for quite some time I'm glad that we're looking at it holistically. Secondly I understand commissioner novick has an amendment to clarify what was just said.

**Hales:** I'm going ask you to put this on the record. You've reviewed the parks and bes document, you're doing the work for planning. The failure to get to unanimity about the bicycling issue, and you referred to a description about how the trail plan was configured. Going into your work, this is sort of a leading question but I want to make sure this is clear -- is it fair to say that you read this document as saying, this is where the trails should go

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for purposes of natural area protection. And it is not -- you're not operating under a presumption that this trail alignment is fundamentally unsuited to bicycles?

**Kunec-North:** So we are -- we have scoped or are thinking about the question of review as first a question of whether people on bikes should be allowed on the trail that is proposed in the trail and access concept. And secondly, whether there are any specific design or management strategies that up the ground level, might influence the design of that trail. It might be things like passing areas so people might have enough room to get by. Changes to the slope so there's enough space for somebody to slow down if they are riding a bike but not to the overall alignment of the trail itself.

**Hales:** The location of the trails and the fact that there aren't trails in the heart of the natural area, those basic -- that basic architecture of the trail plan stands, right? And you're not intending to change that?

**Kunec-North:** That's how we've scoped the project currently, correct.

**Hales:** Good, thank you. Commissioner novick, you have a proposed amendment we should get on the table.

**Novick:** Exactly. It does reflect what Michelle just said. It would add to the be it resolved in the resolution: Be it further resolved city council will make a final decision about whether mountain biking will be an allowed use in river view after the off-road cycling master plan process is complete.

**Fritz:** Second.

**Hales:** Let's take a vote to accept the amendment.

**Fritz:** Thank you for working with us on the clarification commissioner novick and mayor hales, and also Michelle and the staff for their very clear presentation on this issue. Aye.

**Fish:** I think this is a good amendment that makes it very clear what some may say is implied. The discussion makes crystal clear our intentions. Commissioner Fritz and Commissioner novick, thank you for hammering out this amendment, I am proud to support it, aye.

**Novick:** Thank you colleagues. Aye.

**Hales:** Aye. How many people do you have signed up, Karla?

**Moore-Love:** 25.

**Hales:** Let's proceed. You don't need to repeat your fellow citizens' point if they have already made it for you.

**Moore-Love:** Dave Johnston, Dixie Johnston, and dale houck. [names being read]

**Hales:** Good afternoon. Dave and Dixie get to be first.

**Dave Johnston:** I'm Dave Johnston, I live across the street from the natural area on palatine hill road, have for some 20 years. I'm active in the collins view neighborhood association. I've followed this property as a chair of the association and land use chair for some 20 years or so through many proposed land use developments, none of which would have done very well maintaining the site and its natural resources. We were very happy when the city obtained this as a natural area. And support what commissioner Fish said for the history of that, and going forward. You should have before us the letter of January 11th, which sets forth much of what we wanted to say. Having listened to everybody, it's probably not necessary to repeat it all verbally but to leave witness letter. We were very happy to he see the easement the city gave to metro to commemorate the conditions for which that land was purchased. We note that that embodies the purposes of that land so well, and is such a binding part of the title, it really should be mentioned in the management plan itself, which suggests a purpose paragraph. And also that it be appended as a numbered appendix. The copy we have now has a copy of it just attached



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but not really included in the table of contents. We'd suggest that because it's such an important part of what that land is about. We had a few other suggestions there to complete the management plan and some of the appendix, such as the notes for some of the additional pac meetings that don't seem to be included. So with that, we'd say it's wonderful to see that as part of our public domain and preserved naturally. We'd encourage following that. And yes, I would support commissioner Novick's and the bicycling plan, not that I think bicycling as it has been proposed is necessarily appropriate in the river view natural area, but I'd certainly concede that it could be if done in accordance with the plan as presented by the park staff. Thank you, and I'll yield to the next testimony.

**Hales:** Thank you. Please.

**Dixie Johnston:** Mayor Hales, commissioners, Dixie Johnston here. I'm going to add to Dave's comments, these are my own personal comments. I have not only been active in the neighborhood association but we have also been very active at Tryon Creek State Natural Area. Each of us has put in well over a thousand volunteer hours at the natural area. We have taken and taught science classes there and are still learning more with great joy. I want to let you know we really think it's important to uphold the conservation easement with the attendant CC & RS which come with the land, and they are binding. This should be the foundation for the management plan. They have not been discussed thoroughly in all the pac meetings that we have attended or in the open houses. And yet it is so important that we pay attention. This is the law, and we would love to see more understanding of where the law applies in this particular place. I also want to commend Commissioner Fritz and Commissioner Fish for their March 2nd letter. I think you captured the issues with the river view natural area. And the operative words that begin with the words that "we are exercising an abundance of caution and to protect the city's investment in our BNA." I think that's important to the conservation easement and the CC&RS. The management plan is highly aspirational, very expensive and towards a higher and faster paced usage, perhaps in violation of the conservation easement. There's going to be extensive land use reviews, the maintenance costs will be very high if we follow through with this. I'm suggesting a very slow, gradual implementation of this plan. Think it through very, very carefully. I'm very concerned, I'm not sure this is what the voters were expecting with the purchase of this land. I do see this land as being a continuation of the environmental, scientific and educational and the legal processes that have begun on this land. I would like to see it continue. We have -- Louis & Clark College has done a great job. The collaborative effort with the different city bureaus has been great. I'd like to see it continue.

**Fritz:** Mrs. Johnston I'd just like to say it's refreshing to have an applicant urging us to go slowly on purchasing and implementing. There have been neighborhoods that have been waiting for decades because park doesn't have enough money. So it's good to know you're not expecting us to implement tomorrow.

**Mike Houck:** Good afternoon, I'm here representing the Urban Green Spaces Institute. Frankly I was initially opposed to any public access to the site owing to its importance as a natural resource. After reading the plan I've come to the conclusion the plan has laid out alignments that will protect the ecological site. I'll take a moment to repeat what I have in the past. You should be so proud of your staff in park and bioscience. There is no equal to the ecological knowledge and expertise represented on your staff and you've done a fabulous job in this document. The plan explicitly states that mountain biking is prohibited only until citywide off-road cycling master plan is completed. It does not preclude future

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consideration of mountain biking as you just stated. There is no rationale until the master plan is completed as some may argue. While there may be a need for trail redesign refinement, the network is laid out in the plan sufficient to meet all future uses while protecting natural resources. Regardless of future uses including cycling, the trail should not be expand beyond what is in this plant I am a member, I was appointed to the master plan advisory committee. As far as I'm concerned mountain biking will be on the table with regard to river view natural area. But I would urge you to adopt this plan because the reality is there is no way that I'm willing to consider mountain biking or any other use for that matter, without a master plan in place. It's totally illogical for anybody who would argue, don't adopt this now, let's do the off road cycling plan without a master plan in place to guide the conversation during the off-road cycling plan process. There's nothing in here that precludes our considering mountain biking later as you've indicated. So it's totally illogical not to adopt the plan today in that regard. Thank you very much.

**Hales:** Thank you, thank you very much. Let's take the next, please. [names being read]

**Hales:** Good afternoon, welcome.

**Susan Egnor:** Good afternoon. My name is Susan egnor. I'm here to testify in support of river view natural area plan that's before the council today. We live in an increasingly urban, paved, built environment. Once our hillsides were covered with magnificent forests with towering trees. With the coming of settlers, these hillsides were stripped bare of their protective forest. In a few rare places the trees have come back to these hillsides because they were too steep for commercial development or for other reasons. Those of us who live in neighborhoods where some of the hills have been reforested, even though it's only been 100 years, are fortunate to have natural areas close by. I live next to terwilliger parkway, marquam Nature Park is close to my area. We benefit enormously from the second growth trees and the wildlife they support. Trees, wildlife, streams and views preserved, and neglected, by the previous owner over the last hundred years or so, provide unique opportunities for this city to develop and preserve a natural area very close to downtown. An opportunity to provide cooling refuge to the fish challenged by the Willamette River which thanks to human activity can be too warm for them. An opportunity to make a place more accessible to those for whom access can be a bar to enjoying our natural areas. An opportunity to allow the wildlife to move about in safety. An opportunity for our children and grandchildren to learn about the natural world and to treasure this place. Preparing such a management plan is a wide-ranging and comprehensive process, often challenging. I am grateful to those from the community, from the bureau of parks & recreation and the bureau of environmental services who spent hours gathering information, drafting, consulting, arguing, debating, and developing this plan. Such work is so often anonymous and vexing, and in this case particularly challenging. Our city may not have the funds -- does that mean I should stop? All right. Our city may not have the fund to do all that is called for in the management plan in the years to come. A great start has been made by staffers and volunteers by beating back the choking invasive vines, replanting with a phenomenal number of native plants and making streams healthier for those who live near them, in the face of challenging weather and other constraints. I urge the council to adopt the plan as it has been presented.

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

**Jill Gaddis:** Mayor hales and commissioners, my name it Jill Gaddis, thank you for the opportunity to present my views on this important issue. I am the chair of friends of Hill Park. I'm also an active member of the former -- active member and former chair of the Maplewood neighborhood association. I'd like to express my support for the issue.

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Specifically exhibit c of the grantor's prohibit uses and activities which is item 4 on the conservation easement. I'm not going read that section unless you want me to. When representatives of pp & r, city nature west, took the Sweeney parks & recreation committee on a tour of river view natural area, we saw firsthand the damage done by off-road bicyclists. We saw recreational trails built by bicyclists and flagrant trespasses on public lands. These involved removing vegetation, disturbing soils and the natural contours, causing serious damage in the form of erosion, degradation of habitat. The trails were causing habitat destruction. These are clearly contrary to the goals that pp & r committed to. We submit the recreation use is destructive and contrary to the goals of the natural area conservation, and the protection of ecological functions that are in the conservation easement. We urge you to insist that the goals of the conservation easement be honored and strictly carried out.

**Fish:** Can I just clarify something? Both you and Ms. Johnston referred to the easement and the exhibits. The conservation easement that was struck with metro and bes and parks.

**Gaddis:** Right.

**Fish:** I just want to assure you that in the management plan itself, as apendix e, the conservation easement is an exhibit to the document, with the attachments that you refer to. So ms. Johnston has referenced that.

**Gaddis:** If you're looking --

**Fish:** And it is listed under appendix e. It's part of a self-contained document.

**Gaddis:** Right, it's in your management plan.

**Hales:** Right, okay, thank you for that clarification. Welcome.

**Daniel Greenstadt:** Mr. Mayor, commissioners, my name is Daniel Greenstadt, I'm on the chair of the former Concordia neighborhood association. I've been involved in conservation and nonmotorized recreational trails planning and implementation in a variety of settings. I don't have a prepared statement today but I do want to react to a few things I've heard in the room today. We've heard a lot of praise for the rvna process. I think everybody can be very proud of what's happening and where we're headed. We've heard a lot about the commitment and how productive the process has been. That's very true, I think with one glaring exception. And that has revolved around trails planning. At just about the time that it was being determined through the public process that bicycles were not a problem at river view, that public process was jettisoned. It was halted, suddenly boy, were excluded. As a result boy, have not been considered in this trails plan. We've heard that we are very close to hopefully the completion of the off-road cycling master plan, that's supposed to be happening in 2016. Because cycling wasn't a consideration in the planning of the trails that are now in the rvna master plan, that seems to be an occupy defect in the plan. We're so close to a conclusion although it's just getting started. The schedule is pretty ambitious. I can't see any sense in commenting the trails element of the rvna master plan now when we're going to have so much more information in a relatively short amount of time. I could support the adoption of this master plan with the exception of the trails element. What's going to happen is, if in fact the. The plan determines that bikers are an appropriate degree, with a system that simply doesn't allow it to be implemented. That doesn't make any sense. We have a relatively short amount of time to wait, we should wait for the master plan to complete before implementing any kind of trails. There are a lot of other things to be doing at rvna now.

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**Hales:** I'm still grappling with the division over this issue. You think there might be a possibility that the off-road cycling master plan would recommend a different architecture of where the trails would be?

**Greenstadt:** Well, it's conceivable. But even if that were very minor, if you look at the maps you'll see a line drawn on the map. It could very well be that had that process included the consideration of bicycles -- which it did not -- that one of those lines might be a little to the left, a little to the right. The trail might split around a rock and it would deviate from the plan you're considering adopting today. That would in an impossible. The alternative is very simple, hold off on the trails element, an amendment that says the trails element of this plan is on hold until the conclusion of a process that's going conclude relatively soon. What's to be lost in that process?

**Fish:** Were you hear when we heard from the project manager for the off-road plan.

**Greenstadt:** Yes, yes.

**Fish:** I don't remember every word although she's very articulate. I seem to recall she clearly said there might be modifications and recommendations coming out of that process that would tweak the recommendation of this plan, description of the trail, or kinds of things. I thought she did a good job of clearing some space for reasonable people to come to accommodations. Did you not hear that?

**Greenstadt:** I think we can all imagine that if the result of the off-road cycling master planning process resulted in a recommendation that that blue line, how thick that is blue line? If the recommendation was that blue line needs to go a little bit over to this side, that's not going to be possible, or at least it'll be argued very vociferously that we cannot move that line because it was adopted by the city council. I don't know if that line needs to be moved. But we will be absolutely shackled to that blue line. There's only so much precision included in the plan. And it's going to be an impediment to ultimately achieving the optimal trail system. If we all determine some part of it should be a shared use trail.

**Fritz:** I think this is a very helpful clarification. I'd like to bring Emily back up to clarify what that blue line means cause that might make things easier for the rest of the hearing. Thank you for bringing it up.

**Roth:** Like every master plan we do for the city of Portland, creating a trail line, it is conceptual. The line may move 10 feet in one direction or the other. It is a corridor where we envision the trail will go. I don't want anybody to be wedded that this blue line means there is not room to now have 10 or 5 feet it will not move 50 feet. It'll not move 100 feet, but it'll give guidance of where we do design where the trail should go. There's something maybe that we didn't take into account we will be on the ground, we will do the survey, the staking work. We will take what recommendations come from the off-road cycling committee to make sure we build and construct a trail that is safe, logical and works so I don't want people to be wedded that this line is only exactly where it is shown on the map. It is conceptual within this travel corridor.

**Greenstadt:** Thank you.

**Hales:** Thank you very much.

**Hales:** Thank you, sir.

**Hales:** Let's take the next three people, please. [names being read.]

**Marianne Fitzgerald:** Good afternoon, my name is Marianne Fitzgerald and I submitted testimony electronically but I handed Karla a copy for your convenience today. I'm here to express my support for the draft 2015 management plan for the river view natural area and urge you to affirm its acceptance today and allow that plan to guide the city's efforts to protect the habitat and ecosystem health of this fragile landscape. I worked for 30 years

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as a natural resources specialist and I understand the strategies intended to protect and improve environmental quality. Similar controversy has surrounded proposals to close logging roads that the u.s. Forest service can't afford to maintain. The river view property was purchased with the intent of complying with the terms of the conservation easement, I'm glad I pointed out where that was, I wasn't prepared to provide copies of it. But do I want to draw your attention to language in the executive summary of the plan. In my view it really describes how the plan before you today complies with that conservation easement. The primary management objectives of protecting natural resource, water quality and creating a safe place for visitors. Maintaining water quality and protecting wildlife during sensitive period of their cycle. Safe and sustainable access to river view natural area will provide recreational activities and help support stewardship and education opportunities. So the natural resource protections for the river view natural area has been my major concern about this plan all along. I think it's well covered in the plan and I urge you to support these priorities and accept the plan today.

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

**Denny Barnes:** Good afternoon, my name is Denny Barnes, I'm a chairman of the neighborhood association tree committee, and a fifth generation Oregonian, Portland born and raised. I just returned to my family after living in china for 25 years. Nobody appreciates how amazing our urban wilderness is than me. I just live a few blocks from the river view natural area. I do strongly support the river view natural area management plan and urge you to adopt it immediately. Sadly, my family's personal experience has been quite different from your vision. I think, I hope you've all hiked in river view. The existing trails are mountain bike trails built illegally when the property was owned and managed by the Riverview cemetery. These trails are built deliberately for jumps and bumps and steep declines and high-speed turns. The dirt surfaces are deeply rooted and they channel muddy storm waters. I won't read my whole testimony for time interests. Now, some of illegally mountain bikers there are actually quite polite. A few of them are dangerously insensitive in my family's experience. Meeting them on narrow trails can be what I guess we call single track trails can be quite unpleasant. For example my family is standing on a trail quietly examining a magnificent pileated woodpecker. Suddenly a bike charges down the trail and forces us off the trail and the object of our joy flies away in terror. Wildlife observation is pretty hard in the presence of mountain bikers. I had one occasion where a bike rounding a turn forced my son off the trail, nearly hitting him. My wife like an angry mother bear charged after him and he fled in terror. And my wife shouted at me, never bring my son here again: And sadly I haven't. Other stories are certainly available from other neighbors, some of them published on our neighborhood website, Annette next door. Some single women have asked me to accompany them hiking there because they feel afraid. One avid naturalist hikes with a large dog because of security concerns. Of course large dogs are banned even as unauthorized mountain biking continues unabated. I see I'm at the end of my time. Let me emphasize the conservation easement. Permitted uses shall therefore include public access for nature-based recreation. It's specific, such as hiking, nature watching, environmental education, and research, period.

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

**Barnes:** Thank you.

**Hales:** Welcome.

**Jim Diamond:** Mayor hales, commissioners, my name is jim diamond. I live on southwest 2nd in collins view. I'm the chair of the collins view neighborhood association.



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My other life I'm a professor of chemistry at Linfield College where I teach my students about global warming and climate change with that hat on I'd like to just say I think personally this kind of refuge will be increasingly valuable as we see the inevitable consequences of climate change. Now I'd like to continue with my statement from the neighborhood association. You have received written copies of this, and I think you probably got them somewhere electronically as well as in print. A management plan has been developed for river view natural area, that's consistent with metro's conservation easement. You're going to hear this term many times, I think. It is our opinion that the language in this easement is extremely important in assessing any management plan for river view natural area. We in collins view thank the city of Portland for acquiring this natural area in its plan to rescue and preserve it. The plan is consistent with council approved policies and strategy related to the protection of the Westside wildlife corridor, environmental protections, conservation efforts and climate change. Collins neighborhood association strongly supports sustainable uses of the river view natural area. It's our view that this proposed management plan for rvna is sensible. As provided with the activities as permitted and this plan will well serve the needs of the community. We applaud parks & recreation for their efforts on the proposed management plan. Thank you very much.

**Hales:** Thank you very much, thank you. Thank you all. The next three folks, please. [names being read]

**Duncan Parks:** Good afternoon, my name is Duncan parks, I'm a biologist from southeast Portland. I think I share with everyone here enthusiasm for the city's acquisition of the property and for the management of it as a high value natural resource. I think we're all together on that. What I can't agree with is the characterization of the process in developing this plan as in any way open or comprehensive or collaborative. I was at some of the early public advisory meetings, lots of enthusiasm and input that essentially disappeared. Then of course march 2nd of last year the city unilaterally prohibited mountain biking despite the fact that that use did not appear anywhere in the list of actual threats to the value of the property. The technical advisory committee got it right, it ignores things like for instance the testimony today that attempts to use the erosional impact from unofficial trails as some way of gauging what would happen on official trails. There was never a rationale for preventing mountain bikes. After the ban on mountain bikes not only was there not a justification or explanation for the ban, but the topic was literally not permitted to be discussed. It's hard to see this as an open or public process. I think I share a lot of values and goals with most of the people in this room. I really enjoy taking my daughters out mountain biking. I had the immense pleasure of watching them challenge themselves in a human-powered activity on a trail that I had a small part in constructing. That was wonderful. But places like that are an hour away. River view is a place we could ride to and enjoy sensibly constructed durable trails, hopefully built by people like the mountain bike community that are really expert as building expert trails. Not only do you continue to deny my chance to take my daughters more often mountain biking in a place that doesn't require a long drive. But you really tell them that public process where every factor is evaluated according to science and according to evidence just doesn't really matter that much; if we don't like a use we'll just pull it out and not discuss it. That's really the way the process has been in terms of the way mountain bikes have been hand in the river view natural area. Thank you. [applause]

**Hales:** Please don't, folks, give them a thumbs-up, please. We will have agreement and disagreement. Show it nonverbally or without applause. Welcome.

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**Erik Tonkin:** Mr. Park just took all the cool things I was going to say. My name is Erik Tonkin, I'm the owner of cycle repair, auto-brewery syndrome Lewis & Clark College in 93 and 96. Managers of our staff, representatives of our city, and I should add elected officials who inspire the public to do good in the world. It's an important part of your job. You're right, Mike is right, you have succeeded and protected this piece of property. That is I think that has been done. I was really excited when my friend Emily Roth told me many years ago the city was trying to buy it, failed, looked for another opportunity and then succeeded. What Mr. Hauck left out there's another part of it, the public. Those of us on the other side looking at you in the face. We also spend our money and time in these areas and we do a lot of work and we're possessive of it and use it, we love it, it's a sensitive place. Interestingly on the last slide on Emily's presentation, the photo in the background is of the very first work party that happened in river view after it was purchased. It was a work party cosponsored by one entity, yours truly, my bike shop. It was staffed by my staff and my partner Rhonda, in the forefront of that photograph. Now, all we did was invasive removal there. It was in the winter. There was no mention of bikes. There didn't need to be. It was right thing to do to care for that space. I think that as a user group cyclists, walkers, dog-walkers, we can all be trusted stewards of our places that provide recreation and, you know, not recreation, just appreciating it for what it is. I think that adopting this plan as it sits right now unfortunately locks into place a trail plan we just heard Emily say it could move five feet this way, 10 feet that way, if not 50 feet, if not 100 feet. I don't think we should be locked into that's right now. I think that we've protected the property. I think we can wait the short period of time to consider it more fully for trails and for the use of the people. Thank you.

**Hales:** Thank you. Welcome.

**Tristin Jones:** My name is Tristan Jones, I'm an outdoor enthusiast. Also I really enjoy hiking, biking and all kinds of forms of recreation in river view natural area. I think when -- one common thing you will hear from cyclists in the room, they don't feel like this public process worked very well from their perspective. And now we're going to accept a plan he and put our faith that further public process is going to allow us a chance at access to river view natural area. And I think that that's kind of -- that's where you're going see a disconnect between cyclists and other users. Because I feel as a mountain biker, if the city of Portland has any sincerity in considering bicycles in the river view natural area in the future, then we should not move forward with this plan. To approve this plan is to approve a plan developed with a broken public process that will leave a legacy of distrust for. Bicycle access to generally be considered in the future of river view natural area, then the committee should be allowed to talk about the topic throughout the planning process. This was not the case. The subjects of bicycle access was systematically excluded from the planning process. Why? We all have our theories of why that happened. But the why doesn't even matter. The fact is the plan matured without input from a large amount of public stakeholder. There's a very important concern about allowing access into the river view natural area, regardless of how people enjoy that land. But to exclude in silence one group who has been eager to be part of the planning process would be unethical. Moving forward would be unethical. We have an opportunity to use modern techniques for planning and input. Mountain biking is rapidly growing, and cities around the world from New Zealand to Minnesota are making positive steps to address this. Communities get involved, tourists come and help the local economy. People of all ages engage in healthy activity in nature and folks that don't have means to drive an hour to experience the joy of riding a bike on dirt have that opportunity. So it might be -- might not be everybody's idea

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of good land use but it is for a whole lot of people. That's what the public process is for. The city plans to address the shortness -- or the city plans to address the shortage of mountain bike trails within the city with the off-road master plan, let's allow the off-road master plan to do what it was intended to do. Let's create a plan using complete transparency and uncompromised public process. I urge you guys not to pass the plan as presented.

**Hales:** Thank you very much, thank you all. [names being read]

**Moore-Love:** They will be followed by: [names being read]

**Hales:** Good afternoon. Who would like to go first?

**Nathan Ramsey:** I'll go first. My name is Nate Ramsey. I've a few thoughts. Mountain biking is good for Portland, it keeps people healthy. It gets people outdoors and it develops respect for natural areas. Portland is full of mountain bikers, it's a sport that's accessible to virtually anyone. As I understand it the issue here is not about environmentalism. Mountain biking is compatible with conservation and it builds support for future conservation, allowing mountain bikers into Portland parks is the right thing to do. Delaying adoption of this plan will support that. Thank you.

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

**Cary Miller:** Hi, my name is Cary Miller. I was also at that first work party that Erik Tonkin mentioned and I thought it was great. I would like to say that I do not support this plan and that I would be in support of any plan that would still involve the use of mountain biking. I've been going there probably twice a week for the last 20 years and every experience I have had with any other user has been nothing but positive. Yeah, that's all I want to say. Thank you.

**Hales:** Good afternoon, welcome.

**Tom Fahey:** Thank you for your time. My name is Tom Fahey I live in Lake Oswego I spent six years on the transportation advisory board and another three years working on the city's comprehensive plan and so one of the things that we've always had to work with is the process and having integrity in the process, having people believe the process was going forward with everybody's input involved. I think you'll find there's a natural amount of cynicism and skepticism in the process if you read some of the forms. I think that result is part of some of the exclusionary factors that have happened during the process. I think everybody wants to see a transparent process and wants to see it go forward. I believe in protecting the natural environment. If it dictates this is not appropriate use in that area, I would gladly support it. But I highly suggest that we wait until that process is vetted and that it is completed so we can take a look. I have for a long time tried to convince my children to get involved and participate. I believe it's every citizen's responsibility to vote to, speak their voice so they don't allow the same number of voices to people for them. The questions that they have asked me is why do some of the things happen. It's sometimes difficult to explain and there are levels of politics that go on. But I still want to try to inspire them to get involved in the process out there, it's really important. It's a sensitive topic. A lot of people are very emotional about this topic. We start to hear terms that kind of borderline biking is being evil, there are evil characters looking to run you over on these trails. My experience has been really quite frankly that the most patient group as a total has been the mountain bikers. I have rarely run into situations where I've heard, I've almost been run over. These are inflammatory things that people know they can state this and it's going to get an emotional response. I would ask that we move past some of those emotional responses on both sides and really put our time into this process. I hope

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it works out well. But I do hope -- my final suggestion is hold off until the process is done. We're not that far away. What are we going to lose if we hold off? Thank you very much.

**Hales:** Thank you very much. [names being read]

**Bob Sallinger:** Good afternoon, I'm with bob Salinger engineers, I'm the conservation director for the city of Portland. We are here to support the adoption of the plan and we think it's important that it moves forward. We think it should be a template for any natural area. We start out and buy a natural area and protect natural resources, we need to make sure they are actually preserved and protected for people to enjoy them and for their own intrinsic value. I think too often we load a lot of uses into these natural areas and then try to go back and figure out how to protect the natural resources after the fact. Parks and Bes did this one right they look at the critical natural resource values things like stream corridors, interior habitat, it doesn't really occur at this site, but other sites like meadows these really incredible fragile resources. And designed the recreational trail system around those things to make sure those things were first and foremost protected and then the natural ----recreational opportunities are compatible with those. We think they got it right, we think the trail system is appropriate whether it's for bikes, for peds, for dog walkers, for horseback riders whatever. We think the alignment is the correct alignment to protect those natural resources and preserve them. We do think that it is unfortunate that we did not get to the biking issue because Audubon believes biking probably can occur here and it would be an appropriate use here. With this alignment. Not adding trails, not moving them in the interior -- we believe biking probably has a place here. That being said, we believe you should move forward today. That parcel -- natural resource value. You have been challenged by critics who said that you were not really sincere about that. A lot of folks have stepped up and protected this site and defended the reason why the city bought it and so the city really truly did buy it for the natural resource values. This is an opportunity to demonstrate that. Adopt a plan, allow things to move forward, restoration, beginning to implement the trails and so on. Let the mountain biking task force come back and determine whether mountain biking can go here. I am on that task force. As I said, Audubon senses that mountain biking can exist here in the network that they have determined. One final thing that I would mention is I hope you do take a look at the mountain biking task force. It is overwhelmingly people who are associated with mountain biking and one of the things we heard there was going to be a more holistic task force, people on there with a lot of different interests, so that mountain biking could be integrated into the bigger system. And we weren't surprised to see it so heavily dominated by mountain bikers and other interests separate from that not so well represented. Particularly concerned to see a mountain biking advisory group -- nonpartisan factual base advisor. We don't -- where they can advocate. Thank you.

**Hales:** Thank you. Welcome. Whoever would like to go next. Go ahead.

**Alexandra Clarke:** Alexandra Clarke. My family came to Oregon between the years of 1850 and 1869. And so we have a long 155 year history in Oregon and the tri county area. We have made both small and meaningful contributions to the community. I am here in support of the conservation easement and the bes values for rbna. I have lived there for nearly 30 years. Avid gardener, and I care about nature and the outdoors and also a sports enthusiast or was when I was younger, I was quite active. I have had some just -- specific questions. You have five percent budget cut for next year in parks and rec.

**Hales:** Not yet.



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**Clarke:** Not yet, but you're discussing it. One of those -- a couple of those are -- that you cut some after-school and summer programs for our youth and swimming programs, which I think are important, that you're cutting --

**Fritz:** I'm going to interrupt you. That is the meeting tonight. We have a budget advisory committee for parks tonight. That would be the appropriate place. You're welcome to come it's at 5:00.

**Clarke:** That's why I'm -- just leading into something.

**Fritz:** Go ahead.

**Clarke:** My point was and we have an issue with the homeless, and yet \$300,000 available for this bike study. So, I'm kind of curious about that. And then I wanted to know also what portion of the trail budget is, you know, reserved to make the improvements that are going to need to be made for mountain bikes.

**Fritz:** We don't have any money for any of the improvements.

**Hales:** Not funded yet.

**Clarke:** And that is all I have to say. Thank you very much.

**Fritz:** Thank you very much and I certainly appreciate you commenting about the park budget. You are welcome to come to the budget meeting, too.

**Clarke:** I went the other night.

**Clarke:** Thank you.

**Eli Ahern:** Eli, local Hillsdale community member, volunteer maintenance of trails and -- Riverview national area. I wanted to ask for a raise of hands for those in support of mountain bike specific trails within the Riverview natural area. In attendance, public's interest should not be dismissed from the current master planning process, unless tested scientific evidence proves that modern off-road cyclists -- without such evidence, clear that the proposed management plan is incomplete, without including mountain bike specific trails or substantial evidence that mountain bike specific trails prohibit the primary goals proposed at the site.

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

**Moore-Love:** The next three. [names being read]

**Hales:** Good afternoon and welcome.

**Warren Johnson:** My name is Warren Johnson. I did not hear about this until last night. I don't know much about the proposal. I have sat through most of the discussion and I think my bias would be that everybody wants to use this property. It is very clear. What I didn't hear today is reasons why mountain bikes should be excluded. Are they, is it believed they're going to cause damage to the property, to the goals of the property? I do think that is something that if it was discussed I missed it. I apologize, but if it hasn't been thoroughly explored, I think it ought to be. I am a mountain biker. I've built trails as an Eagle Scout and working for the forest service in my earlier years, and I also have had a very good experience both as a hiker and a cyclist in the belief that these trails can be shared, and that people are respectful of each other. And if bad things have happened, at least in my experience, sometimes it's about the trail design making sure that you can see people far enough in advance, slow down, and the people that are also using the trail can hear you and see you as well, and in many cases. So appreciate the opportunity to be here and I'm really excited about what you guys have accomplished thus far. I hope that the discussion can continue. And thank you very much.

**Hales:** Thank you. Thanks. Welcome.

**Josh Eastin:** Hello and thank you very much for the opportunity to speak here today. My name is Joshua Eastin, professor of environmental politics and governance at Portland



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state university also an advocate for conservation and preservation, as well as a homeowner in the collins view neighborhood adjacent to the Riverview natural area. Also a former professional trail builder and designer. I think that I can see this issue from a -- several different angles. I want to say that I do not support the adoption of this management plan at this time because as some have suggested earlier, it makes absolutely no sense to lock ourselves into a management plan without regard to the types of access or recreational uses that might potentially be allowed there some day. We have gone back and forth about the possibility of trail adjustments or slight modifications to this existing plan should it be adopted and should mountain bikes be allowed there. I'm not sure that that is consistent with the type of use that a multiuse trail would require. You know, in my position as an academic, I like to look at facts and research rather than assumption and hyperbole and -- in judging a legitimacy of public policy. As a citizen, I like to think that policy makers base policy on research and -- I'm not sure that that has been the case in banning mountain bikes in rb & a. I understand some of the reasons and rationale around proceeding cautiously, I want to note that mountain bikes unlike what was suggested earlier are not inconsistent with the conservation easement itself. I want to read one line from the conservation easement, section b, permitted uses. Grantor reserves all rights accruing from the ownership of the property, including the right to engage in or permit or invite others to engage in all uses of the easement area that are not inconsistent with the terms of this easement or expressly prohibited here in. Now, while mountain biking is not expressly designated as an acceptable activity, it certainly is not inconsistent with the terms of the easement. And I base that assumption on the fact that there have been absolutely no research that I can find and I have looked connecting mountain biking to deteriorations in water temperature or quality, particularly when these activities are done on appropriately designed trails. Trails now are ad hoc and they're not appropriately designed and so it is normal to expect some erosion to occur. Furthermore, there has been no research, at least that I'm aware of, on the actual volume of water flow that goes into the Willamette from the property. We're not really sure how much water because -- as part of the plan suggests, part of the reason and the rationale behind the conservation easement was to provide a cold water source into the Willamette -- we're not really sure that a lot of water or significant amount of water flows in and I see that my time has expired here. I will stop there. I only want to say that if done correctly and if designed correctly, these uses are entirely consistent with the conservation plan.

**Hales:** Thank you. Welcome.

**Andrew Jansky:** Good afternoon, mayor and commissioners. I feel like I'm watching Groundhog Day and I'm bill Murray. Actually I'm Andrew Jansky the advocacy chair for NW trail alliance our group has been around for 27 years by other names. We are living the same nightmare year after year in the city of Portland regarding bike access to trails. Back then, many of the folks you see in the room were not even born. A lot had to go back to work because they had to take off an hour from their day job, because we're too busy trying to work, build a career, raise a family to come to a midday meeting like this. It is pretty hard for them to make it. It is really good -- I think what you see them showing is a pretty big deal. So, I think one thing you can see is the conversation about off road cycling is changing. It is moving -- it is getting elevated and part of that is based on the mayor's leadership and the support from the city council. So, you know, we definitely look forward to open and honest discussion about the future of cycling in Portland. We just have one problem and that is a negative legacy in the form of the plan before you. That was influenced by people in a process that was really typical of the last 25 years about the

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discussion about mountain biking. And that's about how long we haven't been able to mountain bike in Portland. So, my question is will this city council be the last to replay in ground hog day or -- and simply rubber stamp this and move a flawed public process forward? Or do you want to be remembered as the first council to take a progressive view on cycling and acknowledge that fossil fuels saved by avoiding thousands and thousands of miles driven to ride a bike is that important. I would like you to consider how much of Riverview is actually dedicated to offset the carbon from all of us driving an hour every weekend to go biking. Maybe twice. I probably drive 4,000 miles to go biking every year, at least. So, if I could do it here, that might save some things to Riverview. There are many things in the management plan that are good but the trail alignment portions are influenced behind the scenes in the closed process and I do not -- if there is not -- does not reflect the best recreation options for city of Portland. I see you have really one option at this point and that is to not adopt it right now. The plan is good. It has a good step, but the trail alignment we have issues with. You brought up the metro easement. We're working with metro and we had meetings about how you design trails. And so it came down do you have shared views, separate uses? How do you avoid conflicts? Do you have a climbing trail and trail that people are going a little slower on? There are things that metro is leading the way on how to design a trail. So that we could actually avoid some of the things. The worse thing, if we move forward, allow bikes and then they say oh, see, this was the worst thing ever. I think we need some flexibility to deal with that. So, will you be the last council to keep the old Portland ways or the first council to take a progressive look and look forward to an open and honest discussion about off road cycling. Thank you.

**Hales:** Thank you all very much. I think we have a couple much more folks. [names being read]

**Hales:** Come on up. Anyone else that wanted to speak and didn't get signed up come on up and join them?

**Charlie Sponsel:** I would like to recommend against adopting --

**Hales:** Name back in the record.

**Sponsel:** My name is Charlie Sponsel a student at Lewis and Clark College and I was a member of the political advisory committee for the Riverview process. I as a member filed as part of the minority report and encourage you not to adopt this plan, this highly flawed plan. As an anecdote, there were several dog owners on the committee, dog owners that lived in the neighborhood, or didn't, that enjoyed walking their dogs on the property. We had a spirited discussion about whether dogs were compatible with the research -- resource preservation goals for Riverview. They were not. And the dog owners acquiesced and that's a beautiful thing. Subordinating your personal preferences, expressing your personal preferences but subordinating them for the will of the group. That is what democracy is all about. That is what the city of Portland wants to be about and they were based in research brought to us about dogs. That discussion did not happen for mountain biking. That discussion was actually banned. There was a spirited discussion taking place. The committee stopped meeting and then when the committee began meeting again, the director informed us that we could not discuss mountain biking on the committee. In between, during that one-year break, mountain biking was no longer an approved use. We still don't know why. When I asked the natural resource ecologist for parks and recs -- she informed me mountain bikes not being accused of raising water temperatures -- storm water runoff or in the creeks. We will never know what the Riverview natural area advisory committee thinks about mountain biking because we

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weren't allowed to have that discussion. Emily bought a beautiful cake. It was really nice. It looked just like Riverview and the cake has already been cut. We have eaten it. That group will never convene again. We will never have the opportunity to discuss the merits of mountain biking, the finer points of trail planning or management between multiple user groups. What if the offer advisory committee suggests that mountain bikes should not be included on the same trails as hikers? That is obviously not possible given the trail alignment at Riverview. That could have been possible if that were part of the discussion that we had but that can't happen. It is totally illogical to approve this plan until we have best practices in mind for mountain biking for the city of Portland. We don't. Thank you.

**Hales:** Thank you. Welcome.

**Kathleen Walker:** Hi. Thank you. I'm writing to encourage you and your staff to hold off on approving this Riverview --

**Hales:** Name in the record.

**Walker:** I'm sorry, Kathleen walker -- to hold off on approving it or short of that to adopt it with the caveat that it may be -- I'm a recently retired forest service trails planner and recreation manager on the Mount Hood national forest for almost 30 years. And my daughter attends neighboring Lewis and Clark College. I came late to the table for Riverview when I asked Erik Tonkin, of Sellwood cycles, where she and I could ride bikes around Lewis and Clark and get from Lewis and Clark down to Sellwood. Two weeks later, it was closed to bikes. I read the conservation easement that went along with this. Back up a little bit. I'm also 30 years long-term friends with kate that was on the committee and works for metro as a natural resource planner. I was able to kind of talk to her a little bit about some of the background. I did read the easement that was -- wasn't signed by all parties. I wanted to kind of quote the -- because a lot of that easement language has been quoted, but I think that the second general purpose there on that easement was preservation of land areas for outdoor recreation by the general public. Recreation all along in addition to Fish and wildlife habitat protection was part of the equation on that easement. There is additional mentions in the easement for recreation. So, the parcel was purchased also with parks and recreation funds and got an Oregon state recreation trails program grant to develop the area for recreational trails. I think there is some latitude there to emphasize allowing mountain bikes there. According to the data collected, primary recreational use of that land was mountain bikers. I'm the first to admit trails out there were steep, unsustainable, had no bridges over streams and were a problem. There have been adverse resource impacts as a result of the unmanaged and undesigned use, however, many skilled trail planners as well as willing mountain bike partners such as northwest trail alliance who are willing to design, construct, maintain, and patrol mountain bike trails within the river view natural area. These trails can be collocated with hiking and running paths to address user conflicts while protecting core habitat and riparian areas for wildlife. The mountain bike trails can be sloped for drainage, hardened with packed gravel if necessary and maintained in a sustainable manner. Groups like the mwta, providing examples, 30 miles to the east and west here. We really need this area closer to town though. So my 30 years of experience in managing national forest lands with user conflicts and important resources helps me understand your predicament here. Admired leader said that at this time, you can't set this area aside like a rare book and say nobody can touch it. You really need users to come with you and help you maintain and manage it and patrol this area to keep out the homeless camps, dumps, and things like that. I encourage you to consider getting the mountain bikers involved in doing the trail design. Your trails plan is very conceptual and it is not specific to the trail design standards for

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mountain bikes and so it is not going to work. I mean, anything that looks like a cork screw, which is what it looks like on that plan, isn't really going to work well for mountain bikes. You really -- I can understand setting aside certain zones for people and access, but I really want to see the mountain bikers involved in the more specific trails development plan and it is going to be more than a five or 10 foot realignment. It is going to be something a little bigger. You need to have that flexibility to make the changes and make that plan work for mountain bikers. Thank you.

**Hales:** Thank you very much. Okay. Anyone else? So, maybe we can have some staff back up and address questions. Michelle maybe you, too. So -- reflect a little bit, you know, frankly, it is distressing that we have got this impasse. That we have a very capable open-minded parks director, works well with the community. Exceptional planner doing this project, and yet we ended up at this juncture. What have we learned from this and where do we go from here?

**Abbate:** Well, Mr. Mayor, I believe that one of the lessons we have learned is there is a great demand for appropriate mountain biking in our city. And we have very few facilities. And I think that is what led you and the council to support doing a citywide look at mountain biking. Somebody mentioned stub Stewart and sandy ridge 30 miles either tied of Portland. -- Either side of Portland. There are virtually no facilities for mountain bikes in city, in our recreation portfolio. We are talking about gateway green and other facilities. But it certainly is a recreation need that we are not -- we're not meeting currently.

**Hales:** Do you think it is that frustration is the heart of this, that we are just not there?

**Abbate:** Absolutely. There is testimony that people have been asking for these kind of facilities for 20 years. And other places have been proposed, and on a site by site basis, there are reasons in the moment to say not here. And, so, that's why I think looking citywide is the appropriate response.

**Hales:** What will be the effect, practical way of adopting the management plan now and then when Michelle completes her work revisiting the question of trail location?

**Abbate:** Well, one thing, mountain biking is not one specific type of activity. You have heard testimony from people that you might say are a more on the recreational side. And you have heard testimony from people who are active competitors, have incredibly world-class skills. It is like walking or hiking. Our system ought to have a spectrum of facilities. In general, our recreation facilities cater to the beginner and intermediate. We don't have super advanced recreation programs. We let clubs take that over. I think in terms of what the net effect would be, the alignment, I think, we have absolute support for the fact that it protects the interior habitat and still provides two different recreational experiences. This wouldn't -- this is not appropriate for an expert level mountain biking facility. If the council at some date in the future wants to allow mountain biking here, that alignment, realize that it does have switch backs, is not going to provide a certain kind of mountain biking experience, but like leaf Erickson in forest park does, we have opportunity for people to ride bikes in nature. It may not be the highly competitive place, but if council in the future decided they wanted to do that at Riverview using that alignment, it could be done using that alignment. I think if you go back to considering other alignments, then I think you're -- that is -- that would be a very difficult situation because of all of the work that has been done to demonstrate that the alignment as it is shown in the plan is the most supportable place to balance the competing values.

**Hales:** Emily do you have other comments that you --

**Roth:** I would just like to point out, developed and designed criteria for the plan that is on page 28 and 29. And 30. And it really sets the vision for what Riverview natural area is



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about. And it is based on our goals of protecting an enhanced watershed health of the site, protect the natural resources. Talks to trail design, create loops, avoid dead ends, best management practices, you know, provide opportunities for people of a variety of modes if approve -- really to enjoy nature of which the site was originally purchased and preserved. I also want to stress the plan, the line that is shown on the map, we set for the plan and we instructed the consultants that the trails should be on the outer 300-foot edge of the property. Of course the loop at the top is not, because we wanted to provide an experience for people, a less challenging experience so that if you had your kids and other things, that you wanted to come and practice some mountain biking, or walking, or whatever, that opportunity. I think what really has to be said is when we go into design and construction, this is a concept that we are trying to do. We may not have all of the switch backs. We may not, you know, it may not be exactly where it is located, but it will be within the outer 300 feet of the property except where we can't make a turn or something like that. So, I want to stress that. You know, it is not necessarily -- the design criteria which we gave the consultant to work on is protect the natural resources and put the trail in the outer 300 foot corridor of the property. So, we will have some opportunity if mountain biking is allowed into Riverview, we have talked about this in parks. We will go back out to the community. We will have the conversation with the community about the mountain bike trail. What it is going to look like. How it is going to be managed, who is going to be maintained by? All of those things. Will we only allow mountain biking on Monday, Wednesday, and Friday? Will it only go one direction? We have made that commitment within parks if this comes back in, we will go back out to the community to have that conversation with them.

**Hales:** So why not do that before completing this? That's the bottom line question being raised --

**Roth:** We were instructed not to have that opportunity as part of this plan. So, I just want to --

**Fritz:** It has taken us two years to get here even with that. And I think the important piece that Emily just pointed out is about the trail will be in the outer 300 feet.

**Hales:** Right.

**Fritz:** Let's be clear here. We're not saying everybody else can go down to the river and into central natural area and only mountain bikers cannot. What the plan does is says that nobody is going to be going into the most sensitive areas. That's what it is doing. It is a natural area framework plan. I want to just assure my colleagues of something that I have learned recently. We accept master plans and by resolution, and then when we -- if ever we get the money to implement them, which can sometimes be 20 years, we look at that master plan. We do sometimes reconvene the committee and ask them for ongoing advice. And in the case of the Lents park master plan, we recently looked at where they had located the turf field, and started questioning is that actually the best place for that? We went back to the committee and said we could take out fewer trees if we put it in this alignment. What do you think of that? Committee and community said no we like the original master plan and that is what we are moving forward with. It is not like it's defined within even five or 10 feet. It is a concept. And it particularly, it delineates the sensitive core of the site, where all we're going to be doing is education, research, and quality --

**Roth:** Exactly. And that is why I pointed out the design criteria, because that is really what was guiding the access concept was this design criteria, and what the vision was for -- what the vision is for Riverview.



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**Hales:** If the heart of the matter is preserving the core of the natural area as such, and if you have made it clear that the trails are going to be in the outer 300 feet, then were the interim prohibition of biking, if you have trails in the outer 300 feet?

**Fritz:** You have to design the trail in order to be able to discourage people from going through the sensitive area, and since we don't have the money to do that, as we heard earlier, \$1.5 million to actually construct an environment where it would be easier to stay on the trail than to go off it. Right now there is no improvements at all.

**Hales:** So that you're -- you're -- your claim here is that you are coming at that from practical standpoint, you can't police the question.

**Fritz:** Not only can we not police, we can't provide the improved trails.

**Hales:** The trails don't exist yet, I get that.

**Abbate:** That's correct. There are trails on the site, but as many have testified, they're too steep. There is erosion that is happening on the site now currently.

**Hales:** Okay. Remind us Michelle for the time line of the completion of your project.

**Kunec-North:** Looking to have that to council this year.

**Novick:** This is a question for everybody, including my colleagues, I mean, I'm concerned about the suggestion that the off-road bicycling master plan could recommend particular forms of trails in Riverview, but the decision we make today is going to preclude consideration of what they are recommending. So, I would like some assurance that it will be possible to consider changes to the Riverview trails plan if the off road bicycling master plan recommends different options.

**Fritz:** Commissioner that is what your amendment makes abundantly clear. And we can always amend master plans.

**Novick:** But based on what director Abbate said, it sounded like well, we are precluding certain forms of mountain biking. Alignment we're recommending is locked in stone and that is not going to change.

**Abbate:** I think there is two things. There is an alignment that is shown in the plan. But as Emily said, in all of our master plans, they're conceptual. The -- we asked consultants to minimize the slope on the trail to minimize erosion. Our responsibility when we go from a master plan to construction drawings or is it consistent with the master plan? If there is big deviations, as the commissioner said, or we're considering big deviations, we go back to the group who advised the master planning process. We're doing this, a good example is the gateway plaza and park. We're currently designing that now. And it is -- it has changed a little bit. Play area is a little different, a little bigger, but consistent with the master plan. That is our pledge to the council to be sure that we deliver projects consistent --

**Fish:** Commissioner novick, this is not a perfect analogy. We adopt every 20 years a comprehensive plan and we have hearings in this body where there are competing, sometimes complimentary but often competing values that we have to reconcile. The ultimate arbiter is the council action. And what your amendment ensures is that the work product of a separate committee and recommendations come back to the council for discussion and the council, as I read the charter, has the final say on that.

**Hales:** And as this amendment says.

**Fish:** And I think the best example is how we deal with land use matters where the competing values -- and here there are genuinely competing values. And I think one of the benefits of the plan is that it identifies kind of a hierarchy -- I will -- we have to be very careful when we use rate payer dollars because we are not in the mountain biking business, recreation business, courts remind us we are not in lots of businesses. We are in the water quality business. We are in the watershed preservation business. Natural

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area resource business. That's the great service that this has done, which I think the mayor used the word *impasse* earlier. I regret you did so. Because I think there is a broad consensus here about the value of protecting the natural area pieces. The question is how can we harmonize a perfectly legitimate claim of a responsible user group within that context? That is our challenge. And by taking up a holistic view, which we funded in terms of a citywide planning process, we've committed to welcoming our friends, mountain bikers. As I said, and I still have the scars to prove it, when we worked through the -- a similar discussion forest park that didn't go as far as I had hoped, you know, there are precedents for this. Once upon a time there were people who frowned on skateboarders and said how does that fit within our system? Now we're proud that we have dedicated skateboard parks. Lots of uses that over time have evolved. The question is not whether we are pro or con. That is an ideological construct and I reject it. The question is how do we harmonize and where and under what circumstances? And that, mayor hailes, is the same criteria that you have applied on this council in 25 years. It does not prejudice one group against another. But I would maintain, particularly since as the commissioner in charge of the utility that has to be particularly careful about how we use rate payer dollars, harmonizing of a -- any recreational activity, hiking, walking, running, using your dogs, riding a bike, sensitive natural area, particularly when acquired with rate payer dollars, those lines have to be very carefully drawn. I think the management plan has done a laudable job. Commissioner Novick's amendment ensures that the council has a robust discussion, if, if, if, if we get a recommendation from the citywide task force that we ought to put some resources here. My guess is that we're going to get recommendations for a plethora of options, because the idea is not just to have one place. It's to have many. That is why we're pursuing gateway green. That is why we work on pump trails in various parks. That is why we are looking at expanding existing facilities in forest park. It is holistic. I have heard nothing which says we're restrictive when it comes back to us from making necessary changes, if the committee, in its wisdom thinks this is appropriate and if a majority of the council believe so, and I believe there is a majority of the council that already has kind of signaled that they would like to see if we can be flexible on this so I think the record has been made.

**Novick:** One thing that I'm particularly concerned about, I thought my amendment was basically saying we are not making decisions about mountain biking in Riverview today. But what director Abate said is yes, we are making a decision that certain forms of mountain biking will be prohibited. I am not a mountain biking expert, but I actually would like the audience to indicate with raised hands, are you concerned by that statement of director Abate, or is that okay? So, if we are making -- I wasn't prepared today to make decisions about precluding certain forms of mountain biking, and from director Abate said adopting this report --

**Fritz:** We're precluding particular areas. The plan is absolutely silent on whether particular kinds of recreational activities are allowed in the sensitive inner area. It says all of them are not allowed. It says we're protecting the inner area. It is not that we're saying everybody else is welcome to wander down to the streams and mountain bikes have to stay out. It is saying everybody is going to stay out.

**Abbate:** If I might just clarify, what I -- maybe I wasn't very clear. Right now, in -- on page 30, it says interim prohibited, biking of any kind within the site. That's interim. That's today. If you accept that plan. But your amendment says but we have a citywide effort that is looking and it might, in fact, make recommendations to change that. And we can do that.

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So, what I meant to say is not in perpetuity. It is subject to the council's direction after the citywide plan.

**Fritz:** Let me read from page 48. Plan implementation. The use of mountain bikes will remain a prohibited use until completion of the city's offered cycling master plan through which Riverview natural area will be considered as a candidate property for cycling. It says that right in the plan.

**Hales:** Emily, you looked like you were going to add -- or did make cover it -- mike cover it?

**Roth:** Mike covered it I think. I would like to reiterate for all of us the vision of what Riverview natural area was purchased for, and we have a lot of user groups throughout the city that want to use our natural areas for all sorts of different things. I think through this process and though it was limited on our whole discussion of mountain biking, it really brought forward and protects the natural resources and the aquatic functions of which Riverview was purchased for, and I think that is very important to keep as our highest standard for this site. And I think also that through our design criteria, which we were very thoughtful about, again, I want to reiterate, that we looked at the outer 300 feet is possible for recreation. That is what we instructed our consultant to do. They did the best job they could without going out and staking in the field and looking where every turn is and where every tree is and mountain biking is brought back on this site again, we will be looking within that 300 feet as the best place to put a trail that will accommodate all users safely.

**Hales:** So, is it possible in your opinion that once the offer plan is completed that there could be additional trail sections in that outer 300 feet in addition to the line that is shown on the map now?

**Roth:** Could be considered as long as the goals for protecting natural resources are also maintained. What I really want people to understand is it would be very difficult for us both the way the property was purchased and why we're protecting the natural resources to put trails through the interior of that site.

**Hales:** I understood that. In that outer 300 feet, could there be more than one trail?

**Roth:** That is a possibility, and that is what I wanted to -- it depends on what mountain biking comes in. We may have -- we may have a discussion where we would have, as I said before, a pedestrian trail and a biking trail next to it. If that -- at some segment of the trail, going to provide safety, then that is what we will do. We haven't had that opportunity to design. We will look at all of those things through the design process that meet the trail guidelines and the goals of the natural resource management plan.

**Fish:** I have been on this council seven years and I have lost track of how many plans we have adopted, but, you know, in almost every other context, we are urged to adopt a plan which sets forth a framework and then to look at the specific cases. We did in the bicycle master plan. We did it in the climate action plan. We did it most recently in a plan that stated our values around export of fossil fuel. Time and time again we set the vision with a plan understanding that it is inherently flexible, but it sets out the things that we have to look at and I think what you have heard from your project manager on the second part of this exercise, which is the citywide look on off-road cycling, this plan has offers a set of values and cautionary notes and science upon which good judgments can be made about opportunities citywide. But it is our tradition to adopt the plan first. Set the broader case, and then come in and look at how we harmonize that with other things, and in this case, mayor, I have a hard time seeing how any particular group, pedestrian, hiker, runners, people with dogs, off-road cyclists and others are being treated any differently.

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**Hales:** I hear you on that. The purpose of this discussion in my mind is to make sure that we get some things on the record and to get some things clear about what we are going to consider and aren't going to consider later on if we do adopt this plan. Mike, let me return to something you said in passing. But I think it is really important and it is maybe part of why we got to this level of anxiety about mountain biking in general and about this plan in particular. And I'm going to sort of asking you to hold up your hand and swear allegiance to a principal but I think it is not going to be that hard for you. Every parks commissioner and every parks director has adhered to a principle in Portland that the parks system ought to have big shoulders and that every recreational use and every recreational activity should to the best of our ability be accommodated. New things like skateboards and mountain bikes come along, or god, forbid, drone competitions. I'm making that one up. I hope that is not here yet.

**Abbate:** The permit is in on that one.

**Hales:** But we do have people flying gasoline powered airplanes around in circles in Delta Park. We accommodate an almost bewildering variety of recreational uses. And the point is that we keep trying to do that. I trust that you, like your predecessors that that is still a good principle, and we should be trying to meet all of those different needs that our citizens have.

**Abbate:** I do, Mr. Mayor. I would expand that to say one of the things that is very important is the role that parks and recreation plays on community health. In these times, the more we can do to give people opportunities to get outside and physically active, the better. Because our culture is fighting against that. And virtual is not the same as real. And, so, I am committed to providing as many, as wide a diversity of recreational opportunities as possible. We have talked about bike polo. That is one of my favorites. Very small group, very passionate and very committed to it. We do have an amazing parks system that can accommodate many diverse outdoor recreational activities.

**Fish:** Mike, you gave a wonderful answer. I'm going to qualify it. I'm going to speak for the bureau of environmental services. Our shoulders are less broad. We have people coming to us all of the time with extremely compelling asks in natural areas. Including creating places for people to camp. Creating recreational opportunities. Staging events. They're all very compelling, but we are not in the recreational parks business. And we have a different filter. And we are going to err in our analysis on the side of protecting the natural resources and the challenge, mayor, in the great Portland tradition is harmonizing these values. I do not see them as inconsistent in Riverview because of the different funding sources, metro and the -- and two pods in the city. Unique challenge of how we can harmonize. We have had testimony about an easement, which is pretty important document which has some specific language. But bes and parks have a great tradition of working together. We are all committed to a same thing which is a better Portland. Can we find ways to try to harmonize? Yes. Have we made a record at this hearing where there has been a signal that we need to be as flexible as possible within the constraints of the ecological health of the property that we acquire? Yes. But respectfully, with that now in the record, I think we can adopt this plan and still point to a day when there is a larger discussion about creating broader opportunities throughout the city for off-road cyclers who are in a very, very important constituency in the city and in particular within the parks.

**Novick:** Where are you at this point? I'm frankly a little concerned about voting today given what I have heard. And it would be nice if commissioner Saltzman were here, but, I mean, I think you share my concerns. Are you satisfied that we are going to have enough flexibility going forward that you would be willing to vote for this?



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**Hales:** I share your concerns. And I was originally interested in delaying. I think given this discussion, and your amendment, I could vote for it today. With some things on the record that I will add to what I have already put on the record. So, if that's satisfactory to you commissioner novick, if you are willing to proceed today, I would like to proceed and take a vote.

**Novick:** With considerable hesitation, yes, but I appreciate the discussion that we have just had and commissioner Fish's remark about significant flexibility.

**Hales:** Okay. Thank you very much, staff. Let's take a vote please unless there are further questions you have for our resource people.

**Fritz:** Thank you very much everybody who has participated on all sides. There is not just two sides to this. There is multiple sides. I am more proud than ever of my staff in Portland parks and recreation and thank you so much, especially Emily Roth who had guided this process through thick and thin and sometimes has had to implement directions of her commissioner and others that we're not able to explain fully to the public. We do have a responsibility to rate payers as commissioner Fish mentioned that this is not only a park. It is managed by Portland parks and recreation but purchased with millions of rate payer dollars and we need to be careful to protect the purposes for which it was purchased with the input of my parks staff, northwest trail alliance and others I have learned through this process that it is possible to construct trails that are safe and for all users. That they can be not -- they can be careful of habitat and natural resource conservation, with the discussion that we have had today of where the trails are not only for potential mountain bike use, but also for all people -- all human use. I will be open to a recommendation from the off-road cycling plan, as bob Salinger of Audubon said it seems it is quite feasible to put a mountain bike path around in or near the designated location of the trail. The important part to me is the protection of the internal watershed and habitat area and I think that that -- that that's -- that that's the key value of that plan. Also want to thank of course mike Abbate and bes director Michael Jordan and Maya spencer, who as Emily noted put a lot of time into responding to constituent concerns. Thank you very much to all of the project advisory committee members for your two years of service, not only on this plan, but for really pushing the discussion of citywide what are we going to do to accommodate this use that really doesn't have the facilities in Portland? I dedicated parks money to buying the gateway green property and I am very committed to seeing is we can turn that into a new facility for biking the pump track at ventura park is phenomenal. I want to see how many more of those can we put in at parks city wide and also revisit the issue of forest park and where there might be some more appropriate places for all kinds of recreational opportunities where we could share our natural areas and the -- I think that the passion that I have heard in the room today is partly because there isn't enough to go around and that is the case in many of the issues that we hear about. Be it the city budget, be it housing, all kinds of city services and indeed land we just don't have enough for everything that everybody would want to do. We need to develop these kinds of thoughtful master plans that decide in a framework what we think that the bottom line is. I appreciate Mike Houck comment that he wouldn't feel comfortable moving forward with the off-road cycling plan unless this master plan is accepted because it does set the framework. But as was noted, the master plans are subject to revisiting, if necessary, we can bring back to council and it is important to have a framework that sets the design guidelines and some of the values -- many of the values and principles. Parks was a partner in this purchase because we as a city saw the recreational opportunities in Riverview and recreational opportunities of all kinds. I particularly appreciated the second to last speaker



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who discussed the issues of dogs in this area. Frankly expecting at least an hour and half of testimony from dog owners, and it is -- it is a testimony to the thoroughness of the committee's deliberations and community outreach, indeed, dog owners who didn't know about this hearing also accept that this area was purchased with some very special purposes in mind and that water quality has to be one of the foremost of that. I appreciate my colleagues' discussion and especially commissioner novick's amendment which calls out the part of the plan, that, indeed, that council is going to revisit this after the discussion. It is really important to note about the funding. We adopt master plans in part because then we can go after state and other grants to get funding to implement them. There is almost no grant that you can go for unless a master plan has been adopted. And, so, that's one of the reasons -- one of the many reasons for doing, adopting this plan today rather than waiting is that we want to start looking around for opportunities for funding because \$5 million is a lot of money, and this year parks is being asked to cut \$2.9 million. And we have hundreds of millions of deferred maintenance on existing facilities that we need to address as well as looking at how do we expand opportunities in many different areas of Portland where we frankly don't have enough. Thank you very much colleagues for your support of this plan. Aye.

**Fish:** Commissioner Fritz has said just about everything that I would like to say. I'll start by just making a comment about how we have these discussions. In the old days, when my family actually lived -- we shared the same house and they weren't all in Europe, I would go home after a day like this and I would say that I'm surprised that I get paid to do this work. And the point that I would make is that I have a front row seat in something that is kind of expected in Portland, but doesn't work as well in other places, which is a civil conversation among people that have disagreements in which everybody is passionate and thoughtful and sitting up here I agree with some stuff and disagree, but nonetheless, we give each other the respect of a chance to be heard and then we have to make a decision. So, I want to thank everyone who took time out today to come and testify and make a record. And I think that the mayor has indicated earlier that the importance of having a record because that record will guide the next process, the next steps in our process. I have had the supreme honor of having been the commissioner in charge of Portland parks and rec, which in the last five or six years won the gold medal as the best managed park system in the world, country. And I now have the honor of being in charge of the bureau of environmental services and mike houck, I appreciate what you said about the quality of the people who work for the two bureaus and the quality of their work. We can have disagreements about specific details and plans. Disagreements about process. Honest disagreement about sequencing. Let's take a moment to celebrate the professionals who work in both bureaus and provide a great public service to our city, and in particular, Emily, thank you for your presentation and work you have done today it was customarily -- I look back over seven years on the -- acquisition of Riverview was one of the proudest moments of my service. It wasn't that I got to stand with my favorite governor and a lot of other people and celebrate the moment, but I have learned in looking at old homestead maps and plans and learned in talking to some gray beards that we had a chance to acquire a wildlife corridor which would be the envy of the country. A wildlife corridor on the west side, which would serve many, many purposes, but would set us up for generations to come and we had a unique moment. And, so, a lot of people came together to make it happen, and it wasn't a sure thing. And the closing, when we closed and acquired the property, that wasn't the end of the story because we have to defend that acquisition in a lawsuit. And that lawsuit and some of those issues has something to

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do with a little hiccup in this process that some people in this room disagree with and are still concerned with, but people up here in our positions have to balance a number of things, including legal advice and risks and we sometimes have to do things that don't make us popular. But if we didn't occasionally do things that don't make us popular, you wouldn't want us to sit in these chairs. As for where we go forward, this is a vitally important natural area that has a huge impact on water quality and temperature and on listed fish and other things, and this plan tells us that we may be able to accommodate both the preservation of the -- of the resources that really matter and that are sensitive and what I consider to be a wholly legitimate claim of an important user group of our system that they want to have access to it and I actually believe that there are within the ranks of mountain bikers the majority of mountain bikers love and care for our system just like every other user. And I hate it when we start sort of making generalizations about people's behavior. After all, I have a bike at home and I am proud to use it occasionally. We shouldn't do that. But what we're doing today is something very important. We're adopting a plan which states very clearly our values. And there is a hierarchy of values here and at the top of the chain is we're protecting something in nature that is irreplaceable. And we're going to ask everybody to make some accommodations so that we can protect something that has a very important function to our long-term health as a community. And a lot of people have fought long and hard to protect natural areas in the city and I believe what we're doing today is in the great tradition of a long tradition that goes back 150 years. I want to thank the pac members for their service, all of the people who have come here to testify. And I want to commit to you, mayor because you have taken the lead on city wide look, and the effort to secure funding which I was proud to support. Open mind and open heart in the next phase of this discussion. I have some history here both in trying to find the balance in forest park where I fell short. But in working with my colleague, commissioner Fritz to acquire gateway green which has the potential to be one of the most significant off-road cycling opportunities in the state and working with the northwest trails alliance on some tracks and thinking holistically about how do we bring this important user -- bring in important user group in the family -- today I'm proud to cast my vote aye. I thank my colleague, commissioner Novick, for his amendment, which I thought was customarily thoughtful and statesman like -- I thank you for that. Aye.

**Novick:** I'm not often accused of being statesmanlike so I appreciate that commissioner Fish. I remained troubled by some of the testimony I have heard about the process that led us to this point. And I understand that there is a number of people in this room that don't feel comfortable with this plan and think that it forecloses options that should be considered, but I trust my colleagues and I appreciate the adoption of my amendment and their assurances that that is not window dressing, that they are willing to review -- if the master plan -- based on the suggestions -- [inaudible] -- when that is completed. But I think that it is clear that -- off road bicyclists in this room have our attention. We will be looking at this. We will not just forget about this and decide that we have already made the decisions that are to be made in Riverview. So, I encourage your continued advocacy. And we will -- I think we have all made it clear that we're willing to work with you on the actual implementation of this plan and possibly modifications to this plan in the future. Thank you all. And thanks to staff. Thanks to all of the advocates on all sides. Aye.

**Hales:** Let me offer some reassurances and some further direction to this discussion. To some extent I will echo the good words of my colleagues but I want to put these things in my own words. First reassurances are almost going to sound legalistic but I think they are

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important. We are -- we are adopting a master plan, we are adopting a management plan and it is an important document. This is what we plan to do here. But it is not as legalistic as some of the other documents are. And it is not our first rodeo when it comes to adopting these kinds of plans. Commissioner Fish mentioned the olmstead plan. Olmstead plan was drafted in 1900, 1901, and adopted by the city council. Okay, mike, 1903, sorry. And it was what planners today would call a blob plan. It said that you know it is going to be a long way from Portland to a forest some place. By that ridge northwest of town and create a forest reserve. By the top of mount tabor. Buy that bluff down in sellwood which was really a radical thing to see because I think at that point sellwood was another city detail. Buy that bluff and sellwood from the railroad company because that would be a great park. It was very general. And we haven't carried had all out, but we keep trying to. We still refer to it. We still ground some of our decisions in that plan. But lord knows, it hasn't guided us in every particular, because it was a general plan. This one is more specific than that. But this discussion was important. Because we haven't nailed down every last detail of where the trails will be in this park, nor should we at this point. So, that sounds a little legalistic but it nevertheless I think is important. We are adopting a management plan. Second reassurance, I'm really sorry and that's why I had that little colloquy with director abbate and Emily that there has been -- that there is some mistrust in this room and I'm sorry that there has been either a real or perceived exclusion of legitimate interests from a Portland process where we make policy. Because we always try to have all of the legitimate interests at the table, and mountain bikers are a legitimate interest in the management of public spaces in the city of Portland. I'm not the only one up here that believes that. In fact, we all believe that. And I guess that's the thing I want to stress here is that one of the reasons that I was wounded by hearing that mistrust is I just want to tell you that you're dealing with public servants. These folks and those folks who are people are goodwill. And who are not interested in exclusions or schemes that corrupt that legitimate public process where everybody gets to be heard. So, if that perception was felt by some of you in this process, I hope you will forgive and give some credit and hope to these good people. Because I know Emily. She is a great planner. Mike Abbate is a great parks director. You have three former and current parks commissioners up here who all -- one day going to be parks commissioner just so he can say that too. You have people of goodwill that want to work together on this and we will. One of the reasons I'm going to support this is that -- it has been made clear a couple of times, but let me again say it in my own words. This is not a generic park. It is not to even be more flippant about it not just hills and dirt. It is a natural area that was purchased to be a natural area and commissioner Fish emphasized that and I subscribe to that. One more legalistic point and one of the reasons why I put it in the record. Prohibition against mountain biking in this natural area is an interim prohibition, because the trail network that would be a place where mountain biking could occur in a responsible way is not there today. That interim prohibition is reasonable for now. I don't think it will be reasonable when we get to the final version of what the trail network in this park will be. Finally, the reason I asked for and that this council supported coming up with an off-road cycling plan for the city of Portland, back to that point that I made with mike Abbate. Our park system should have big shoulders. And Commissioner Fritz, you're right there isn't enough to go around now but there should be. There should be in a city with 200 parks, one of them 5,000 acres, there should be ample places where people can go ride their bike without burning a quart of gasoline to get to the place that they do that. And you know that I believe that and these other elected leaders here believe that and we are going to get there because it is a legitimate

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recreational use and we haven't done have' good job of accommodating it and time. All of you who advocate for this, keep advocating. You are right. We need to accommodate this legitimate recreational use in a city with a parks -- big shoulders and lots of lands. We will do that. That process that Michelle is running is not some empty appeasement or not a way to make you go away. You're right, we need to accommodate this legit net recreational use and Riverview may be one of the places where we do that. With those reassurances and asterisks, I'm prepared to adopt this master -- this management plan and I really look forward to the completion of Michelle's work and, again, any of you who have felt in any way like you whether or not heard, please double down on getting involved in that process and making your case because Portland should always be a place where people feel like they can come to the table, can make their case, can be heard, and where this council will listen. And that will be true. Thank you all for good work and for more good work to come. Aye. [gavel pounded]

**Hales:** Commissioner Fritz.

**Fritz:** It's always hard to be the first to talk because everybody else says things, oh, yes that is a really good point. You referenced the off road cycling plan, I want to acknowledge it was the mountain bike and community who came to the parks budget advisory committee about a year ago right now and made a compelling case for putting that \$300 into our proposal which you then grasped -- \$300,000, right. Sorry. You then took that and pulled it into the bureau of planning which puts it in a city wide context and I wanted to thank you for doing that and commend the mountain biking community for their advocacy. We had testimony about the parks budget and earlier this week, community gardens, hot spot. We will be addressing that tonight in our budget meeting. More importantly, somebody who I forgot to thank, patty Howard who worked with me for seven years in city hall. My parks liaison, hugely involved in the Riverview management plan, and, indeed, Portland utility review board and other water quality expert actions. Patty decided to move from city hall at the end of December. She is not here for me to say thank you to her, but - - if she is watching at home or not and I wanted to acknowledge all of her good work. And also puja Bhutani and Tim Crail on my staff who picked up after patty left and have helped carry it home. It really has been a good effort from everybody and I wanted to acknowledge that. Thank you, mayor.

**Hales:** Thank you all. Thank you very much. We are adjourned until next week. [gavel pounded]

At 4:40 p.m., Council adjourned.