



CITY OF
PORTLAND, OREGON

**OFFICIAL
 MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **27TH DAY OF JANUARY, 2016** AT 9:30 A.M.

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

Commissioner Saltzman arrived at 11:29 a.m.
 Commissioner Novick left at 12:59

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Heidi Brown, Deputy City Attorney; and Jason King and Mike Miller, Sergeants at Arms.

Item Nos. 84 and 86 were pulled for discussion and on a Y-4 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS	Disposition:
74 Request of Shedrick J. Wilkins to address Council regarding solar cells from plastic water bottles (Communication)	PLACED ON FILE
75 Request of Sarah Hobbs to address Council regarding Portland Police (Communication)	PLACED ON FILE
76 Request of Trena Sutton to address Council regarding sweeps/clean ups (Communication)	PLACED ON FILE
TIMES CERTAIN	
77 TIME CERTAIN: 9:45 AM – Accept the City of Portland Comprehensive Annual Financial Report for FY Ended June 30, 2015 (Report introduced by Mayor Hales) 30 minutes requested Motion to accept the report: Moved by Fish and seconded by Fritz. (Y-4; Saltzman absent)	ACCEPTED
78 TIME CERTAIN: 10:15 AM – Results of Financial Audit of the City Comprehensive Annual Financial Report for FY 2014-15 and related communications (Report introduced by Auditor Hull Caballero) 30 minutes requested Motion to accept the report: Moved by Fish and seconded by Fritz. (Y-5)	ACCEPTED

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<p>79 TIME CERTAIN: 10:45 AM – Presentation from Know Your City on their Civic Equity Engagement Managers program (Report introduced by Mayor Hales) 15 minutes requested Motion to accept the report: Moved by Novick and seconded by Saltzman. (Y-5)</p>	<p>ACCEPTED</p>
<p>CONSENT AGENDA – NO DISCUSSION</p> <p>Mayor Charlie Hales</p> <p>80 Extend the terms of 2015 Comprehensive Plan Community Involvement Committee to June 30, 2016 (Report) (Y-4; Saltzman absent)</p>	<p>CONFIRMED</p>
<p>Office of Management and Finance</p> <p>81 Accept report on Civil Service Board Activities for Calendar Year 2015 (Report) (Y-4; Saltzman absent)</p>	<p>ACCEPTED</p>
<p>*82 Authorize a contract with Gartner, Inc. for public safety technology consulting services in an amount not to exceed \$130,000 Project No. 118489 (Ordinance) (Y-4; Saltzman absent)</p>	<p>187561</p>
<p>83 Establish the City Budget Office as the City bureau responsible for managing the Percent for Art program (Ordinance; amend Code Sections 5.74.030 and 5.74.090)</p>	<p>PASSED TO SECOND READING FEBRUARY 3, 2016 AT 9:30 AM</p>
<p>Commissioner Amanda Fritz Position No. 1 Portland Parks & Recreation</p> <p>*84 Authorize the Director of Portland Parks & Recreation or their designee with the power to tow vehicles parked in violation of parking restrictions within Park property (Ordinance; amend Code Section 16.70.560) (Y-4; Saltzman absent)</p>	<p>187564</p>
<p>Commissioner Nick Fish Position No. 2</p> <p>85 Authorize a grant agreement to Portland State University in the amount of \$51,766 in FY 2015-16 for use by Portland State University Institute on Aging for the Age-Friendly Portland initiative (Ordinance)</p>	<p>PASSED TO SECOND READING FEBRUARY 3, 2016 AT 9:30 AM</p>
<p>Commissioner Steve Novick Position No. 4</p>	

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<p>86 Appoint members to the Private For-Hire Transportation Advisory Committee for terms to expire January 31, 2019 (Report) Motion to accept the report: Moved by Fish and seconded by Fritz. (Y-4; Saltzman absent)</p>	<p>CONFIRMED</p>
<p style="text-align: center;">REGULAR AGENDA</p>	
<p style="text-align: center;">Mayor Charlie Hales</p>	
<p style="text-align: center;">Bureau of Police</p>	
<p>*87 Apply for and accept a grant in the amount of \$12,000 and appropriate \$9,000 for FY 2015-16 from the Oregon Department of Transportation Traffic Safety Division FY 2016 Speed Enforcement Grant program for sworn personnel overtime reimbursement (Ordinance) (Y-4; Saltzman absent)</p>	<p style="text-align: center;">187562</p>
<p>*88 Authorize settlement between Oregon AFSCME, Local 189, and the City of Portland through its Portland Police Bureau regarding employment claims (Previous Agenda 1343) (Y-4; Saltzman absent)</p>	<p style="text-align: center;">187563</p>
<p style="text-align: center;">Commissioner Nick Fish</p>	
<p style="text-align: center;">Position No. 2</p>	
<p style="text-align: center;">Bureau of Environmental Services</p>	
<p>*89 Authorize an exemption to the competitive bidding process pursuant to ORS Chapter 279C and City Code Chapter 5.34 for construction of certain Green Street facilities funded by % for Green program (Ordinance) 15 minutes requested Motion to accept amended Exhibit A: Moved by Fish and seconded by Saltzman. (Y-4; Novick absent) (Y-4; Novick absent)</p>	<p style="text-align: center;">187565 AS AMENDED</p>
<p>90 Authorize a contract with the lowest responsible bidder for construction of the Fanno Basin Pressure Line System Upgrade Project No. E10599 for an estimated cost of \$1,173,000 (Ordinance) 10 minutes requested</p>	<p style="text-align: center;">PASSED TO SECOND READING FEBRUARY 3, 2016 AT 9:30 AM</p>
<p>91 Authorize a contract with the lowest responsive bidder for construction of the Tabor Sewer Rehabilitation Project Phase 1 No. E10712 for \$6,000,000 (Second Reading Agenda 67) (Y-4; Novick absent)</p>	<p style="text-align: center;">187566</p>
<p>92 Authorize a contract with the lowest responsive bidder for construction of the Bybee Glenwood Culvert Replacement Project No. E10480 for \$2,228,000 (Second Reading Agenda 68) (Y-4; Novick absent)</p>	<p style="text-align: center;">187567</p>
<p style="text-align: center;">Water Bureau</p>	

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<p>93 Authorize the use of the Cooperative Procurement Method to enter into a contract with Wolf Water Resources, Inc. in the amount of \$459,445 for the Sandy River Engineered Log Jam Project (Ordinance)</p>	<p>PASSED TO SECOND READING FEBRUARY 3, 2016 AT 9:30 AM</p>
<p>Commissioner Dan Saltzman Position No. 3</p> <p>94 Authorize the City Attorney to appeal the declaratory judgment and permanent injunction in Joseph Walsh v Bryant Enge, et al (Previous Agenda 47) (Y-1 Saltzman; N-4)</p>	<p>FAILED TO PASS</p>
<p>Commissioner Steve Novick Position No. 4 Bureau of Transportation</p> <p>95 Vacate NE Sandy Blvd bound by NE Couch St, E Burnside St, NE 12th Ave, and NE 14th Ave subject to certain conditions and reservations (Second Reading Agenda 71; VAC-10100) (Y-5)</p>	<p>187568 AS AMENDED</p>
<p>FOUR-FIFTHS AGENDA Mayor Charlie Hales Commissioners Nick Fish and Dan Saltzman</p> <p>*95-1 Authorize an agreement with Portland-Suzhou Sister City Association to transfer one Benson Bubbler to Suzhou, China (Ordinance) (Y-4; Novick absent)</p>	<p>187569</p>

At 1:04 p.m., Council recessed.

January 27, 2016

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **27TH DAY OF JANUARY, 2016** AT 2:00 P.M.

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

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

<p>96 TIME CERTAIN: 2:00 PM – Refer a measure to City voters for the May 17, 2016 election authorizing the creation of a program dedicated to street repair and traffic safety through a temporary, ten-cents per gallon tax on motor vehicle fuels in Portland for vehicles not subject to weight-mile tax and create City Code 17.105 (Resolution introduced by Commissioner Novick) 3 hours requested</p> <p>Motion to amend accept the amendments in the Bureau of Transportation 1/26/16 memo: Moved by Novick and seconded by Fritz. (Y-5) (Y-5)</p>	<p>Disposition:</p> <p>37185 AS AMENDED</p>
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At 4:05 p.m., Council recessed.

January 28, 2016

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **28TH DAY OF JANUARY, 2016** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fish and Fritz, 3.

OFFICERS IN ATTENDANCE: Susan Parsons, Acting Clerk of the Council; Ben Walters, Chief Deputy City Attorney and Mike Cohen and Jason King, Sergeants at Arms.

<p>97 TIME CERTAIN: 2:00 PM – Transmit Report to the City of Portland on Portland Police Bureau Officer-Involved Shootings and In Custody Deaths by the Office of Independent Review (Report introduced by Auditor Hull Caballero) 1 hour requested</p> <p>Motion to accept report: Moved by Fish and seconded by Fritz. (Y-3)</p>	<p>Disposition:</p> <p>ACCEPTED</p>
<p>98 TIME CERTAIN: 3:00 PM – Amend Bond Ave roadway realignments in the South Waterfront District Street Plan, Criteria and Standards document (Previous Agenda 36; Resolution introduced by Commissioner Novick)</p>	<p>RESCHEDULED TO FEBRUARY 11, 2016 AT 2:00 PM TIME CERTAIN</p>

At 4:03 p.m., Council adjourned.

MARY HULL CABALLERO
Auditor of the City of Portland



By Karla Moore-Love
Clerk of the Council

and

Susan Parsons
Susan Parsons
Acting 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 27, 2016

9:30 AM

Hales: Good morning, everyone, and welcome to the January 27th meeting of the Portland City Council. Please call the roll.

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

Hales: Good morning and welcome. We have three people signed up for Council communications -- we'll take those first, in a moment -- followed by time certain items and then the rest of the calendar. I have had a couple of requests to pull things from the consent agenda to the regular agenda, namely item 84 and item 86. I think that's it. Anything else that anyone wants to pull to the regular agenda? OK, so that's where that stands.

Welcome, everyone. We'll have public testimony on the items that are on our regular calendar both today and this afternoon. We usually allow three minutes for testimony. Seeing the small group here this morning, it shouldn't be any trouble doing that. If you're here for the first time and want to speak, you need to only give your name, you don't have to give your address. Let our Council Clerk know that you'd like to speak and we'll accommodate you.

We always maintain the rules of decorum here, so if you agree with someone, feel free to give a thumbs up or a wave of the hand. If you disagree, a polite hand gesture to the negative is OK, but we ask you not applaud or make demonstrations in the Council chambers so everybody can be heard. We make exceptions for our students when they show up and visiting dignitaries. So, if you're one of those, you might get some applause this morning. And with that, we'll turn to item number 74.

Item 74.

Hales: Mr. Wilkins? Not here? OK, let's move onto 75.

Item 75.

Hales: Good morning, welcome.

Sarah Hobbs: I live at 2140 NW Kearney Avenue. On the morning of November 6th, the police shot and killed a suicidal man by the name of Michael Johnson in a hospital parking lot directly across the street from where I grew up. On November 9th, I came to your office, Mayor Hales, as a traumatized citizen filing a request to speak to you about my concerns about what happened. I was told that somebody would contact me. Here it is, the 27th of January and I am still waiting for that phone call. I asked that your co-worker -- I wanted to show the picture. I asked that your co-worker show you the picture that I took of what I walked directly into when I exited my apartment building. Had I not lived on that block, the police would not have let me on that block. It's just the small example of what I had to walk through for six hours.

My question is, at this point, now that the district attorney has taken testimony and released findings, why is there still the silence? Why was I never given the courtesy of a phone call from your office even if just to say, "We note your concerns, but we cannot discuss this until the investigation is finalized"? You cannot expect that a citizen is going to know police policy and you sure cannot expect a traumatized citizen is going to know

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policy. So I ask you, as Police Commissioner, can I go down this time and sign one of those concerns, request a meeting form and expect that you will speak to me?

Hales: I'm sorry that happened, and Rachael Wiggins from my staff is sitting right behind Karla and will make sure that we go in touch with you.

Hobbs: When is City Hall, when are you as the Police Commissioner, when is the police department going to say something? It's been total silence. It makes me wonder, what is policy? Is there something you're afraid of? Why have I had to go to such a trouble just to get somebody to tell me anything?

Hales: We'll get you a better explanation than you've gotten, and I'm sorry that you haven't.

Hobbs: Could you give me a little heads up right now?

Hales: I can't give you much here other than the district attorney actually ruled that that was suicide.

Hobbs: I understand what the ruling was. I have read the DA death investigation report. I've got a grip on it. My question is why the ongoing silence on the part of the City and the police department?

Hales: We'll get you a better explanation of that.

Hobbs: Thank you.

Item 76.

Moore-Love: She called and has rescheduled.

Hales: OK. Alright, we'll hit her back another time. Alright, it is not yet time for a time certain, so let's address the consent calendar. Any other items to remove from the consent calendar? Let's take a vote, please, on the balance of the consent agenda.

Roll on consent agenda.

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

Hales: Let's go ahead and -- you want to go ahead and address the pulled items? Are the people here that need to be for those, Commissioner Fritz, or do you want to wait?

Fritz: I can address -- because I had a conversation on 86. Maybe we could do that. I'm not sure if Parks staff are here for 84.

Hales: OK, let's go ahead and take 86. If you'd read that item, please, Karla.

Item 86.

Hales: Commissioner Fritz, you had concerns?

Fritz: Thank you, Mayor. I pulled this aside for three main reasons. One, to let folks know that Commissioner Novick and Transportation are establishing this advisory committee which replaces the previous private for-hire transportation board. And I think that that's a good thing and sometimes the good things get buried on consent.

Second, I am a little concerned about the nominees -- the demographics of the nominees, and in particular that there doesn't seem to be much representation from immigrant taxi drivers, or indeed from taxi drivers in particular. Well, there's one representative from one of the cabs, but it doesn't have a robust membership from, particularly, our many immigrant drivers.

And thirdly, I'm very concerned that all of the appointment terms are set to expire on January 31st of 2019. The code does say that the terms should be three-year terms. However, having the entire board turn over at one time does not seem like a very good model. So, I had some discussions with the Commissioner Novick, and I know that he wants to address these issues.

Fish: Can I also jump in here for a second? We also pulled this. And as we explained to Steve's office, with the demise of the prior board and the launching of the new one, we thought that this would actually -- we'd benefit from having a brief presentation on this and what the bureau was planning. Plus, this was an issue that the Council cared a lot about --

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the composition, the role. And so when I saw it on consent, we just -- we contacted Steve's office asked this is something that we care about so we would appreciate a very brief Council presentation, and that's -- so, I join with Commissioner Fritz. My hope was that we would have someone here, or at some appropriate time just to skinny a presentation on how we got here.

Hales: You may need to wait a bit --

*****: [inaudible]

Fritz: Sorry, I should have asked --

Hales: OK, then let's wait a bit on this item so the proper PBOT staff can be here in addition to Commissioner Novick and his staff, but we'll make sure that happens.

Novick: Sorry about that. I was prepared to discuss Commissioner Fritz's concerns but I actually hadn't been made aware that Commissioner Fish requested a presentation, so I apologize for that.

Hales: I think we can accommodate that later. Let's go ahead and move to regular agenda item 87.

Item 87.

Hales: I don't believe that we have a presentation on this, unless there are any questions from the Council. It's a fairly routine thing to fund extra traffic safety enforcement. Anyone want to speak? If not, it's an emergency ordinance, let's take a roll call vote, please.

Item 87 Roll.

Fritz: Just to highlight, there are specific locations for the speed enforcement, and I'm going to read them so that everybody is extra careful to drive more slowly on all of those streets. They are 82nd Avenue, 122nd Avenue, SE Powell, SE Division, SE Foster, NE Marine Drive, NE Lombard, Burnside, Sandy, Beaverton-Hillsdale highway, SW Barbur and SE McLoughlin. Unfortunately, we know too well how often that we have crashes on these streets, and so let's all be very aware of -- especially where we know that there's a history of the crashes to drive more carefully. Also, Commissioner Saltzman isn't here yet, but I know that he will be glad to know that the police will also be looking out for cell phone use while driving. And so thank you very much for bringing this grant to us. Aye.

Fish: Aye.

Novick: Aye.

Hales: I just want to amend Commissioner Fritz's statement in a way I think that she'll approve of, and that is, yes, the traffic division will be in those locations, but they will also be in a lot of other locations -- [laughter] -- so don't take your chances on all those other intersections. Hang up and drive legally everywhere. Aye.

Fritz: I do appreciate that.

Item 88.

Hales: I think the City Attorney is here if anyone has any questions. Any Council questions on this item? Anyone want to speak on this item? If not, let's take a vote. It's a roll call on an emergency ordinance.

Item 88 Roll.

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

Hales: OK, it is 9:45. Let's please move to item 77.

Item 77.

Hales: Mr. Rust and his team are here. I trust that everybody has read this document cover to cover. It's extensive and important. So with that, I'll turn this over to our Chief Financial Officer Ken Rust and his partners. Welcome.

Ken Rust, Chief Financial Officer, Director, Bureau of Financial Services: Good morning, Mayor Hales and members of the City Council. For the record, my name is Ken Rust, I'm the City's Chief Financial Officer and Director of the Bureau of Financial

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Services. Joining me this morning on my left is City Controller Michelle Kirby and on my right is my assistant Vicki Rice. She has the most important job -- she's going to man the computer and run the PowerPoint presentation for me.

Today, we will be presenting to you the Comprehensive Annual Financial Report or CAFR for the fiscal year ending June 30th, 2015. We will also be discussing with you key findings from the CAFR document along with additional information regarding the City's long-term fiscal health. At this time, I would like to turn the presentation over to Michelle.

Hales: Good morning.

Michelle Kirby, City Controller: Morning. The production of the CAFR document is a significant undertaking for the City and it involves many individuals around the City that includes virtually all City bureaus, our Auditor's Office, and the independent auditors Moss Adams. The group that spends the most significant amount of time and has the responsibility for the CAFR production is the central accounting division, and there's a core team of accountants in that division who spend many, many hours getting this document to be the quality that it is. Several of them are in attendance today, and if you don't mind, I'd like to just have them stand up and be recognized.

Hales: Please. Good morning. Thanks very much. We'll suspended the rules and thank our staff. [applause]

Kirby: Thank you very much. So, this year's CAFR was completed by December 1st. This is very significant in that it's the earliest it's been produced since 2006. Previously, it's been up to 180 days or pushing towards December 31st. This is also notable due to a large GASB implementation this year that you'll be hearing more about.

Over the past few years, there's been an increasing demand for more timely reporting by the investment community. So under the leadership of our CFO, we've created an escalated schedule over the next few years to push back the finalization date. So for the current year, 2016, we have a goal of December 15th, and then the following year -- November 15th, excuse me. And then the following year, it would be November 1st, or 120 days. And so while the earlier timing isn't mandated at this time, we feel that we're positioning ourselves to be ready and proactive for when this does occur.

The CAFR document basically tells the citizens where we've been financially at a certain point in time, and that is our fiscal year end, June 30. These statements are prepared on the Generally Accepted Accounting Principles, as issued by the Governmental Accounting Standards Board, or GASB. So, there's many rules and regulations that we need to follow when we are preparing the document. And then, it's subject to external audit by our auditors, Moss Adams, and they offer an opinion that the statements are free of material misstatements. And so the good news is that the auditors gave a clean opinion. That's also called unmodified opinion, which is a clean opinion, and that's the best possible. And they will talk more after us about the results of the audit, but it is good news. Also good news is that the fund balances continue to grow, and in fact, the general fund balance increased by \$9 million over the prior year.

Each year, the City submits the CAFR document to the GFOA for review in their program, which is excellence in financial reporting, and the City did receive the award for excellence in financial reporting for the 35th consecutive year. And this really demonstrates the professionalism and the excellence that the City maintains in providing financial information.

There is some not-so-good news, and that is that on a full accrual gap basis, the governmental activities net position has declined and in fact it is now at a negative 1.2 billion. This primarily is due to the implementation of the GASB rule I had mentioned a few minutes ago, which is GASB 68, and it's the pension reporting standard that was

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implemented this past year. Ken is going to talk more about that, and so I'm going to turn it over to Ken now.

Rust: Thanks, Michelle. The next slide in our presentation gets into this net position question. It's something we've talked with you about the last couple of years, and we thought it would be good to refresh ourselves what's going on here. Just as a reminder, the financial net position represents the City's assets minus its liabilities.

The chart I have here tries to break down what increases and what decreases our net position. Factors that can decrease net position -- and by that, where expenses exceed revenues on a Generally Accepted Accounting Principles basis -- are things like increases in our pension liability. So, if we have an increase in our PERS liability or FPD&R liability, that can decrease our net position. When we issue bonds but don't have an asset that offsets those bonds, that can decrease net position. And another item that affects us is where we have the depreciation, which is a non-cash expense. If that exceeds new investment in our capital infrastructure, that can lead to a decline in our net position.

Conversely, there are items that can increase our net position. So, for example, when we receive grant fund for our capital projects, we get money in, we build an asset, that's on the balance sheet, our net position goes up. And if we fund capital improvements from our current cash flow as opposed to borrowing, that can have a benefit of increasing our net position. And finally, if we have surplus revenues that we retain as a reserve or we use those moneys to pay down liabilities, that can also increase our net position. So, those are some of the factors that are pluses and minuses for us.

Hales: Ken, if you don't mind, let me stop you and get you to elaborate -- or maybe you were going to anyway -- on some of those issues. Because I think when we take these reports, the Council and the City staff are very well aware of some of the particulars that drive these bottom line numbers, but I think that there are people in the community -- including even some the news media -- that don't necessarily understand the drivers of this. Let me make sure I've got this right in terms of the restating of it. And that is, in terms of the City's PERS liability, we are on a pay-as-we-go basis -- that is, we budget each year for the City's contributions to PERS. So, although that burden is rising, because of the cost of PERS is rising, it is fully funded each year by appropriations of the Council and the budget process. Is that -- I think that's true?

Rust: I think what you are referring to or referencing, Mayor, is the FPD&R --

Hales: I want to talk about FPD&R, as well, but with PERS, it's a check we write each year to the state --

Rust: Right.

Hales: -- to pay for our PERS obligations. It's pay as we go. And FPD&R, as I understand it -- the change in the GASB rules treats our FPD&R liability as less fully-funded than we consider it to be. That is, we know that we have a tax levy that is authorized to pay for that pension liability for FPD&R tier one retirees, we know that there is a curve in which that total burden rises to a certain point and then falls because that's a closed group of retirees, and our current projections are we will not hit the ceiling of the levy amount that we're allowed to collect from the taxpayers in order to pay that pension liability. So, one could in lay terms -- as I usually do -- describe that pension liability as funded. It is not unfunded in the usual understanding of that term around the country when people look at the cities with big unfunded pension liabilities, they are talking about cities that actually have no plan or mechanism by which to pay those liabilities, where we do. Is that a correct non-GASB restatement of where we stand?

Rust: That's a pretty good summary, Mayor, and I'm going to get into a lot of those details in my presentation. Hopefully, to you and the audience and others watching us will be a bit

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clearer about how there is differences between the GAAP accounting and some of the key underpinnings of the financial system that we pay attention to, and what that means for us.

Hales: Good, good. Because this has been a source of considerable jubilation on the FPD&R board to see our forecast fall below that ceiling over the last couple of years. Sam Hutchinson and the folks there deserve credit for good management, and the economy deserves credit for lifting us high enough that we don't have that problem.

Rust: I'm going to show you the trend we've been seeing in this net position figure, and the chart in front of you has three lines on it. The blue line represents what's called the governmental activities, which is predominantly our general fund related programs and Transportation. The orange line represents our business activities, and those are largely Water and Environmental Services. The green line is simply the summation of both those lines. And what you'll note is that the trend overall is negative, and it's really influenced entirely by the trend line in governmental activities. And the downward trend over the years has been a reflection of more of the liability associated predominantly with FPD&R coming on to our balance sheet.

You'll notice the big decline this year is the full implementation of what's called GASB 68, which requires us to put all that liability on the balance sheet. So last year when I spoke to you, our governmental activities net position was \$212 million. Now, it's negative 1.2 billion. That's virtually all the result of implementing this new GASB standard. That's been the trend we've been observing and discussing this with you and have been describing what's going on with that. What's really causing that -- and Mayor, you mentioned some of those things already -- a big part of it is the treatment of pension liabilities. We're required under GASB and GAAP accounting to place all of that liability onto our balance sheet. That currently is about \$2.9 billion for FPD&R. However, we receive a value of zero dollars for the future property tax revenues we'll be receiving that are dedicated and can only use to pay the FPD&R liability. So on the one hand, we've recognized all the liability, on the other hand, we've put a zero value on that future revenue stream.

A portion of the bonds that we have issued that the liability sits on our balance sheet also don't reflect the fact that we give that money away. So for example, we have \$500 million of short and long-term debt that we issue and give those proceeds to PDC. That's how tax increment financing works, that's how the constitution requires us to issue bonds and give proceeds to the redevelopment agency. Liabilities on the balance sheet, assets are somewhere else. So that creates this decline in net position. We've also over the years, we have a couple other deals where we have given money to other governments. So, for example, when we did the Convention Center financing back in 2001, we gave \$100 million of bond proceeds to Metro to build the expansion of the Convention Center. In exchange we get revenues, but the liabilities on the balance sheet have no offsetting asset. We are funding for Multnomah County a portion of the reconstruction of the Sellwood Bridge. That liability also sits on our balance sheet.

Another piece of the puzzle is the depreciation. I mentioned that earlier. Depreciation is a non-cash expense associated with the wearing out of our assets over time using an accounting life and matching concept. Last year, our depreciation for governmental activities totaled about \$187 million. We invested about \$134 million, so we had a shortfall. All of that shortfall is a result of what's going on inside of PBOT. PBOT had \$161 million of depreciation expense. They only put 51 million of new capital into the ground. They were negative 110. And what's really interesting about PBOT is let's say for example that we wanted to make that even, we wanted to reduce that shortfall of 110 million, and so we invested \$110 million and we filled potholes and we put new street services on and we maybe built a couple roads. If we don't spend it on the right kind of

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thing, it won't balance. So, for example, if we build a new road, add a new lane mile, add something that we can capitalize in our books and records, that would count against being able to bring us closer to the depreciation and investment. If we simply do things like fill a pothole, repave a street, and don't do enough work on it to rebuild it, that's maintenance and doesn't count. So there is a nature of the way that we measure things also affects this net position issue. So, all those things --

Novick: Ken, just to elaborate on that. I mean, the ridiculous result of that is that if we build new roads -- which means we're taking on new long-term maintenance expense -- we're in a better position in terms of the accounting rules than if we did what's more the fiscally prudent thing, which is to repair the existing road?

Rust: Unfortunately, from a strictly accounting point of view, it could lead you to coming up with the wrong answer. And that's why it's important to understand really what's going on here, and what we should be doing.

Fish: Ken, let me just make sure that we all understand what GASB 68 is and why it applies to us. So, you explained this anomaly where we have a pay-as-you-go system, and we're required to book the liability but not any of the future revenue stream to cover that liability under our charter. What is the purpose of GASB 68? What's the vice that they are trying to cure by having us put this in the books in this manner?

Rust: I will give you my opinion. Michelle and the Moss Adams auditor may have other views.

Fish: We have the senator that actually proposed the legislation -- kidding -- but what -- there is obviously some principle underlying this, even though it produces an anomaly for us.

Rust: I think the largest concern is that there's been a sense that for municipal governments like Portland, there hasn't been an accurate characterization in capturing of liabilities like pension liabilities and having that liability be appropriately reflected on our financial statements. For years, those things would show up as a footnote if you were underfunded, and then over time we've been bringing more of those liabilities onto the balance sheet. I think that a lot of concerns that there have been across the country were investors making decisions about a particular community's bonds and things like that but not seeing the whole picture of the kinds of things that could impair their financial condition over time, and so there's a sense that more of that needs to be brought onto the balance sheet and comport more with what's happening in the corporate world.

Fish: I think the thing that's unique in this circumstance is that since our pension plan is not, you know, the typical plan that's funded and then from those resources, we pay out benefits. It's secured against the assets of the City, it's a pay-as-you-go. This idea of funded or unfunded doesn't quite apply to our pension.

Rust: That's correct.

Fish: So we weren't keeping some unfunded liability off the books because that's not how we structure our pension. It's a pay-as-you-go, secured against the assets of the City, and subject to an increase in a revenue stream that the charter and the people of Portland would retail.

Rust: In fact, we are by charter not allowed to fund benefits when they are earned. We are not allowed to have assets greater than \$750,000. So, we're doing all the things that we're required to do under the charter, but we are anomalous in the way that accounting views the nature of the liability and the character of the asset that we have as a receivable.

I'll show you a bit about what that means because what I've done is restated the net position from a GAAP basis to something that's not GAAP. You can call it Ken accounting or some other accounting, but what it tries to do is tease out those things that are unique positives to us from a financial position point of view and to give them a more, I think, a full

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view of the financial condition of the City at this point in time. So, for example, the three things that I've done to adjust net position to give you that different view includes putting the value of the tax receivable we have for FPD&R back onto our balance sheet. So basically, we net out the 2.9 billion liability with the present value of the future receivable, which is greater than 2.9 billion. Voila, that falls off the balance sheet.

The bonds we've issued for urban renewal and PDC, for example, we know in talking with PDC that 25 percent of the \$500 million has come back to the City in some form as an asset. So if I reduce that and recognize the fact that when we create the urban renewal districts, we receive tax revenues that we would not have received and could not spend for any other purpose, that liability vanishes as well. And also looking at the Convention Center transaction, that's backed by an intergovernmental agreement with Metro and Multnomah County. We received tax revenues from them to pay the debt service on the bonds, we've always paid debt service on those bonds. We have a receivable that exists for the life of those bonds, so that liable doesn't create any impairment to us as well.

So when I make adjustments like that, what you see is that the trend, the blue line in governmental activities, is slightly down and mostly flat. Business activities continues to grow because we're making regular investments in the infrastructure, and our overall net position is on the slight increasing point of view, and that's really the view that the rating agencies and investors look at.

Fish: You just anticipated the two questions I wanted to ask you. Go back to GASB for a second. If we had a fully-funded pension, and it was structured differently by law, then the asset and the liability would match up and it would have no impact on the net asset condition. Because that's a pay as you go, we're by definition not going to have something to compensate for the liability, does GASB have a philosophical problem with the way that we structure our pension or is that just the consequence of how it's administered?

Rust: I would say it's just a consequence of how it's administered. The standard is broad. It applies to pensions that typically work a certain way. We're an anomaly. And the rule is - it doesn't have an exception for anomalies like Portland. So we struggle with that.

Fish: But there's nothing that we know in GASB that says our way of funding a pension is somehow out of step with prudent accounting principles.

Rust: Well, it's not how you would structure a traditional pension plan. I mean, there is a strong sense that as you earn pension benefits, you should fund those pension benefits, and that makes more sense both in terms of staying current with that obligation, and also making sure that the people who are benefiting from those services are paying for those services. We don't have that system, but we have -- and I think if you didn't have a dedicated tax levy, you could argue you are pushing that liability further and further into the future, but we have the dedicated tax levy.

Fish: And I guess the second question that you were about to get to is we covet our credit ratings, which is for obvious reasons, because it allows us to borrow money at favorable rates. And we have very high credit ratings in the City, that allows us to borrow money dirt cheap, and it's one of the reasons that we've been able to do a lot of capital projects at a very favorable cost. Does this adjustment have an impact in how the rating agencies view our financial health?

Rust: No, because in fact, that's the adjustment that they are making. They recognize that particularly with the FPD&R liability, it's an anomaly. They've looked at it for many years, before there was a GASB 68. The City has had an AAA bond rating since 1976. This is not a new phenomenon and they are very comfortable with the way in which we fund this and also the integrity of that tax levy. Because really the key is, is that tax levy sufficient to pay all obligations when due? That gets tested regularly. And in fact, I will talk a bit about that.

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If anything, that's on an improving trend because of the underlying nature upon which that tax levy is based. So in my opinion, it's well understood by the investor community the nature of how we pay for this pension liability, and that really is not a problem or an issue in terms of our ratings.

So, I would like to talk about -- we're getting into that -- what does this mean and what should we do? The issues that we have around GAAP accounting isn't that it's wrong, it's that there are things that we have undertaken from a financial point of view and the unique parts of the City of Portland that don't get reflected under GAAP accounting. So, adjusting things like that I think give you a more realistic view of the current condition. And if you don't do that, you really end up with a situation where you could focus on the wrong, on the wrong thing. So, for example, if you did not tease out this and you go, my goodness, we have an FPD&R problem, maybe he should do more and put more general fund money to pay FPD&R -- you could reach that conclusion. But in fact, FPD&R is not a problem. What's a problem is we should be investing more infrastructure. We had that discussion last year about what we do. I think by restating the information, if you will, you can get to what we should be doing. And that's really one of the problems is that the CAFR provides us a lot of information but it's a point in time piece in terms of what it's telling us, and it may not be telling us the right things that we should be worrying about in going forward, I want to talk a bit about what those things are as well.

One of the things that I've been tasked with is, what should we be worried about? What are the things coming at us beyond this point in time with the CAFR that we should be looking at? So over the course of the last year, I've been investigating that with my staff, and have put together what I call this little snapshot about things that we should be worried about, and I have broken it into three categories. Our long-term liabilities, our infrastructure, and employee costs. I've given my view of what I think those things look like on a current status basis, and also what they might look like in the future in, and some comments about trends.

So, for example, PERS liability. I view it as a negative status, and I think it will stay that way. Why? We just received in November an update from PERS on our actuarial status, and it reflects the overturning of the Morrow decision. So, our unfunded liability with PERS has increased from \$40 million to \$365 million. Furthermore, we know that PERS has to earn at least 7.5 percent to stay even -- in fact, it's probably greater than that. Well, what happened in 2015? They were at 1.88 percent, almost six percentage points below the target number. What does that mean to the City? That's going to be another \$9 million ongoing coming to us. The 365 million to unwind that is about 30 million. So, we have \$39 million more cost coming our way.

FPD&R. We've talked a lot about that levy. I have it in green status because it is sufficient to pay our obligations. The real market value increases means that the capacity of that tax levy is increasing as well. So, I feel very comfortable. I am more comfortable with FPD&R than I am with PERS.

And another piece of our long-term liability deals with other post-employment benefits. This is a requirement to look at the cost of providing a subsidy to retirees under our healthcare plan until they reach Medicare eligibility at age 65. And we looked at that in 2008 when we were required to report that under GASB 45. We said, we think that we should not do anything, we should continue the pay as you go that we're using. We looked at it again, and that liability is really unchanged. Our recommendation is the same: watch it but don't do anything different.

Infrastructure. Over the next five years, we probably have at least a billion dollars of infrastructure needs coming our way. A lot of that is in Water and in Environmental Services, and I have confidence that there is plenty rates and borrowings that will be

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sufficient. My only concern is that rates are high, and that the capacity has more stress than it otherwise would be. But we have a funding plan, and that funding plan has worked quite well.

Fish: Ken, I had is a spirited discussion with Fred about this because to me, this is more green than yellow. And I want to just put something in context. Just this past week, there was a national survey that was released of trends in our public utilities, and the thing that jumped out at me was the enormous benefit that has accrued to us by taking care of some regulatory costs ahead of the curve. Particularly, I'm talking about the CSO requirements, the combine sewer overflow. We did a very expensive Big Pipe project, but we did it in the past, and cities like Atlanta and other cities are catching up and having to do it at a time when it's going to be more expensive.

One of the things that struck me was the comparison of the impact on rates on a family of four in three sample cities, and they looked at -- actually, four sample cities -- Seattle, San Francisco, Atlanta, and Portland. And we don't necessarily think of those as center cities, but at least Seattle and Atlanta are comparable in population. What was just astonishing to me -- a family of four in those other cities would pay two or three times more monthly for the combined water, sewer, stormwater services. That doesn't mean that we're not charging, you know, that our rates are not a burden for our customers. But it does say that nationally, we're blessed in that we've taken on some costs and our trend lines are pretty good. The trend line at the Bureau of Environmental Services is quite good, and that's why this year they are down around 3.4 to 3.6 in terms of the rate increases, the proposed rate increase.

So, given that we have a structural advantage in that we can cover these costs going forward, given that we enjoy very high credit ratings, and given that compared to other cities, we're a relative bargain, I still think that we're more green than yellow, but I understand that yellow is because of your inherent caution as CFO.

Rust: And I couldn't figure out a way to split the bubble into green and yellow. [laughter] I am cautious, but I agree with you that we have gone -- if we had not accomplished the things you referenced, it would be a different picture for us. I do think that the plans that we're on means that we're going to be able to sustain those. I do know that we would like to have the capacity for the unknowns, and that's a bit of the caution there.

Contrasting that with Transportation, it's no surprise that we're not spending enough money now. And going forward, that trend doesn't look like it will get better quickly. So, I am very concerned about our ability to fund all of our transportation needs. I have another category, which is things like parks and public safety --

Novick: Mr. Rust, I just want to tell you that I was so alarmed by these red circles of transportation that I realize this is really short notice, but I propose that we send the voters a transportation funding mechanism this afternoon.

Rust: And we didn't plan it that way, but it looks like it's working out very nicely.

The other category really, is parks, the civic guests like the Portland Building, technology, public safety, and even housing. We're making a lot of propping and spending a lot of -- making as many investments in that area, but those needs are growing, and I am concerned about our ability to fund that with the methods that we typically use, which are geo bonds, general fund, etc.

Another category that I have in here was what I call legacy liabilities, and that's dealing with the cost of remediating the City's portion of the cost associated with Portland harbor. We have a Columbia River levee project that may have costs coming back to us. I have it in red status mostly because I don't know how big that is, but it could be a big number, and we don't know how we're going to pay for it yet. We don't know who is responsible inside the City organization, so that makes me concerned.

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And then finally on employee costs, we're really at a position where those employee costs are beginning to grow faster than the rate of growth in our revenues. We have recent bargaining agreement changes that are increasing our employee cost. The PERS-related expense, for example -- approximately \$39 million ongoing new costs coming our way, 40 percent of that is general fund. That's \$16 million ongoing. Now, the CBO has some of that built into the forecast. Not all of that is built into the forecast. PERS collars things and it will attenuate when we see it, but if you wonder why we don't have any money for infrastructure investment each year, even if revenues are growing, it's because of things like PERS.

So, speaking of revenue, how is the revenue picture? Over the last couple of year in particular, we have had extremely strong general fund revenue growth. Almost couldn't be any stronger, and we should see some continued benefits from that, particularly with unwinding some of the compression that affects the property tax revenues. Business license tax and transient lodging tax are at all-time highs. We may see some limited upside, but frankly at this stage of the economic cycle, there is more of a likelihood we will see them flatten or fall if we run into a recession. Our utility license fees are kind of flat, which really represents people ditching land lines and us losing revenues associated with those companies that provide the land line services on the telecom side. And I know that we have had a lot of discussions about future urban renewal tax increment revenues coming back to the City and other governments, but that's 10 years away or longer. So, those are really revenues over the horizon not going to help us on the short run.

So, what's the outlook for new revenues? I do think that our strategy of going to the voters periodically for voter-approved geo bonds to fund park improvements and safety improvements is a good strategy and one that we will be successful with. Our ability to have a new funding program for transportation remains to be seen. I'm optimistic that this afternoon is a step in that direction. But I have a question about whether we'll be successful.

And I think that we're going to have to consider the other revenue ideas that have been considered in the past. For example, we've discussed about imposing a utility license fee on cell phone users much like we impose on land line users, one to increase the revenues but also to make it fair between the users of the telecom services. Why should those with a land line pay and those who don't pay.

And finally, the easiest source of money for us -- new growth -- is to have people pay what's already owed to us. We know we don't collect all of the business license taxes, we know that we have liens outstanding that we haven't chosen to foreclose on for policy reasons. We have and a large number of uncollected parking revenues. If we spent more effort collecting the low-hanging fruit -- in fact, the fruit that's on the ground -- that would help close this as well.

Novick: On the uncollected parking citations, I just want to note that we've been working -- PBOT has been trying to figure out mechanisms to improve collections. We're having lengthy conversations with the court system, which is deeply involved in that. I'm hoping in the next few months, we're going to have some proposals that will help with that backlog.

Rust: Good news, thank you. Bottom line for the City -- it's a math problem. Our expenses, operating capital, are growing faster than revenues. And it's a systemic problem, it's going to take a system issuing solution, and we know what that means. It means cutting our costs, cutting our services, increasing our revenues, or some combination of the above. If we don't take action, we're going to be in a situation of a chronic budget shortfall and reduction.

This year is a really good instructive lesson. Revenues are growing and we're asking bureaus to cut budgets. Why? Because we would like to add new services and

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devote more resources to the housing. Nothing wrong with that. But when we add more programs and we have cost push from these other things, our revenues -- even when they are growing -- are not growing enough. And that means that we're limited in our ability to make more investments in infrastructure, and it puts pressure on our reserve levels and the kinds of things that, if we're not careful with how we approach that, we will be in this situation every year, we'll default to the easy, thin the soup budget, cutting across the board, so we get to the point that no one likes what we're serving because it's not a very tasty meal any longer. And what I'm mostly concerned about, is avoiding things that create a financial impairment for us going forward.

Now, we've had many challenges financially over the years, and we have rose to those challenges. So we're at a point now where depending on what we do in terms of the policy and practice will affect whether or not we maintain the integrity that we currently enjoy or not. But that's the challenge that lies ahead of us.

So, I would like to summarize where we started with the CAFR. The good news is that the CAFR, for the fiscal year ending 2015 meets all the required accounting standards. We have unmodified or clean opinion from our external auditors, and no audit deficiencies noted by our auditors as well. Our current financial position is strong. Michelle mentioned the fact that our general fund balances continue to grow. So, that's good news, as well. I think that it's important that we do make adjustments to the GAAP presentation because it tells us a better picture and story about where we're at financially, and frankly, it's the story that investors and the bond rating community uses at assessing our financial health. The CAFR is simply a financial snapshot at a point in time, and we know that we have future challenges that will affect our City's fiscal health. I'm confident that by working together, we can avoid those problems that we see other governments falling into, and be able to maintain our ability to deliver the services without future financial impairment.

Fish: Ken, one other question that your excellent presentation sort of begs is are there any changes that you are likely to propose in how we do planning in light of this data? And I'm thinking, for example you know, currently, we think in terms of the five-year horizon. Independent Budget Office provides a five-year projection. No one has a crystal ball so we don't know when a recession will hit and how long it will be. There's other things that we cannot anticipate. But for example, is a five-year lookout adequate, or are you likely to come back to us at some point and say we need a longer horizon? And are there any other potential changes in fostering this long-term look at this structural challenge?

Rust: That's a good question, Commissioner. Going beyond five years is always complicated because the accuracy and the validity of the information becomes more challenging the longer you go out. I think one of the ways to think of it is rather than so much trying to get more clarity about the future is trying to set policy and practice around things that we know will affect the future. So, for example, one of the big drivers for the cities like Portland is the rate of growth in personal services. Our costs are largely people costs. What's our policy about allowing that rate of growth to increase above the inflation or above a certain benchmark number? What can we do to try to better manage that? One of the things that we'll have to wrestle with because if we don't wrestle with that, what we're saying is that we'll allow that big driver of cost to be whatever it is, and we're going to make it up on the other side. I think that some discussion around that could be helpful. I think that some discussion around how we're going to approach funding capital infrastructure liabilities -- that we start looking at creating dedicated sources of that so it's not competing and is the thing we don't do when we are trying to assess how we balance our budget would be helpful. And I think also that we have to have more discipline about new programs and activities that we had. If we are going to add thing, what are we not going to be able to do? And we tend to take on everything and everything before that is

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also taken on, and at some point, it's going to be very difficult to carry that entire burden going forward. We don't do a very good job of asking ourselves about trade-offs and trying to manage within that more constraints in revenue. So, don't have precise answers, but those are three areas that I think that need more attention and I think that we've been working with Andrew and his office could come back with more structure around that.

Hales: Great, other questions for our team? Thank you very much. Thank you. Let's take testimony on this item, and then I might -- before we call on the auditor for the second item -- bring out the folks to deal with those items on the consented that we needed questions answered about. Anyone want to speak on this item, 77?

Moore-Love: No one signed up.

Hales: Oh, come on up.

Lightning: My name is Lightning and I represent the Lightning Watchdog PDX. I thought that the presentation was really good. Give a clear understanding on the pensions and how the accounting procedures are looking at it at this time for the benefit of the investors maybe purchasing bonds in the future.

One of the issues that I have is that on some of the legacy, per se, projects, again, such as the Columbia River levee is what I've been speaking on for quite a long time, and I think that a lot of people are overlooking just how important of an issue that is. We're done doing patchwork on the levee. In my opinion, we need to start looking at building new, which would be towards the new infrastructure. And in my opinion, that will be one of the largest construction projects in Portland, Multnomah County, and I want to really focus on that on the dollar amounts that would cost to rebuild that over time in different phases.

Another issue that I have, obviously, listening to this, is that on the transportation gas tax. It's my understanding that a lot of that money would be used for more of the repair side on the streets, and it sounds to me like we're talking about the best thing to do would be to possibly build new streets for the infrastructure. And that's something that I question at this time to have a clear understanding on. If we pass that gas tax, where's that money going to be applied and where's the best direction to apply that money, especially when we're looking at this type of accounting that we're seeing today?

So, again, just a little more clarity, I guess, on making sure that -- and I've talked in the past, that any loans or grants given out to people -- especially on the loans, we want to make sure that those are repaid back. We don't want to convert those to grants, if they can't make the payments. And I want to see that tightened up immediately on this in any future grants. Obviously by this presentation, I would look at everything very close on who receives that money because it appears as though we're gonna, like I say, have more expenses accruing than income, and we're going to have to start looking at areas to change that, immediately. And again, I want to commend you, Mayor Hales, on creating a surplus budget. The last Mayor did not do that. You did that. You will leave probably creating a surplus budget, so I commend you on your efforts on that.

Hales: Thank you. Good morning.

Joe Walsh: That was an accident. My name is Joe Walsh, and I represent individuals for justice. I was curious -- I didn't hear all of the report because from time to time, I have to use the restroom. So, I missed some of it. But the part that I heard -- the thought went through my head, you know, it would be are the nice, if we got these reports and on the top, it would say "the draining on the budget is" -- you know? "The biggest drain on our budget is..." I get really nervous when bureaucrats say to me, hey, everything is OK. We're in compliance. We're doing a good job. We're patting each other on the back. It makes me very nervous. Because you just had a newspaper article blasting you on your grants, so how could everything be OK? I'm not an economist. However, I know this. People that are watching this, people that read about this, people that will hear about this want to

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understand it, and they don't. I attended 482 meetings, and I don't understand it. And I have a Bachelor's degree. That gives you some sense of what you are doing. That's why you got an F in transparency because the citizens do not understand it. When you do these reports, would you please say, look, we're having a lot of trouble with transportation, or we're having a lot of trouble with the parks. Red line it. When I do a budget at home, and something is coming up, I put it in red. I saw, this is a big concern. We have a trip to California and we have no money. We have to do something about this. Everything is OK? Everything is fine? No, it isn't. You know that and I know that. People watching this television do not understand what is going on. Thank you.

Hales: Joe, I think you may have been in the room when Ken showed us a red, yellow, green chart that actually did a good job --

Walsh: Yeah, I didn't see that.

Hales: That's a really good translation of where we are into those kind of more understandable terms.

Walsh: If you can look at that and you can see the problems right away, then I commend you on it. I didn't see that. We're not privileged to that kind of information. We have very limited stuff that we can look at.

Hales: He put that up on the screen, so people got to see that.

Walsh: Well --

Hales: I know. But it's out there.

Walsh: OK, so I commend you on that. Also -- once again, I don't like it when bureaucrats say everything is OK. It's not. It's an ongoing problem. We know at least two bureaus are in trouble. And they are on my left, which makes me nervous. They should be on my right. Transportation and Parks have admitted that they need more money. So, everything is not alright.

Hales: Thank you.

Fish: Mayor, I move the report.

Hales: Is there a second?

Fritz: Second.

Hales: Discussion? Roll call, please.

Item 77 Roll.

Fritz: Congratulations to our City Controller, Michelle Kirby, for completing the CAFR quicker than it's been done for quite some time, and the entire team. I'm so glad that we have a group of people who understand absolutely everything and way beyond what was in the presentation, and knowing that your team has diligently looked into everything and made a very good attempt I think to explain it in ways that most of us, or some of us can understand. So, well done, Michelle, Ken Rust, and Fred Miller for this report. Thanks also to James Lanzarotta, our outside auditor, for his work reviewing the CAFR. It's always important to make sure that we have outside eyes on it.

So, it's very clear, we are not in good shape, and that -- I appreciate the very clear presentation that says that. We are not expecting to get a whole lot more money any time in the foreseeable future, and we have a lot of expenditures. And the cut that we have been asked to put forward this budget season of percent has illustrated that Portlanders really love the services that they get. And they want a lot of services. And so, there isn't anything in Parks, for example, that can be cut without somebody -- first of all, a lot of people will lose their jobs. Second of all, there are services that people really love, and reducing pool hours or any of the other 19 strategies that we put forward in the Parks proposal -- many are really, really difficult. So, collectively, we as a community need to decide what do we want to pay for and how do we want to pay for it? And we have to say, I'm sorry, we can't do some of the other things, and yes, we do need to I think stop this

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year doing outside grants. There are lots of other good things that need to be done in our community, and as we just saw, if it doesn't translate into an asset that's owned by the City, it counts against our net viability.

So, it's going to be a very difficult budget season. I really appreciate the presentation which allows more folks in the community to understand why we have a problem as well as what the problems are. And I also particularly appreciate the focus on basic maintenance, and we'll continue to work on that. Thank you very much. Aye.

Fish: I want to thank the Controller and the CFO for an outstanding presentation. And what struck me is that there's no sugar-coating or pulling of punches. In fact, if you look at page five, there's the good news and the not-so-good news. I think that I understand the difference. And on page 11, you color code the long-term challenges in red dots. So I think you have been admirably transparent about the structural issues that we deal with and the challenges that we face. It's one of the reasons that I felt so strongly, by the way, that we have an independent Chief Financial Officer for the City of Portland. And it's precisely presentations like this that, to me, vindicate the idea of having a CFO complicating the work of the controller.

Now, I'm trying to figure out what the GASB 68 rule is really about, but I came up with a homey analogy. It may not work, but I'm gonna try it out anyway. My financial balance sheet is shaky partly because I have two kids, and we borrowed a little bit against our house, and we just have one child come through college and we're now getting her positioned for the future. But I have a 12-year-old at home, and I'm starting to think about, you know, when he gets out of -- he's now in middle school, he's going to go to high school and he's going to go to college. So, I'm not sure it's a perfect analogy, but let's say that I was required to put on my balance sheet the expected cost of my son's education if he's fortunate enough to be admitted to a private institution, but wasn't allowed to book any of -- the other side of the ledger was bare in terms of how I'm going to pay for it. Well, the way I'm going to pay for it is I will have to work for the rest of my life to have a revenue stream to cover the costs. This seems that's not completely dissimilar from what we're talking about here. The difference is we have a very stable revenue source to cover our pension obligations because it's legally enshrined in the charter and the public has accepted it and we have a pay as we go. I don't have any job security -- [laughs] -- so I am counting on my wife continuing to be successful. So, I think that it is important to look at both the chart you gave us at page seven, which shows the impact of booking these pension obligations without any funding. And the Ken Rust adjustment on page nine which shows if you take that out because it's a two different stories.

But still, you have identified for us long-term structural issues that we have to grapple with. Unlike the federal government, we can't solve it by borrowing. So, we cannot just declare these are wonderful things and borrow billions of dollars to cover it, so we're going to have to figure out how to right-size our services. And as Commissioner Fritz pointed out, the public is very clear. They want certain services. And it's also pretty clear we have a structural issue in terms of the adequate revenues to meet those services. So, we've got some hard work to do in thinking about the long-term and the structural balance. But I have to say, I'm hardened by the quality of the team guiding us, and I'm pleased that on the things that really matter outside of the structural issues, we get high marks for the way we do our budgeting and the transparency, and the awards speak for themselves, so that's something that we take pride that our team is recognized for doing this at a high level.

And since Commissioner Fritz mentioned grants, I can't resist. There are good grants and bad grants. And we'll have that discussion at budget time. But I don't want the good grants to get thrown out with the bad ones. And the good grants, in my opinion, are

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the moneys that we give to partners in the nonprofit world who have taken on the obligations of government and who save us a lot of money because they provide services. When we fund those partners -- and we do a lot through Parks and Housing and other bureaus -- that's called smart government. The alternative is that we would provide those, and we can't. So, we provide money to people. And the example that I think is the one that we're celebrating -- the City owns three steam locomotives and they are a part of the property. It's an anomaly that we own three steam locomotives, but we ought to be proud of it. And one of them was the lead location motive on the bicentennial train that cross said the country in 1976. The SP 44-45 is a national treasure.

So, as long as we own these three steam locomotives, we have an obligation to provide a roof over their heads. Well, we don't have the resources to do that. So, along came a group of public-spirited people who said, "here's a deal that you can't resist. We'll raise five million dollars and build a home for them, we'll operate the facility, and we'll take care of those treasured locomotives." So, that's a good deal, and we said thank you. So we helped them to find the dirt, but they did virtually everything else.

Last year, in our budget process where we had 50 million of surplus, we decided to give them \$150,000 towards the cost of building and operating and maintaining our -- our - - three locomotives. And they raised give million and built the home and are operating it at no expense to government. I'm going to say that was a good grant. And I would have given them more, given that they took on a responsibility of government that we didn't have the resources to do. But there are good and bad grants and I think that we can make those distinctions. So anyway, thank you for a great presentation. I'm pleased to accept the report. Aye.

Novick: I don't know that I can add much to what my colleagues have already said. I really appreciate Michelle and Ken giving us a very clear explanation of what our real problems are and what our real problems aren't -- or what might seem to be problems under the accounting rules, but actually are less concerned than the things that are on balance. Thank you very much for your clear presentation. Aye.

Hales: As it happens, I just came back from one of the two meetings each year of the United States Conference of Mayors. And the people that come to those conferences -- mayors and city staff -- they mostly roll up their sleeves and talk about problems and how you're solving that problem, how are you addressing that problem. Not much bragging is done because it's just not very polite. But if bragging were allowed, I'd have a lot to brag about. And if envy were able to be articulated, there would be a lot of mayors who would be jealous in Portland. They would be jealous for a lot of reasons. They'd be jealous of our transit system, they'd be jealous of our quality of life, jealous of our historic preservation, of our tree canopy, of our transit mode split, of our bicycle mode split -- there's a long list of things that people come to study about Portland, and they would have reason to, and they keep doing that -- including other mayors. But probably most of the all they would be jealous of our balance sheet. They would be jealous of the fact that when you do this accounting on a regular basis, which is what Ken did -- not a funny money basis but regular basis -- where are we?

There are some serious problems. We have a serious problem of transportation infrastructure that's out of date and needs to be renovated, and know, Lightning, you're right to raise in that point. It wouldn't make sense to build more roads, it would make a lot of sense to take better care of the ones that we have because a dollar spent on doing that will avoid more dollars later. We all talked about that a lot over the last couple of years. Yes, it would make more sense. It would make a lot of sense to invest in the great City park system -- again, something that other cities would be jealous of. But they would be especially jealous of the fact that this report is in a salacious way, uninteresting. An

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extremely interesting presentation. The situation from a scandal standpoint is totally boring.

Portland, for 40 years, has had a AAA bond rating. I've been in presentations where the staff went to the rating agencies and made the case about why we should keep that bond rating. For example, right after Orange County went into default. I was in on that presentation, and we kept our AAA bond rating. So, Ken, Michelle, and you and your staff continue to do a great job, and as does our Budget Office, of making sure that we, as decision-makers, are able to steer Portland in a responsible way and address problems like transportation and parks funding, like utility rates, in a way that is very defensible, and again, that the rest of the country would love to have our situation, and they'd love to have our balance sheet, and they probably would love to have our financial staff, and I hope that they don't take them. Thank you very much. Aye. Let's break from this series of presentations briefly to go back to the two items that we pulled from the consent because I think that we have staff standing by to give us explanations. And the first was item 84.

Item 84.

Hales: Commissioner Fritz.

Fritz: Thank you, Mayor. This was mistakenly filed on consent. I know that I am very concerned about when we tow cars either from the streets or from the parks, and so I wanted to make sure that the public understands what the rules are. And second of all, I wanted to publicize we are updating this policy so that everybody is clear what's going to happen if a car is parked in the wrong place in a park. So, with that, our security manager, Galina Burley, is going to make a presentation.

Galina Burley, Portland Parks and Recreation: Thank you very much, Commissioners and Council members. Very good to see you. I will start with -- in the impact statement received with your packets, it talks about the purpose of our presentation today.

The City code already allows the Director of Portland Parks and Recreation to restrict and prohibit parking in the City parks. What the code does not explicitly provide for is for us to tow vehicles when they are in violations of those restrictions. So, with that, I just want to add that our system of parks includes over 200 facilities, multiple community centers, Portland international raceway, and many other facilities, including those parks and park properties that we lock at night for safety and maintenance reasons. It is very rare, but at times a need arises in our system for the towing authority. And we are, as I mentioned earlier, asking the City Council to allow us to make that authority for the Director more explicit in Title 16.

Currently, what we do is Parks officials -- since they are not authorized to request towing -- we call police when a need arises, and we also get in touch with Portland Bureau of Transportation parking enforcement program. And in consulting with both entities and getting their support, we felt that this additional authority would be needed for our team, especially because PBOT parking enforcement program hours end before many of the parks close. Most of our parks are open until 12:01 in the morning. By having this authority, our officers will be able to order tows through existing mechanisms through the City tow desk through PBOT. Makes it very clear as far as what the logistics of the towing procedure will be. This request would only be done after we would attempt in good faith to find the driver of the vehicle, and, as consistent with our other work, ask for voluntary compliance.

We also are putting in place a matrix of enforcement functions that start with, again, asking for voluntary compliance, moving to a warning stage, if necessary, and then, for multiple offenses, request towing and post the vehicle to be towed. One option we have especially in parks where we lock gates is to a tow relocate. That's basically towing a vehicle from the area that's locked through the nearest, closest legal parking spot.

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There are some cases when we would have to order a tow immediately. Again, those are consistent with Title 16. Vehicles parked in blocking pedestrian pathways, as well as vehicles parked blocking fire hydrants. So, that would be consistent and would be an immediate tow.

A few things that we are putting in place to launch this effort and really working through our ranger program specifically -- rangers are responsible to lock parks and gated parks -- throughout the City of Portland is more outreach, working with our chronic parking violations -- excuse me, in areas where we have had chronic parking violations to educate visitors about rules and regulations. Installing additional outreach signage, letting folks know what the implications of being in the park after posted hours or in violation of a parking restriction will mean. Providing information to a local neighborhood groups on the change in towing enforcement. If requested, we get asked sometimes to go neighborhood meetings -- go to the neighborhood meetings and facilitate the awareness consistent with our current approach and other enforcement specific to the ranger program gaining voluntary compliance when it's available.

Fritz: Thank you very much. I think that's probably enough information for this Council. Obviously, you have a lot more. This is particularly a problem at Mt. Tabor, Council Crest, and Pittock Mansion where sometimes maybe young people go to hang out after dark, and then that causes problems for neighbors. So I particularly want to thank the neighbors for helping us develop this policy.

Hales: I particularly like the element in this in which you are going to attempt to tow them to a legal parking space instead of to an impound lot because we're not interested in financially penalizing people, we're just trying to keep the parks safe and well-maintained, so I like that very much.

Fritz: Exactly. Any questions?

Hales: Any questions for Galina and her team? Alright. Thank you all. Is there anyone that wants to speak on this item? If not then we'll take a -- oh, come on up, please.

Joe Walsh: This morning I had a phone call --

Hales: Put your name in the record, Joe.

Walsh: Joe Walsh representing individuals for justice. This morning I had a phone call, and one of our members was concerned that he had just been to the hearing officer, and he sees a lot of people that are getting towing and parking violations, and there's no way out. So, when they argue that they parked in the area that they thought was legitimate, and the City comes along and says you can't park there, they get a ticket, and it cost them a couple of hundred dollars. And when they go through the appeal process, the hearing officer says to them -- but they acted within the law. So, you're wrong. So, you have to pay the price. So, there's no defense.

I'm asking Commissioner Fritz to think about this in the parks. What we don't want to do is hassle people that use the park, and find out that all of a sudden if they drive their car, that they get a ticket, and the ticket is expensive. Especially if they're towed. Alright. Now, I know that this is the beginning at the parks. You're asking for authority to do this. I am telling you what's in existence, and I'm suggesting also that if we go back to the history, it would probably show that it was just a bit -- it wasn't so much. Now, it is. And that's the way that institutions grow, Amanda, and you know that.

If we institute this stuff, I think you have to show that there's a major problem. When we interfere with the citizens and we write tickets, or we try to fine them or if we embarrass them, there's got to be a really good reason for that, and not because it's going to make a buck or it's convene or it's better to have all the cars out of the park at 6:00 in the evening or whatever. You understand what I'm trying to say? I'm trying to say, slow down a little, look what's happening with the other parking, and then come back to the parks, and say,

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are we walking into quick sand on this? Or are we just doing something that is very mild, and we have some safeguards. That's what we're asking.

Hales: Thank you.

Fritz: Just to clarify, we're not proposing to give people tickets. We're proposing to tow them to a legal parking spot.

Walsh: Yes.

Hales: Good morning.

Charles Johnson: Good morning, Commissioners. My name is Charles Johnson, and we live in the age of metrics -- unfortunately not the metric system, we just supposedly are measuring things and trying to assess the performance and results. So, I hope that there will be further development of performance metrics, particularly around the area of people whose cars are not moving because of financial distress. So that -- you know, we live in a very car oriented economy, even though we try harder here in Portland than in other cities to make the public transit practical. Some people work very far from where they live, and their family stability is car dependent. So I hope that the best work of the rangers will continue with this program, so that in addition to having the towing objectives accomplished, they'll be empowered to connect people with resources if they are on the brink. We know that in the court system at times, cost and is fees have to be waived for low income people, and I think it would be appropriate for the Council to have a provision for that. Some people say, oh, but they have a car, that's an object of wealth. But we don't want to sabotage their one object and put them in a situation where their employment might be jeopardized. Thank you.

Hales: Thank you very much.

Walsh: I would add one thing -- I know I am in violation. But I don't drive anymore so I don't have a horse in this race. I just can't because of the medications, so I haven't driven for 10 years. So, my concern is really an altruistic concern. And it's just a caution. When you do these kinds of stuff, just slow down a little --

Fritz: Mr. Walsh, thank you.

Hales: Thanks very much. Anyone else? Let's take a vote, please, on this item.

Item 84 Roll.

Fritz: Thank you very much for the presentation. We'll be happy to clarify any additional questions anybody might have. So, thanks to Galina Burley and Warren Jimenez at Parks; Tim Crail and Pooja Bhatt on my staff; Dave Benson and Jodi Yates at PBDOT, the Bureau of Transportation; and Dave Golliday and Randy Teig at Police; and the staff at the Pittock Mansion and community members that have been very impacted by loud partying in the park after hours, which is one of the reasons that this came about. Thank you. Aye.

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

Hales: Thank you. Let's take items 86 and get the questions answered about that.

Item 86 continued.

Hales: Commissioner Novick.

Novick: Colleagues, we have Dave Benson and Mark Williams here to talk about the outreach that PBOT did in soliciting applications for this committee, and Ken McGair here to answer any legal questions.

Dave Benson, Portland Bureau of Transportation: Good morning, Council and Mayor. My name is Dave Benson, I am the parking services group manager at PBOT. When Council revised the regulations in the code regarding private for-hire in December of last year, we went about with a sense of urgency to solicit names to our 19-member advisory committee. And here with me today is Mark Williams, and he's going to talk to you a bit about that process that we went through.

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Mark Williams, Portland Bureau of Transportation: Good morning, I'm Mark Williams, I'm the program manager for the private for-hire transportation. So, on December 31st, we pulled every available address that we had in our arsenal to make sure we contacted everyone. We invited 1800 people to apply for the private for-hire transportation committee -- advisory committee, excuse me. 125 of those emails came back, probably older addresses that we hadn't updated, and we received roughly about 50 phone calls with questions. January 12th, we followed up with another reminder email, again, to the 1,800 people that we originally invited. We did receive a few more phone calls regarding questions, and again, the 125 emails didn't find a way and they bounced back. Total, we probably only received roughly about 60 applications total. Some of those applications were individuals applying for more than one position with the advisory committee.

Fish: I have a couple of questions, if I could. The first is, there are 17 committee members that you are proposing, and by my count, about 15 are industry representatives or people that have a specific stake in the industry, and two are sort of community members. How did you arrive at that mix and is that the right mix?

Williams: I believe that we arrived there with some input from the task force as we moved forward, there was a lot of discussions during the task force meetings that we do want to have an advisory committee to help address some of the issues that continue to evolve, and I think that it was the recommendations from the task force is where we ended up with the committee seats.

Ken McGair, Office of the City Attorney: And the slots, Commissioner, are established in the code -- the 19 slots. So, a transportation network company slot, a citizen slot. So to you question about the industry being heavily represented, that's part of the code.

Fish: Part of the code.

McGair: Yeah.

Fish: Will there be dedicated staff for this committee?

Williams: Yes.

Fish: How will that work?

Williams: I will personally be a member on the committee as a non-voting, I would say, advisory committee member, and my role is to make sure that they are well-informed of some of the issues we're having and to be a resource of information when they have questions.

Fish: So, this has been a recurring issue with committees we establish in terms of having adequate support. And as you know, Mayor, when we establish the new citizen-led oversight body for our utilities, we gave them two dedicated staff people. And this -- we're giving -- this particular committee has a heavy load. We're asking them to do a lot. And I guess what I want to know after six months from the committee is do they need a dedicated full-time staff person, or is it sufficient to have ad hoc staff? Because I don't want this committee to feel under-supported. And you've got a lot on your plate, obviously. So perhaps in six months, could we hear from the committee as to whether they believe that they are getting this staff support that they need to be successful?

Novick: Absolutely, Commissioner. That's a good question to ask and we will ask that question.

Fish: And the third thing I just want to observe -- I deeply appreciate that Commissioner Novick is moving forward to fill these positions and fulfill a commitment he made to reestablish the private for-hire transportation advisory committee. One thing that caused me a little heartburn during our debate about TNCs was the previous private for-hire committee became somewhat invisible during our deliberations. They were replaced by another committee that didn't really have much in the way of subject matter expertise. And so I felt from time to time like we were not hearing from a group of people that had some

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history and expertise. Now, there was some criticism about the composition of that committee and whether it was representative enough or diverse enough, but I just want to have a commitment here today that this committee is a substantive committee that we'll be hearing from at least annually, and if there are disagreements that either a majority or minority of the committee has about how we are implementing this new code, that will come to Council.

Novick: Agreed.

Fish: Thank you. And is it your intention, finally, Mr. Williams, that there will be some kind of annual report?

Williams: Yes, and I would imagine you would probably hear from the committee -- at least some recommendations from the committee prior to the annual report. There are a lot of immediate issues that this committee will be challenged to resolve, so we're very eager to get them in place and get them addressing some of these issues.

Fish: Thank you very much.

Hales: Other questions?

Fritz: Commissioner, I have a suggestion following up on Commissioner Fish's request for input for the committee in six months. Maybe that's a way to resolve the challenge of having the appointments end on the same date. My understanding is that seven of the 17 currently nominated for appointment have served on the private for-hire board before, so that might be a way to sort some folks who might be able to -- however they want to do it. It seems like, as with Commissioner Fish's leadership in bringing together the Portland Utility Board, they're going to set their own bylaws presumably, and it would be nice if you could come back in six months with an amended report saying that these positions expire in one year, these positions expire in two years, and these in three. Would that be acceptable to you, Commissioner?

Novick: Yes. That actually requires a code change. I agree we should have staggered terms, we just didn't think of it. I expect that we will come back with a staggered proposal.

Fritz: I think if the committee were to volunteer to have their term end earlier -- the code said the terms are three years for this initial one. Usually, we remember to put in the initial code the first committee's terms would be staggered. That wasn't in the private for-hire ordinance. But if the committee decides amongst themselves we're going to have our first term -- and obviously they would be eligible for another term after that -- I think that would be a way to solve the ongoing problem.

Novick: Commissioner, I just also wanted to note you had a concern about representation of immigrant drivers. We have one taxi driver representative, just like we have one representative for other categories. That representative happens to be Eyosias Mamo, who happens to be an African American but we noticed in his application he observed he's a Somali speaker and is active with the Somali community, so he does have some experience working with at least one immigrant community that has a number of drivers.

Fritz: Good. And I note you have two vacant spots for a shuttle driver and an executive town car driver. Of course, part of the challenge cab drivers are having now is they're having to work much longer hours to make a living so they may not be able to volunteer to serve on a committee, but that is an opportunity, should somebody be willing to help set the new rules.

Benson: We recognize that opportunity, and we're going to be doing some targeted outreach in the next few weeks to address that very issue.

Hales: Thank you very much. Other questions? Anyone want to speak on this item? Then let's take a vote, please.

Moore-Love: Motion to accept the report.

Fish: So moved.

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Fritz: Second.

Hales: Roll call, please.

Item 86 Roll.

Fritz: Thank you for the presentation and for the willingness to come back in six months with revisions. Aye.

Fish: Thank you, Commissioner Novick, for the presentation. We're asking this committee to do a lot. One of the things we learned in our very thorough public debate and consideration of so-called TNCs is that there are a lot of unresolved issues locally and nationally, and they're still being fought out. Questions about adequate levels of insurance, whether drivers are employees or independent contractors. I would note that in some financial filings of the leading TNCs in the nation, they recently said their business model is predicated on folks being classified as independent contractors and their long term viability might change if the law disagreed with their view. Obviously, safety, compliance with safety regulations, compliance with our code, and frankly, I'd like to see a place where complaints are going and being adjudicated. We have a somewhat inefficient system now where lot of us get tweets on a daily basis that are tantamount to complaints about noncompliance in the TNC industry and I want to see complaints going to the committee and to staff and us getting regular reports on whether people are following the rules. But I appreciate the work to bring this committee roster forward and this discussion. Aye.

Novick: Thank you, colleagues. Thank you, Mark and Ken and Dave, and thanks to all of the volunteer members of the committee. Aye.

Hales: Aye. Thank you very much. Let's move back to our time certain items.

Item 78.

Hales: Auditor Caballero and team, good morning.

Mary Hull Caballero, City Auditor: Good morning, Mayor and Commissioners. My task today is to introduce Jim Lanzarotta, a partner in the accounting firm of Moss Adams, and he's going to present the results of the most recent audit of the City's financial statements. And also with me to help respond to questions is the Director of Audit Services, Drummond Kahn.

Annual financial audits of local governments are required by Oregon law. City managers and staff are responsible for preparing financial statements. My office manages the contract for the audit. This arrangement provides Moss Adams an extra measure of independence from management, which should contribute to a higher level of confidence in the results for you and the public.

Before I turn it over to Jim, I'd like to acknowledge and thank principal auditor Fiona Earle from my office who is chiefly responsible for the hands-on management of the contract and the herding of the cats to get it done.

I'd also like to take a minute to respond to a couple of questions from the prior presentation about the government standards. I just wanted to point out that the reason why those standards are important to understand and to follow is because they allow for comparisons across the nation -- of cities across the nation -- because everybody's complying with those standards. And so I think that I appreciate the more nuanced presentation that you got this year about the CAFR because I think all of that is very important information for you to consider and discuss. But when you look at the data, the way -- when you're following the standards and not getting in the nuanced weeds, it allows you to look at how you're doing against other cities. And so --

Fish: Madam Auditor, I appreciate you saying that, but we're also told that very few cities have a pay-as-you-go system, so how is that helpful?

Hull Caballero: Right -- so if you let me finish, I will let you know it allows you to see big-picture trends and how some cities are going up and some are going down. And Portland

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is going down. And when you're keeping company with cities we know to be troubled, like Detroit and Stockton, that should be propelling some questions about why are we going down, looking at the cities that are going up and saying, "What are they doing differently?" And so it just allows for a bigger picture comparison.

Fish: Your view is we're keeping company with Detroit, a city that's bankrupt?

Hull Caballero: The data that we had -- was that last year? -- where we compared cities --

Fish: But your view that is that we're keeping company -- that Detroit is a peer city in terms of the financial health of our city?

Hull Caballero: Yes, that's what the data shows. The point I'm making is it allows you to ask some questions -- to look at the trend lines and comparisons to other cities and questions. So, that's why the standards are important because it allows for that kind of analysis.

Fish: Is it your view that we should scrap our current pension plan and put in something else to address that problem? Because as long as our plan is a pay-as-you-go, we're going to have a liability with no asset. Is it your view that we should go back to the voters with a different plan for how to fund it to change -- that would have a beneficial impact on our balance sheet?

Hull Caballero: My view is that that's your decision, and what we're recommending is that you don't dismiss looking at the data based on accounting standards and that you use that information to ask more questions, to appreciate the context that there is something in place to bring in future revenues. And so I just wanted -- when you were asking questions about the standards, I just wanted to respond that's why we do that.

The other thing I wanted to point out is we often make reference to the fact that the City has a triple-A bond rating. And I think it's important context to understand that only 12 percent of the City's bonds are triple-A rated. And so that is also a more nuanced thing, and it's easy to fall into the conversation and take comfort in things when you need to know the more detailed picture. And so, I just wanted to respond to those two things. And now, I will turn it over to Jim Lanzarotta to give you the results of the audit.

Hales: OK. Good morning.

Jim Lanzarotta: Good morning, Mayor Hales, Commissioners. I appreciate the opportunity to come and finish the audit process. Really we're not quite done until we have this communication with you -- in fact, our audit standards require that we come before you and give you the results. And so, appreciate the opportunity to do that. In prior years, we just did that with your bureau heads or department heads in a debrief meeting, and for the last several years, I think at the direction of your elected Auditor, you've provided an opportunity for us to do that. We very much appreciate that.

I was thinking earlier -- I mean, Ken did such a phenomenal job I think of talking to you about the finances that my presentation is going to be rather boring in comparison. And actually, I think that's the way you would want it to be. You used the word "salacious" I think at one point, and nothing salacious about the report I'm about to give you.

What I'd like to do is tell but the nature of services you engaged us to do, and tell you a little bit about what that entails. Obviously, you want to know the results of that. I think the cat's already out of the bag. You heard a little about the results of the audit, but I'll give you a few more details to that. And there are some required communications in an audit, and I've met those by issuing to you a written form. And I'll just hit on a couple of those points -- hopefully you've had a chance to read through that -- and maybe just a couple follow-up comments.

When I look at the City's audit, I kind of break it down into five components. And you have a pretty good understanding of the first, and it's the independent audit of this document. The numbers in here accurate? Does it have the requirements of the

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accounting stands? You heard the GASB, you've been mentioning GASB -- you're making my heart flutter, you understand that body and its purpose. Anyway, I have to determine if you've put this together to meet all of those requirements. And not only for the City -- this is the City overall -- but you engaged us to do a separate report for FPD&R, so, the trust fund with that pension information. Also the Portland Development Commission, so your component unit that does the urban renewal projects. And we also do a special report for hydro, which meets a compliance requirement with an agreement have you with PGE. So, we do all those audits so you have an understanding of the audit, independent verification of these neighbors so forth.

A second element, though, is we have a requirement to look at the checks and balances management uses to make sure they can put this together accurately, and an obligation to tell you if there are weaknesses or problems with those checks and balances.

A third element is a requirement to test your compliance with certain state laws. You're an Oregon municipal corporation. In Oregon, the state says that the auditor for you, your external auditor, will look at compliance with things like your budgeting, your ability to go through the budget process and meet the requirements, and then the administration of the prior year budget. Are you doing that public purchasing, insurance requirements, how you're handling cash investments -- those are a few of the areas we're required to test.

A fourth area -- you receive a fair amount of federal awards. And with that comes a requirement for your external you had to test for compliance, certain additional compliance requirements. So, we did that.

A fifth element I highlight just for you because you have a pretty dedicated and experienced accounting staff that can put this document together. So in Oregon, there's probably 1500 or so organizations that have to file financial statements with the state. A majority of them are unable to put this document together in-house, they have to rely on their auditor. So in our case with the City, since you're able to put it together, we just do a technical review of that to make sure that your staff does that. And we also test it for the additional requirements of an award. And I don't know if that really got highlighted, but you submit this to the Government Finance Officers Association for an award, which requires that you go above and beyond the minimum requirements of GAAP and put some additional information in here. And we do a test -- or a review, I should say -- to see if you're meeting those requirements. That's kind of what you engaged us to do. Does that make sense so far?

Hales: Certainly does.

Lanzarotta: OK, excellent. Let's talk about the results. So, the main thing you want to know -- of course you already heard -- on page 13 is our opinion or the start of the opinion, which is, in layman's terms, what we call a clean opinion. I think your Controller Michelle Kirby said it was unmodified. That's the technical term, she's absolutely right. We have one additional paragraph in there that you don't always see, and it just highlights the fact that you implemented that GASB on pensions. So, it still doesn't take away from the fact that it's an unmodified opinion or a clean opinion, it just highlights the fact that you had to implement that new accounting standard. So, this is the point when you wish bells and whistles would go off, balloons would fall, confetti, something, it's a lot of effort for your crew to pull this together. You asked what was formerly known as the Office of Management and Finance to pull this together, but you've got a lot of bureaus where information resides. They've got pull that together to meet these requirements, and they do a pretty good job of that.

I mentioned a requirement to look at your internal controls. We did that work. We have to assess whether those are working, whether they're designed appropriately, and are they in fact working. We're able to tell you we found no deficiencies in your financial

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related controls. You have had some in the past, but this is really good. So, your crew in the past when they have had some issues have taken appropriate steps, and we're able to tell you we did not identify any issues this year in that regard.

Fish: Could you remind us -- what's a garden variety deficiency that might pop up in an audit like this?

Lanzarotta: Gosh, yeah, there's a few that tend to --

Fish: Of course not applicable to us, but to another city like Detroit.

Lanzarotta: I'd say when it comes to internal controls, the common things that you hear about are lack of segregation of duties. That's probably the most common. So, you take a function like accounting for your billings for Water or Environmental Services. Maybe the same person is responsible for doing the billing and then collecting the cash, and then recording that transaction in the general ledger. That's a common one.

The most errors that we see in financial statements revolve around capital assets and the inability to identify when you have acquired an asset and to get it in the books and records appropriately. Or, opposite side of that, when you get rid of an asset, are you removing it from the books? That's a really common type of error we find. So, there are controls around the communication that has to happen between the different bureaus and the accounting -- or department heads and accounting to get that right.

Fish: Those are examples of deficiencies where there could be a technical violation of a rule about who does what and how it's done, even if there's no finding that there's an adverse impact.

Lanzarotta: Yeah. So, the issue of the control -- you could still get to the right answer at the end of the day, but your procedures maybe not adequate to identify an error timely. Oftentimes when the auditor comes, in we'll identify an error and management makes an appropriate correction so financials can get to the right ending result and you could have control deficiencies that have to be reported. I just gave you a couple examples of deficiencies that might occur or are fairly common. Is that OK?

Fish: Helpful, yeah.

Lanzarotta: OK. I mentioned also the requirement to look at state laws. And again, this year, we found no violations with the seven or eight areas that we're required to test. That also strikes me because one of the most common violations we find are over-expenditures against your appropriated budget. And you have so many funds -- you have bureaus, you have a lot of people who are involved in the process of monitoring against your budget. To have no over-expenditures, that's pretty amazing. I don't know if we had anyone else this year amongst our client base that can say that. Also in public purchasing, in the handle of your cash and investments, those other areas that we were required to test -- again, no violations of state laws were identified.

In the area of federal grants. So, the City received -- I should say suspended about \$36.5 million this last year in federal awards. These are grants that come to the City. Of what you received, you spent \$36.5 million. We're required to test your compliance. There could be up to 14 different types of compliance requirements associated with any one of those grants, like who's eligible to receive that, what are the eligibility activities or expenditures to that grant? Those sorts of things. What's the reporting that you need to do to the state or other federal agencies? And again, no findings of noncompliance. So, that's a phenomenal result. You've had some findings in prior years, and whatever the issues were, your staff adequately addressed those. So this year, no findings.

What's nice about no findings as well is that if you can manage that two years in a row, you can achieve what's called a low-risk auditee status. And the City has a low-risk auditee status. What that does is it enables us to test fewer grant programs to meet the single audit requirements. That saves you some dollars as well. So, we only had to look at

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two major programs this year. In prior years, we've looked historically at about six or seven, between five and eight is the norm. So, that's good news to you. OK, almost done.

Required communications. Again, I've issued a letter to you, but I wanted to hit on a couple things you might be interested in. I think Michelle mentioned to your Controller about the timing of things. That is a pretty phenomenal improvement on your part. There have been times the City hasn't even been able to hit the December 31st deadline. We went into January. You moved it up to December 1 this year. I guess the other thing that strikes me about that is that you have a renew of Ken Rust here, new as CFO perhaps or with that title, so a transition there, and a transition with your Controller. You've got transition of key players in this process, and you were still able to get this done faster. A little bit of a renewed process to get the books closed and facilitate our audit process. And so, of our client base, I think you are one of the few if maybe the only one that was able to issue sooner this year than last year. So, this new GASB standard on pensions was a tough issue for our clients, and so was this turnover of experienced people. You had some turnover, but you got some quality people in here that enabled you to actually beat your timeline. Pretty good result there.

Boards often want to know, gosh, did we find errors in the financials that required management to make adjustments. We did not find any errors that were significant enough that we had to ask management to make adjustments. Sometimes, we find errors and they're immaterial, so we can agree to not have that corrected. Really, there were no errors of that kind. Your staff completed a project based on some control deficiencies in prior years over capital assets. I don't know if you go back a couple years. We identified that you had some properties -- a lot of them donated, perhaps, and never added to your capital asset records. We recommended you go through an evaluation of what you have recorded against what all the County assessors say you own. And just to give you an example, Parks and Rec went through that process. Given the volume of properties and capacity, it took a while for them to finish it. But in this year, they finally finished that project this year and were able to get the properties recorded. So, you had a few properties that got recorded in this fiscal year that really were required in prior years. But by the end of the year now, we're fairly confident that you've captured them all. So really, no audit adjustments and really no past adjustments that we're aware of at this time.

Another thing that boards want to know is, gosh, did we have difficulties in the process, disagreements with management? Were they evasive when we asked questions, were they not providing documents? Those kinds of things. I'm happy to tell you none of that occurred. I think your crew understand the importance of the audit process, and they want to get us in and out as fast as they can. I would say that we've had spirited discussions, but they've all been healthy and would be deemed appropriate in my eyes. No disagreements, no particular difficulties encountered. If anything, it was probably a challenge for us to keep up with the pace of your staff so that we could help you meet your deadline of December 1st. I'm pleased with my team that they were able to change how we schedule the work so we could help you accomplish that goal. We'll have that challenge again as you move it up another two weeks this year. But again, I'm confident that we'll be able to rise to the challenge on our end to help you meet that timeline.

Really, the last thing I would say is that Ken already went through an analysis of your net position. I guess I'd be happy to answer any questions from my position. I could talk a little more about GASB 68 -- what I understand of the intent of it. In that letter I did give you kind of an idea of the big elements that drove the decline in net position this last year, and Ken kind of went through that --

Fish: Can I jump on that?

Lanzarotta: Please.

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Fish: I'd like to get your opinion. I hope that none of questions from the Council were interpreted as being dismissive of the GASB or the rule, I'm just trying to understand it. When we're told it allows us to compare ourselves to other cities and yet we have a uniquely different way of running our pension than other cities, we're trying to figure out, what is the comparison that's meaningful? Let me ask you the question.

Lanzarotta: Sure.

Fish: You seem to be giving us a thumbs-up in terms of audit. That's how we manage money, that's encouraging. This is year what, fifth, sixth, seventh?

Lanzarotta: Actually longer than that.

Fish: My entire service on the Council you've been presenting, and you haven't always been as gracious or as positive, there have been some dings along the way. But you're talking about how we manage money in our system, very important. We had a presentation on the CAFR and our sort of long-term trends. I'm trying to reconcile a couple things. So, on the long term fiscal health, FPD&R gets two greens and the trends are in the right direction. Under GASB and how it impacts what you call our net asset position -- we're learning a lot today -- 75 percent of the change in our position is attributed to a rule which requires us to book a liability for which we have no corresponding asset, even though that's the way our system is structured, it's pay as you go. So, what guidance do you have for us? Because I'm trying to figure out whether that means our pension system under the federal rules is no longer appropriate for the times and has to be changed, or if we need to put a footnote on our net asset position to clarify that unlike other cities that pre-fund their pension liabilities, we don't. And so it's going to have a negative effect on our balance sheet.

Lanzarotta: Wow, loaded question. I'm on the hot seat, I can feel it. The electricity is growing. Let me try to make maybe three points that might help answer your question.

The first thing I want to make clear that it's audit and the audit opinion is really about the accuracy of this document. Have you met all the bells and whistles? You can be on a -- I hate to use the term Detroit -- you could be Detroit and still get a clean opinion on the financials if it is put together correctly. So first of all, the audit is designed toward whether you'd doing your books and records accurate, you're meeting accounting standards. It does not address efficiency, effectiveness, are your financial policies sound, and so forth. So, let's make that distinction.

The second thing would probably be that GASB 68 -- I think the comments were made pretty effective before there -- the intent is transparency. The issue is that when it comes to payroll, you don't get into trouble too much. An employee works a month, you hand them a paycheck. At the end of that month, you're square. You've paid for the benefit of that service. But you have other benefits that you offer. You incur the costs, but you don't pay for that right away. A typical employee might be here for 15 years, and it's still another 20 years before they get a payout under this benefit that you've offered them. The accounting standard is trying to put together when the cost is incurred. Who cares when the check is cut? Your employee worked this year, they earned another set of benefits under the pension plan, so we need to recognize that cost this year and then measure it against the revenues that you brought in to determine if you're covering that cost. So, the accounting standard is really trying to improve comparability amongst governments that have pensions to make sure that all the cost is being recognized right now, no matter when you fund it.

The other thing is that it ought to be easier for a reader to understand if you have funded your pension system. And Ken mentioned it pretty well. Obviously, if you maybe could have gone back when FPD&R was first begun, when you offered that benefit, you identified the property taxes -- if you would have gone back knowing what you know today,

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you probably would have asked the voters to allow to you fund it closer to when the cost was incurred. So, that would be a second point.

The third point, which I think Ken has you on an excellent path to understand is you may be where you are today but what you really want to look forward. Can you provide services? Do you have the cash flow? Do have the check when the time comes to cut it? Do you have the resources to cover that check? That's where your focus ought to be. So you have this dedicated property tax. Provide that it comes in as necessary, you'll always have the cash to cut that check. And so, as long as you're getting the help from Ken and his team to understand if you have the cash when the checks have to be cut and you can plan in advance for that, then I think you'll be fine.

Fish: I guess of the challenges in how we talk about this publicly is -- thanks to Commissioner Saltzman, the Mayor and others -- over time, there have been reforms of FPD&R that have put it on more solid footing. I'm seeing Drummond nod, for the record. And it's a closed system, and we've been trying to make it more sustainable. And I think we all agree we've made strides. Through an accounting rule, we have to show a liability with no corresponding asset even though the flow of money to pay for the out-year costs is secure by law through a property tax mechanism. It's just a different way in which a long time ago the citizens of Portland set this thing up, but it's not like overnight our balance sheet became toxic. It's just that we don't have a corresponding asset to book with the liability. Isn't that right?

Lanzarotta: Yeah. And what I would say -- a couple other points, too. Gee, I'll probably lose my train of thought. You've made the comment a couple times, so I think it's worthy to point out that you did make a change. The Council made a change back in 2006, if I remember, and it is a closed plan. So, no new fire and police employees are going into that. They're going into Oregon PERS, and you are funding that on an actuarial basis which tries to better measure a better approximation of the cost that's incurred each year. You're actually funding that right now. So, your issue with the FPD&R is all the folks that were hired prior to 2006 and making sure we have sufficient cash flow to fund the checks when they retire. And so, you have solved the issue now, so you're funding all the folks hired after 2006 on a more sound basis. So, it's the risk of those hired prior to 2006.

The thing you've asked of management and they're doing is they periodically go out and get a projection of the property taxes. I think they go out 40 years, if I remember right. It's a 40 year evaluation. And they run the risk. What's the risk that your assessed value in the property taxes that come in will be insufficient to meet the obligations? And that's a phenomenal tool to use. I don't think it's done every year but probably every two years. And I think you're on the heels of getting one or you just got one. So, you have one recent one. I don't know the recent results. The one prior to that -- I think there was less than a five percent chance or five percent of all the possible scenarios you looked at where you would run short sometime in the future. So to me, doing that type of analysis will help you understand if FPD&R is a problem.

The other thing I like about it -- you're going out 40 years. If you see the risk or it jumps higher than five percent to 10 percent, whatever -- if it becomes a greater risk that some scenario would result where you would be short and you could see that in advance, you could start building a reserve fund. You could take steps now to maybe cover that risk.

Fish: That's the caution flag.

Lanzarotta: Yes.

Fish: That's the caution flag different than "we're headed to Armageddon." That's a risk factor. And you're right, the fund does do that assessment looking out 40 years. Drummond, what do you want to add?

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Drummond Kahn, Office of the City Auditor: There's another big piece here, which is the declining assets. So we've talked a lot about FPD&R. The City has two big pension obligations in the future, FPD&R and PERS. We also have declining assets -- streets, pipes, etc. As those decline, those impact this net asset number, too. Another concern is --
Fish: Is that already part of the 25 percent? So, 75 percent of the current change, given the GASB rule, is attributed to FPD&R. Are you within the 25 percent or are you forecasting future changes?

Kahn: We can even do better, we can look back before the new GASB rule came into effect. In other words, if we look back to 2006, the City had net assets of about \$1.3 billion. Today, with GASB 68 recognized, we're in the hole about \$1.2 billion. Meaning we went from \$1.3 above the line to \$1.2 below the line.

Fish: And the 1.2 below the line is exclusively attributed to a changing of how we book FPD&R.

Kahn: A big piece of it is --

Fish: 100 percent because it's 1.264 million that is FPD&R. So, we would be in the green, not the black, if it wasn't for GASB and how we report that amount.

Kahn: Well, but the year before that rule went into effect -- in other words, excluding the FPD&R GASB recognition -- our net assets had declined up until 2013 down to about 350 million. Meaning that even without that new recognition of the future pension problem or pension obligation, we went from 1.2, 1.3 billion to \$300 million from pensions as part of it, but assets as well as the City's costs exceeding the revenue it brought it. So it's not just GASB, and it's not just pensions, it reflects the accretion of all of these other decisions around revenues versus costs as well as the asset decline.

Fish: So that's why you look at a trend over a period of time, not necessarily the particular snapshot of a year. Because GASB unfortunately distorts our books a little bit because the way we fund our pension is different. But you're looking at a trend line.

Kahn: And we would agree -- our report from last June on these trends, we called it "Portland fiscal sustainability and financial condition" -- we would agree with virtually all of Ken's comments about the concerns and long-term concerns and risks. In fact, we published a similar page in this report that talked about it. So there's really no debate over the core issues of how do we manage costs versus expenses -- not necessarily how do we financially treat pensions, but how do we manage them, as Jim and Ken talked about. But that's our concern. But there's generally good news, we're generally on good footing, tax revenue looks terrific, but costs still continue to exceed the revenues that we're bringing in.

Fish: You served I think as the head of some national body, so you get to talk to peers and other cities. Where do we stack up?

Kahn: Well, this is one of our concerns. When we compare our net assets to six comparable cities -- we can of course discuss whether these are exactly correct six cities, but they're six that we've compared to in the past -- our net position is declining. Those six cities have a fairly flat net position. The difference is not very big, but the difference essentially is that their expenses are essentially the same as their revenues. Our revenues are just a little bit less than our expenses. And it's part of that accretion that leads to that difference to go from that 1.2 billion to the --

Fish: Can you generalize whether the biggest factor in this difference is personal service contracts versus pre-paying -- you know, how we pay for capital improvements?

Kahn: They're all different. In our report, we talk about how other cities break down their expenses. But I think it's multiple factors. Part of it is just, how do we manage those revenues and costs to be just a little bit closer to be more like the six other comparable cities?

Fish: Thank you.

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Hales: OK. Other questions? Other points that you want to close with?

Lanzarotta: Just again, showing some appreciation. I think Mayor Hales commissioned a study some time ago about looking at the structure of OMF. I don't know if the question of whether to have a CFO or not was directly related to that, but clearly that was on the tertiary of that. And we got asked some questions in that regard about our viewpoint on that. And in the possible job description of the CFO, there was a lot about helping us with the long-term sustainability initiatives. And gosh, you got an example today I think of the benefits.

So, I'm very appreciative of the study that Mayor Hales commissioned, and it appears to me you've implemented a lot of the recommendations. I think you're seeing the benefit of that because that's the type of analysis -- and getting on the front end of it. Really, pensions, how you account for them, all of that is noise. What you want to do is make sure you got the cash to do what you want to do when you need the cash. That's what we're worried about. And the net position is a trend. It's informative to the extent that your policies enable that trend to continue. If your policies identify the issue, and when cash flow becomes as problem and you can get ahead of it, then you're fine. And that's the type of thing I just witnessed today. That you're getting that type of reporting. And I have every confidence that you're going continue to get that kind of reporting. And I think the additional challenge is taking -- Ken I think came up with three points or three ideas that would influence you and your budget. The additional challenge is really getting down more detailed about what does that mean and how you act differently. And as long as you get there in enough time, you're going to be fine. But this is a great start to that process.

Hales: That's good to hear. That's great. Thank you, Jim. Thank you. Any other questions for our Auditor or our outside auditor as well? Thank you all very much, thank you. Anyone want to speak on this item? One, couple? Come on up, please. Go ahead, Lightning, I think you'll be first.

Lightning: My name's Lightning, I represent Lightning Watchdog PDX. One of the biggest concerns I've had on this issue is that, in my opinion, I think the City of Portland is doing too much land banking. And why I say that is I think we have a lot of properties out there that has been stated that, number one, have been donated, have not been transferred to the City. Number two, we've had numerous properties that have sat idle for many, many year and have done nothing but run up deferred maintenance. There's a tremendous cost to having these properties sitting empty and running up deferred maintenance. I want to see a real detailed -- and I know we're talking to the accountants here and the auditors -- is that I want to see a real detailed list of the capital assets of the City of Portland. I want to know when they were purchased, how much they were purchased for, what their current value is now, and have a clear understanding on what the City owns. And that pertains to everything from the brownfields to when we call certain properties surplus and decide to sell these properties. I want to have a clear understanding on what the current capital assets are, and the reason being is that when we say that we need cash to provide more services, if we have a tremendous amount of real estate -- which we do -- the City controls -- then let's not be land bankers and let's convert that into cash and begin to provide more services with this funding. Because we need to have a clear understanding on why we're holding on to some of these capital assets, plain and simple. If we're holding on to them for, say, 10-plus years, and we've done nothing with that property, we need to have a clear understanding why we're doing that. Because again, we're not receiving tax revenue off that, which of course has been stated that's very important on the pensions. We're not doing anything to add more value to these properties, but we're holding on to them. And I want to have a closer audit on all real estate that is controlled by the City of Portland, and I want to have understanding how long we've owned it, what the intent to do with this

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property is, and if not, possibly put it up for sale, convert it into cash, and start buying down some of this debt. Thank you.

Hales: Thank you. Good morning.

Charles Johnson: Good morning, Commissioners. For the record, my name is Charles Johnson. I hope that in your future informal conversations with people who participate in the City budget process, that you'll take into consideration what Mr. Lightning just mentioned about deferred maintenance and expenses that are coming in so we can have a more vibrant conversation -- including the auditor and our citizens -- about where have we cut corners or saved because of financial contingency, and how are we going to keep the City robust and address these issues far beyond street fees and gas taxes.

With this particular report, the audit report runs over 400-some pages. I just think we'd be in a better position if you and Auditor Hull Caballero have public forum time where people engage with this. In the past, there was a people's budget program, many people participated in the City's budget. As Commissioner Fish raised, there are metrics and charts. I don't know if Auditor Hull Caballero's staff specifically abstained from bringing us some PowerPoints so we could have scary charts that make us look like Detroit, but I think there may be a place for that level of engagement. Thanks, y'all.

Hales: Thank you, thanks very much. Is there a motion to accept the report?

Fish: So moved.

Fritz: Second.

Item 78 Roll.

Fritz: Thanks again to Jim Lanzarotta of Moss Adams, and thank you for all of the City staff as you're going through it. It's not just the Office of Management and Finance, it's all the bureaus who are helping to report. I specifically want to thank Kia Selley and Jeff Shaffer in Parks. Kia is the asset management. I really appreciate her work getting everything document. Michael Kersting and Amy Archer in the Office of Neighborhood Involvement. And I'm sure that Christine Moody in procurement services and Andrew Scott in the City Budget Office must have had something to do with gathering the data and making sure we're doing things correctly. It's really good to have a Chief Financial Officer who's in charge in looking over this. And finally, thank you so much to Auditor Mary Hull Caballero for a very clear report and looking at the data and telling it like it is. Aye.

Fish: Thanks, Jim and team. So, this is the seventh or eighth that I've had the privilege of hearing. And to be told we have a clean opinion and then to go through all the sub categories and tell us that we're in good standing is really heartening. I know having served at Parks and Housing before that to have no deficiencies and have all the money tracked is a huge undertaking. I would congratulate City staff for being diligent and managing public dollars. But I also thank you, Jim, for the professionalism you bring to this and the perspective. I'm pleased to vote aye.

Saltzman: Aye.

Novick: I hereby my incorporate my colleagues' previous remarks. Aye.

Hales: This is huge, positive news that I do not expect to see on the front page of any newspaper. Well done. Aye. Thank you very much.

Item 79.

Hales: Wanna welcome Cameron Whitten and his colleagues. One-sentence summary I see here in my materials that I think sums up my understanding but I think our understandings is going to be improved is Know Your City and the equity engagement managers program provide engaging a nontraditional means of engaging in dialogue through a multi-cultural lens, providing people from diverse backgrounds the opportunity to become civically engaged and have a greater connection to the surrounding community. What a great idea. Welcome.

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Cameron Whitten: Thank you, Mayor Hales, and thank you, City Commissioners, for allowing me to be here today. It's an honor. My name is Cameron Whitten. I serve as Executive Director of Know Your City. In fact, I believe we were here last year also testifying on the Jade Journal program. Appreciate your support of that. It's my understanding that you did visit the students we worked with, the fifth grade class at Harrison Park. It's reflective -- the Jade Journal -- of our mission, what drives us around civic artistic empowerment in this community and what drives us here to be here today. I really find this critical opportunity to invest in all of our students and make sure that our pedagogy and schools actually reflects their stories, reflects their histories, and empowers them to be the best students they can be. We've seen this enshrined in the Portland Plan, and we see this enshrined within our mutual goals to make this a city of opportunity.

With our research, which we have done in part with the business capstone department at Portland State University, we have found that the least the City of Portland can do is to partner with culturally responsive organizations such as Know Your City and others we have here talking today to make sure we have that engagement necessary to make sure that we provide these opportunities to our students, that we actually work with teachers and schools to create new curriculum around the history of Oregon that is diverse and reflective and inclusive, and we actually create training modules and programs that allow teachers to bring this to their classrooms.

We have a lot of speakers here today, so I'm cutting my time short, but I will speak near the end. First I want to introduce --

Fish: Before you do that, Mayor, I've got a bunch of staff people queued up to do presentations. This is scheduled for 15 minutes. Can we do a time check?

Hales: I would like us to go to maybe 12:30 and then break for what we have remaining on the calendar today.

Fish: Well we're not going to get to any of the utility stuff by 12:30. How much time are we budgeting for this?

Whitten: I was told 20 minutes.

Hales: I think we can probably do this in 20 minutes. We'll get to a little after the hour at that point --

Fish: Do you want us to be ready to go with the BES items?

Hales: I would think -- since those are the last ones -- yes, please.

Fish: Alright. Excuse me, Cameron, we're juggling people's lunch hours and work schedules.

Whitten: I understand. They'll introduce themselves.

Hales: OK. Good morning.

Todd Struble: Good morning. Thank you, Commissioners. My name is Todd Struble and I'm here with the Asian Pacific Network of Oregon. I'd like to echo Cameron's thanking you for your support and your work in East Portland in the Jade District NPI. Today, I'm here to talk about APANO's education priorities.

The Asian Pacific Network of Oregon is a social justice grassroots organization. Part of our mission is to support education justice. Know Your City's role and work is directly aligned with APANO's education priorities right now. For instance, there is an ethnic studies campaign to win those types of classes in Portland Public Schools. That is actually one of APANO's highest priorities. It's given the most capacity and support and thus we want to support Know Your City's work as well.

I also want to point out that that ethnic studies campaign was self-selected by ALLY, which is the API Leaders for Liberation of Youth group. That's APANO's ally youth group. They identified that as a topic and campaign they wanted to work on that they felt would best support their needs. We look at that as really crucial to advancing those ideas of

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equity in education. And we believe that supports some of the priorities and opportunities for all. I would just like to say thank you again for the opportunity to speak and please support the Our Stories request. Thank you.

Hales: Thank you. Good morning, Mike. Put your name on the record, please.

Mike Rosen: Good morning, I'm Mike Rosen, and I'm a member of Portland school board and I'm also a director of the eco-literacy collaborative, which provides culturally-specific curriculum development for sustainability. I'm here today to support the Know Your City funding proposal, which is really to improve the quality and quantity of culturally-specific K-5 Oregon history education in Portland area schools.

I wanted to acknowledge two things. I want to give a shout-out to the ALLY students. They came to the school board last night to talk about their project, and they're a great bunch of students. I think what's -- why it's important to acknowledge them is the movement in this state to provide culturally-relevant curriculum is not coming from the state leaders, it's coming from the people that want it. In this case, it's the students. That's a good thing, and that's one of the reasons why we need to as leaders support it.

In any event, I also want to thank Know Your City. They have done extraordinary work to date. They clearly love this city and they're really dedicated to connecting citizens to this city's history, including some of what I'd say are the unsavory elements. They have done this in really unique ways. They've done this through art and by just putting their feet on the ground and providing free tours for people and showing them the history of the city.

I want to relate one thing. A couple weeks ago -- and Commissioner Fish participated in this too -- I was invited to be a teacher for the day at Lent K-8 school. One of the unique things about Lent it's one of the most diverse schools that we have in Portland Public Schools and it was fifth grade class. When I told them that my lesson was going to be on civics, they clearly were not impressed. And so then I thought, well, I'll give them a little background about myself and tell them what motivates me. One of the things that I brought was comics for change. This is one of the things that Know Your City has worked on, and it's important because it really represents the power of their approach.

What I showed the kids was this comic book collection that they created. What's incredible about this is that it shows -- tells the story of the heroes, advocates in our community. Whether you're white, you're homeless, you're LGBT, whether you're Muslim, Black, Asian Pacific Islander -- it tells these stories. And these kids were like, wow. I felt like, really, I should talk about these and not what I wanted to talk about. But I'm a bureaucrat, so I talked about what I wanted to talk about. [laughter]

What I asked them to do is break up into small groups and identify three priorities for the school board, and then come back together and as a large group of 25 students, identify three priorities. And one other thing. That classroom was the spectrum that's represented in these educational tools. So anyway, they came back with four things because they are Portlanders and even though we asked for three things, they gave us four. They asked for more P.E. time. They asked for more art programs, but like meaningful art programs. They asked for a pool in their school. And they asked for these comics to be put in their library. I think it's important because it shows that Know Your City gets it and does it. When you can walk into a fifth grade class and shows them curriculum that reflects their culture, that's a big deal.

So, this is why I'm recommending further investment. The challenge that we have all throughout the state and in the country is our minority population of students is the majority. The demographics have changed dramatically and continue to change -- communities of color, immigrants, different cultures, different races. Unfortunately, we have a disproportionate lower attendance rate, lower achievement rate, and a higher dropout rate among that population. But we also know what part of the remedy is, or a part

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of the remedy is, and that's culturally-relevant curriculum. In all disciplines -- and I want to emphasize all disciplines -- students need to see the contributions and value of their culture. And this is what we're looking at nationally. This is what we're talking about on the state level and local level. We have no less than two bills out of the state legislature asking for this, but we don't have any funding support for this.

That said, I'm happy to say that Portland Public Schools and the Portland Association of Teachers has already made a significant investment in Know Your City, and that's to do something really important. That's to identify where we are or have developed culturally-relevant curriculum and then identify where the gaps are. So, it's not about reinventing the wheel, it's about identifying what we have and where we can build on it.

And so that's why I'm here to ask you to support building and leveraging this investment with the project that Cameron and Know Your City is proposing. I'm proud to support it and advocate for it. I just want you to know that we're starting our budget process in Portland Public Schools and I will be advocating for our share to fund this. So, thank you.

Hales: Thank you.

Fritz: Two quick questions for the school board. What is the state of the Portland Public School's budget for the upcoming year? Are you looking at cuts this year?

Rosen: No, we're not. It's certainly -- to put it in city terms -- we're current service level and we have the opportunity to make some adds. One of the priorities that I've identified and other school board members have identified is investment in culturally-relevant curriculum, and again, acknowledging what ALLY wants to do.

Fritz: I would certainly encourage you to look at a greater share of the funding because we are in a five percent cut budget, so it's going to be very difficult for the City to put money into outside additional school support.

Rosen: Understood. I would say, though, that the ask is relatively small.

Fritz: Tell that to my Parks budget and community budget. We have three public school districts that are entirely within the city. How come there's no ask from David Douglas and Parkrose?

Whitten: I think the big part is the size that we're looking at. And I think also, the fact is we've been talking a lot with institutions that have already made this a very large priority. And I think the reason we were talking about with the City of Portland right now, the five year action plan, the Portland Plan, there would be investment and support for these objectives. So we are advocating now that this is a really opportune time for us to leverage that and to actually have this available by the beginning of 2017. That would be in line with our timeline and would allow us to continue to expand this into every school district. And we see this as an opportunity to leverage that support in the coming years from the state.

We've been talking a lot with Ms. Smith from the department on equity there, and I think everybody is watching for this opportune time to see how Portland can lead on civic equity.

Hales: Great, thank you all. You have other presenters here? Please, come on up. Good morning.

Katherine Quaid: Hi, my name is Katherine Quaid. I'm a citizen of the Confederated Tribes of Umatilla and grew up in the Warm Springs community. I first want to thank all the indigenous peoples, Chinook and Kalapuya, who used to live here and let us convene on their stolen land today.

I want to quickly discuss the Our Stories Matter campaign and why it's important to me, and kind of want us all to reflect first on what we've learned about Native Americans in high school. You know, maybe we had a paragraph here about Wounded Knee or there about the Trail of Tears or kind of the struggles that's that we continue to survive through in the United States -- and this is if we learned anything at all. What we do not learn is

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about the contemporary American Indian cultures, issues, policies surrounding us in the present and in the past, and how our history has been skewed by the pen of colonizers favoring those of European descent while shutting out everyone else. And this is what we teach our high school students who come from more diverse background than ever all throughout Portland and Oregon.

As part of my thesis at Lewis and Clark College, I conducted research at two high schools in Oregon with over 30 percent American Indian enrollment. This research and other supporting information has been submitted with this testimony via Cameron, and I found that culturally-inclusive curriculum, the student-teacher relationship, and the relationship between the school and Native communities were the most important factors to achieving academic success for American Indian students.

While conducting my research, I made sure that I was able to connect with the communities I worked with. I used existing relationships to inform what I would research as well as connect me with folks to interview and I felt those connections and relationships. Without those connections and relationships, I would not have been able to provide information that is relevant or connected to those I was working with and for.

When doing research in creating a Portland Public Schools curriculum, I believe community engagement will be of vital importance to the indigenous communities. We all have to work together to create something of value because education is a human right, and every single person and student deserves to be successful in high school. Providing students with a truly inclusive and culturally-responsive education while give them something that can never be taken away from them. I'll pass it on to Brett.

Hales: Welcome. It's always nice to have a teacher of the year in the room, so welcome.

Brett Bigham: Thank you very much. Nice to see you again, Commissioners. My name is Brett Bigham, I'm the 2014 Oregon state teachers of the year and the 2015 Oregon Education Association teacher of excellence. I'm currently an NEA global fellow and I'm working with the teacher of the year organization to globalize the discussion about education and creating curriculum on a national level to bring cultural choices into classrooms.

As part of my award, we were able to go to the Smithsonian and be treated as teacher ambassadors to the Smithsonian. We were given an opportunity to be taken on a tour of the museum -- whatever area we wanted -- with the curator of that museum. I chose a show that was on called Bollywood. I had no idea what I was going into, but as I did, it was a large building. Part of the building wing that had been set up with all of this East Indian history of the United States. And I was standing in the room looking at this giant wall-sized mural paragraph of gentlemen in turbans building a railroad. And when the curator started talking to me about it, I didn't know that was Oregon and that East Indians had built a good portion of the railway lines that we use here in Oregon. And I'm standing 3000 miles away from Portland thinking, why don't I know this and why isn't this part of what we're teaching in our own state? Why is it taught to people so far away from us?

I'm on the board of Oregon Safe Schools as well, and one of the things that we know is that the three main areas of bullying come from race, sexuality, and disability. If you get bullied, it's probably for one of those three reasons. Today, I'm here because I believe there's no curriculum in the Portland area that's embracing all of those. What we need to do if we want to stop bullying is that we need to show more race in our education. We need to discuss sexuality and say that those people have value. And we need to find people with disabilities and show that they're heroes in the community as well and learn from them. In my time as a special education teacher, I can tell you now I have met young people who are on a journey that will be tougher than anything you and I ever face in our lives. And those are heroes to me.

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I'm here today to first off let Cameron know that Oregon Safe Schools is also behind this program and that as a teacher, we as a city need to get this curriculum into the hands of our teachers. We need to make it easily available, and we need to start teaching about race, sexuality, and disability if we want to stop bullying. Thank you so much.

Fish: Quick question. In terms of who's responsible for developing curriculum, which part of this falls within the MESD charter and which part of this falls within the requirement of the school district and which part of this is a state requirement?

Bigham: I resigned from MESD, so I'm no longer there. What I see this is -- since we're talking about cultural education -- I believe it's a citywide. I believe that what Portland creates the state can use.

Fish: But I just mean in terms of our education establishment, who has the primary responsibility in terms of the value system you're talking about? Is it the state, MESD, or individual school districts in terms of implementing a different kind of curriculum?

Whitten: The state currently has a core curriculum standard for social studies where between third and fifth grade, we teach Oregon studies. The issue there is that's what it says. It does not say it has to actually talk about all people in Oregon. The state did pass a law in 2013, Senate Bill 739, which urged the Department of Education to change that so it was actually inclusive of people of -- looking at race specifically, including those histories, those narratives in history. But that was still not a mandate, it still was not a change to Oregon studies standards. Even though it's been expressed, there has not been an actual responsibility put on anybody to actually make it culturally responsive. So we are asking to show that investment, that culturally responsive education is a priority and not just something that we encourage and it's also something that we actually put administratively into that work.

We are still working with the Department of Education. I think it's a challenge for them because they are really a regulatory organization right now, and you can't mandate something that doesn't already exist at that level. This is an opportunity for us to make this statewide and we can invest it, pilot it here, and move it in the next couple of years to a statewide opportunity.

Bigham: It's been my experience that the history of Oregon often starts with the Oregon Trail and it ends with the Oregon Trail. And there's a couple million years of history before the Oregon Trail, and there's a couple million story busy people from different cultures since the Oregon Trail. So, there needs to be a broadening, and we need to start including some of those people that have made big advances for our state and our city.

Hales: Well said. Thank you very much. Cameron, did you have other colleagues?

Whitten: We did have Renee Mitchell and couple of high schoolers from Roosevelt. But as Commissioner Fish said, people do have to have lunch. We have Kate McPherson, who also teaches at Roosevelt who will be speaking briefly about Renee and the students we had here earlier.

Kate McPherson: I will be very brief, I promise. I'm a sorry substitute for the students, because they speak very loudly about the value of being involved with a history that reflects them. My work at Roosevelt includes our Freedom Fighter project, which is one of the projects through which our students have the fortune to interview people in our community who have been fighters for justice, and they really reflects stories of people who have been impacted by our local history but also who have shaped it.

Fish: Your students presented at the Oregon Historical Society.

McPherson: They do. In fact, I want to invite all of you to come on the 17th of February when we have all of our freshman this year -- 250 of them have interviewed 37 freedom fighters. We want the opportunity to honor their stories and their history.

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And I think what I want to do is just echo what I've seen of our students who also reflect that diversity that we talked about is growing -- that when they have a chance to learn about people who come from the Hmong community, who come from different countries who represent and reflect their own lives, they really recognize to those stories and realize that these are people that emulate who they can become, and they want to get involved in their own communities. And they themselves can take a stand around issues of social justice.

What I also want to echo is that we want to be an ally with Know Your City. Our kids have been collecting stories for now four years and we feel we could contribute to the history and the effort and the possibility of high school students to be allies in this work. So, we really see that we want to be a partner and we really want to underscore -- many of our kids have said they really wish they'd heard about many of these stories when they were younger. They would have been a lot more interested in history.

My message is simply that want to be an ally to this work. I know that every year involved with the freedom fighter project, I learn more about my own community and it makes me more connected to the events -- even the places, the things I didn't know about before become much more a place I feel I can belong and understand. So, I just want to underscore the importance of what we're doing. I wish the kids were here to say it, but the timing wasn't good. But come the 17th, you'll get invites and I hope some of you can even come and speak to the students to kind of underscore. Steve has been there for the last several years, and we have really appreciated his words.

Hales: Thank you, thank you very much.

Whitten: That's all we have to speak. If you have any questions, happy to answer that, but I do know your time is precious.

Fish: Cameron, what's your budget ask?

Whitten: Our budget ask is \$35,000.

McPherson: I'm going give you something free, won't cost you a thing -- [laughter]

Hales: Heck of a deal.

McPherson: Our freedom fighter books from last year so you can just enjoy some of the stories our kids have captured.

Hales: Excellent, thank you. Super. Thank you very much. Cameron, thank you so much. Appreciate this. Anyone else want to speak on this presentation? Thank you so much. Let's take a vote please to accept this report.

Moore-Love: Mr. Johnson wants to speak.

Hales: Oh, sorry. Didn't see you.

Charles Johnson: Good morning -- afternoon, whichever we're in. I guess you're only at the report acceptance stage, but I hope this will soon find its way into definitive funding. Some people were concerned when there was I think -- I can't remember the exact term, the Black male leadership initiative, which I was think -- some people hoped it would have been able to be funded at more than \$100,000. I think this is a great broadening of that general principle -- engaging, bringing other people of diverse backgrounds, or as some people prefer to say, bring us inclusion of more people. I hope that for this I would accept turning off a fountain. I don't think fountains turned off is going to work that well for homeless housing, but I hope you'll be able to fund this program. Thank you.

Hales: OK. Motion to adopt the report?

Novick: So moved.

Saltzman: Second.

Hales: Roll call, please.

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Fritz: Thank you for the presentation. Thank you for your service on the school board. Aye.

Fish: Aye.

Saltzman: Thank you. Aye.

Novick: Thank you for the presentation. I do encourage everybody to visit the Freedom Fighter event on the 17th.

Hales: The more ways we can get collaboration between those that care about the diversity of the city and students, the better. So, we appreciate what you're up to here. Thank you so much. Aye. OK, I would recommend we power forward into the rest of the regular agenda and see how far we get by 12:30 and take a break.

Fish: We're ready to go, Mayor.

Item 89.

Hales: Commissioner Fish.

Fish: Thank you, Mayor. Ivy Dunlap is here from BES. Karla is going to pass out an amendment which has a technical fix, which I'll ask Council to adopt.

Here's the setup. Since 2007, the percent for green program has provided funding for voluntary stormwater management additions to both public and private projects. Council approved an ordinance in 2010 exempting projected funded by the percent for green process from the competitive bidding process. Council authorized that exemption for a five-year period, and this ordinance would reauthorize that exemption. Ivy Dunlap with Environmental Services manages the percent for green program, and is here now to walk us through this item. Why don't you begin by just telling us what the amendment is?

Ivy Dunlap, Bureau of Environmental Services: Thank you, Commissioner Fish.

Fish: Before you do the presentation, just tell us about the amendment.

Dunlap: The amendment -- we found a technical difficulty or change in the findings for the exemption from competitive bidding, and so we just made an adjustment to primarily the way that they were lettered.

Fish: Counsel caught a technical problem with the findings. It doesn't change the substance. I would move the amendment and an amendment.

Hales: OK. Second?

Saltzman: Second.

Hales: Discussion?

Fritz: The amendment doesn't show underline, strikeout. Could you tell me where the changes are made?

Fish: We could. Do you want me to bring the legal team in?

Fritz: I just want to know what it is that's different.

Dunlap: Sure, I'll have Lisa join me. She helped me make the changes.

Lisa Gramp, Office of the City Attorney: Hi, Lisa Gramp, City Attorney's office --

Fish: By the way, I want to second Commissioner Fritz's point. I know we're doing this -- we have to have this voted on today. I know we caught this at the eleventh hour. To the extent we can do this as a red line amendment, it's always preferable. But go ahead.

Gramp: OK, sure. The additional finding -- basically, the two ultimate findings you make in terms of no diminished competition and substantial cost savings are exactly the same. Actually, the substance is exactly the same. There was a change in the statute in 2014 that enumerated a number of additional underlying findings that support those two findings. The previous version you received was additional findings as A through H. The statutory change -- now it's like A through N. There's additional findings that we incorporated into this document.

Fish: What are the additional findings that are in the amended version, just numerically, and what page?

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Dunlap: So for example, there are a couple about -- L and K are about building and if it will be occupied or not. And this construction doesn't involve any building. So, that one doesn't apply.

Fish: You've added two findings but noted its non-applicability.

Dunlap: Right. It's about market conditions, and that is also addressed earlier in the findings about requiring a 10 percent match for using this ordinance. About technical complexity, there's no difference, it doesn't apply to this ordinance.

Gramp: Right. So, it's really a technical change. It's a technical change to make it clear that all of the required criteria that are supposed to be considered were in fact considered and laid out in the way the statute requires them to be laid out.

Fritz: It just looks like there's another paragraph about how many persons are available to bid, which I don't think is in the original.

Gramp: Correct.

Fritz: And construction budget and the projected operating costs, that is new?

Gramp: No, the information is the same. It's re-captured -- the statute sort of recasts that information but the substance of what we provided earlier is the same.

Hales: Other questions before we have her go ahead and make the presentation?

Fish: Why don't you go ahead with the presentation?

Dunlap: I will start with giving you a little bit of background about the percent for green program. The program has -- I'm sorry -- the program was established in 2007 with the City Council green street resolution. The green street resolution established the percent for green program. To date, 37 projects have been awarded funding through the program. This will all come around and make more sense about why I'm talking about the program in general. And the program requires that any City of Portland project that does construction within the right-of-way but does not trigger the stormwater management manual pays one percent of its construction budget into the percent for green fund. So, I'll get into this a little bit more, but it's primarily BES, Water, and PBOT that are doing work in the right-of-way that don't trigger the stormwater management manual.

The objectives of the program include stormwater system benefits -- so, improving our stormwater system -- leveraging funding and leveraging partnerships, innovation in projects, education in high-visibility projects, and diversity and minority, women-owned, and emerging small business employment. So, these are program objectives. Not every project that we fund meets all of these objectives, but the more they meet, the higher it ranks and the more likely we are to fund the project.

The requirements for the program are that the awarded project manages stormwater within the right-of-way, that the project go above and beyond the stormwater management manual requirements so that we're not funding something that's otherwise required, or that the project adds stormwater management in the right-of-way to a project that doesn't require it. So for example, the picture that I'm showing is on Glisan and 100th near the REACH development. They weren't required to do any stormwater management on Glisan, but we were able to add this stormwater project to the project and capture that additional benefit.

So, this shows the program funding. And this is from the whole life of the project. We really got it up and running in 2008. You can see, as I mentioned, most of the money comes from BES, Water, and PBOT -- those are the blue pieces of pie. We also receive some from off-site management fees, which is -- and that's the green piece of pie. Most of that money comes from TriMet or the streetcar, and that's just a different accounting method but also money that is paid in and we mix it in with this pot of percent for green money because it fits into that stormwater mitigation fund, if you will. The total money coming in since the program started is just over \$4 million.

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The program recipients -- so this is money going out, projects that we've awarded funding to. You can see about half the money goes to private-initiated or community-initiated projects. And I'll give a couple of examples of those coming up. Also BES, PBOT, and PDC are the other recipients of program funds. And so, far the total money going out or awarded is about \$3.5 million.

This shows the geographical distribution of the projects throughout the city. The yellow are completed projects, the blue are projects that are under construction or in design, and the green are the most recent applications that have come in.

I'm going spend a little more time on this slide. This shows the per capita spending of the program by neighborhood coalition. So, you can see central northeast neighborhoods has received the most money per capita. And I just wanted to point out one reason that number is so high for that neighborhood coalition is the largest award we have made is to Verde to help them with their stormwater on the road from Killingsworth up to Cully Park. That's the biggest award we've made and the reason that number is so big for that neighborhood.

Also, the Southwest neighborhoods have high per capita spending. The reason that number is bigger is because the Fanno, Tryon watershed groups within Bureau of Environmental Services were the first watershed groups to do sub-watershed planning and identify early action projects. So, they were able to take advantage of this funding and implement many water quality early action projects primarily within Multnomah Village but within their watershed. That's one reason why that number is so high.

I keep a whole bunch of spreadsheets and statistics on the program and how we've spent the money. Here are a few numbers for you on the system benefits. Over four million gallons of stormwater is removed annually from the combined system because of the projects we have funded through percent for green. Also, more than eight million gallons of water is treated annually before it's discharged into the MS4 system, and the MS4 system is the separated stormwater system --- so, where water is going directly to a stream or a river. Also, I'll point out the average contribution to a project is about 90,000, and then you can see the range between \$12,000 and \$450,000. And then the average cost per square foot of impervious service managed is just under \$7 a square foot.

One thing that we talk about with this program that we think is a great benefit is that we can leverage multiple benefits of green infrastructure. And we really look for opportunities to leverage the multiple benefits. So, here's just a list of the number of projects that have been able to leverage these other benefits. I'll mention the design and policy innovation.

So, the design innovation includes things as simple as different soil mixes or different depths of soil mix. These are generally pretty small projects and a good opportunity to try out new designs or new technologies. The policy innovation includes things like working with Verde on an alternative street design for their approach to Cully Park, or mixing private and public stormwater -- so, taking stormwater from the right-of-way and actually putting it onto private property for management. That's another policy innovation that we've been working on.

I'm going switch to the ordinance. That was a little background about the program and why I am asking for this ordinance. I did have a previous five-year exemption that ran from 2010 to 2015. There were 11 contracts that used this ordinance to enter into the contracts, and I've list just had a few examples. The June Key Delta center. We've worked with Reed College. REACH was out on 100th and Glisan. And so, those are the type was projects that we fund with this. I'll also mention that not all of the percent for green projects use this contracting mechanism. Some are built under CIP projects, some built by bureau of maintenance. So, this is just one of the methodologies for implementing the projects.

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This ordinance that we're discussing here today is a five-year exemption from competitive bidding. It's virtually identical to the last ordinance that we had in place. It is not to exceed \$1 million over the five-year time. It requires a 10 percent match from the applicants. And just an example of two upcoming contracts that would use this exemption is a contract with Verde to continue their access roadwork to Cully Park and a contract with Catholic Charities to have stormwater improvements around their St. Francis apartment building, which is in the Central Eastside. It includes some pedestrian improvements, as well.

Two other points I wanted to make about the program. I do outreach to the neighborhood coalitions for working with them to come up with projects that might be appropriate for this program. And then there is a review committee made up of a representative from PBOT, Water, PDC, Planning and Sustainability, and then a community member that review all the project applications that we receive twice a year, and then they make a recommendation that then goes to the Director of Environmental Services and the Director then has the final sort of approval for the projects. So, that's just a little more about the process and I am happy to answer any questions.

Hales: Thank you.

Fish: Mayor, Ivy can answer any questions on the substance, and we will be handing out shortly a red line version of the amendment. In fact, counsel is here. If you can give it to Karla. We'll hand that out. Counsel, could you come back to the dais in case there are questions relating to either the amendment or the program?

Fritz: Let me see if I understand based on the new information here. The program has a competitive process to decide which green streets are about to get done.

Dunlap: Mm-hmm.

Fritz: And that's got the committee, including a community representative.

Dunlap: Yes.

Fritz: And then the exemption from competitive bidding is because those projects are going to be using their own contractors and we're not involved in the selection.

Dunlap: That's correct.

Fritz: I'm glad I understood.

Dunlap: That's right --

Fritz: And so --

Dunlap: I'm sorry -- go ahead.

Fish: The changes were based on counsel's review of the documents before you that they were deficient. There were certain findings that we had to have, even findings that say they're not applicable. So, no substantive changes, but it now technically conforms with the state law requirements for an exemption.

Fritz: And the entire report is the findings. Because previously, you had subparagraphs that said the conclusion at the bottom was the finding, but in fact everything under each is the finding.

Dunlap: Mm-hmm.

Fritz: OK. That's good. So, I think we understand what we're doing now. I appreciate the quick --

Fish: I want to thank my colleague for the questions she's now raising because whenever possible, we will provide a red line version. It's just easier, particularly when we're talking about legal matters and findings.

Fritz: So then, my only question is about the competitive process. It's heavily weighted towards internal review rather than community review. And if there are more projects than money available, it would seem more appropriate to have a more robust community input into that committee. Because that's -- usually we have a competitive bid for the contract,

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and so we get to know what the minority, women, small business participation in each contract, what are the community benefits, if any. None of that happens now. Instead, there's just one community member who's essentially approving this alternative contracting method.

Dunlap: Right. I think when the -- this isn't exactly answering your question, but I'll give you a little background.

Fish: Ivy, why don't you start by answering her question?

Dunlap: OK. Well, yes, there's only one community representative and --

Fish: Let me jump to the quick. The matter before us is an exemption requirement -- exemption from competitive bidding, and we're on a clock. Commissioner Fritz, to the extent you have a set of concerns about more robust community engagement, where the money is allocated, how we could improve that process, I would welcome your input on that. And I would simply say we have a narrow issue before us today. Perhaps we could then sit down with you and ONI and review this matter. If it requires a code change, we would come back to Council. If it just requires a discretionary change in how we do it, if we can improve it, we would be happy to consider that.

Fritz: Thank you. I'd certainly be happy to take you up on the second part of it. The matter before us today is the five-year exemption from competitive bidding for all of these projects. So, I'm happy to move forward on it today. There was just a robust discussion at the Pioneer Courthouse Square board meeting yesterday about alternative contracting methods, what's the oversight, how do we make sure that -- and the findings say, "this is how we know we're not picking just our friends." It's just there is a lot of concern about how the public's money is spent, particularly in a program like this. I think your solution is a nice one.

Fish: And I'm not prejudging anything, but there may be an ONI representative or something to make sure -- I appreciate that Ivy noted that substantial outreach to neighborhood associations. I think the fact that so much money is going into outer east and the central northeast shows that actually the community perspective as funded by nonprofits or the City is well represented. If we can improve it, we want to do so.

Fritz: Thank you.

Hales: Sounds like a solution. Other questions or issues to raise with staff?

Fish: This is an emergency.

Hales: OK, thank you very much.

Dunlap: Thank you.

Hales: Anyone want to speak on this item? If not, then let's take a roll call vote, please.

Moore-Love: We didn't vote on the motion yet.

Hales: Oh, sorry. Motion on the amendments, please, first. It's been moved and Commissioner Fritz I think seconded the amendments.

Fritz: I'm happy to second.

Hales: OK. Roll call on the amendments, please.

Roll on amendment.

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

Hales: Now on the ordinance as amended.

Item 89 as amended Roll.

Fritz: Thank you for the good explanation. Thank you for providing in short order the red line versions and the commitment from the Commissioner-in-Charge that we'll discuss the community engagement portion of the upfront selection of which green streets get done. It's a great program. Aye.

Fish: Thank you, Ivy, for your passion and stewardship of this program. It's a wonderful program, and the money goes to important purposes. And that one slide you showed

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about the stormwater we're taking out of the combined sewer overflow system -- as Dan can say more eloquently than I can, we built a system that was designed not to have to be expanded. The way we actually meet the future challenges is we make sure water, stormwater doesn't go into that system, which is why we invest in green infrastructure. This is one of those tools. The alternative long-term is to build another CSO, and we're not inclined to spend a few billion dollars to do that. So, it makes sense. Thank you for your good work. If you could touch base with Commissioner Fritz's office on your way out and let's get something scheduled and move forward. Aye.

Saltzman: Thank you for the presentation. It's a great program, happy to support it. Aye.

Hales: Same here. Aye. Thank you. OK, the morning has become afternoon. I would recommend we move -- [speaking simultaneously]

Fish: We'll move quickly, Mayor --

Hales: -- move through --

Fish: -- this is a quick one --

Hales: -- and the rest of them are almost all votes.

Fish: If you'll indulge us, we can get through 93 quickly.

Hales: OK.

Moore-Love: 93?

Fish: I'm sorry -- we can get through 90 through 93.

Item 90.

Hales: Good afternoon.

Fish: We welcome Scott Gibson. This ordinance would authorize a contract to correct problems with access structure in the Fanno basin pressure sewer. The contractor would remove faulty access structures and replace them to improve the liability of the system. Scott, welcome.

Scott Gibson, Bureau of Environmental Services: Thank you, Commissioner Fish, City Council. I'd actually like to turn it over to chief of engineering, Bill Ryan, to make some opening comments.

Bill Ryan, Bureau of Environmental Services: Thank you. I just wanted to point out before Scott got into the really cool engineering photographs and drawings that it's not often that we end up having to repair a pressure line after just five years in operation. When originally planned, this pressure line was supposed to be built coincident with the SW 86th Avenue pump station. We got held up in land use on the pump station and proceeded with construction of the pressure lines.

Part of the pump station construction was going to be what is called a surge tank, which is essentially an air bubble that protects the pressure line from surges and helps it to have a long life. We put the pressure lines in service, as I said, and at the same time we started an emergency project to build a temporary surge tank to protect that pump station - or, that pressure line. In 18 months, we had that in service.

It was important for us to get in service because over that time period, we would have spent over \$5 million in charges to our neighboring agency, Clean Water Services, to treat the sewage that we would have had to let flow if we didn't put the lines in service. So, we put the lines in service, now we have to do minor repairs to make sure that anything that we did during that time frame will not compromise that 50-year life of the pressure line as we have designed it.

Gibson: Thank you. I'll run through a presentation and will entertain any follow-up questions.

Fish: Extra credit if you can do it in five minutes.

Gibson: Got it. So, here's the vicinity map in the southwest of Portland near Old Market Pub. The 7000-foot long Garden Home section of the pressure line system consists of two

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parallel 30-inch welded steel pressure lines. They're designated A, the south line; and B, the north line. They are subjected to a unique pressure pumping application that has higher pressures than typical sewage pump stations. The line was completed in 2010, and the A line was placed into service while we planned and permitted and constructed the SW 86th Avenue pump station.

Original construction included the installation of a 24-inch diameter access risers at 500 foot intervals on both the A and B lines. They were used for future inspection of the lines. Leaks occurred at two locations on the A line as a result of cracks that developed in and around the welds connecting the access risers to the main line. This is because the surge tanks were not in service.

Subsequent investigations and analysis concluded that unanticipated stress concentrations at the welds are the likely cause of the cracks. We have two pictures here. On the left-hand side, you can slightly make out the crack in the joint at the welded pipe. On the right-hand side is a 3D model of stresses within the riser sections. The blue is indicating the highest stress locations, which is exactly where we found the cracks.

Operations of the Fanno pressure line were suspended until we could get the interim surge tank in place, and we put it service back in line in 2013 after that work was complete. In August of 2013, the B line was put in place, which is the line that was not used earlier, and it's been in service since.

This project will include the following elements removing the 18 remaining access risers from both the A and B lines. They will be replaced with a straight pipe steel spool section which does not have the stress concentrations identified in the analysis nor the location where the failures occurred. We're also upgrading the existing pressure monitoring system at 69th and railroad so we can maintain and monitor the actual pressure seen in the line over the duration of operation. So you'll see the location of the access risers scattered along the pipeline length. If you have any questions, we can talk about the individual ones.

Once again, we're here to ask permission for a contract to construct this project. The schedules are shown. Work is intended to be complete around December 2016. Our construction cost estimate is \$1.173 million. Confidence in that estimate is high. I have a breakdown in total project cost which shows the project is going to cost \$1.64 million, including all soft costs for engineering and other activities.

Hales: Confidence in the estimate is high even though we've been getting high bids?

Fish: Actually, we've been got some low bids. In your absence -- I shouldn't say that --

Hales: [laughs] I go out of town and the bids drop? [laughter]

Fish: It's nothing to do with your absence, but in your absence, we actually came in below on a couple projects.

Hales: OK, I'm going out of town again. Thank you. Questions?

Fritz: So why didn't we just do all this in one project?

Gibson: We are removing them all in one project.

Fritz: But why didn't we do it in the previous project?

Gibson: When the line was originally constructed, it was constructed assuming that the surge tank system would be in place, in which case the failures wouldn't have occurred. Does that --?

Fritz: But then we've done multiple fixes since, and this seems like another one of those.

Gibson: This is our first fix to the line constructed -- to the current line. And it's a comprehensive fix to remove all of the manways, because we did see failures at the stresses. Even though that calculations show shouldn't fail, we're removing those as well because we want to make sure we solve this and have a system moving forward.

Fritz: So you think this one is it.

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Gibson: I think this one is it.

Fritz: Thank you.

Hales: Thank you both. Thanks very much. Anyone want to speak on this item? You can't really mean it. It passes to second reading and we'll move on to some other second reading items here. 91, please.

Item 91.

Hales: Roll call.

Item 91 Roll.

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

Item 92.

Hales: Roll call.

Item 92 Roll.

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

Item 93.

Hales: Commissioner Fish.

Fish: Mayor, while the Water Bureau is deeply committed to streamlining the delivery of services, today we ask your support to create a log jam on the Sandy River. We have already received an objection from certain four-legged creatures and their association would like to have the work instead. Edward Campbell is here to walk us through this.

Edward Campbell, Portland Water Bureau: I'm Edward Campbell sitting in for Mike Stuhr, Water Bureau administrator. In the interest of time, I asked Karla not to bring up the slides. I think I'll just do a quick summary and then address some questions that have come up and if there are other questions, we can answer them. Steve Kucas, our environmental compliance manager who's also the major architect of our habitat conservation plan and is the person tasked within the bureau for implementing the habitat conservation plan is here as well to answer questions. So with the Council's permission, we'll forego our presentation and just try to summarize.

Hales: Sure.

Campbell: The habitat conservation plan approved by Council in 2008 -- 49 separate measures to restore habitat in the Bull Run River and in surrounding areas. A key component of our habitat conservation plan is our ability -- the City's ability -- to make investments outside of the Bull Run watershed in the surrounding Sandy River basin. So, the project that we have before you today is actually engineering design services that would serve as two of the 49 measures. There are two log jams that we would be installing just off of the main stem Sandy -- outside of the watershed and on the main stem Sandy River. We went through an alternative procurement process by which we were able to take advantage of work that Metro did to go through a competitive process and actually qualify a firm to do the work, and we were able to contract using their competitive process.

The result of that -- and I know there's been a question about MWESB participation in this particular contract. What we ended up with is a prime contractor who is an MWESB, and three of the five subcontractors are also MWESB consultants. So, the resulting MWESB utilization on this is 55 percent. So hopefully, that helps address some of the questions that came up in advance of the item.

I'll cut it off there. That's sort of the basics. If there are questions about the details of the project, we've got the right folks in the room, but I wanted to get that information out about the procurement process at the beginning.

Hales: OK.

Saltzman: Do you use real logs in engineered log jams?

Campbell: I will let Steve answer that.

Saltzman: I'm just curious. Is it real wood?

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Steve Kucas, Portland Water Bureau: Yes, it's real wood -- excuse me. Steve Kucas, environmental compliance manager of the Water Bureau. We use real logs, and very big ones, and quite a few of them. There could easily be 700 logs anywhere from 30 to 70 feet long at play to build these structures. We'll maybe bring them in via helicopter, which is exciting to watch.

Hales: Wow, OK. Fascinating.

Fish: Mayor Hales, this may have an impact on your weekend travel plans but I've been assured it's just the inlet that will be impacted and not the main body of the river.

Hales: [laughs] OK. Any other questions for the team? This is not an emergency item, so we won't be voting on it today. Any other questions? Anyone want to speak on this item? If not, I'll pass it to second reading.

Fish: Thank you both.

Hales: It's a good thing we got that clean audit before we approved the deliberate construction of log jams with public expenditure. [laughs] Alright, a little more work remaining. Let's move to 94. That's a roll call vote.

Item 94.

Hales: I guess we do need to hear from the City Attorney before we vote?

Saltzman: Well yeah, I think where we last left off, we asked Harry to convene a group, talk about a potential ordinance around exclusions, and also to make a decision about whether to appeal this decision.

Harry Auerbach, Office of the City Attorney: I have circulated a discussion draft of proposed code amendments to the Council offices. We have not at this point convened a group. I'm waiting for somebody to do that -- actually I thought Council offices were going to do that.

Hales: I think it's been done, the work is under way.

Auerbach: OK, so that's in progress.

Fish: Harry, help me understand something. I thought that was potentially in lieu of the appeal.

Auerbach: Well, there are a couple of --

Fish: Before you make it too complicated. It's a yes or no -- [speaking simultaneously]

Auerbach: We were I suppose optimistically hoping we could get something done in time to obviate the need for the appeal, but obviously we haven't done that. So, you can either proceed with the appeal while we try to finish this work with the potential that we will then dismiss it or resolve it through the process of negotiating code amendments.

Hales: Let me cut to the chase. I've looked at the draft. I believe it's possible to write code that meets Council's expectation that we will be able to manage conduct here in City Hall and also to maintain safety and that we don't need to appeal this case to get to those objectives.

Fish: Mayor Hales -- and I haven't seen the proposed code -- does it distinguish between expressive and non-expressive conduct?

Hales: Yes.

Auerbach: Basically, it will distinguish between conduct in this room and conduct in City offices.

Fish: From my point of view, it's going to be very important to make that distinction. Annoying speech is one thing --

Auerbach: It's tied to disruption.

Fish: Disruptive speech that also involves threats and other things. One is protected -- expressive. One is not. And I hope we make a clear distinction.

Auerbach: I believe we are doing that. If you have concerns about the wording, share those with us. Your office has the draft.

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Fritz: My understanding is Commissioner Saltzman wants a vote on this.

Auerbach: That's right. Because our time has expired.

Fritz: Maybe we could make our comments as we vote.

Hales: Alright. Thank you very much. Let's take a vote, please.

Item 94 Roll.

Fritz: There is a big difference between disruptive behavior and threatening behavior, and any code we write needs to qualify those two things. There is also a difference between yelling at Council in Council chambers at public hearings and yelling at City staff as they try to do their work. And so, the code rewrite needs to differentiate between those two. I would actually say there's something to be said for not yelling at me in the grocery store as I'm trying to buy milk at 11:00 at night, but that's not covered by our City ordinance.

Fish: By Joe Walsh or Dan Saltzman?

Fritz: Neither. I understand the concerns that are driving the appeal. Freedom of speech is one of the highest constitutional rights, particularly when addressing our elected officials, and it's often inconvenient and can be ugly, and any limitations should be used judiciously. I respectfully vote no.

Fish: I can't support the appeal, but I want to make a couple of comments as well. First -- and this is directed to the Mayor and to Fred Miller and others -- there are some current and serious safety issues in this building which employees in my office and other offices do not feel are being addressed satisfactorily. And that's not for discussion at this body, but we want everyone to feel safe when we come to work. When I hear from young women working in offices, when I hear from employees in other offices that there are safety issues, I take that very seriously. That's one of our primary obligations. And so, I want us to revisit that question of having a place that's welcoming and accessible to the people we serve but also allows people who work in this building to feel safe, and I respectfully would argue it's out of whack.

I went back and looked at the testimony when we had the first hearing on this and I'm going to quote someone who actually testified in the record. He said as follows. Quote, "I am a very nonviolent person. Mouthy, obnoxious, pushy -- I take those because that's what activists do. We don't look for making friends." He went on to say, "I'm not an advocate, I'm not a diplomat. I throw rocks." That's Mr. Walsh in his testimony before us. And here's where I draw the line. People that come before us I believe have a First Amendment constitutional right to be mouthy, obnoxious, and pushy. Whether we agree or disagree with their speech, in our system, we celebrate all kinds of speech. People do not have the right to throw rocks. And I know he meant that metaphorically, but throwing rocks or anything that crosses the line into non-expressive, threatening behavior cannot be tolerated. And I want to work with you, Mayor, and our colleagues to craft rules to treat those two things very differently because I believe that we have to have a zero tolerance policy for anything that goes into the non-expressive, threatening behavior I think we need a more elastic and frankly broader view under the First Amendment of speech that is just expressive and might otherwise be mouthy, obnoxious, or pushy. On that basis, I can't support the appeal. No.

Saltzman: Well, it's all well and good to have lofty discussions and wrap ourselves in First Amendment discussions, but that's not what this is about. This is not about Mr. Walsh, as I said couple weeks ago. This is about protecting City employees and protecting ourselves from people who are violent, threatening, or intimidating. It happens. I'm very encouraged that we're going to work on an ordinance but I'm also very wary that these things tend to veer off path and I can ask three months from now, "Whatever happened to that ordinance we were talking about?" While I'm encouraged by the discussion, I'm encouraged by assuming consensus around an ordinance, I'm not willing to put all my stock in that and I

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believe the appeal, as it was recommended by our counsel, that we should pursue a parallel track of appeal and ordinance at the same time.

This is really about protecting ourselves and the people who work in this building. And I don't think they take lightly to wrapping ourselves in academic, lofty discussions about the First Amendment. I think we should appeal this because this ruling limits our ability to exclude anybody who is violent, threatening, or aggressive with respect to us or people in the building. We can only exclude them for the day. So you can leave a backpack in chambers with a timing device and we can say, "Hey, you shouldn't have done that. We'll see you tomorrow." That's not right. It's not safe. It doesn't protect the people who work in this building. So I vote in favor of the appeal. Aye.

Novick: Nay.

Hales: I want to return to what I said two weeks ago and assure the Council that it's my intention to ask the City Attorney's office and our staffs to move quickly to develop proposed ordinance language that is not months from now that we'll be talking about this -- take that point seriously -- that addresses both the need to manage the public dialogue in this chamber in an adult way and to maintain that adult environment except when we have children here, and then to also make sure that the legitimate safety issues raised are addressed. I think we can do that by ordinance. We don't have to do that by going to court. That's my intention and we will be back shortly with those proposals. No

Item 95.

Hales: Second reading, roll call.

Item 95 Roll.

Fritz: The only transportation use that's available for this particular stretch of right-of-way is accessed by crossing private property. And so, there really is no public transportation use for this piece of right-of-way and I'm glad to support the vacation. Aye.

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

Item 95-1.

Hales: Commissioner Fish, Commissioner Saltzman have some comments I think.

Fish: Well, Mayor, just some background. You and I are the co-sponsors. The Benson bubbler is in honor of the anniversary of the Lan Su Chinese Garden. The bubbler will be featured in the Jiangsu Horticultural Exposition in April. The event draws in the millions of visitors to Suzhou, and there will be a commemoration at the exposition in China for the bubbler.

The grant agreement outlines the City's expectation for the sister city in transferring the Benson bubbler. It is being shipped in mid-February to make ensure the delivery and installation are complete in time for the horticultural exposition. This matter was previously addressed in last year's budget. It was funded through a general fund request. No ratepayer funds were used. The Office of Government relations was allocated some \$10,000 to offset the Water Bureau's costs associated with the Benson bubbler.

Hales: We have Cathy Chinn, president of our sister city association, and Hector Miramontes. Welcome.

Hector Miramontes, Office of Government Relations: Thank you. Good afternoon, Mayor Hales and Commissioners. I'm here today to introduce -- the item has already been introduced. Just some background on the ordinance and the grant agreement before you.

In May of 2015, the Portland-Suzhou Sister City Association requested the Benson bubbler in recognition of the 15-year anniversary of the Lan Su Chinese Garden, which is a friendship project between Portland and Suzhou that is today one of our city's great cultural treasures. Lan Su Chinese Garden is one of the most authentic Chinese gardens outside of China, providing residents and visitors alike an opportunity to experience a landscape garden style that has evolved over 3000 years. The Benson bubbler was

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chosen because it is an enduring legacy of our city, and I would like to now hand it over to President Cathy Chinn.

Cathy Chinn: Good afternoon, Mayor Hales and Commissioners. I'm Cathy Chinn, immediate past president of the Portland-Suzhou Sister City Association. In August of 2015, I was honored to attend the gathering of the founders of both the Portland-Suzhou Sister City Association and the Lan Su Chinese Garden. Mayor Bud Clark and former Commissioner Mike Lindberg and others came together at the Lan Su Chinese Garden to look back in 30 years of anniversary of the original efforts. These gentlemen formed the original group that met in Suzhou in August 1985 and started and grew both organizations over the years.

Since the founding of our association, the sister city relationship has brought economic benefits to Portland and our region. As we speak, Portland schools are hosting approximately 150 students and teachers from Suzhou as part of yearly educational exchanges to bring Suzhou students to our city to learn firsthand about Portland lives and American society in general. Last summer, we assisted in making arrangements for PDC Executive Director Patrick Quinton and his delegation to visit Suzhou to export development and economic opportunities, including promoting PDC's green cities efforts.

The Benson bubbler water fountain will serve as a special symbol of goodwill from the people of Portland to the people of Suzhou. The city of Suzhou foreign affairs office has informed our organization of the opportunity to showcase the Benson bubbler in the April 2016 horticultural expo in Suzhou. This is a regional event expected to draw millions of Chinese tourists, as well as international tourists to Suzhou. So, this will be a good opportunity for us.

With the approval of the Council, our organization agreed to the grant agreement and will manage all shipping arrangements and other logistic considerations to transfer this Benson bubbler to the city of Suzhou.

Hales: Great. Thank you very much. Question?

Fritz: Does the city of Suzhou plan to have it plumbed so that it will in fact be bubbling?

Chinn: Yes. Actually, they are talking about looking at the fountain and then have some engineer to come up with purifying of the water so that people can drink it. So yeah, it is getting there.

Fritz: We don't need it with our precious Bull Run water -- we don't have to worry about that. Isn't that interesting? [laughter]

Fish: We don't have to purify anything when we run them here ---

Fritz: You gotta think about that in these places. And secondly, is there going to be a plaque with it that will explain what it is?

Chinn: Yes, we will make sure that will happen. We're hoping there will be some kind of public dedication ceremony that will go with it. We just still have to get it over there then talk about how to -- you know -- the gifting.

Fritz: So maybe not on the plaque, but I think it's interesting that the history of the bubbler being to provide water so people didn't have to drink beer. I think that should be conveyed and encourage people to come and drink our beer now. [laughter]

Chinn: Right, right. Agreed.

Miramontes: I'd just like to add that the city of Suzhou has signed a memorandum of understanding communicating their commitment to commemorate, install it, and work on some way to provide a plaque for it. So, we're working on that.

Fish: I think Commissioner Fritz was channeling Sapporo sister city association when she mentioned beer.

Hales: We're shipping Portland beer to Suzhou now.

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Fritz: I'm saying we should be encouraging tourism back to here saying drink our pure water and our great beer.

Hales: Fun project. Thank you both very much. Anyone want to speak on this item? And because it's a four-fifths, is it an emergency item?

Moore-Love: It is an emergency ordinance.

Hales: Alright. Let's take a vote, please.

Item 95-1 Roll.

Fritz: Thank you, Mayor, for leading this. Just so that folks know at home, we don't have many of these left, so it's not like we can give one to every sister city. When you pass your baton to the next mayor, be sure to tell them they should be very --

******:** Stingy.

Fritz: Choicey. Choose their gifts carefully. Thank you very much for taking care of this. It's a great partnership. Aye.

Fish: Commissioner Fritz, I had heard that an unidentified person was doing an inventory at our warehouse of these bubblers. I didn't realize it was you, but you're right, we have just a few and they are precious.

We love this sister city relationship and I personally, my family loves the Lan Su Chinese Garden. I feel so blessed that we live in a city that has one of the great Chinese gardens in the world. Thank you for your good stewardship.

And this was something the Mayor wanted to do, the Water Bureau is very proud to partner in this. I also am pleased that we were able to fund it through the general fund and not ratepayer dollars. I think that's a clean line, but it doesn't in any way diminish the enthusiasm that the Water Bureau has for being a full partner in this. Aye.

Saltzman: This is a great, appropriate gesture to mark the fifteenth year of our garden. Thanks to the people of the city of Suzhou. Aye.

Hales: This is such a great relationship. And Cathy, you and the other volunteers that keep it going, thank you. The garden is a treasure and we owe Suzhou a lot. It's nice to say thank you this way. Aye. Thank you very much. I'll give the Council a brief lunch break. We'll recess until 2:00.

At 1:04 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 27, 2016

2:00 PM

Hales: Good afternoon, everyone. Welcome to the January 27th afternoon 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 a single item on the Council calendar this afternoon. We'll get to it in a moment. If you're here to speak, make sure our Council Clerk has you on a list because we like to make sure we know how many are going to speak. I think I'm going to be able to allow the usual three minutes instead of having to cut it down to two given that we don't have 200 people here to talk.

If you're here to speak on the item, you need only give us your name, you don't need to give us your address. If you're representing an organization, you need to let us know that, please. It's required under our code. If you agree with someone who's speaking and you're in the audience and would like to give them support, feel free to give a thumbs-up or a wave of the hand. If you disagree, a polite hand gesture to the negative is also OK, but we ask that other than for students and visiting dignitaries, we don't do applause or vocal demonstrations in the chamber. That way, everyone feels free to express their opinion and to not have it be interrupted. That's it in terms of ground rules. Would you please read the item?

Item 96.

Hales: Commissioner Novick.

Novick: Colleagues, citizens, this moment has been a long time coming. The City has known since at least 1987 that we were underinvesting in our streets. And every year that we have waited the problem gets worse because the longer you take to fix a street, the more expensive it is to fix it. We've also known there are big parts of the city -- particularly in outer east and some other parts of Southwest Portland but other places too -- where it's danger for kids to walk or bike to school or for seniors to walk to bus stops or for anybody to bike, walk, get to transit as safely as they should. What we're proposing here is to ask the voters to approve a four-year 10 cent per gallon temporary gas tax in order to start addressing those two issues.

We know from talking to a lot of individual Portlanders and from public opinion surveys that Portlanders care about both things. Portlanders want the streets repaired. They also want those safety issues addressed. This proposal would allocate somewhat more than half -- to be precise, about 56 percent -- of the revenue over these four years, which we expect to be \$60 million a year, to paving projects, and 44 percent to the safety projects, many of which have been talked about and desired by neighborhoods for years and years. The biggest chunk of safety project money will be spent on safe routes to school projects filling in sidewalk gaps, addressing dangerous intersections, making it easier for children to walk and bike to school. The project lists can be found on our website. You can see how we're planning to spend the money.

The safety projects are pretty much locked in stone. We might have add a few if we have cost underruns, we might have to cut back if we have cost overruns. The street repairs are not quite as cast in stone, because we go out and reevaluate the pavement

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once in a while and we might decide to shift some of that money around. But the percentage that goes to street repair as opposed to the safety projects will remain the same. There will be a citizen oversight committee that will review our spending as we go along over these four years.

There are a couple other topics I want to touch on before turning to some amendments that we have and then turning it over to staff and our invited testimony. One is some people ask, "You have a \$400 general fund budget paid for by property taxes and other sources, why can't you fix your street funding problems with that?" What is important for people to know that the general fund budget goes overwhelmingly to police, fire, parks, and housing, similar to other cities. That's why cities and counties around us -- Washington County, Lake Oswego, Tigard, and Oregon City -- have over the past 20 years adopted local transportation funding mechanisms. Because they understood that the state and federal gas tax wasn't giving them enough money to address their streets, and they couldn't find the money they needed in their general fund either. Last year, this Council in fact did dedicate more general fund, adjusted for inflation, for transportation than any Council since 1985 because we had significant one-time funds. But we can't count on that every year.

Another thing I wanted to mention is you'll notice this proposal exempts heavy trucks that pay the weight-mile tax from this tax. That is not because we don't expect the heavy trucks to pay their fair share. I'm determined to make sure that they pay their fair share. The question is, how do we ensure that actually happens, and how can we do it smart? Our concern was that there's one truck stop in Portland, the Jubitz truck stop. These heavy trucks travel long distances. They don't have to stop in Portland. So after discussing with the freight committee, we were concerned that if we attached the diesel tax to those long haul trucks, they would simply skip Portland, wouldn't fill up here, we might put that truck stop out of business for no particularly good reason. We were struggling with what to do with that, and then an old friend of mine named Brian Bow [spelling?] who used to work in this industry suggested we explore the possibility of something called a load fee, which is where we would assess a tax on diesel as it comes out of the big tanks on the Willamette River, which serve the whole region, which happen to be located in Portland. That struck us as a very interesting thing worth pursuing. We've asked the freight committee to assemble a sub-committee of folks to look at that option and other options to ensure that freight pays its fair share. So, stay tuned on what we do about ensuring that freight pays its fair share. It will happen, we're just exploring the mechanism.

With that, I want to turn to some amendments that we want to put on the table. One of the first ones is one I worked with Commissioner Fritz on. As my colleagues remember, we've had a long discussion about the share of revenues from this tax that will go to street repair and traffic safety, and this amendment clarifies that the ratio with 56 percent street repair, 44 percent traffic safety projects will remain the same regardless of whether our revenue estimates change. We will adjust our spending to reflect that ratio.

The second amendment is a clarification about how certain tax refunds will operate that implement -- would implement our version of the state exemptions for certain vehicles such as school buses.

The third amendment amends the explanatory statement to address that 56 percent-44 percent split and reiterate that will be the split.

The fourth amendment is a very simple one. On page eight of the project list, a footnote was unintentionally omitted. This footnote has now been added back. It explains the neighborhood greenway funding amounts assume that PBOT will receive additional grant funds for some of the projects.

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The fifth amendment relates to the oversight committee as a result of conversations with Commissioner Fritz, who suggested that committee appointments would be made by the Commissioner-in-Charge but each Commissioner will select at least one member of the committee. We outlined which member would be chosen based on the bureau and other responsibilities of individual Commissioners.

So, those are the amendments I propose, and I move the amendments so we can have them on the table for discussion and hear testimony.

Hales: Further discussion of the package of amendments that Commissioner Novick described that are actually in a memorandum from Mark Lear at PBOT, and if anybody needs a copy, they can get one from Karla. Roll call to put the amendments before us as well as consideration for the measure itself.

Roll on amendments.

Fritz: Just to be clear, I don't exactly like the 56 percent repair to 44 percent safety ratio. I would have preferred it to be more like 50-50. It was a result of a long series of discussions in the course of transportation funding discussions last year, so I appreciate having it very clearly stated. Aye.

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

Hales: Thank you. Any other amendments to put on the table before we start the presentation? OK.

Novick: I'd now like to ask for Leah Treat, Mark Lear, and Steve Townsen to give the PBOT presentation.

Hales: Come on up, please.

Leah Treat, Director, Portland Bureau of Transportation: Great. Thank you, Commissioner, for your introduction. As you and the rest of the Council are aware, we have been working for years to try to develop a proposal address funding our street repair and safety investments in the city of Portland. I'm really pleased today to be talking to you about our latest proposal that represents really a lot of hard work from neighbors and businesses and the many Portlanders who believe that we can and should do better. This is the culmination of a two-year process that shows there's growing support to begin to address our longstanding maintenance and safety needs with this 10 cent temporary vehicle tax. The proposal you have before you today refers that 10-cent tax to the ballot on May 2016.

This proposal will raise approximately \$16 million a year or \$64 million over the next four years and again is a temporary measure. We have a list of specific projects for street repairs that will reduce costly rebuilds in the future, and a list of projects that will reduce injuries and fatalities. These projects are also going to make our streets safer for seniors to get to transit and kids to get to school. We will make many of these improvements all across the great city of Portland. Also, to ensure program accountability and the ability to address changes that may occur, we're proposing and very diverse citizen oversight committee.

One of the hardest parts of my job over the last couple of years has been watching the immediate human, financial, and economic costs of further delaying increased investments in our transportation infrastructure. Sadly, last year marked another year in which traffic fatalities exceeded homicides in our city, a fact that highlights our traffic safety epidemic. Further, it is also unacceptable that our poorest and most diverse neighborhoods have fatality rates that are twice as high as wealthy parts of our.

Survey work that we completed in our recent funding conversation shows that Portlanders also want better maintained streets. 77 percent support additional revenue to repair our streets. 86 percent support additional revenue to make it safer for seniors to get to transit and for our students to safely travel to school. And while it's great news for our

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state and our city that Congress finally passed five-year federal transportation bill, the level of funding that comes to cities through that bill for street maintenance and safety is well below what we need. And our federal and state partners would most certainly agree that local solutions need to be a part of the fix.

Last year, Portland City Club put together a research committee that was going to research the idea to end the funding gridlock. After extensive analysis -- as you know, because the City Club presented to you as well -- they recommended that Portland follow the lead of 24 other Oregon cities and immediately pursue a city gas tax. With that, I would like to turn the presentation over to Steve Townsen, our chief engineer, who will share details about the maintenance proposal.

Steve Townsen, Portland Bureau of Transportation: The project list funded by this proposal will make a significant difference to the city. Oh -- my name is Steve Townsen, I'm the chief engineer for Transportation, sorry.

The primary driver for our street repair program is to eliminate future costly rebuilds. A dollar spent on preventative maintenance today saves multiple dollars that are wasted on future expensive repairs or rebuilds. Over the last few years, Portland has developed a refined strategy for maximizing our limited resources. This street repair proposal builds on these strategies by focusing on our busiest streets that serve freight and transit. Not only is the maintenance of these streets critical to our neighborhoods and businesses, but they deteriorate the fastest due to the volume and weight of the business.

This project list allocates 35.8 million over four years to street repair. About 90 percent of this revenue is allocated to pavement maintenance. Paving projects trigger federal requirements to bring ADA ramps up to standard. When those ramps are replaced in the paving project, it is the optimum time to address critical operation and maintenance issues including signals, street lights, and signage. Because of that, we have set aside three million, about 10 percent, so that these items can be done as part of the paving projects. In addition to the 29 miles of busy street paving, we have set aside eight million to do spot and base repairs throughout the city. Base repairs are done where the street is balanced cracked and slumping and the travelling public. Performing these spot repairs keeps these areas from growing and becoming more expensive and eliminates the hazard.

Our proposal for the street repair uses Portland's pavement management system, street saver -- which is an industry standard -- to ensure that we are selecting street segments that would benefit the most from street repair. This tool allows to us improve maintenance and repair on streets of citywide significance. The following are a few examples of street repair projects that are included in our project list. One of them being SE Foster from 82nd to 90th. This project is within the limits of Foster safety improvements and it will leverage those improvements as part of the project. Another one is one you're familiar with, SW Naito from Jefferson to Harrison. This project leverages a million dollars from ODOT and addresses access to both the Hawthorne Bridge and I-5. You may recall it was on the list for general fund and was approved, but with Multnomah County's improvements on the Morrison Bridge, we pushed it out and reallocated the funding. The project would be coordinated with the County's work on the Morrison Bridge to eliminate those traffic impacts.

This proposed funding will provide one more tool in our toolbox to help minimize the long term maintenance costs of our streets which are used by all. Now Mark Lear, PBOT's resource development manager, will share details about the safety portion of this proposal.

Mark Lear, Portland Bureau of Transportation: Mark Lear, Portland Bureau of Transportation. The second major objective of this proposal is to do a better job of taking care of Portlanders. By this, we mean saving lives, our Vision Zero goals, and by providing

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safe access to walking and biking and transit citywide with a focus on our poorest, most diverse neighborhoods with the most broken transportation systems.

One of the things that makes me most proud of the proposal in front of us and I think speaks to the improving public outreach around our projects is the level of endorsement we've gotten from groups like East Portland activists working on the proposal and the Transportation Justice Alliance. It speak as lot to the growing power we have as a city to really identify the best projects.

The other thing we're doing -- the allocation under this proposal would be \$28.2 million towards safety. This additional funding that will allow the City to make significant improvements in high crash corridors, around schools, and on our busiest and most-used streets.

This next slide gives you an indication of some of that public involvement I was talking about. We've developed five programs working with communities and neighborhoods over the last few years to really identify our most needed safety improvements. This slide highlights those, and I'll give you a couple of examples of some of the work we're doing. For example, our high crash corridor program will provide improvements on 122nd Avenue, NE Sandy, 82nd Avenue. Our pedestrian network program will allow to us develop sidewalks in East Portland, NE 148th, SE 112th, NE 102nd, as well as SW Capitol Highway.

Our Safe Routes to School program has done an amazing job. It's definitely recognized as one of the strongest programs in the country at working with parents and kids and identifying safety improvements around schools, and this effort will allow us to continue to move that forward and build those projects.

In addition to that, we've identified critical safety improvements in neighborhoods and will provide safety for bicyclists and pedestrians, all modes. With our neighborhood greenway program, we're identifying two of the highest-priority neighborhood greenways in East Portland -- those would be funded under this proposal -- as well as additional protection for cyclists in our central city. I'm going turn it back over to Director Treat.

Treat: Thank you. We also in this proposal want to ensure efficiency and accountability, so the proposal includes a very specific list of street repair and safety projects that will be delivered over the four-year program. As Mark mentioned, this list of projects is based on extensive public outreach and was reviewed with Portlanders over the last year.

We have also developed a diverse oversight committee to oversee the effort. The oversight committee will monitor revenues and expenditures and program project implementation, including recommending any required changes to the project list. They will also monitor utilization of minority-owned, women-owned, and emerging small businesses utilized, and provide an annual report to the City Council.

Fish: Director Treat, can you go one slide back? On this question of recommendations for adjustments to the project list -- recommendations to whom?

Treat: It would come to the oversight committee. Say, for example, if we go out for bid on a street rebuild project and it comes in over budget, we would have to go back to the oversight committee to determine whether we want to allocate money from another project to do a more expensive rebuild or take that project off the list and come up with a new one altogether.

Fish: So the oversight committee would then make a recommendation to you, and are you then empowered to make that decision?

Treat: That's a good question. Can you help me on that one, Commissioner?

Novick: That's what I was assuming, actually. But maybe we should ask Ken McGair.

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Hales: I think if the ordinance he and the measure is silent on that question then I believe it would normally fall under your authority, Commissioner, and the bureau's authority, to reallocate project funds.

Fish: My interest here is making sure we're very clear in terms of voter intent so that in those instances where there has to be some fine-tuning, we're clear about who has the authority to recommend and who has the authority to act.

Treat: Great, thank you. And also I guess Commissioner Fritz's amendment deals with part of that in that if we do have to do any of those reallocations, we do have to stay within the percentage split.

Fritz: And the code does say there's an annual report to Council. I would assume it would be done through the usual Director in charge and Commissioner make those kinds of decisions, but then there's a report.

Lear: And maybe just to add one thing, as 19 years ago I was hired by the City to build the capital budget. We would still be bringing our capital budget with this projects in front of Council, and Council would be approving those. That's part of what you would see happen as well.

Treat: Does that satisfy your question? OK, thank you. In closing, we just want to thank the neighbors and businesses that have helped us to develop the proposal over the last two years. I really believe the proposal before you today is a true testament to the smarts, hard work, and commitment from Portlanders to address this issue. And very specifically, I need to thank my bureau staff who has worked tirelessly for many years prior to my coming here on this issue. I think this is our fourth time at bat, second for me. They are just an amazing staff. And I hear from everyone who has helped on this effort about how professional and hardworking my staff is, and I'm deeply appreciative. I'm also appreciative to our modal advisory committee, the freight advisory committee, our bicycle advisory committee, and our pedestrian advisory committee. Each of them were briefed numerous times, and all three of them have provided letters of support for this proposal. So, I think it's a very strong proposal in front of you today. Thank you very much for your time.

Hales: Thank you. Other questions for Director Treat and her staff? Thank you very much. Commissioner, you have some invited testimony?

Novick: We do. I'd like to ask Fiona Yau-Luu of Oregon Walks, Mychal Tettah representing the Community Cycling Center, and Marion Haynes with the Portland Business Alliance.

Hales: Good afternoon. Welcome.

Fiona Yau-Luu: Good afternoon, Mayor Hales and Commissioners, and thank you for the opportunity to speak. My name is Fiona Yau-Luu, and I serve on the board of Oregon Walks, our state's pedestrian advocacy organization. We are here today to support the efforts to fund safety improvements on our streets here in Portland. We are also here because we stand firm in the shared concerns of the Transportation Justice Alliance that the gas tax is a regressive source of new funding and is not the end solution for our funding and equity concerns with the transportation budget. However, this project list that has been put forth today by Commissioner Novick steers needed dollars towards the areas of the city that need it the most.

Earlier this month, a woman in a mobility device was hit on SE 156th and Division, the third pedestrian killed at that intersection in less than four years. This should never happen. No family should have to lose a loved one, much less two more families lose their loved ones at the same exact spot before change is made. It has been made all too clear that families in East Portland see the burden of this lack of investment more than in any

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part of our city, and pedestrians in Portland are killed at an alarmingly high rate compared to the rest of the country.

In 2014, over 50 percent of Portland's traffic deaths were people walking compared to the national average is about 14 percent. It is undeniably clear people need to be prioritized and our investments needs to target areas of the city where people are most likely to walk to use transit and must do so on some of our most dangerous roads.

The City has stated a goal to reach zero deaths on our roads, and we are excited to continue working on the Vision Zero action plan that will set out the path to reach this goal and to reach it by 2025. We have committed to solidifying Portland as a Vision Zero city since 2013 and to get there requires undoing the drastic disparities that currently exist here. We urgently need funding to eliminate traffic fatalities. We must prioritize funding projects that will serve our city's goals and help the most vulnerable. We firmly reiterate our support for more progressive funding options, and we encourage you to move this proposal to the ballot for voters to decide. Thank you.

Hales: Thank you. Good afternoon, welcome.

Mychal Tettah: Good afternoon, thanks for the opportunity today. My name is Mychal Tettah, and I'm here on behalf of the Transportation Justice Alliance. I wanted to commend the efforts of the Bureau of Transportation and the office of Commissioner Novick to prioritize investments in under-resourced parts of our city and offer our conditional support for this effort. I want to place an emphasis on the conditional nature of that support because we all know and feel that we have much further to go if we're going see an equitable distribution of what makes this city a great place to walk, ride, roll, and catch a bus.

We all know that something must be done to improve our streets. We also have a major concern with the increasing economic burdens faced by those who are already impacted by our failure to invest in their safety. With the number of traffic fatalities exceeding the number of homicides in our city, it's clear that our group is desperate to address what is an epidemic of traffic fatalities.

We remain convinced that safe streets for all Portlanders should be a top priority, and a majority of residents want to see more money dedicated to seeing this happen, especially where conditions are the worse and individuals are the most at risk. This funding proposal with the current project list in tact is a start, but we need to look forward to the partnership that we have with City and the Bureau of Transportation to a future where the benefits and burdens of our transportation network are more equitably distributed.

The regressive nature of the mechanism adds to a long list of regressive transportation fees and taxes and fails to protect our lowest income households from higher transportation costs, much less divide the revenue burden more fairly between residents and businesses. Thankfully, the projects listed on the proposal steer revenues to areas of the city that have been too long neglected and are unsafe. However, these projects alone do not solve the existing challenges in either the way the Bureau of Transportation allocates existing funds or determines overall transportation policies.

Due to the regressive nature of the temporary gas tax, our support for this effort is conditioned on the City and PBOT's commitment to identify and pursue less regressive future funding sources to more equitably distribute existing resources, and an ongoing commitment to increase transportation investments in our most dangerous and diverse neighborhoods. If we're going to have a world-class transportation system that serves all Portlanders, we need the continued partnership of the Bureau of Transportation paired with new funding mechanisms to meaningfully reform the way investments are made for our most vulnerable road users.

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Over the next four years, we expect to work with the City and the Bureau of Transportation on progressive funding that continues increases in ongoing transportation funding to ensure we can begin to address the growing backlog of safety and maintenance projects, an investment analysis to allow us to analyze the budget around clarify of the history and distribution type and current condition of investments made in our transportation network, and increase citizen engagement with a full review and restructuring of all current advisory and decision-making bodies to ensure the Portland Bureau of Transportation prioritizes its diversity, equity, and inclusion goals. We really hope we can have the City's transportation system to be something we're extremely proud of, not something we're increasingly embarrassed of, and we look forward to you partnership in that. Thank you.

Hales: Thank you. Good afternoon.

Marion Haynes: Good afternoon, Mayor Hales and Council members. My name is Marion Haynes and I represent the Portland Business Alliance. The alliance represents over 1800 small and large businesses throughout the region. As you know, the alliance has consistently supported a well-maintained and safe transportation system and we have acknowledged that additional revenue may be warranted to address the longstanding backlog of deferred maintenance, the cost of which will only grow exponentially over time.

A voter-approved gas tax with a sunset date meets many of the principles that we had identified at the start of the street fee discussion in 2014. It's user-based, it has very low administrative overhead, we appreciate the voter approval the gas tax requires, and the gas tax couldn't be diverted to other uses because it's limited by the Oregon constitution, the highway trust fund. So, we know that it's going to go for its intended purpose of fixing the maintenance issues and safety issues on the streets.

I wanted to thank Commissioner Novick and echo Director Treat's comments that the staff has been really phenomenal on this over a long, long time. We appreciate the outreach to our members. We've had a couple of meetings with the Commissioner, he invited to us participate in a meeting with Mychal and some others to better understand the different perspectives that we bring. We had been focused on maintenance and we continue to be, but understand there are pressing safety needs on the streets that need to be addressed. So, that was very helpful.

Our support is also conditioned a little bit by a few factors. One is that -- and I expect this to be the case -- but we want to make sure these dollars are additive to what is currently spent on maintenance and that funds that are currently spent on maintenance don't get diverted to other purposes. We need a more, a lot more. This is a start but it doesn't solve the problem. To that point, we think ultimately there should be additional ongoing City resources and we very much appreciate the work that was done during the last budget cycle with the one-time funds and think that's a very smart decision to dedicate a portion of those to infrastructure improvements. But we think there ought to be more of that, especially at a time when we're asking voters to pay more.

We would not like to see additional taxes and fees on this same user group during the four-year period, recognizing that there may be others out there that aren't contributing at this point, and we don't have a position yet on the new idea but are open to exploring ways to make sure everybody is contributing to their shared responsibility.

And finally, we want to make sure that vehicle road capacity is not impacted as a part of this. We really think the focus needs to be on those critical safety improvements and on just that maintenance backlog to try to begin to get ahead of this problem which has been decades in the making. So we look forward to an ongoing dialogue on this issue, appreciate the committee that's going to be created in order to have some oversight on

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this, and look forward to hopefully working through a few of these issues and being able to give our full support. Thank you.

Fish: May I ask a question, Mayor?

Hales: Please.

Fish: Mychal, one thing about conditional support that's interesting is that the conditions you're putting down are to occur after this is either adopted or rejected by the voters. So, on the theory that we're going to have to meet some of those conditions in the future, what -- I'm just curious since we've been at this for a couple of years and have had a lot of ideas on the table -- what constitutes progressive funding options that you want to us consider in the future?

Tettah: Wonderful -- thank you for the question, Commissioner Fish. I think that there are a number of different funding options we could consider short of a tax on gasoline that would provide more progressive and significantly less regressive options. Without kind of falling victim into jumping to some of those solutions, I'd really look forward to an opportunity to work with you and your office as well as the rest of the folks at the Portland Bureau of Transportation to determine what is going to be the most likely and/or most potentially impactful funding mechanism to get this done. As was mentioned earlier, we have a long way to go if we're going to be able to meet the challenges of an increasing backlog of maintenance and significant safety improvements, and we're going to need to look at absolutely every option that's available if we're going to be able to see the kind of transportation that we need to have in this City.

Hales: Thank you all very much. OK, let's bring your next group, please.

Novick: I'd now like to ask Corky Collier of the Columbia Corridor Association -- the most alliterative man in Portland -- to join us --

Fish: If you're going to start engaging in name-calling -- [laughter] -- Corky, you'll have as much time as you want to respond to this defamation.

Novick: Kem Marks, long time East Portland transportation advocate, and Chau Phan Mende and two daughters to talk about safe routes to school.

Corky Collier: Thank you. I am Corky Collier of the Columbia Corridor Association. [laughter] This is really about simple dollars and common sense. When we allow our streets to deteriorate badly, it ends up costing us 10 times more to repair them. Commissioner Novick likes to use the tooth decay analogy, and since he's sitting right here, I can't get away from stealing it from him so I'll use the car wash analogy. If you don't wash your car, the grime starts to build up on it, pretty soon moss is growing on it, the rubber seals deteriorate, the paint comes off. Forget what it looks like -- your investment is gone. The value of your investment is much, much less. So spending a few bucks every month to wash the car is going to maintain that investment, and that's what we're talking about with our streets. It's not about spending money, it's about saving money. We're not talking about gilded streets, we are talking about the right amount of maintenance at the right place and the right time. PBOT knows how to do this. They only lack the funding.

My back of the envelope calculations show that I spend about \$8.50 a day on my 2002 Toyota. That's for insurance, repair, gasoline, everything. My wife spends about \$25 a day because she has the newer Mazda. We both spent about 53 cents a day on the gas tax. 53 cents a day for our streets, sidewalks, bike lanes, bridges. 53 cents a day for all the infrastructure that \$25 a day car is driving on. The average for an Oregonian is about \$18.89 a day. And they spent about 50 cents a day, too, on the gas tax. It makes sense we bump up that just a little bit.

Ninety-seven years ago, Oregon became the first state to create a gas tax at a nickel a gallon. Now, if we'd maintained adjusted for inflation over all that time that would now be about 70 cents a gallon. Instead, it's 30 cents a gallon. We have a lot more

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extensive road system than we did in 1919, but we're only spending half as much to maintain it. If we could get away with it, it would be something to be proud of. But we haven't been getting away with it. It's deteriorating and it's going to cost us a lot more in the future.

So please, push forward on the gas tax measure on the ballot. But as you do so, I ask you to embrace two big concerns. One, the City Council needs to remain committed to fixing our maintenance deficit. The gas tax -- this is just the beginning. This is a drop in the bucket for how much we're going to have to come up with in the future. So, we need you to stick to your place and commit half of the BMP to infrastructure. We need you to go to the 1998 pledge to spend 28 percent of the utility license fee for transportation. It means being fiscally responsible in the face of the next overwhelming political issue of the day.

The other big concern is equity. A few years ago, a gas tax was an obviously good solution. That was before the arts tax, the library bond, the school bond, a number of new expenses that have weighed heavily on the poor. Commissioner Novick is well-aware of this equity. I think all of you are well aware of this inequity. It's going to take your constant vigilance to continually support efforts that will offset yet another regressive expense. So please, move forward with the gas tax and keep in mind it's just the beginning of the struggle.

Hales: Thank you, Corky. Just wanted to note for the record, appreciate your support, but as you know, the City Council back in 1988 -- long before any of us served there -- was putting utility franchise fee revenues into transportation. Then in 1990, the voters of the state of Oregon passed Measure 5. The Oregonian at the time opined that this would lead to the passage of a sales tax and that's how we would fund infrastructure in the future in Oregon. We're still waiting. Oops. Thank you.

Kem Marks: Mr. Mayor, Commissioners, thank you for the opportunity to speak today. My name is Kem Marks, and as Commissioner Novick said, I'm an advocate for safety issues in East Portland. I'm on the East Portland land use and transportation committee and East Portland Action Plan. I represent both for the Powell safety project and for the Powell-Division project. However, today, I speak on behalf of myself and not representing those organizations.

I support this tax, even though I am opposed generally to regressive taxes. In fact, when the street fee was being discussed, I sat in this exact same chair and opposed that plan. However, I find that this is the most viable option that we have at this moment. I also support the idea of looking for more progressive ways of funding the projects. Thank you, Commissioner Fritz, for your amendment for ensuring the 44-56 split is part of the ordinance. I really appreciate that, and if it had changed and gone differently, I would have been opposed to this project.

East Portland has been asking -- no, demanding projects -- like the 122nd improvements, the 4M projects and many, many more projects for a very long time. At least those two projects are on this list for going forward. The 122nd projects will allow TriMet to improve to frequent service, which is the only north-south route in East Portland that even gets close to the Columbia corridor where Corky is one of the lead people. These are very important projects to East Portland, and they will be very beneficial to East Portland.

I'd like to relay, though, what happened today while I walked my daughter to school. I live on 130th. There are no sidewalks on 130th. We have to share the street with cars that frequently go 10, 15 miles above the speed limit. While walking by daughter to school today, she tripped in a pothole. She asked where potholes come from. I gave her a technical answer about weather and cars and weight and all that. What I didn't tell her there's been a serious neglect to deal with the issue of transportation in this city for way

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too long, period. I really am hoping that you will all put this forth to the voters so that we can try to address those problems and maybe head in the right direction, a direction that we have for way too long been stagnant in and been in inertia. Thank you very much.

Hales: Thank you. Welcome.

Chau Phan Mende: Thank you. I'd like to begin by thanking the City Council members and Mayor Charlie Hales for letting me speak out in support of the gas tax proposal and thank safe routes to school for reaching out to the network of parent volunteers. I'm present today to express my support for alternative means to provide funding for protecting the fabric and livability of our city.

My name is Chau and these are my daughters, Lena and Naya, and they both students at Hayhurst elementary school. I'm a resident of Southeast Portland, and every member of the family uses biking as transportation to school or work. My husband commutes nine miles to Northeast Portland and I have a seventh grader that bikes two miles to Robert Gray middle school located north of Beaverton-Hillsdale Highway in the Hillsdale neighborhood. My two 8-year-old daughters pedal push their stout legs one and a half miles to Hayhurst and home. For all good reasons, we encourage biking to stay active, to get fresh air, to respect our environment, to avoid traffic, and the best part -- to get front-row parking.

Biking is a value and an integral part of our daily lives and this is only possible because of bike lanes and safe routes on our commute. However, these must be maintained, repaired, and improved so that the safer routes are accessible to all residents. Each of our bike commutes have inherent risks. I would like to point out that my son's commute could be safer if additional funding better protected him from cars on Beaverton-Hillsdale Highway. And where my girls bike, they could have visible signage and lights to cross SW 45th and Illinois Street, a busy intersection during peak drop-off and pick-up time.

Southwest schools, including Hayhurst elementary and Robert Gray elementary were not built to have so many students and handle the amount of cars as seen today. The public streets around those schools are unsafe when congested with so many cars. I'm going to go a little to add that I speak for most -- I don't speak for Southwest Portland, I speak on behalf of Safe Routes to School. They've been very supportive of the programs that we have. But I don't speak for the majority of the people in Southwest. There are not enough people that use the streets because there are no sidewalks and there are few bike lanes.

Funding Safe Routes to School programs and enhancement initiatives around schools and maintaining and repairing roads are necessary to ensure a healthy future for our city. Educating early the benefits of active commuting helps to improve overall wellness of our population. If the City could provide safer roads and better means to bike than drive, more bikes would be seen on the road. For Southwest Portland, I envision electric assist bikes weaving up and down the hills, but the reality is we need more bike lanes. To keep this brief, in closing, the gas tax proposal will open a dialogue and conversation about what really matters to our city and what values we want to sustain and nurture. Thank you very much for listening.

Hales: Thank you very much. Thank you all.

Novick: That's the end of our invited testimony. I just wanted to reflect for a moment on some of the testimony we've heard. I really look forward to working with Mychal and the rest of the Transportation Justice Alliance on ensuring that we do allocate our resources in a way that's consistent with our diversity, equity, inclusion, and Vision Zero goals. I look forward to working with them in the future to identify more progressive funding sources for transportation.

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I will note that the gas tax actually is less regressive than the street fee we proposed over a year ago. According to the Bureau of Labor Statistics, the typical person in the top 20 percent of income spends about four times as much on gasoline as a typical person on the bottom 20 percent of income. So, it's still not directly proportional to income, but it's less regressive an option we were considering fourteen months ago. I also really appreciated the Portland Business Alliance urging us to not reduce the amount of existing funding that we are addressing with transportation. I realize these are tough budget times and there are other demands, but I hope we will fulfill our historic commitments and comply with resolutions that says at least half of one-time funding has to go to transportation and other infrastructure.

Hales: Thank you very much. We want to move to our sign-up sheet but extend an invitation to parents with small children or people with disabilities to come up first. We've already heard from one family here and those girls did a great job, but we don't want to test our luck. So, if there are people here with young children or who need to get home to them, feel free to exercise the prerogative to come up first. Likewise, if there are folks with disabilities that would like to come up first, we'll take them at the outset. If not, we'll move to the sign-up sheet.

Moore-Love: We have a total of 26 signed up. The first three, please come on up.

Hales: Good afternoon. Terry, I think you're first.

Terry Parker: Thank you for the opportunity to testify. Terry Parker, Northeast Portland. I obviously have my own hat on today but I also believe I speak for a number of broad range community members who feel the same as I do and I've had discussions with.

With nearly half of the of gas tax revenue going to non-maintenance projects and with over \$800 million of proposed infrastructure to accommodate bicycles in Portland's TSP that's often referred to and masqueraded as safety improvements, any increased capacity for motorists is virtually non-existent and even being reduced with road diets. Bicycle infrastructure is not an entitlement program. There is also an enormous mass transit project list that will require an immense amount of taxpayer subsidy for operations, even though car trips are expected to increase over 49 percent over the next 20 years regardless of how much mass transit service is added. Not only do TriMet's buses do the heaviest damage to Portland streets, but public transit on average uses more energy per passenger miles measured in BTUs and creates more emissions per passenger miles measured in CO2 than driving a fuel-efficient car. Transit riders on average are subsidized, taxpayer subsidized at more than 60 cents per passenger mile. It is unjust to pile more taxes on motorists rather than equitably and proportionately distributing some of the burden of payment to the users of alternative modes. Without a tax on transit fares and bicycle-paid user fees to pay for supersize bike lane space and their huge "I want" list such as barricading off Clinton Street for a bicycle freeway, a standalone increase in gas tax is both tax discrimination and biased social engineering.

Furthermore, the City Club concept of charging higher registration fees related to the weight of a car or light truck is an attack on a middle class households that need to have a family-sized car or cargo-capacity vehicles. Instead of continuing to unjustly profile and extort Portland motorists, the City Council needs to start providing more than just lip service equity. This includes proportionately adding motor-specific represents to all of PBOT's advisory and oversight committees. Stacking the deck with alternative mode users to advise how the dollars are spent and not including the primary financial providers that pay for the majority of TSP projects is yet another outright form of motorist-directed discrimination.

The pubic process is clearly broken. Is this hearing just window dressing for a decision already made? When one user mode is taxed and the special interest modes are

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not, trust is government is lost. Taxes are rarely temporary. This gas tax increase measure needs to be opposed if it is not coupled with a tax or fees on transit riders and free-loading adult bicyclists. Thank you.

Andy Shaw: Good afternoon, Mr. Mayor, Commissioners, thank you. My name is Andy Shaw. Nearly one year ago, the City Club of Portland convened an all-volunteer committee to examine the City's street safety and funding maintenance crisis. I was a member of that committee last year.

Our report published last September made three primary recommendations. First of all, after decades of underfunding, many of Portland's roads, sidewalks, bike lanes had fallen into disrepair adding up to an incredibly expensive and still-increasing maintenance backlog. Deferring maintenance today increases the cost of repair exponentially, as you've heard already. It forces future City Councils to choose between crumbling roads and vital services like affordable housing and public safety.

Secondly, while roads in Portland have gotten safer over the past two decades, these benefits have not improved accrued across the city, as you've heard earlier, and a majority of fatalities have occurred east of 82nd, something the committee found to be something we need to address now.

Third, a local gas tax is the preferred method to raise the funds necessary to address all of these challenges. A gas tax is cost-effective, it can be raised through existing collection mechanisms already in place for state gas taxes and local gas taxes. A gas tax is fair. The more people use roads, the more they pay. A gas tax is equitable. On average, high-income householders drive more than low-income households. A gas tax is comprehensive. Non-Portland residents who fill their tanks in Portland also are then paying to help drive on streets that they benefit from. And finally, a gas tax has the added value of creating an incentive for more people to get around by walking, biking, transit, ride-sharing, leading to less congestion, less pollution, and fewer crashes.

In order to fund life-saving road improvements and cost-saving maintenance that we need, the City Club of Portland urges you to unanimously pass this ordinance and refer a 10 cent local gas tax to the May 2016 ballot. Thank you.

Chris Smith: Good afternoon. Chris Smith, I'm a member of the Planning and Sustainability Commission, however, I am speaking here as an individual informed by my service on that commission. I will admit during that the debate on the City Club report, I was in the minority arguing for a progressive utility fee as a better option to do this. I am not a sore loser and I am here to without conditions urge to you pass this measure today.

We've been at this for a long time. I personally am an alumnus of the 2009 safe, sound and green streets committee which prompted a small increase in the gas tax but we quickly saw that absorbed in lost purchasing power and largely by the Sellwood Bridge contribution that Portland made.

We still have a tremendous need. And to connect some of the policy dots, the Portland Plan, our strategic plan, recognizes that we cannot achieve our citywide strategies without new transportation revenue. And right now, you're in the midst of considering the comp plan. That includes a TSP project list that is built on the idea of a constrained transportation project list -- that is, the things we think we can pay for. The assumptions that go into what we think we can pay for include this revenue and more that it is expected that you will adopt. If we're not able to do this, you have to start trimming that list because it won't be real.

So, I urge you to adopt this I think primarily from my role as a multi-modal transportation advocate. We need our street network to be both maintained and to be safe, and this is an important step forward. I urge you to adopt it. Thank you.

Hales: Thank you all. Good afternoon. Welcome.

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Kristi Finney-Dunn: Good afternoon. My name is Kristi Finney-Dunn. I'm here on behalf of Oregon and Southwest Washington's Families for Safe Streets. Our group advocates for safer streets for all road users whether in a vehicle, on a bike, or walking. The cost to join our group is extraordinarily expensive: the loss of life or serious injury to our loved ones on local streets. My son Dustin was killed in a bike lane on Division in 2011. Kim's son Joe was struck down on a marked crosswalk on Division. Cindy's husband Marcos died after a driver plowed into his vehicle at an intersection. Christina's daughter Mona was seriously injured crossing a street near her school. I'm sure everyone here can agree that the price we have paid is more than anyone should have to bear. That is why we feel it is imperative that measures be taken to improve safety on our streets as quickly as possible

We cannot stress enough the urgency we feel on this matter. Our hearts, already broken by the loss and injury of our loved ones, are shattered anew when we hear of another road tragedy and another family suffering beyond imaginable. We truly believe that this devastation is not inevitable, and it is not acceptable. That is why we urge you to put this gas tax for safer roads and the repair of streets before the voters. We feel everyone deserves to feel safe, to be safe, and to be comfortable on our local roads, whatever our mode of transportation.

We don't want any more people to qualify for our Families for Safe Streets group. If we must contribute financial 3 make that happen we personally are glad to do so and we hope others will join us in helping to make more livable streets for current and future generations. We feel it is the responsibility of all people to work together for the common good. You passed resolution toward Vision Zero and you must continue in that endeavor. We expect you will keep this commitment in mind and do what you must to make it happen for. For my own self, I want to say thank you for that, and thank you for the opportunity that I personally have to be engaged in that process. We don't want any other Dustins, Joes, Marcos, and Monas on our roads. Thank you.

Hales: Thank you for your advocacy. Welcome.

Leah Benson: Hi, my name is Leah Benson, I'm here as a small business owner. I own a bike shop in Northeast Portland called Gladys Bikes and I took time out of my day managing the shop because I strongly believe this gas tax is an important investment in the economic vitality and livability of the city of Portland. You can ask just about any entrepreneur, and they'll tell you that learning to manage the books and make thoughtful investments is a key skill in preparing for the long term success. The same applies here.

For over 30 years, the City of Portland has been unable to secure the necessary funding to keep up with the natural deterioration of our streets. Lack of repairs has big implications to my business and our community.

Let me tell you, Portland is a pretty great city to own a bike shop in. We're known for great riding, exciting infrastructure, and safer streets. As a result, we've got a whole lot of bike riders and lovers here. That said, we cannot continue to rest on our laurels and ignore the fact that many of our roads are in dire need of upkeep. The continued success of the bike economy here is a complicated web, to be sure, but having good roads to ride on is undeniably crucial to success. If someone doesn't feel safe riding on our streets, she sure isn't going walk into our shop's doors to buy a bike, much less ride it. It's time to implement a sustainable plan for the maintenance of our streets.

That said, my support for this gas tax hinges on the City's commitment to partnering with the Transportation Justice Alliance to ensure the project development addresses equity concerns. It's critical that our investments in sidewalks, crosswalks, and safe routes to school programs help empower all citizens to share in the livable communities we cherish as Portlanders. I ask you to please vote yes today to allow us Portlanders to make this investment in our city. Thank you.

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Hales: Thank you. Welcome.

Hau Hagedorn: Hi, my name is Hau Hagedorn. I'm here as a mom and a citizen of Portland. I am a mother of three kids ages six, 10, and 12. I believe that the city is desperately in need of investing money to make our streets safer for everyone.

As a mother that sometimes drives, sometimes rides transit, but mostly bikes with my kids, we are confronted every day with the challenges and obstacles to safer streets. Two of my kids and I commute from North Portland to downtown every day to go to school and work. My oldest takes TriMet or bikes part of way for his five-mile commute to Da Vinci middle school. Biking with my kids allows me to have many conversations with them about what they see and what they experience. And here are some of their experiences.

My six-year-old feels mostly safe biking to school, but the ride home is a different story. When we start to head up N Interstate near Kaiser, he yells, "sidewalk." He wants to make sure I know that he wants to ride on the sidewalk because he feels much more comfortable being separated from the big trucks. He feels scared riding alongside the big trucks speeding up the hill.

When the City added wider-buffer bigger bike lanes on N Williams, I was curious what my 10-year-old thought since we often ride at home from school to basketball practice or his baseball games. He really likes the new bike lanes and feels much safer because the bike lanes were wider and he didn't have to play leap frog with buses. His experience is coming from a kid who was hit by a car in our neighborhood, so wider bike lanes are even good for 10-year-olds.

My 12-year-old in the last year has found a new sense of independence gained from a monthly TriMet pass and shouldering the responsibility of getting himself to and from school. He's very comfortable taking transit but prefers to bike when he can because it is faster. He's the one I worry about the most. Because he wants to bike everywhere, and as a concerned mother, I know not all streets are equally safe. So, here's a story from just yesterday. He wanted to ride his bike to an after-school activity in Northwest Portland with his friend in northwest Portland. I compromised by asking them to meet up with me at the edge of downtown and we would ride bikes together the last 0.7 miles. Why? Because it was in the middle of rush hour, there were no good bike facilities, it was dark, and I felt it was unsafe. I was only a couple minutes late. You know how 12-year-olds are -- I got a text from him and it read, "We are at the post office and we're going ride to practice on our own? Where are YOU?" "You" was all in caps for extra emphasis. And this is the reality I'm confronted daily.

Please make our streets safe for my kids and for other kids in Portland. If you make our streets safe for kids, the streets will be safer for everyone. Thank you.

Hales: Thank you, thank you all very much.

Joe Walsh: My name is Joe Walsh, I represent individuals for justice. It's a very awkward position for us to be in. Because we agree with you, the streets need to be fixed. I live on 74th and Division, so I'm very close to 82nd and often take the MAX. So, I'm above 82nd a lot. So, all of the representations to you that the southeast has to be fixed. It's unsafe. No one can argue with that.

One of my concerns is that when the City Club presented their report to you, they claimed that we were \$205 million in the hole in the department of transportation. And nobody seems to say, what happened? Who's responsible for that? And that's our concern. We don't want you to just move on and do a 10 cents per gallon tax. And there's other taxes coming. I think if you want to earn the trust of the people, whatever taxes you are thinking about -- and these are parking taxes, I understand, and other taxes that will fill in the gap because \$67 million is not going do it and we all know that. Why don't we be honest just for a change? Try it, you may like it. The people of Portland, this is what we

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need. When I want something, that's what I say to patty, because she handles the finances. I don't ask for \$10 if I need \$15 -- I'd ask for \$20. And then I negotiate down to 15. That's the unionism with me.

Do the same thing. Be honest with the people. This is not the final tax. This is one. You have to bring this up to put it on the ballot because that's the law. If you're going to do a gas tax you have to put it on the ballot. There's four others that you don't. Tell the people that. If it's \$205 million, Commissioner Novick, tell the people that. If it's more than that -- and some people seem to say it is -- be honest with them. Because if you lose credibility, you're going to lose this vote. And we've been screwing around with this now for two years. We have street taxes, we have fees. Please, fix the streets and do it honestly. Don't say, "What's the best way to do it? What will they believe?" Just be honest. Ask for the 20 bucks. Negotiate down to 15. Thank you.

Hales: Good afternoon, welcome.

Rebecca Hamilton: Good afternoon, Mayor Hales, members of City Council. My name is Rebecca Hamilton here today representing the City of Portland's pedestrian advisory committee. We would like to express our strong support for the temporary 10 cent per gallon gas tax and its use to fund the City of Portland's street repair and safety improvement program.

The PAC is a group of appointed representatives from all over the city. We bring the interests of the Portland Commission on Disabilities, the East Portland Action Plan, and a dozen other neighborhood associations and community groups throughout the city. Many of us have been a part of this committee for years. And over the years, we have become uncomfortably familiar with where the lack of consistent funding has left us. We have worked with PBOT on budget committees, on prioritization exercises where we are asked to select a small handful of critical safety projects for funding out of a list of over more than a hundred and on grant applications where we compete with other cities for a shot at funding our most basic infrastructure needs.

We see how very few sources of funding there are for pedestrian projects and how small those few sources are. And on behalf of the people that we represent who deserve to walk to school on a sidewalk or cross a street without taking their life in their hands, we are not happy about it. That is why the PAC strongly supports funding the street repair and safety improvement program through the proposed gas tax. This program would provide some of the only dedicated, reliable funding that we have for pedestrian projects that would literally help save lives.

Our City has made a commitment to Vision Zero. But if we don't back that with funding to pay for the safe routes to school connections or better crossing on our high-crash corridors, then we're making an empty promise to the people of this city. We can't kick this can down the street again hoping that Salem will step in to solve our problems for us. It is time we stop looking to dead-end sources to fund our immediate infrastructure needs. The PAC supports the City in taking ownership of our transportation future as a local gas tax as proposed so that we can build a safe network our citizens deserve. Thank you.

Hales: Thank you. Good afternoon.

Gerik Kransky: Good afternoon, Mayor Hales, members of the City Council. My name is Gerik Kransky, I'm the advocacy director with the Bicycle Transportation Alliance. Our mission is to create healthy, sustainable communities by making bicycling safe, convenient, and accessible. We've been focused on that mission for over 25 years. Today, I'm here to ask you to vote yes on the proposal in front of you to refer a temporary gas tax to Portland voters to help fix our streets.

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We are convinced safe streets for all Portlanders should be a top priority and that a majority of residents want to see more money dedicated to making this happen. This is especially true where conditions are worst and individuals are most at risk. We also need to balance out our interests with the reality that flat taxes by definition are not progressive. And in this proposal, many of the safety projects are in neighborhoods that need the investment most, which can help ease the burden of increased transportation costs. I want to thank Commissioner Novick for his statement here today about a continued commitment to looking for more progressive funding sources for future transportation needs. We look forward to partnering with the City and the Transportation Justice Alliance for that deeper focus on equity.

Some of the highlights from this from BTA's perspective include the investments and our commitment to Vision Zero, that vision of achieving zero serious injuries and fatalities on our streets, which is of utmost importance to us; over \$8 million for safe routes to school; six million for sidewalks; four million for safety improvements on our highest crash corridors; 3.2 million for new protected bike lanes; and 2.4 million for neighborhood greenways. These are fantastic priorities and we hope to see them fully funded through this measure.

In addition to my role at the Bicycle Transportation Alliance I've been serving as a volunteer on the Bureau of Transportation's budget advisory committee for over the last six years. I'll take this opportunity to remind folks of some of the keep and systemic cuts that that agency has taken within the last five years. Those were hard conversations around how we find \$16 million worth of ongoing budget cuts in one year, and \$5 million worth of ongoing budget cuts in the next. We have not yet seen those cuts restored, and so we're thrilled to see this temporary gas tax is moving forward for a vote of the general electorate. We hope to see it made permanent and expanded in the future. Thank you so much for your time.

Hales: Thank you. Welcome.

Ophelia Miracle: Hi. My name is Ophelia Miracle. I am 15 years old and I go to Grant High School. I grew up in Portland and I've been using TriMet to get around town since I was in fifth grade. I am not old enough to drive so it makes it a little difficult to get around town. And my home had a little baby and I have a little brother, so it's hard for her to drop everything and take me places. So, when I need to go to school, visit a friend, or go to the movie theatres, I count on the City of Portland to keep the roads safe enough for me to walk to the bus stop, ride my bike, or to go to Grant high school. This allows me to get exercise, develop my own independence, and get where I need to go without waiting for my mom to drive me across town. I'm here to ask you to let the city of Portland vote yes on the gas tax to help students like me to get across town. I can't wait for safer streets, including students in Southwest worried about the PPS boundary changes, and the students in East Portland who have to cross busy streets with speeding cars without sidewalks. We desperately need the gas tax to raise the \$8 million that will directly improve all Portland public school districts from Grant to David Douglas. Please vote yes today to make it easier for students like me to get to school.

Hales: Thank you, thanks very much.

Fritz: Thank you for taking time off to come in today.

Fish: I wanna say, I actually live across the street from Grant and you make us proud for being here. Nicely done.

Miracle: Thank you.

Hales: Thank you. Welcome.

Amy Subach: Good afternoon, my name is Amy Subach, and I am a cofounder of Vision Zero USA. As cofounder of Vision Zero USA, I'm elated that this measure allocates funds

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to implement Vision Zero on the ground in Portland in the most dangerous and high-crash corridors. As a mother of two young children in Northeast Portland, I support this ballot measure because I know kids are healthier and better able to learn when they can walk or bike to school safely. The funding for safe routes to schools will make all of Portland's children and vulnerable citizens much safer. Crossing the street to go to school or a play date or the grocery store should not be a matter of life or death. Thank you.

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

Kari Schlosshauer: Hi, how are you?

Hales: Good. Go ahead.

Schlosshauer: Thanks. Mayor Hales and remaining Commissioners, thanks for having me here today. My name is Kari Schlosshauer and I represent the safe routes to school national partnership here in the Pacific Northwest. I'm also a mom to two young boy whose could unfortunately could not be here today. One is napping and the other is in kindergarten. But they did want me to let you know the only thing they love more than pointing out potholes and cracks in our streets is watching the paving and construction equipment that comes to fix our streets. I would like to thank Commissioner Novick and the Portland Bureau of Transportation for their work to identify, highlight, and begin to prioritize investments needed in our transportation system, especially in historically under-invested parts of the city.

As with nearly every other city in the country, unfortunately, Portland has significant disparities in the geographic allocations of safe infrastructure for getting around. People who walk in poor neighborhoods are three times more likely to be killed in traffic compared to those in the wealthier parts of the city. This simply cannot continue to be our MO, especially in a city that has adopted a Vision Zero strategy. So, we support and are pleased to see essential safety projects in diverse low income communities where the needs are greatest with this proposal.

As you've heard from others, Portland has an exemplary program of education and encouragement programs that promotes safe routes to schools. It's arguably one of the best in the nation. Many of Portland's schools sit on our near busy and unsafe streets that put our children at risk on a daily basis.

Safety is an essential priority, and we're very pleased to see that as part of the proposal. It allocates \$8 million for safe routes to school improvements, approximately \$500,000 for each high school cluster, which will fund projects that have been identified and asked for for years. These safety projects will positively affect students at more than 35 elementary, middle, and high schools in David Douglas, Parkrose, Reynolds, Centennial, and Portland Public School districts. These improvements will include school crossings, paths, and missing connections; sidewalks; traffic calming; bicycle route connections for youth in all corners of our city. They need safe routes to get to and from school and in their community. They are already using the routes, and they need them to be safer.

I want to close by saying thank you for looking at this proposal. And just to make sure that you consider our kids as our future. They need these safe areas to get around. I hope to see this go unanimously to the voters. Thank you.

Hales: Thank you. Welcome.

Chris Rall: Mayor Hales, Commissioners, thanks for the opportunity to speak with you. My name is Chris Rall, I am the Pacific Northwest field organizer with Transportation for America. Transportation for America is an alliance of elected business and civic leaders from communities across the country united to ensure that states and the federal government step up to invest in smart, home-grown, locally-driven transportation solutions because these are the investments that hold the key to our future economic prosperity.

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However, Congress passed transportation bill that locks us into five more years of mediocre federal funding and the state of Oregon failed to pass a transportation package in 2015 to address road and bridge maintenance and other transportation challenges.

When the roof of your house is leaking, you don't wait for someone else to come and fix it for you. Streets are like houses in that the preventative maintenance protects investments protects and saves taxpayer money. Maintaining a road in good condition over time costs less than half the cost of making major repairs after letting that same road deteriorate to poor condition. Our children and grandchildren have a better shot at prospering in the city if we leave them safe streets in good repair rather than unsafe streets and a heavy burden of deferred maintenance.

The user fee proposal under discussion today can help the City of Portland get a handle on its street maintenance challenges and address safety issues. Other cities are moving to fund transportation with local funding. For example, the city of Seattle recently passed a \$930 million measure to fix streets and bridges, improve safety, and invest in transportation options. Portland's relatively modest proposal deserves strong consideration, and we look forward to discussing ideas with our national leaders and experts. Thank you.

Hales: Thank you both. Good afternoon, welcome.

Matthew Micetic: Thank you, good afternoon. My name is Matthew Micetic, I own and operate Red Castle Games in Southeast Portland. Red Castle is located on Foster Road, which as you know is a currently designated high-crash corridor by the City. I experience this on my daily commute with aggressive driving, tailgating, and speeding, and I see how it affects our community. I also experienced for the first time this past year of the "crash" aspect of the high-crash corridor when in April, a drunk speeding driver smashed into my business during business hours. Amazingly, no one was hurt or killed.

Foster Road as it's designed now promotes this behavior, because it's made to move vehicles and quickly as possible and doesn't pay attention to community needs at all. Foster Road has been addressed, however, with the Foster streetscape and we're very lucky for that. However, many other high-crash corridors haven't been addressed. With passage of this tax, it could be, and could help save lives.

I also support this tax as a business owner because my employees rely on transit, they rely on biking, they rely on cars to get to my store. My customers also rely on these features, and all my product arrives by FedEx and UPS. Everything uses the transportation system.

The first time street funding was discussed that I was part of was back in 2014, but I quickly learned that back in 2007, back in 2001 -- it's been an ongoing debate for years. I implore you, be the first Council in decades that takes a step to start finding a solution to this funding crisis. This tax may not fill the hole, but it will stop us from digging it any deeper in the next four years. Investing in our streets now just makes good business sense.

I had an issue with the sidewalk in front of my store where it sunk a little and I ignored it. And it kept sinking to a point where my customers would call it a moat. Some of my customers would hop it, no problem. But the normal customers that might stop in otherwise -- you could see them look at the large puddle, hesitate, they didn't want to get their shoes wet and kept going. The fact is that convenience is kind, and if people can get around easily -- whether it's on a sidewalk or on a street -- that will help promote business. I could have early on, I found out, mud-jacked the sidewalk to level it and paid a few hundred dollars. But instead, I let it get worse and I ended up paying thousands to jackhammer the sidewalk and replace it, which I'm sure many business owners are familiar with.

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Let's not kick the can down a potholed-riddled street for future citizens, future business owners, and future city leaders. Let's take charge of our streets. I'm asking you, help save our streets.

Hales: Thank you. Good afternoon.

Paul Romain: Good afternoon. Mayor Hales, members of the commission, I'm Paul Romain. I'm an attorney in Portland and I'm representing the Oregon Fuel Association. Sort of feel like a possum on I-5 during rush hour right now, but that's OK, I'm used to that.

A couple of things. First of all, this is how a local gas tax works. It's imposed at the wholesale level, basically. It's not a sales tax at the retail level. Which means that whoever buys the gas to distribute in the city of Portland is paying extra. So what that does -- they sell it to the people in the city, and then those people end up selling it to those who come to the station. The problem with it is your cost of doing business in the city have now risen. So, if you're in a central area of the city where people don't have choices, then you're probably OK, people are stuck paying the extra 10 cents or whatever you pass on. But if you're on the periphery, you have to make a decision, which is, "Do I eat the tax? Do I pass on some of it?" Because you're competing with people outside of the boundary who aren't paying the tax. That's why we like state gas taxes and we don't like local gas taxes. That may explain a little of why we're here.

Rather than going into why this is a bad idea, which I've said a few times, just a couple of practical considerations. One of them is the measure itself that you're sending to get voter is the ordinance. It's your exhibit A to this resolution. Now, that's the only thing that really can be covered in a ballot title. Not your wish list of projects which frankly is just a wish list. So, your ballot title really needs to be revised. And it will be challenged if it's not revised. All the project lists do not belong in there, they are not in the ordinance. Anybody in the ordinance who thinks those projects are sacrosanct are just wrong. You could change that at any time. That's number one.

Number two is that your explanatory statement -- again, for the same reasons -- is flawed. It needs to state what's in the ordinance. Your explanatory statement is basically a statement in favor of measure, which is allowed in a ballot voter's pamphlet, but under a different category. If you're going to have a ballot title and an explanatory statement, at least make them legitimate or fair so that the people who are voting on this understand yes, they will be paying 10 cents more -- whoever's doing business in the city -- but all those projects, yes, that's something you pass now, but just like what you did, your predecessors did with the utility fee, it can be changed without a vote of the people. We would ask that you correct the ballot title and the explanatory statement. Thank you.

Fish: Mr. Romain, could I ask you a couple of questions?

Romain: You can ask me as many as you want.

Fish: What's the cost of a gallon of gas at the retail pump today versus two years ago? Just in rough terms.

Romain: I have absolutely no idea. I don't pay attention. All I know is I can fill it up for less than two dollars a gallon where I used to fill up for four dollars a gallon.

Fish: That's about my experience. It feels like it's about half -- I'm paying about half.

Romain: And it fluctuates. That was a function of the Saudis and still is today -- the Saudis basically trying to take out Iran, take out Russia, take out the U.S. oil production, take out Venezuela and the Canadians, which they've been actually quite successful in doing. But that may change.

Fish: The point I want to make ---- that I'm using my daughter's car because she's in another country, and I'm filling it up. I'm struck that I'm paying about half what we did a couple years ago. So just from your point of view, if there were a time to impose a gas tax, is it a better time when you're paying much less of a tax?

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Romain: Mr. Mayor --

Fish: You don't have to do that here.

Hales: Much less formal than the legislature -- hopefully more productive, too.

Romain: That's an understatement. Commissioner Fish, it's from a political standpoint, sure, the price is low. That's why a lot of fuel issues now are going to come back to bite people in the butt about two years from now, three years now, whenever the price of oil goes up. Because we know it's going up --

Fish: This is a four-year temporary tax. So, if the folks that you represent don't like this approach, what approach would you support?

Romain: Commissioner, we have --

Fish: And I say that because the people that -- the folks that you represent fill the tanks of people who drive on our road, and the roads are falling apart, so they have a very immediate interest for a number of reasons to have the roads maintained at a higher level. If this failed, where would you link arms -- on what proposal would you link arms with us to get additional revenue?

Romain: Commissioner, we have tried. We tried in the last legislative session to get a statewide gas tax. We were unsuccessful. Something called the low carbon fuel standard kind of got in the way. It's still in the way and will probably stay in the way until some realization of how much cost that is adding to a gallon of gas. But basically, we're looking for statewide solutions that would come down to the city. From our standpoint, the statewide solution works. A local solution doesn't. We can go up a lot with the state gas tax. We just have a hard time with a local gas tax.

Now, local gas taxes within our organization are -- whether we oppose them or are in favor of them -- are determined by those dealers and jobbers who work in a particular area. So, I know that Commissioner Novick is ready to pounce on me about why we didn't oppose the Troutdale tax, but --

Fish: He'll have the full amount of time to pounce on you. I just want to understand --

Romain: We basically look to what occurs in a particular jurisdiction and whether those people want to be in favor of it, opposed to it, whatever they want.

Fish: My final question is -- and I should ask Commissioner Novick because he's sort of an expert on this -- if after today or whenever we act on this if you continue to disagree with the ballot title or the explanatory statement, your option is to go to court and have a circuit court judge decide the question?

Romain: Yes, that's the option provided by statute and by your ordinance code.

Fish: So if we end up agreeing to disagree on either of those, you still can go to court and have a neutral decide that question?

Romain: Yes, we can and we will. I'm just saying that a lot of times that's worked out ahead of time. You can sit down and say this is how it really should be. And we'd be happy to sit down and talk with you. We know you're gonna pass this thing. We assume you're going to pass this. What we're saying is that if you're gonna pass it, at least be fair about what you're sending out to the voter.

Fish: The last question is -- you know, it's not every day that we have a panel that has the diversity of views that have come in before us to support this. The Portland Business Alliance sitting next to the BTA sitting next to this and that. Commissioner Novick has done an admirable job building a broad coalition. Other than the Oregon Fuel Association that you so ably represent, are there any other industry groups to your knowledge that oppose this proposal?

Romain: Yes, there are. Quite a few, actually. We've had meetings at our office we are not at liberty to disclose, but frankly, the idea of a load fee has brought a whole bunch of people out of woodwork thinking that that may come down the line. There are also people

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who just don't like a gas tax. There will be a very broad coalition opposing this at the ballot in May. I can guarantee that. I'm not at liberty to say which ones frankly because we are waiting to see exactly what the proposal would be.

Hales: So, a couple of your members in my neighborhood are about a half mile apart. They're different ownerships on the same neighborhood main street and any given time the price of gas at those two stations is roughly 10 percent to 15 percent different.

Romain: Local decision. Everybody decides --

Hales: Right. So what's the level of gas tax that would come out in the wash in a marketplace where -- as Commissioner Fish has already noted -- the price has fallen precipitously and there's a variation from block to block around the city. What's the level that would fall below the pain threshold if 10 cents isn't it? Is it zero or is it some other number?

Romain: Mr. Mayor, we have not discussed that. I can't really tell you. All I know is that different stations have different reasons for what they charge. Some may take in a lot more volume and make less per gallon and sell more. Others may say, "I'm going sell it for a little more." Some have attendants that have full benefit packages -- those are probably the most expensive stations in the city. There are a few around. There very few -- if any -- stations that are actually owned by the major oil companies. That used to be a big issue with us. But they are not owned by the major oil companies, that's why you know there's not a lot of profit in retail oil right now. Unless you have a hole in the ground, there's not a lot of profit.

Hales: If we were to do what Clackamas County is poised to do, and that is adopt a local vehicle registration fee, would you support that?

Romain: I personally would love it if Clackamas County adopted a local fee.

Hales: OK. Thank you. Other questions? Thanks very much. Others? Welcome. Good afternoon.

Ruthanne Bennett: I'm Ruthanne Bennett. Thank you for this opportunity to speak to you. On behalf of PTE Local 17 COPPEA Chapter and as a Portland resident, I'm asking to you give the people of Portland the chance to vote for better roads.

We need streets to go to work, go to school, and to do so many other things. Kids and seniors need to be able to cross the street on the way to school or the bus stop. They need a safe place to wait for the bus. We all need streets to buy food, access health care, and receive emergency services. Food and other necessities need to be delivered to our neighborhoods. Our roads last far longer when we repave them and repair the cracks. This costs far less than waiting until the cracks turn into potholes, or worse yet, the street is destroyed and has to be rebuilt.

Postponing street maintenance reminds me of the car owner who delays oil changes for so long that it's necessary to replace the engine or the car. Small road repairs now will save us money because we'll avoid huge repairs later. People who drive on the streets would pay the gas tax to preserve the streets. This is an efficient funding method that is widely accepted. I'm glad that there will be an oversight committee to make sure this new funding will be used to improve our roads. The people of Portland deserve the opportunity to vote for better streets. Thank you.

Hales: Thank you. Good afternoon.

Craig Rogers: Good afternoon. My name is Craig Rogers. I'd first like to say that the cornerstone of this plan should be transparent and accountable. All too often, when there's been a report made on something here at City Hall involving the City -- just as an example, this recent release from the Auditor's Office that says limited oversight. And this is more common than not. We can have oversight in the words, but whether the action is done is something else. So as I said, transparent and accountable are a priority. It should be a

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cornerstone. I'd like to compliment you on having a hard sunset. Little do we know what we can learn in four year that we can apply four years from now you to make it better. About a year ago in May, The Oregonian held and symposium. I attended. Matt Garrett sat right in front of me. One of the first things he said was, "I don't know why people want to use something and not pay it for." Hey, I'm there. And what I'm amazed at is that a large bus or truck does the damage on the roads equivalent to 10,000 passenger cars. I'm just amazed by that. I actually think the number is phony but I've been told by people that know that that's the truth. So, you're looking for other sources of revenue, such as studded tires, that are charged at the point of sale, and other various fees and so forth. If those aren't followed through -- and I really encourage to you follow through on these other things -- it reminds me of a joke I once saw on the back page of the Wall Street Journal. One picture. And it was a devil at the gates of hell, and there was a whole line of gentlemen with suits, business people, politicians. And he's got his checklist. And all it has him saying underneath is he says, "Yeah, would-a, should-a, could-a -- we get a lot of those down here."

Hales: Thank you. Welcome. Good afternoon.

Lightning: Good afternoon. My name is Lightning, I represent Lightning Watchdog PDX. Commissioner Novick, you wanted that street fee passed through. Let's do a Council vote. Pretty aggressive. What's interesting this time around is I think your approach is going get something done. In my opinion, you've looked at what's going on in the market with prices dropping dramatically, fuel costs, people have a little bit more disposable income, people understand we need the roads repaired and safety our number one focus. You're proposing 10 cents. I think it's very reasonable. In my opinion, I would have gone up as high and 20 cents, possibly 15. 10 cents I think is a great number to get approved.

One of the things I'd like to see is that, is from my position, like I say, is that we need to understand what we're going to have to put something in to place pretty soon. And we can all sit there and say we have a great plan already in the future of what we're going to do. Well, we've done that for the last 10 or 15 years, so let's stop talking about it and saying you have the great plans out there, because they haven't materialized. You have the 10 cents per gas tax. It's not over-aggressive. It's not what we need to materialize what we need to do, but it's a beginning, and that's the key here. It's a beginning to look at, and you've also placed a sunset clause in this. You're being very reasonable this time around. It does affect you as a Commissioner, and I think you'll get this approved just by the way you're doing this. Thank you.

Hales: Thank you. Thank you all. Come on up, please. Good afternoon.

Vivian Satterfield: Good afternoon, Mayor Hales and Commissioners. My name is Vivian Satterfield, I'm the deputy director at OPAL Environmental Justice Oregon. We're going through a lot of big changes at OPAL right now. We just hired our new executive director who started his second week, so I'm just bridging the gap in between conversations that were had previously by his predecessor, who's heavily invested in the street fee conversation.

As you know, OPAL Environmental Justice Oregon represents low income communities and communities of color. We were heavily invested in the street fee conversation, and my understanding is that we were excited by the progressive revenue option that was on the table at that time. This current proposal, I believe, is a modest piece of the overall pie. It isn't as progressive in the revenue or investment as we would like, although there is some conceptual support for projects such as the Lents green ring and safe routes to school engagement that we are very excited by. It's good to see that in there. We'll be likely very excited to engage with you all in the conversation to continue to look at that project list and refine that for the folks that we serve.

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As we have been organizing in Portland for the last decade, the population that we serve has continued to shift due to forces of gentrification and displacement. Increasingly, we are organizing in East Portland in communities that currently lack a lot of the infrastructure that other areas of Portland currently enjoy. Until we have tools such as inclusionary zoning to ensure that we have a better mix of access for all sorts of folks in the city of Portland, projects and proposals like this are really critical for us to take a lens at and to see how we can also inform and engage our constituents to get their support on them. You know, we primarily are known for organizing transit-dependent people, folks who do not drive, but we also do organize plenty of low income folks who have to rely on junk cars quite frankly because our transportation system isn't getting -- isn't getting them where they need to go. So, that's a certain piece of this current proposal that is still troubling. We have no ability to currently spend this money towards transit operations. Therefore, for example, TriMet is still currently footing the bill for our streetcar operations. And I understand that's to the tune of about \$7 million.

I was engaged in Bus Riders Unite campaign for a fare transfer, which was a proposal to extend the transfer time on TriMet so that we could deliver better access to folks who are living increasingly in farther areas of the city. And just for context, you know, for \$7 million in transportation funds with TriMet, we could fully restore the frequent service network of both bus and rail with that money.

So overall, I'm looking forward to continuing to engage with this Council in discussion and with the Transportation Justice Alliance to find how we can deliver better projects to the folks who really need them who use our roads. Thanks.

Hales: Thank you. Good afternoon.

Charles Johnson: Thank you. It's always a privilege to testify after the best works from OPAL, and appreciate their work, especially with Bus Riders Unite. At times I've told you I'm Charles Johnson and I'm here testifying on behalf of Oregonians for food and shelter and compassionate wisdom. But today, I'm just bringing you three words from our most philanthropic billionaire. Just do it. Bring this to the voters. I can't guarantee you that Phil Knight is behind it, but he's putting a billion dollars into cancer, he probably wants us to see us have better roads to get up to OHSU.

So, we're not going to have a perfect solution. The road aren't going to get better if we have a fancy study group and another City Club report. You know, it's pretty hard to oppose putting anything on the ballot even if you're an attorney for the fuel companies, and letting people decide for themselves. So, vote to refer to create the ballot measure, but also create channels so that OPAL and other economic justice organizations can engage and make sure that those people who use four times as much gas as other people, the higher income people -- we find fair and equitable taxation against them also. Thank you.

Hales: Thank you. Anyone else? Any further questions from Council members for staff before we take a vote on the resolution?

Fritz: I just have a clarifying question. The ordinance is really specific directing the specific ballot measure language and voter's pamphlet statement and other parts of the proposal rather than something substantially similar. What's the process if there is kind of an appeal and it's found that we need to make a change in this title or any of the other pieces of it?

Novick: We worked closely with the City Attorney's office on the ballot title. There is, of course, a process for challenging anything. Ken will explain what it is.

McGair: I think Mr. Romain adequately addressed that by saying there could be a court challenge. The court would look at the text and context of the ballot title and the ordinance together. We feel strongly that the text in the ordinance matches and conforms to the ballot title and the explanatory statement. And, you know, in light of the fact that there may be a challenge, I don't want to go into too much detail.

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Fritz: It's just -- suppose whoever who gets to decide says, "No, actually you have to change it." How does that happen? Is there time for it to come back for Council before the May ballot?

McGair: As I understand it -- and Linly Rees is more the expert on this area -- but they can remove certain words from the explanatory statement or the ballot title. They can amend it. We can negotiate the change to the explanatory or the ballot title before that as well.

Fritz: And the Council doesn't have to approve any of those things?

McGair: I don't want to speak out of school, but I don't believe so, no.

Fritz: I just want to make sure that we have whatever language you need in the ordinance so that if there is -- because it specifically says to put these words --

McGair: Yes, I believe we do.

Fritz: OK, thank you.

Hales: Any other questions for Ken? Thank you very much. OK, I believe it is time for the Council to take a vote, please. Call the roll.

Item 96 Roll.

Fritz: Well, I'm honored to be voting first on this and glad to see PBOT, the Portland Bureau of Transportation, building on the success of the "fix our parks" bond measure and going for a "fix our streets" measure. And indeed, the parks bond measure was "help" fix our parks. And this really is "help" fix our streets. This is not going to take care of all of it. As some people may recall from 2014, we had a discussion of how to take care of all of it and it didn't go so well. And it didn't go nearly as well as this one. So, I really commend the way this has been done as well as what's being put forward. I'm going to quote Corky Collier from the very beginning of this hearing. PBOT knows how to do this, they simply lack the funding. So, thank you very much to Director Treat and all of your staff for putting this together. Again, having led the parks bond process, I know how much work the staff and the director do and then we as Commissioners support your work and help bring it to Council and then take it to the community.

Commissioner Novick and I already started that process last night at the arts forum and we were asked the question that clearly had the desire to answer, "Will you put more funding into the arts, and why didn't you put money into the arts?" And we said because we put it into street maintenance and we need to do that. And I was told afterwards that many of the participants -- many of the audience members came up to me and said, yes, I support the arts and I know you do, and we need to fix our streets. So, it's really something that I believe that the -- this builds from the 2014 process because that helped a lot more people understand that, yes, we really do have a problem. And the fact that we have a hearing that looks like it's going to get done in less than two hours shows that now we have some consensus that this is one of the ways that we're going to help fix our streets. And it will raise about \$16 million annually, and we need \$119 million annually. It is very much only a piece of the solution, and I agree that this Council bears the responsibility to help find some other solutions before the end of the year. So I will work with the Mayor, Commissioner Novick, and my colleagues on that. It's similar to the equity discussions that we have had. We as individuals didn't cause this problem. It's been going on for many decades. We are responsible for helping to fix it. And I am very glad to be part of this effort.

I want to just quickly address the issue of drivers at the edges of Portland. I live at the corner between Tigard, Lake Oswego, and happily in the city of Portland, so for many years I have had the choice of whether I am going to shop at the Tigard Fred Meyer or at the Burlingame Fred Meyer. I switched when Multnomah County had its business income tax because I knew that those taxes were going to help schools in Portland, even though the Burlingame Fred Meyer is much smaller than the Tigard Fred Meyer. Similarly, when

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we and the Council banned plastic bags, I kept going to ours, the Portland store, because they are using paper bags and have been for since we passed the ordinance. I know that they started paying paid sick time to their employees before the rest of the state is going to. So, we as Portlanders understand that there's a privilege to living in Portland. There are some responsibilities. We do have choices. And it just so happens if you shop at our wonderful Fred Meyers with United Food and Commercial Workers Union members, you earn points for every dollar that you spend and you get to take it off at the gas station. My kids and I diligently saved up our points this January and filled up the car that has the biggest gas tank, and it cost less than a dollar a gallon because we got a dollar off.

The question of, "Is now the right time to do it when prices are low or is another time when prices are high the better time to do it?" I think the answer is both. Now, you know, the difference between \$2 and \$2.10. It's low anyway, so that is good. If it were \$4, the difference between \$4 and \$4.10 is not that much either. And taxes in Europe on fuel are four times what our taxes are. So, the other issue is that Tigard, Milwaukie, and Woodburn all already have local gas taxes. They're less than ours, so ours will be the highest in the state, I believe, for a local measure. And that is appropriate because we are the biggest city in the state and the most miles to fix, and we certainly have a lot of safety projects that need to be done as soon as possible. Thank you for all of your work. Commissioner Novick, thank you for leading this wonderful effort. Aye.

Fish: I want to start by thanking Commissioner Novick and Director Treat for their hard work in making this day possible. Steve has a tradition at moments like this of citing to a favorite song, a lyric, and I'm going to beat him to the punch. Because I think that the song that best captured this moment is one that Lennon and McCartney collaborated on. It's called the Long and Winding Road. And it has been a long and winding road, and there have been some bumps along the way, but you never gave up. You were committed to finding a mechanism to raise new money for safety and streets and to do it in a collaborative way. You've accomplished that goal, and I want to compliment you for that.

In fact, I was thinking about the year that you and Leah have had. And you probably have your own list of the top highlights, but I think in the last year, it's pretty darn impressive that we adopted Vision Zero and made a commitment. I think that the bike share announcement with Nike as a full partner and an incredibly innovative way of launching that program is a milestone. And today, we've achieved something that probably some people thought couldn't happen, which is you found a path forward to finding a short-term dedicated revenue for our streets, and I compliment you for that.

Commissioner Fritz quoted from Corky Collier, so I will quote from Mr. Kransky who in his testimony said, this is a good start. And that's what it is, a good start. We have a lot more work to do. But I really want to thank the leaders who have brought us to this moment. I want to thank the community partners had stepped up to support us. And following this action, the hard part begins because we have to pass this thing. And I'm going to make the first pledge. I will not drive outside of Multnomah County to fill my tank when this passes. And that's partly for practical reasons because I'm pretty sure it would cost me a hell of a lot more to do that than to just fill up at the neighborhood gas station. Thank you for the leadership that brought us this moment. Aye.

Saltzman: Well, I look forward to supporting this measure today and at the polls in May. Thank you for crafting this and having such broad-based support. It does seem like it's the most expeditious path to getting more resources into our transportation and maintenance and safety system right away. Aye.

Novick: I'd like to start by thanking the members of the bicycle and pedestrian advocacy group such as Safe Routes to School, the Bicycle Transportation Alliance, Community Cycling Center, Oregon Walks, and the members of the Portland Business Alliance who

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had different ideas of how to raise money and how to spend it. I want to thank them for talking to each other and thinking through this and coming to a place where they're all supportive, even though it might not be exactly what any of them wants. I was really encouraged by how those discussions went.

I want to thank Ken McGair in the City Attorney's office and Thomas Lannom of the Revenue Bureau and the PBOT team, Mark Lear, Leah Treat, Steve Townson, Shoshana Cohen, Ken Lee, Dylan Rivera, since he's here. Dylan, I want to thank you for helping to put together that appeal to Santa that launched this in December of 2013. We have explored every option. And let's see, who am I leaving out? Oh, yeah, I'm leaving out my staff. More than half of my staff has worked on this. Timur Ender, Andrea Valderrama, Chris Warner, and Katie Shriver, thank you all very much.

And Commissioner Fish, of course, you were right. I have to have some musical reference. And because we lost both David Bowie and Glenn Frey in the past couple of weeks, I figured I had to do whatever I could to be sure we had a tribute for them. If I did not vote fourth -- if I had been voting first, then I would have quoted David Bowie and I would have said that this Council is proving today -- that it has a chance to prove today that we are more courageous in terms of transportation funding than any Council has been in 30 years. So to quote David Bowie, we can be heroes, just for one day. But since I'm voting fourth and the votes have already been cast, I will quote the song that was co-written by Glenn Frey and Jackson Brown, Take it Easy, we may lose, we may win, but we'll never be here again. [laughter] Aye.

Hales: It's nice we can count on that, Steve, thank you. Well, we have arrived at a good place on this issue after a long and winding road and after a lot of work. And we are in a place where we can now do the right and sensible thing, and that's what this proposal is. You know, we have heard during the denial and debate portions of this discussion over the last couple of years a lot of objections as to why we shouldn't do something. And it's notable that today we're only down to one and it's the most ludicrous. But we've heard all kinds of things. We've heard that it is not a real problem, that we can wait and it is not that big a deal. Well, that's been well-documented. The size of the problem and the fact that it is growing inexorably and exponentially is now clear to most people. This is a big deal, we need to do something. And you know, a lot of us, me included -- you know, we can perhaps be forgiven for not getting around to doing something until it's really forced on us. But this is forced on us unless we just want to really stick our head in the sand. So, that objection is pretty much, I think, gone. That's why we're not hearing it now.

Another is that the City is not well managed and that, you know, there is just a lot of waste, fraud, and abuse. And actually, a number of us were here this morning when we had the most boring, spectacular presentation that we get every year, which was our Comprehensive Annual Financial Report and our independent City Auditor and our independent private sector auditor all come and say the same thing, which is everything in this City is properly managed. Every T has been crossed, every I has been dotted, and they had no issues to report in the management of a \$3.5 billion enterprise. Not many cities can say that. So, I guess the objection that we just don't know what we're doing around here financially -- that's pretty hard to sustain.

Another is that we're just spending all of that general fund money on other things. We haven't heard that today, which is refreshing. And that's actually also pretty well understood now. As I think Commissioner Fritz pointed out earlier, 90 percent of the general fund to police, fire, and parks. And oh, by the way, I get the Budget Office to produce this little spreadsheet for me every year as I go into the budget process. It's interesting to note and not well-reported. I ask them, how many employees do we have? Because our biggest costs, whether it's the Police Bureau -- sure, they buy police cars and

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uniforms, but most of the cost is people. Sure, the Fire Bureau buys trucks and hoses, and most of their cost is people. We buy grass seed, paint, and swimming pool chemicals, but most of the cost is to people. And in 2008-2009, the City of Portland had 6035 employees, all bureaus totaled up. Today, the bigger population, big challenges, we have 5834 employees -- 201 less. So, I guess we're not taking all of that general fund money and blowing it on lots of new programs and functions, because we're continuing to provide the basic services with less people than we did eight years ago.

Another objection of course is that Congress will do it. Well, they did pass a six year -- five year transportation reauthorization bill. Good. We've been wanting them to do that for about 10 years. And it's positive that they did that, but they didn't increase the gas tax and they haven't increased it since 1993. So, that one doesn't hold much water.

"The legislature will do it." Well, Commissioner Novick and I were told at the beginning of the last legislative session to please stop talking about local things because we're going to do this in 2015, and they didn't. And now we've heard that they're not going to do it in 2016, either -- regrettably. I hope they'll do a lot of other good things and in fact, we will be talking to them tomorrow morning about all of the good things that they can do.

So, we're down to the most ludicrous argument which is that it is problem for the collectors of the tax. Because that's all that gas stations are. The oil companies and gas stations collect this tax from all of us and they remit it. As I mentioned, I don't believe anyone will spend a dollar to drive the extra miles to go to a different gas station to avoid paying this tax with gas prices being what they are over the next four years.

So, this is the right and sensible thing. We are here because we need to do something because it is our problem. We're here because Commissioner Novick your leadership has been steadfast on this, and I appreciate that so much. We're here because these are our streets and this is a basic service. I ran for this office because I wanted to make sure that the City was doing a good job of funding and managing its basic services, and this is one of them, and this is really important that we all do this. And we're here because the victims of traffic violence are our neighbors and our kids. And one of the problems of being the Police Commissioner is that when bad news happens, I get it early because this thing goes off. And if it is a gang violence incident, it's in the middle of the night. But usually if it's traffic violence, it's during the day because that's when people are going to work and going to school. And I don't go to every incident, but I have been to too many. And I still remember going to SE 136th and watching a police officer with tears in his eyes pick Morgan Cook's little coat up off of the street where she had been killed. And no police officer, no family, no mayor should have to go to that kind of incident. And that's why Vision Zero matters and that's why we have a Transportation Director and a Commissioner and a City that believes that that's the right and sensible thing, too, and just as doable as this is, which is to pay our bills. Thank you all for great work. I look forward to the voters of the city of Portland doing the right and sensible thing as well. Aye. Thank you all very much. We're recessed until tomorrow.

At 4:03 p.m., Council adjourned.

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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 28, 2016

2:00 PM

Hales: Good afternoon. Welcome to the January 28 meeting of the Portland city council. Would you please call the roll? [roll call taken]

Hales: We have a single item on the calendar, which is a report. Would you please read that item?

Item 97.

Hales: Are you going to lead off? Constantine, good afternoon. Come on up. Good afternoon.

Mary Hull Caballero, Auditor: Good afternoon, mayor, commissioners. For the record I'm city auditor Mary hull caballero. I think we welcome discussion of Portland's police accountability system. We have by outside experts of officer involved shootings. Our predecessor had the foresight to require through city code independent review of officer involved shootings and in-custody deaths. He auditors independent police review does not investigate officer involved shootings or in custody deaths. The citizens review committee does not hear appeals. Instead Portland's oversight model relies on law enforcement experts with a national perspective such as those here today to assess these types of critical incidents. The first outside assessment occurred in 2003. Back then there was a virtual absence of internal administrative reviews of these cases. Much progress has been made since then but as you will learn today much important work is left to do. Now I would like to turn it over to Constantine Severe, director of the auditor's independent police review to introduce the principals from the OIR group.

Constantine Severe, Director, Independent Police Review: It's my pleasure to introduce Julie Ruhlin and Michael Gennaco from the office of independent review, OIR. Ms. Ruhlin is an attorney who specializes in civil rights in California. Ms. Ruhlin formerly worked with the resource center park which did the first set of outside expert reviews as mandated by council. Mick Gennaco is a former assistant United States Attorney who served as chief of the civil rights section for the central district of California. One of my most important duties is to fulfill the council mandate that is review of all officer involved shootings and in-custody deaths. OIR fourth report build upon the earlier reports. This is the 9th report including the previous park report and oir's standalone report into the investigation of James chasse, completed in 2010. As a result there is now a criminal investigation by Portland police bureau's detective division to determine the criminal conduct of involved member as well as separate administrative investigation conducted by internal affairs to determine whether there's any violation of policy which was not always the case prior to outside review. The quality and depth of administrative investigations have improved dramatically in the last 15 years. All officer involved shootings and in custody deaths go to a police review board composed of ppb members, community members and an ipr representative who makes a recommendation to the chief of police and the police commissioner. There is also a public report on every case heard by the police review board. I believe when the city has taken full advantage of these reports it has given early access to emerging best practices in the field of police oversight but when

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we as a city failed to implement common sense recommendations from these national experts there's been a price to pay in diminished public trust and confidence in our system. Two examples has been particularly the 48 hour rule which requires advance notice of an involved officer prior to compelled administrative interview. An additional area of concern that OIR has noted in several prior reports is how long the internal review process has taken. Additional benefit of these reports is they have been a resource to our community. Oir's decision to include officer named as well as subject names have made the reports easier to read and much more transparent. The police bureau is to be commended to following and carrying through on over 100 recommendations made over the course of these reports, but the community itself has provided additional recommendations and built upon the work done both by park and oir. Few examples would be, work done by the citizen review committee and the stakeholders committee that was convened in 2010 to look at the oversight structure of the city of Portland. As a result of the oir's report in the chasse case ipr was authorized to account in all officer involved shootings and in-custody deaths. Since June 2011 ipr has responded to the scene and the police bureau to its credit has facilitated that and has worked as partners in making sure that ipr has access to scenes and has access to evidence as needed. With that I would like to call oir to the front. Thank you.

Hales: Thank you both.

Sever: Thank you.

Hales: Good afternoon. Welcome.

Gennaco: Thank you. Mr. Mayor, commissioners, I'm Michael Gennaco. We had the opportunity to visit with you I believe when we issued our third report and some of you even before that. So this is as Constantine has indicated a fourth report with regard to officer involved shooting review. We also did an initial report surrounding the death of Mr. Chasse. The report contains 11 officer involved shootings over approximately a year and a half period of time, and it dissects each shooting and looks at issues coming out of the shooting not for purposes of relitigating whether or not there should have been criminal charges or accountability but more to evaluate how the Portland police bureau itself did with regard to the investigation, with regard to the review, and whether or not the Portland police bureau took sufficient notice of the shootings and issues coming out of the shootings sort of as a lessons learned. One of our philosophies consistent with I think better practices throughout the country is that critical incidents like officer involved shootings and in-custody deaths present unfortunately a tragic situation in which a person is often injured and sometimes killed. And it's the exercise of the utmost power that we give our police officers which is the ability and authority to use deadly force. So because of the impact that such an event has on individual members of the Portland community as well as Portland community at large and the bureau, we believe that it is incumbent upon the bureau to collect sufficient facts and evaluate the case so that its members are better, one, for accountability, but also to ensure members are better prepared on a forward going basis to deal with tomorrow's challenges. As we have seen, those challenges often repeat themselves, and if insufficient guidance, training, supervision is not provided to police officers based on lessons learned from the past, it's doomed to repeat those unfortunate events in the future. What can we say about how the bureau did? I think we also agree that if you look over the five-year arc in which we have reviewed the shootings coming out of the bureau we have seen significant improvement in all areas that we would issue a report card on. That is, we have seen significant improvement with the way in which investigations are conducted and also continued improvement arc in the way investigations are reviewed. In addition with regard to the way in which the bureau has responded to these incidents it's clear that in some cases at least the guidance, the training, the lessons

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learned from past experience has become inculcated in the bureau so that the bureau had better tools, better responses, on some of the more recent cases that we have looked at. It's all perfect? No. Did we expect it all to be perfect? Absolutely not because every time you're presented with a new set of circumstances and while training is important because these kinds of tactical decision makings are perishable skills it's important to continue to keep your attention to these issues on a continual basis. We have issued in the report a couple of other items. The last of the appendix sets out a chart of all of the 35 critical incidents that we have reviewed during our tenure. And indicates some salient features with regard to each of those shootings. We thought since this is the ends of our contractual period it would be important to set out in sort of historical chart-like way some of the -- all of the events and some of the features to them as a reference piece for members of the community and the bureau itself who might be interested. We have also issued in this report 31 recommendations and while it's not our intent to go over all 31 recommendations this afternoon, we hope to highlight some of the recommendations that we think are most important to this body and to your public. We are also, of course, prepared to answer any questions that might be in you all's thoughts upon reviewing our report. Stand ready as a resource to do that. We are also obviously if public comment suggests or spurs other questions in your mind that you would like us to address we're here to do that. We spent all day yesterday as well interacting with your community. We had community meetings, we met with the bureau with regard to not only the report but other issues on sort going forward where are we now basis and we continue do that and we find that those meetings are indispensable to our work. One for purposes of transparency, also because the dialogue we receive from your very well informed community informs us with regard to the issues that are present in Portland. We're not Portlanders and for that reason it's imperative for us to continue to do that. At this point if you will, what I would like to do is turn it over to my colleague, Julie Ruhlin, who will talk to you predominantly about the theme that comes out of these officer involved shootings.

Julie Ruhlin: Good afternoon, thank you. Julie Ruhlin with the oir group. One striking thing about these 11 shootings that we review in this report is that in seven of them there's some evidence that the subject had an intent to provoke the police officers into shooting him and some desire to end his own life. This dynamic is very commonly referred to as suicide by cop, and that is a term we find problematic. It ignores the reality that the responding officers to these situations have some ability to influence the outcome of these very -- often very complex scenarios by employing good tactics that are here to -- adhere to officer safety. It instead leads people to conclude that the outcome of these shootings is somehow inevitable, that the death was inevitable. There was nothing the police officers could have done to prevent use of deadly force. I think this in turn creates and we have seen repeatedly in the work that we have done that it creates appear tendency to be less rigorous in your analysis of the event. We saw that in a couple of cases that we review here. The shooting death of Brad Morgan, the training division review in that case really tackled this issue and acknowledged there were things that officers maybe could have done differently that might have led to a different outcome. Then training use that acknowledgment to really drive forward some of the changes to the way that they train officers and some innovative ideas for how you do train officers to deal with crisis communication in these kinds of situations. But the commander's review, the commander -- there's a findings memo that goes to the police review board. In that case the commander fell into this inevitability trap and wrote that there was nothing he felt officers could have done to prevent Mr. Morgan from forcing officers to take his life that night. And again in the shooting death of Mr. Higginbotham we found similar kinds of language in both the training review and the commander's review. Again, falling into this inevitability

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trap and this notion that Mr. Higginbotham's actions really drove the outcome. Without really acknowledging how the officers' lack of information gathering and tactical planning may have influenced the outcome in that case. At the same time we saw other cases in this group of seven where officers did employ sound tactics and did follow principles of officer safety and nonetheless ended up shooting at or shooting the subject, so we don't mean to suggest that the bureau's officers will always be able to control an outcome. I think that's an important caveat here. What we do want to emphasize is that the analysis, the analysis that Mike talked about in his opening remarks is important in every case. It's very important to look not just at the moment that the officer pulled the trigger and the decision to shoot or not shoot, but to really unwind these events and look at all of the decisions leading up to it, up to that moment of the shooting. So it's important always but in particular where it's evident that the subject wanted to precipitate a response from officers in this encounter with a desire to end his life it's particularly important that bureau guard against compromising the rigor of analysis and falling into the notion that there withdraws nothing that could have been done to change the outcome and change the language and mentality around these scenarios to get rid of that notion that the outcome, that the shooting, the death was inevitable. That's the recommendation that goes with our discussion here.

Gennaco: Mr. Mayor, commissioners, I would just highlight two additional -- three additional points. One, sort of related having to do with the investigation itself, as Mr. Severe, Constantine indicated there's been concern over our review period of five-plus years about the timeliness of the investigations. It seems to take too darn long to get the investigation and review process completed. That creates a whole lot of issues. One, it leaves the officer and the community with a sort of -- Damocles sword waiting for the result of these cases for too long. As you're likely aware the department of justice in its settlement agreement pointed to the delay or the length of time in investigations as one of the issues it's requesting or demanding I guess that the bureau address. My understanding, and we can report that there is some optimism here because when we looked at the last couple shootings in line here, we saw a much shorter investigative and review arc. So it looks like that the bureau working with IPR is getting a handle on this issue and we expect that other shootings that occur will also have a more compressed time schedule that will be in line with investigative standards and the expectations of the U.S. Department of Justice. There continues to be one investigative issue that we're going to continue to hammer home as long as we're doing this work. That is the unfortunate situation that prohibits the bureau from obtaining a statement from its members the night of the incident. As a result of an agreement reached between its association, its officers' association, the bureau is not allowed to receive any information or any account from its officers about what they did that night, why they decided to use deadly force, until at least two days after the event. We find that that one condition in and of itself makes it difficult for us to say that the investigation is entirely comporting with best investigative standards. We understand that the agreement is up for renewal next year, and we are hopeful that this issue be revisited in the negotiations leading up to the new agreement with your association.

Fritz: Let me just clarify that.

Gennaco: Commissioner Fritz.

Fritz: I thought they could be interviewed but they can't even provide documentation of what happened?

Gennaco: There is no documentation. Officer-involved shootings there's no requirement to provide a police report at all. Instead it's an interview, and while the officers are asked to provide voluntary interviews the night of the incident, most recently over the past several

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years, they have declined that opportunity. There's no ability to compel officers to provide information until at least 48 hours after the incident.

Fritz: Thanks for the clarification.

Gennaco: Sure. The final issue that I'm going to address has to do with an issue that continues to be raised throughout the country, and that is the unfortunate situation in which officers are confronted with an individual who is armed with a knife. That has happened recently in the city of Chicago. It's happened in the city of San Francisco. In both cases it's created significant controversy in which an individual has ended up being shot and killed as a result of wielding a knife. That happened as well in one of the cases that was up for review this time, Higginbotham case, where the -- a man came out of an abandoned car wash with a knife. When from one of the involved officers in the case testified before the grand jury, he indicated that he had been trained about the 21 foot rule. The 21 foot rule was created in 1988 by an individual in the Midwest who decided that he would do some informal scientific study and made a determination that if you get close to an individual who is carrying a knife within 21 feet that you are therefore too close and are in the kill zone and therefore must be wary of that individual and may need to use deadly force in response. While in fact the science is kind of important to know, and in fact it is true that actual reaction times do present challenges to officers, particularly with someone who is armed with an edged weapon, what we are concerned about is that the message or take-away from that lore would be if I'm 21 feet or less away from an individual carrying a knife my only option may be deadly force when in fact that's not the case. I don't even think that was the original intent of the training, but what we're worried about is that might be how it's interpreted by officers. So what we have asked in our recommendation is that the bureau make sure that its officers have an understanding of the relationship between distance and reaction, action time. Our thinking and our recommendation is the message should be that's why you don't get too close to an individual who is carrying an edged weapon or a knife. That's why you seek cover, tactically reposition and not present a situation where you are allowed the suspect to get that close to you and then feel threatened by his coming at you with a knife. We have two final issues that I would like to address, and then obviously we're open for any additional questions you all may have.

Ruhlin: There are two issues we have addressed repeatedly in our reports over the years and I just want to touch on them here. One is the rule of sergeants on the scene of a critical incident. Ideally when you have a sergeant on scene and ideally you do have a sergeant on scene, I think it's good unlike some of the agencies we have worked with Portland often has sergeants out in the field. They are not stuck in an office doing paperwork. They are supervising. When they are on the scene of a critical incident as it's unfolding ideally the sergeant's role is to be a supervisor, to assert command over the scene, command over the situation, to direct resources, to ask for appropriate resources, and to delegate assignments to the officers who are there. Training, this is consistent with what training teaches. It's how they teach sergeants in their sergeants' academy and in-service training for sergeants, but unfortunately we don't always see it play out that way as these incidents unfold. In four of the cases that we reviewed sergeants assigned themselves to take on a tactical responsibility instead of delegating that to officers. In two of those, sergeants ended up using deadly force. In only one of those cases was the issue really flagged by the bureau. That was again in the case involving Brad Morgan. The training division review identified this issue and acknowledged that it was not ideal for the sergeant to have put himself into the position where he was one of those communicating with Mr. Morgan. The commander's memo again minimized this issue and likewise in the other three cases that we saw that we reviewed here where this was an issue, both the training review and commanders' memos didn't really address this issue. So, you know,

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you have this training in place but the second piece of that is accountability. We found that in these four cases that accountability piece wasn't followed through on, and that really minimizes the effectiveness of the training. It's impossible to say in any of those scenarios how a sergeant on scene asserting a strong supervisory presence, how or whether that would have made a difference in the outcome, but the fact is that is the ideal and we just think that the bureau needs to be paying greater attention to that in its review of cases and its accountability decisions. The second and final issue that we want to talk about that again we have addressed throughout our work here is the speed with which subjects who are injured in an officer-involved shooting, the speed with which medical treatment arrives or the officers provide medical treatment to those people. The issue is somebody is shot, they are down, there's still either we know officers know, know or believe them to still be armed so they present a risk, a danger. So may not be safe for officers to just walk right up on them. It's not safe for paramedics to come into the scene until the weapon has been secured and the subject has been secured. This is an area where we are optimistic and we can say that the bureau is moving definitely in the right direction in 2010, following the death of Aaron Campbell, this was a major issue, the length of time that it took for medical care providers to get to Mr. Campbell and identify that he had been deceased, was just too long. In its response to that the bureau equipped all of its sergeants' cars with ballistic shields so they can have the shields, they can approach, they form a team and approach and secure the weapon, secure the subject and the shield provides some measure of safety should the subject pick up the gun and start shooting. So we saw in a number of the cases that we reviewed of these 11 cases for this report where officers and sergeants very quickly they knew the shield was there, they got the shield together, they got a team, they approached and quickly did get medical care to the injured subjects. So I think that's a big positive. There were still two cases, some questions about the sergeants' training and they weren't really comfortable with how to use the shields and how to -- the limitations of the shields, so that's an issue that I think the bureau knows it needs to address to make sure that all of its sergeants understand why those shields are in their car and what they are to be used for.

Fish: Since you've mentioned Mr. Higginbotham and Mr. Morgan, one involved a gun, one a knife, could you explain generally what's the difference in the weapon and how it impacts the protocol? For example, if someone has a knife and they have been shot and you have at least initially determined that it appears they only have a knife, how might you treat that instance differently than if the person as with Mr. Morgan, he flashed a gun.

Ruhlin: You mean after they have -- after the shooting and they are down?

Fish: Yes.

Ruhlin: I think the gun obviously I think creates a greater sense of risk because the gun can arm you from a greater distance. So if a knife is there, I still think you know if there's somebody has a knife in their hand and they're down, what you often see in law enforcement training is a concern that they may be waiting for you to approach so that you -- they can use the knife or the gun, but of course the distance is a different threat and so if the knife has fallen out of their hand and you can see that, I think officers can with much greater degree of confidence feel they can safely approach.

Fish: It appears in both instances the officers were treated waiting for some event to more safely go and inspect the person who had been shot, but if an officer determines, if they are reasonably sure the only thing you have identified is a knife and someone is down it seems like common sense there's a different risk factor.

Ruhlin: Yes. Agreed.

Fritz: In one of the cases Mr. Hatch, one of the tragedies, Mr. Hatch, the responding staff, decided to use a canine to fight the person. How often does that happen?

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Ruhlin: Honestly, I have not seen that before. That's not a practice that we have seen commonly used by other agencies. It's why we raised it and made a recommendation about that, that the bureau really evaluate whether that's appropriate, especially in a scenario like that where they had a ballistics shield available.

Fritz: Any evidence in the record as to why the shield was not used?

Ruhlin: They did use the shield. In fact, the sergeants in that case were prepared to move forward with just the shield, and the canine officer was there, I think a canine sergeant, who suggested that they use the canine as an added measure, and they did. There's not a lot of analysis of that decision in the record, so it's not clear exactly why they -- if they felt the shield was not sufficient. It's definitely an area I think the bureau needs to do some introspection on and possibly change the way it trains on the use of a canine following a shooting.

Fritz: Was that the only case of use of a canine that you reviewed?

Ruhlin: You know -- among all of the -- in this group, yes. In the Aaron Campbell case there was a canine, though -- it was not used for quite the same purpose. There the canine was released kind of simultaneous with the shooting.

Fritz: I remember that. Okay.

Ruhlin: He still got there but it wasn't for this purpose.

Fritz: Thank you.

Gennaco: The final piece we're always trying to come up with common themes. One common theme that I'm going to say now for the fifth time because this is the fifth time we have had the privilege before to appear before this body and your community, has to do with cooperation we get from ipr, from the bureau, with regard to our abilities to do our work. Access issues are never issues in this city with regard to our relationship with the bureau and never have been. We get everything we ask for and more importantly we are able to go behind the documents by having access to the people who created them, by the people who know about training, and we have had a free ability to go where we want in order to come up with the recommendations that we have had. For that we're grateful. The other thing that has happened repeatedly is in our after-report meetings with the bureau and as we are coming to the completion of each report, we have what we think is a constructive dialogue. One of the things, I do this with a number of agencies. One thing that always makes me nervous is when the chief of police responds by saying it's a great report. We are going to implement all of them immediately, that means most likely that report is going to go on the shelf. Instead we get a really deeper dive than that and we actually get some reflection and some of the times some of the responses from the bureau causes us to reflect upon what we have recommended. That is very helpful I think to the process here. One of the things we find commendable of your bureau.

Hales: Other questions, issues at this point in the process? Thank you both. Thank you very much.

Gennaco: Thank you.

Hales: Want to give Chief O'dea and his staff a chance to respond, then we'll take testimony if anyone wants to speak about the report. Lose you there, George.

George Burke, Portland Police Bureau: I know. It's spinning on me. I can't hit a moving target. Thank you.

Larry O'dea, Chief, Portland Police Bureau: I'm Larry O'dea, chief of police, joined by Commander George burke of our detective division and captain Brian Parman of our training division. I want to thank you for the opportunity for us to respond to the fourth report by the oir group during the period of January 2011 to march 2013. As you all are aware the police bureau has made significant changes to its policies, procedures, accountability and training over the last several years. Since the shootings referenced in

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this report the bureau has also made changes in the training we provide bureau members particularly in regard to the use of force and our response to people in behaviorally or health crisis. We continue to make additional enhancements as we work on action items as well as developing and implementing 21st century best policing practices. There's always room for improvements. The police bureaus committed to continually evaluating, learning and making changes that improve our organization. I'm pleased to report the police bureau agrees with almost every recommendation in this report and several of them are a current practice. I have completed a response to each of these recommendations, forwarded that to the auditor today. I'm sure she will put it on her website. We'll put it on our website as well. We greatly appreciate the recognition in regard to the bureau's continued openness to critique, to the significant strides we have made since the first report, and to our high level of cooperation we have demonstrated during these four reports. Also want to thank the oir group for their professionalism and responsiveness. They have consistently made themselves available by phone and in person and are always open to robust discussions that lead to sound recommendations and improvement within the police bureau. The use of deadly force is the most critical decision an officer will ever makes and we need our communities to understand and discover what occurred. The events over the last year from Ferguson to Baltimore, Chicago, cities across the country has deepened the valley between law enforcement and the communities we serve. Building trust remains a top priority and we continue to engage our community in new and thoughtful ways. In closing I want to recognize our police officers as well as investigators and detectives whose work appears here. Every week our officers risk their safety, they save lives and protect and serve our community. Every week our detectives and investigators work hard to seek the truth and build solid investigations. All of our bureau members have responded incredibly to the tremendous amount of institutional change we are undergoing. They have dedicated their lives to community as much as and I'm privileged to work alongside them. Thank you.

Hales: Thank you. Questions?

Fish: Chief, there's been a little bit of obviously in your response to the recommendations and testimony and presentation we had, there's a lot of focus on the 48-hour rule. Couple questions on that. In your extensive response you note that you have negotiated a change with the pproa. Can you talk about that?

O'dea: Yes, sir. Their contract was up for renegotiation, so we put that in as one of our priorities to work through. At the close of that collective bargaining process we successfully removed that advance notification or so-called 48 hour rule language during that process.

Fish: So you successfully removed it with the Portland police commanding officers association contract.

O'dea: Yes, sir.

Fish: Because this is a complicated area and I think your memo makes that abundantly clear, could you just briefly explain to us the difference between a criminal investigation and an administrative investigation and the different rights that attach to both?

O'dea: Absolutely. I really appreciate the opportunity to address that. You'll notice in my response most of my responses are a couple of paragraphs. That is about more than two pages. It really is a complex topic. There's a lot of misinformation, misunderstanding about what that removal would do and what it wouldn't do. That's why I had my investigations expert, commander burke here. I'll have him start that explanation.

Burke: Good afternoon, mayor, council members. Thanks for the opportunity. I really am looking at this issue, it's really clear that we separate the two different tracks that the investigation takes. The criminal investigation really looks at statutes and how the actions

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of the officers fit within the criminal aspect of law. The administrative side really focuses on policy procedures. It gets into the training analysis and follows that track. The important difference is that in a criminal investigation those members who are involved have every right under the U.S. Constitution that any other member would have in the country. So we cannot and do not compel them to make a statement immediately. I would like to highlight and I appreciate the fact that Mike Gennaco pointed out the fact that it's not a prohibition for us to ask for them to give us a statement but rather it's an ask that detectives always ask at the time of the event to get a voluntary statement and walk-through from the involved member.

Fish: To put a finer point on that, on the administrative side, you have more -- according to your memo you have more latitude and you have the incentive, if you will, for an officer to comply with the administrative investigation is that you can sanction that person. You can use discipline if they refuse to. In a criminal investigation, officers have the same Fifth Amendment rights as citizens. I'm trying to follow what you said. Therefore you can request but you can't compel of the give us an example of what happens in your view if either, you know, within the first hour or after 48 hours you compel someone to give a statement in the context of a criminal investigation. What's the consequence?

Burke: So another thing to keep in mind is the criminal investigation, any deaths -- if there's a death as a result of the use of deadly force -- that's not always the outcome but that investigation is really run by the district attorney under Oregon revised statutes they have that authority. We run the risk and in conferring with the D.A.'s office along with the city attorney's office, if an officer were compelled to give a statement that the concept of transactional immunity would carry that order to give a statement into any voluntary statement that we might get afterwards. So the thought that once we compel we can then get a voluntary statement there's a risk that that creates some level of immunity for the officer who used that level of force. So that's where the real complication comes in as far as dealing with compelled statement and a voluntary statement.

Fish: So we're clear about calibrating community expectations, let's take the PPOCA contract where you've successfully removed the 48-hour notice requirement. That means in the context of a criminal investigation you can request that someone give a statement, but you're still -- you still have the constitutional question so you cannot compel.

Burke: That's correct.

Fish: So there is the possibility of an earlier, more contemporaneous voluntary statement but you still don't have a tool to compel someone to give that statement in the context of the criminal investigation?

Burke: That's correct. The other part of that really is that again going back to the direction of the district attorney, the criminal investigation, we don't want to do anything that's going to cause us a problem with the criminal investigation, any admissibility as a result of any compelled statement that might come out of that. This is a really complex and I think as you look at the response the complexity really show through with working cooperatively with the district attorney in getting agreement with the district attorney to allow us to go down that road.

Fish: I feel like this is like Groundhog Day. We have had this discussion repeatedly at council. Frankly, I'm one of two lawyers on the council and I come away even more confused about the legal landscape. If I'm confused I'm guessing the public is going to be confused. The key is whatever we do, whatever we change we must be very clear with the public about what they can expect differently. If we say that -- if there's a lot of -- if we make a big deal about some change like this and in practice it doesn't lead to changes in the way investigations occur then of course we have a credibility problem. I'm reminded, this is not a perfect example, but I'm reminded that when Oliver North was hauled before

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Congress and his lawyer said don't do this, Congress said, no, we have the right to do it, and they compelled him to answer questions before the United States Congress. His lawyer said, there's something called the Fifth Amendment. They said, no, we direct you under threat of contempt. Oliver North answered all the questions that were thrown his way. Ultimately his conviction was overturned because the appellate court said you can't compel someone to give up their Fifth Amendment right against self-incrimination. It was good theater but didn't really move the ball and his lead lawyers, by the way, were the ACLU, not that they had any particular fondness for anything he had done in his official capacity but they thought the Fifth Amendment applied to everybody. This is the part that just sooner rather than later I hope we have more clarity about because your memo has all the nuances. The public discussion is usually not as nuanced. It's let's remove the 48 hour rule. There's an inherent benefit to the process. Yes and no. Not if you can't compel someone to testify and that is the question whether or not you can compel someone to testify. I am hoping before we leave today I have a better understanding of that question.

Burke: Commissioner Fish, to address that, part of the issue has to do with what we can do with that information even if we got a compelled statement at the time of the event. A lot of that has to do with what information we can share. The public expectation needs to be clear as to what are we actually going to gain. We have to make sure that that information that's compelled does not cross over into the other side of the investigation. If it does that taints the criminal investigation and then it opens up all the other arguments that we have already talked about. So one of the things that I think I think the chief probably hit on clearly, we have worked really hard over the last several years to get as much information out in as much a timely way so we can provide the community with the information that we have. I think the bureau has come a long way in sharing information that we used to hold very close.

Fish: I think later I may even ask our consultant, the consultant to come back and just help me better understand in light of recommendation 41 how is the world different if we eliminate and follow their guidance? Because I still think I'm missing something. Recommendation 31. I want to make sure I understand it and more importantly that the public understands how this changes the way we do investigations.

Hales: Back to your question, I may be guilty of oversimplifying it but I believe I understand this correctly, George can improve that maybe. As an employer we can compel a statement. But it contaminates the criminal justice investigation. So that's the choice. As it's currently configured.

Burke: Right. [speaking simultaneously]

Hales: we can compel testimony but then what happens? It's no longer useful in a criminal investigation.

Fritz: May I have a turn?

Hales: Please.

Fritz: Thank you. What level of your staff are members of the commanding officers association?

O'dea: That would be all our lieutenants.

Fritz: And on up?

O'dea: Just the lieutenants.

Fritz: Are the lieutenants ever present at incidents like this?

O'dea: Yes, typically lieutenants are not generally involved in deadly force incidents though they have been. Lieutenants are in charge of each of the shifts at the precinct so there are uniformed lieutenants at the precincts who also are in uniform out on patrol at times.

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Fritz: There might be incidents where a lieutenant would be called to the scene if there's a standoff, for example, would the lieutenant go to the site?

O'dea: Supervisors and command will respond to major incidents. I thought you were looking as with removal of the rule that impacts lieutenants if they were involved in the use of deadly force.

Fritz: If they are called to the scene and there's a use of deadly force, how come the lieutenants could be forced to provide a report but nobody else would?

O'dea: Because in the collective bargaining agreement --

Fritz: Why would that not jeopardize --

O'dea: We have removed that language. That doesn't mean in consultation with the district attorney on this particular case because at the end of the day what we have to decide is what is more important, an immediate information that we can only use for employment purposes or a criminal investigation that if the officer has done wrong the district attorney has the ability to charge that officer. So again like the commissioner was talking about, we have that language removed, but what does that really mean and what are we going to do when you look at the particular cases.

Fritz: How many times has a Portland police officer been the subject of appear criminal investigation by the district attorney?

O'dea: Well, they investigate every one of our shootings.

Fritz: Have they ever --

O'dea: The most recent was Officer Dane Reester.

Fritz: He went to trial?

Hales: No.

Fish: The point is not whether it results in a conviction, at what point does your Fifth Amendment right attach? It attaches when you are potentially a suspect or you're reviewing your conduct and we don't -- [speaking simultaneously]

Fritz: Could I continue to have a turn?

Fish: I'm just clarifying.

Fritz: I was in the middle of a line of thought. If it doesn't -- often result in a trial and conviction, we don't usually legislate into this body to the lowest -- to stop the absolute worst. We try to set some standards. There's a greater public good in having a system where most of the time we assume that the officer has not done the wrong thing and that we get that information in an expedient manner. Do all the other jurisdictions in Oregon have the 48 hour rule?

Burke: I'm not sure what the other organizations are doing.

Fritz: Do we know what they have in Beaverton and Gresham?

Burke: I don't know.

Fritz: I think that's germane to this discussion if it's okay in Beaverton and not in Portland then that's something we should look into, what legal basis do they have, and I don't know whether they are either.

O'dea: The discussion we're starting to have is right at the core of what we need to talk through. You're right, at this point because the district attorney's investigations but we are prioritizing or preserving the ability that should the district attorney decide that they need to do a criminal prosecution that that could successfully happen when the reality is the vast, vast, vast majority of cases are not that. So discussing a system where we are prioritizing the internal employment process is a healthy conversation, but then the big caveat is, you know, the district attorney's ability to potentially prosecute. But that is exactly the conversation that this brings us to.

Fritz: I appreciate your willingness to have that. It actually nationwide doesn't seem like there are that many prosecutions and then victims and their families turn to the civil

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process to try to get some justice. So I think we should bear that in mind. For other incidents and arrests that officers are involved in, these get called for domestic violence where somebody has assaulted somebody else, and they make an arrest, are they required to document that and turn in a police report by the end of their shift?

O'dea: Yes.

Fritz: So what's the exception on providing documentation to what happened with the use of deadly force?

O'dea: Again this comes back to that concept that we have been instructed from the district attorney and the city attorney on that transactional immunity. If we are compelling you to write this report essentially make a statement that because the structure we use in an officer-involved shooting, it's a criminal investigation where the officer is not a suspect of something but because he's being interviewed and reviewed in a criminal process, that has the ability to have protection of the fifth amendment.

Fritz: I was a nurse, as you know. Nursing if it's not documented that it wasn't done and you're required to write notes at the ends of every shift. If you've done something according to hospital policy even if it results in a bad outcome you have that immunity that you are not going to get prosecuted criminally because of the bad outcome. You followed hospital policy. You may get sued for something else but you followed the policy. So it seems to me we could come up with a system of required reporting that would tend to help make better decisions given that we know that it doesn't very often result in a criminal -- a criminal case being sent to the grand jury and then to trial.

O'dea: I think you're exactly right on. That's the conversation, is the community, is the district attorney are all of you willing to look at a system that the vast majority of the time the need is not to protect the ability of a criminal prosecution, it is that immediate internal investigation. That's core to this conversation.

Fritz: For any other crime we want to know what's been going on. There may be other people involved beyond the person who was the subject of deadly force and the police officers involved. There may be others that maybe its part of a gang violence situation that we would want some accurate documentation of what all was going on so we can go after the others who were involved in whatever may have been happening. Supposing there's a shoot-out at the ok corral, would none of those officers be required to write reports until later?

O'dea: We require all witness officers to -- we immediately interview them that night at the scenes. So our challenge would be when you don't have a witness officer. But so in many of our instances other officers not involved in the use of deadly force, we interview them right away that night to start figuring out what happened.

Fritz: How many of the situations that are reported here are things that happen very quickly versus like an instant like Mr. Hatch and versus called to a scene, back off, spend time negotiating, and then move in? Do you have a sense of --

Hales: The two that have occurred -- I have been here the two, the last two, February of 2013 and March of 2013, both happened very quickly.

Hales: Yes.

Hales: Prior to that some of each. Right?

Fritz: Possibly what we could do while we continue to work through this is add to the protocol that an officer is assigned to the scene to be the observer and documenter in a situation that's developing, not part of the team that's managing the situation. Like the sergeant is supposed to be. They are still part of it because these are managing it. Someone else who could give us just the facts.

Hales: Sorry to interrupt. So it works out that way in practice. That is if it is a major incident that is potentially going to involve deadly force the bureau is dispatching enough

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officers to that scene that there have been some officer involved shootings since that are not covered in this report where I have been present shortly after the incident. The number of people on scene is significant if it goes on more than a few minutes because backup officers are arriving.

Fritz: Would those officers with counted as part of the response --

O'dea: What we call an involved member is somebody who either uses deadly force or if it's a supervisor directing the use of deadly force. Anyone else who is there we look at them are they a witness member. Did they see, hear, observe anything. We interview and talk to them that night at the scene.

Fritz: They are required to document --

O'dea: Detectives interview them and write a detailed report.

Fritz: Thank you. I was very impressed with your response not only because it's a well written and very complete report, I have been in multiple of these hearings where the response of previous chiefs has not been agree, agree, yes, we'll do that. I appreciated the comment well if we're already doing that and it's going on a shelf that's clearly not the intent. The only thing you disagreed with was the use of the canine in the case of Mr. Hatch. I wanted to give you opportunity to tell me why the ballistic shield wasn't used in that case.

O'dea: Yeah. This was the only recommendation that we agreed. You heard me mention robust discussions, I really appreciate the conversation we have been able to have with them around all of these different recommendations. In this case the police bureau we have come a long way since 2010 in our response and our philosophy, rapidly approach somebody who we have used deadly force on and be able to get them treatment. One of the many tools that we have, that we believe in, is the ability also to use a canine to be able to do that. In this particular incident the decision was made to use the canine to move him away from the weapon. He had a weapon and you heard Julie talk about there's a balance between a gun and a knife, a gun close by is a bigger threat to approaches officers. The use of the dog was to move him away from that weapon.

Fritz: The ballistic shield if he had been capable of grabbing the weapon and had it been a gun that's the purpose of the ballistic shield right?

O'dea: Some more protection. It does not cover all of you or all of the team that is approaching. It is just something that hopefully might save your life if you come under fire. It doesn't protect you completely. It's not a shield that protects the team of people coming up, it just -- that very first person that is approaching it partially helps cover them.

Fritz: It's the protocol that one person approaches to check on the subject?

O'dea: No. We train to go up as a team. One person is holding that shield, other people need to be able to cover that threat.

Fritz: So why was that not done in this case and it was done in the other cases?

O'dea: Again, this is one of several tools. This one in particular they made the decision at the time to separate this person further from the weapon. When a weapon is close by to you it's pretty easy for somebody to pick that up and start shooting at you. You can't rely on the shield is going to protect us all, it just increases your chances of survival.

Fritz: I would appreciate it if an amended response -- because the recommendation that you should evaluate whether it's appropriate too use a canine I think what I'm hearing you say is yes, you are evaluating the cases of when it's appropriate. I would be interested to know what the policy is as to when you do and when you don't.

O'dea: What we can do is provide you with what we train our members. You can see here's that assessment, those officers and supervisors on scene. That assessment is pretty in-depth. Where is the weapon, what kind of weapon it is? We have the ability to --- is the weapon separated just going up there rapidly, can we approach on side of a car, can

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we use the shield, do we need to use less lethal, is a canine appropriate or in worst case it's a delayed certain callout. In our training we think that is a good tool to have.

Fritz: Can the canine pick up the weep and take it away? Can it be trained to do that?

O'dea: I don't know.

******:** I don't believe so.

Fritz: Thank you.

Fish: That exchange was very helpful for me. I think I'm getting -- I think I have a better understanding now. Can I walk you through a few things to make sure we have baseline?

O'dea: Yes, sir.

Fish: First is the 48-hour rule as written does not apply to every investigation, correct?

O'dea: The 48-hour rule only applies to internal investigations.

Fish: When it will not jeopardize successful investigation -- that's a qualification. By definition doesn't apply to everything.

O'dea: Correct.

Fish: If you were to successfully negotiate the removal of the so-called 48-hour rule, what you've done is accelerated the process of having to tackle a couple of complicated questions. Under the 48-hour rule there's potentially a 48-hour delay until you have to tackle these questions. Now you're at the scene, you're gathering information, you potentially can do some things sooner. Let me make sure I understand what you view as competing concerns. From the public's point of view, there's the view that -- I think from the consultants that interviewing someone as soon as possible ensures fresh, timely information and is helpful if for no other reason than over time people's memory begins to fade, maybe reconstruct the events in their head, also the information you get early can lead to other investigatory techniques. So if things you learn within the 48 hours can help you chase other leads -- I'm seeing a nod in the back. I seem to recall that from an earlier presentation, both the freshness of the information and the ability to use it to do a more thorough investigation, the earlier in the process is better. That's one issue. The second issue that is outlined in the memo that you put in is there's a complicated constitutional set of questions. If we compel someone to say something that ends up infringing on a fifth amendment right and there's a criminal investigation, we're potentially compromising that investigation.

O'dea: Yes, sir.

Fish: Commissioner Fritz astutely noted this is the rare instance where an officer is followed by a bonafide investigation. The problem with that, when someone knocks on my door and says, hi, we're the police, we want to talk to you, I don't actually have to sit there calculating whether it's likely to result in my being arrested and prosecuted, I have a right to say I don't want to talk to you. We don't have to roll the dice to figure out whether we think it may or may not. A lawyer can come in, close the door. The healthcare setting since I used to represent hospital workers of the greater new York area, the minute there's even a hint of some criminal prosecution the lawyer shows up and says we're not having further conversations because there's a fifth amendment right. There made be discipline for that but the Fifth Amendment right is inviolate because that's when someone faces losing their liberty. Under our system, even someone who is ultimately going to be charged and convicted can't be forced to waive ago Fifth Amendment right.

O'dea: Correct.

Fish: It's complicated. I guess what I still don't fully understand is the question that commissioner Fritz asked, which is if we do away with the 48-hour rule and we're saying that we want you to have this option of getting more information earlier in the process, how do you balance these two things? As she said, we're not the only city in America, so I would join with my colleague in just being interested how do other cities handle that. I'm

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guessing our consultants have some thoughts but we're not making this up anew. There's a lot of history in other jurisdictions about how to slice it and how to narrow the risk. In a compelled statement ultimately frustrates a prosecution. That's what Amanda was getting at. I would like to know how you handle that.

O'dea: Symptom couple particular local departments, one of the things we know nationwide there are many large departments that build their process around never getting an interview from the officer. And there's challenges to that. We have gotten to the point like George was talking about we get information out as quick as we can to be transparent, anything that won't compromise the investigation. Some other processes built around not getting information from an officer investigations take a long time, you know, may not ever get to a grand jury. So there's the crux of that challenge is going to be -- the district attorney's part of that conversation because it really is their investigation and potential for compromising that potential criminal prosecution.

Fish: Let me be clear. I applaud you for negotiating the 48 hour rule out of the contract and I think we have to develop a strategy in the contracts to follow. My -- I think I understand why now more clearly it's in the public interest to have that earlier opportunity to get the information. What I don't want to do, though, is set expectations about what's going to happen as a result and then have people frustrated that it doesn't lead to the kinds of increased transparency and accountability which is the whole underlying point of this exercise. So I want to be absolutely clear about expectations. Thank you.

Hales: Other questions for the chief or staff? Anything you want to add?

O'dea: No, sir. Thank you for the opportunity to respond.

Hales: Can we bring Michael and Julie back up? Looks like they may have some thoughts on that question. Then we'll take testimony after that. Welcome your reactions and thoughts to that. We don't have to play point-counterpoint here.

Gennaco: We will try to not make this a law school tutorial. The doctrine that the dialogue between you all and the bureau had is accurate on its face. I do understand the concern about what might happen or could happen potentially legally, potentially, if in fact a compelled statement is obtained from an officer. It is absolutely true that if a compelled statement is obtained from an officer that that statement could not be used for purposes of any criminal prosecution. That is the law. However, the concern about the risk that somehow the obtaining of that compelled statement could then jeopardize a criminal investigation in this context has never happened in the history of mankind with regard to officer-involved shootings. Now the north case that commissioner Fish brought up is an important case because it is one of the few times in which compelling an individual did result in eventually undoing a subsequent prosecution, but north was really a case that stood on its own for a whole lot of reasons. One of the biggest reasons and the distinction I make between north and the officer-involved shooting contempt, when that come peopled statement was taken it was taken in front of everybody. Cameras were rolling. It wasn't taken in the secrecy of an interview room. Unlike officer involved shooting compelled statements. Officer involved shooting compelled statements are taken in an interview room. In jurisdictions that do this, that information is walled off and protected from any piece of the detective investigation so that when the investigation, the detective investigation that statement will never be presented to them therefore no risk of contaminating the district attorney's investigation with that compelled statement.

Fish: The more I listen the more sorry I am that we don't have the district attorney here to opine. You just made a very compelling statement. Is there, are there gradations within what we're talking about? If there's no 48-hour rule and we're trying to balance all these concerns, are there certain kinds of investigations where based on your survey of other departments it's prudent to delay a little bit to ensure that we don't get it wrong, or are you

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confident saying that almost every instance the benefits of early intervention, a statement, outweighs the rest?

Gennaco: I'm confident that in the officer-involved shooting context if the protocols are complied with and there's no leakage of information to the district attorney or the detectives conducting the criminal investigation, if you do create robust processes to prevent that from happening that you're not going to risk any eventual criminal prosecution. In fact, the criminal prosecution can go forward on its own and in fact in this city, in this county, by and large eventually officers almost always, there have been a couple of exceptions in the cases we looked at, almost always voluntarily provide a statement to the grand jury anyway. So the district attorney in evaluating whether or not to file criminal charges has almost always had a voluntary statement from your officers.

Fish: Last question. Because it feels a little abstract the way we're discussing this. Can you give us just a concrete example of something that you might learn within the 48 hours from an officer on the scene that then enhances the quality of the investigation?

Gennaco: Absolutely. What it does is it provides you with an insight into the officer's state of mind. Right after he has used deadly force. If you don't get that information that night, you run the risk of by the time you get that information that information being influenced, contaminated by a whole host of other external influences. If there's a videotape of the incident the officer may have an opportunity or may inadvertently see it. If there's discussion about the incident in the locker room when the officer goes to work next day, that information may contaminate the person. The legal advisor to the officer will often have information that he or she is free to provide that officer during discussions prior to obtaining of the statement. There's a whole host of information that could impact what eventually the officer provides and we have seen it throughout the country. In South Carolina what if instead of -- this is a case in which the murder charge was filed. What if instead of getting a statement from the officer that night they had said go home for a couple days and provide a statement? The statement that they got would have been well different once that officer had an opportunity to see the cell phone video of what had transpired and captured the event. That's the kinds of dynamic that we would miss or we are missing I think potentially every time you wait for more than two days to get a statement.

Fish: That's helpful. Thank you.

Hales: Other questions? Thank you very much. Let's see if we have public testimony.

Parsons: We have five testifiers.

*****: Good afternoon, Mr. Mayor, will it be okay if I have five minutes?

Hales: Certainly.

Dan Handelman: Thank you. I appreciate it. I'm Dan Handelman with Portland cop watch. We believe many of the recommendations in the new report can make a better police bureau. Oir does a very good job of warning the bureau against using the term suicide by cop which presupposes outcome of a confrontation with a person intent on the police to shoot them is for police to accommodate that desire. Once again we're disappointed in the consultant's not focusing on issues of race specifically four of the 11 cases involved people of color. We suggest the bureau might think about adding a standard question in all shooting reviews. Did the suspect's race play a role in your decision to use deadly force? Not written is our concern that oir expresses concern for transparency. Police review board hearing and behavioral health unit advisory meetings for example are not open to the public. The chief's initial reply to the 31 recommendations and we only just saw his full reply this afternoon, reflected general lack of response to the community and coab about suggestions received on bureau policies. Oir says other cities have less information from their police and we feel sorry for them. We appreciate oir

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included good information such as calling for the cities to remove the 48-hour rule. I could talk more about that but there's not enough time, from the contract. What also needs to come out of the contract is the stuff prohibiting civilian investigation of deadly force and the binding arbitration clause for deadly force incidents. Telling the city not to sacrifice thoroughness for the sake of timeliness that suggestion should apply to all misconduct complaints and appeals. They include accumulated totals of African-American and Latinos subjected to deadly force in the 35 cases that they reviewed since 2010 its ten and three how do you table 35 incidents showing data about cases involving mental health issues which comes out to 57 percent of the suspects. Unarmed suspect, 26 percent. Despite the overall lack of analysis of race they told the bureau to take correctives actions when officers say things such as shuck and jive to describe African-Americans' behavior. We note a number of issues oir highlighted or failed to note in individual cases in summary a commander wrote sergeant ford's ill-advised shooting was done in the fog of war. The sergeant allowed the officer who shot at Joshua Baker to remain in the field because they were in combat mode. Nobody compared Officer Gregory more shooting at the back of African-American teenager jawon blackmun to the Aaron Campbell situation though there was no review of the canine which bit the wrong person when released in that case. Neither officer was disciplined even though they put themselves into a position that precipitated their shooting and killing homeless veteran Thomas Higginbotham and violated training by holding a Taser and a gun at the same time. They precipitated the death of brad Morgan by getting close to him but were not disciplined. The office can protect itself in lawsuits by examining repeat shooter officers like sergeant boxelder who shot David Hughes in 2006 and mayoral hatch in 2013. The only one for whom the discipline stuck was Officer Dane Reester who was fired for permanently wounding---. We note the auditor announced her report was done under city code and she corrected herself this morning that authorized the hiring of experts but it's required that these are annual reports and have not come out every year. There's only been nine in 15 years. Since OIR is now at the ends of its contract the shootings should be under review already. The most recurrent case is nearly three years old. We would also welcome if OIR could recommend such important issues as ipr should conduct its own investigations into deadly force cases. The d.a. Should hold grand juries even if the suspect is not killed by police but that doesn't always happen. And to allow civilians to appeal the outcome to the citizen review committee. Those appeals might have changed some of the poor outcomes noted in its report. Thank you. Since I have three more seconds I will say about the 48 hour rule and compelling testimony commissioner Fritz is right. When chief o'dea said the most recent incident was officer Reester it's the only time we have ever indicted an officer in the history of Multnomah County. So if you compel the officer to testify and we can't prosecute, if we lose one officer's ability to put them in jail and we can fire them that's okay for now. We can look at it again after that happens. Get rid of the officer if they shot somebody in violation of the law and in violation of the policies.

Hales: Thanks very much.

Debbie Aiona: I'm Debbie Aiona representing the league of women voters of Portland many. The periodic reports on police shootings and deaths in custody are an important effort in Portland's efforts to improve police bureau operations. They not only provide guidance to the bureau but also inform the community about the details of specific cases, what went well and where there's room for improvement. After careful review of the report and participation in yesterday's community meeting with oir group the league would like to offer the following comments. In the future allow more time for the public and city officials to review the report. One week is not sufficient to digest the report of this length and complexity and provide feedback. Training divisions reviews of specific incidents and

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officer training are discussed throughout the report. We strongly recommend that the bureau's training advisory council receive a briefing on this report. They are as much in it for the tac to consider and address. When drafting the next contract for the expert review of investigations include a review of all the recommendations made to date by park and oir, whether they are being implemented, and to what extent. If the bureau chose not to implement the expert's recommendation, it should provide an explanation. The auditor mentioned that the people involved in shootings cannot appeal their cases to the crc, citizen review committee. In our view shootings are just part of a larger continuum of interactions between the police and the public. We see no reason why people involved in shootings or their families cannot appeal their cases to the crc. The report describes areas in which the bureau has improved its operations and others where more training, better execution and greater accountability are needed. The discussion of cases in which the subject had in one way or another expressed desire to provoke lethal response from the police was particularly compelling. We hope the bureau will train its officers to avoid looking upon the outcomes in those cases as inevitable and use their training and tactical advantage to resolve the incident without resorting to deadly force. We have heard over and over from outside experts reviewing close cases or shootings that the 48-hour delay in interview involved officers is bad policy. The league encourage the city to change this provision in the union contract. We would like to thank auditor caballero's office and oir group for this valuable report. It's a really great resource. Not only for the bureau but also members of the public involved in these issues. Thanks.

Hales: Thank you. Good afternoon.

Sarah Hobbs: I'm Sarah Hobbs. I came to post for support of recommendation number 25. People who are suicidal or in mental health crisis are not thinking rationally. Because of prior -- what's the word I'm thinking here? History where when I talk to people about suicide by cop, it's, Sarah, they pointed a gun at the police. What do you think was going to happen? The mentality seems to be when they provoke because they are suicidal but could not carry through on their own. Oh, yeah, we force an issue with the police, the police will do the ultimate act for us. And that is an issue with me because I address a long history of response in these issues. What I hope, and one of the things with language culture and mentality, that the police department comes to realize they are dealing with people who are not thinking rationally and it falls on them to be the one to make the rational decision, to look at how when these situations are happening they work to negotiate in a way that is not I say give to the person what they desire. For the record I do see where on the issue of crisis suicide calls the police bureau has been putting into place a lot of the recommendations in this report. But it's still a lot of room for improvement. So I do ask that you really look at recommendation 25. That's all I came to say.

Fritz: I have a question about that and that's how long has the term suicide by cop been something that's been common?

Hobbs: I have lived now in Portland for 26 years and it's been used ever since I've lived here. Before then I cannot address because I was not living in the state.

Fritz: So for 20 years.

Hobbs: For 26 years that I've lived here I'm aware of yes ma'am.

Fritz: I really appreciate this being called out and then you reemphasizing it. In some ways it's been helpful to remind people that there are people who are experiencing mental illnesses who are the subject of tragedy's involving the police. I think it is a tragedy for the police officer and family of the person no longer with us. It is one of those terms that I think has outlived its usefulness and we need to be rethinking, re-framing, and helping the wider community understand why that is no longer a helpful phrase.

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Hobbs: What concerns me is, is when a person who is in an extreme suicidal crisis, who cannot commit the act on their own, they automatically think, oh, I pull a knife. I pull a gun. Point it at the cops. They're going to do it for me because the mentality based on the history leads them to believe that. And that for me is a big concern.

Fritz: We need to think of something like involuntary commitment by cop or some other term that better reflects -- this is the sad part. I appreciate the report and responses. There are many incidents where our officers stop people from harming themselves, and stop other incidents. I think the mayor mentioned four suicides prevented in one day.

Hobbs: December 4th, Yes.

Fritz: So, that's also part of the community discussion that we need to have as to how our officers, some of whom came into the police 30 years ago and mental health care was not part of the job expectation that they signed up for, with the collapse in the mental health system, even though it wasn't all that great in the first place, it is a different job now. And that many of them are embracing that it's being the guardian of community peace and helping people out as well as defending against bad stuff.

Hobbs: I have said all along since I have been working to have the issue of suicide by cop addressed, Portland police have made a lot of positive progress. There is still a need though to continue pushing the positive forward when it comes to the issue of the role of suicide by cop.

Fritz: Thank you for your partnership.

Handelman: Even though it is not part of the purview of our or the city council per se, it doesn't help when the medical examiner declares Mr. Johnson's death last November to be a suicide when the police actually shot him to death. So, I'm hoping that that is something that the council will take this recommendation and move it forward to the state police and the medical examiner's office.

Fritz: That's an interesting thought of how would it be described in a more helpful way. Thank you.

Fish: I have a question for you, if I could. You note that we are required to have annual reports, and then you note that this is the last of the our group reports. And you say shooting some 2014 and 2015 should already be under review. Do you have a recommendation?

Handelman: I don't know if the new contract has gone out. We didn't know this contract got extended. It was supposed to end a year ago. Yeah, I think our has been doing a good job. There is other groups that are out there and we will see where things go. Whatever happens, whoever takes the contract up, has to take the continuity perspective, like debbie was saying that we need to look at all of the recommendations that have been made and make sure that they keep getting moved forward with any new ones that come in.

Hales: Thank you very much. Thank you all.

Parsons: We have three more. [names being read]

Hales: Good afternoon.

Nancy Newell: Good afternoon, thank you for all of your great consideration and work. I'm here because I'm working with coab.

Hales: Put your name in the record.

Newell: Nancy Newell. And I represent -- we formed a Wiltshire park group. We have had murders in our community that have basically been put under, you know, just loses the story. And the history of living in that neighborhood for that many years, when there is a drug raid and they get the wrong house, there is certain things that take place where there are weapons in our community that if you -- I asked an officer why are you here? And what's the purpose? And I didn't get any kind of response. I merely got shoved away. I stand as witness that they had the wrong house. There is certain things that have

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happened in my life experience living in Portland related to the police, and I have done my best as hopefully a deescalator to switch some of those situations. I think we really need more training within the police force. How much trauma for the entire community when these horrible incidents happen, when someone opens fire on people? And the police can't do anything about it because it happened so fast there is no way of predicting it. And how much trauma does it have on their own practices within the community, especially having to deal with mentally ill, as you pointed out, commissioner Fritz, the problem has -- gone to the streets because we don't have the funds to take care of our own. So, we're handed quite a heavy responsibility to address issues that complicate each day, because the problems aren't going away. The numbers of the mentally ill, the stresses and the recent cases of racial issue, how come Tasers are not regarded as a weapon of force? I mean, it was a young man whose heart rate was so high they were hoping that he would survive. Arrested in the hospital. And he faced 20 years as a 16-year-old, of jail, for just walking home from school. Luckily there was a camera that caught the whole thing. What within the process protects young people when they're just going about their daily lives and a situation happens and they don't have any other proof and how carefully is that observed within the practices of the community and how can we help police through trauma heal from trauma? I think there has to be a lot more healing applied to both citizens as well as police. And not just training, because the human nervous system, without realizing its condition, to trigger response. We have so many triggers in our society.

Fish: With this conversation reminds me, Nancy, is I was teacher for a day, or principal for a day at an elementary school, outer east, tremendous turnover in the student body, partly because it is in an area where there is unstable housing. People moving a lot and kids, 50 percent of the third grade class didn't complete the year because of moving.

Newell: Yeah.

Fish: The single common thread in terms of the concern of the principal had about learning was that the kids were coming to school traumatized.

Newell: Uh-hmm.

Fish: Traumatized because they were in areas where they were witnessing violence, or they had unstable families. Or they were moving.

Newell: Uh-hmm.

Fish: And, you know, one thing we know about children, if you're not coming to school ready to learn, you can't learn. How do we undo that so that there isn't the trauma just in the learning experience? Related subject to what you are identifying.

Newell: One thing I experienced, I don't have a lot of time left I will try to fit it in quick. The testimony I witnessed during court in that particular case of this young African American student, the officer, I was observing, the sergeant who was in charge of the other officer that kicked him so hard on his spleen, the sergeant said I would never do that. I would -- I know I could explode his spleen and possibly kill him. Why didn't the sergeant stop his officer? And he didn't even suggest that in court. And also he used a Taser and then the Taser expert said various things about using a Taser. You have to limit how you use it and he's shaking his head in the court audience. How do we address that and be able to find that within officer's way of performing their jobs? That's a big thing to consider.

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

Barbara Ross: Hi. My name is Barbara Ross, and I'm here testifying as an individual, not as a party to any organization. I want to highlight a couple of things that Julie brought out in her testimony. I understand that you can't control everything, and so I want to just emphasize a couple of things that you, as a police commissioner, and as a management can, in fact, have an impact on. There are just two things that I want to talk about. One is giving a high priority to officer safety by keeping a reasonable distance between

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themselves and potentially dangerous subjects. In the hatch case, they acted wisely and the officers and sergeants who responded to the call -- this is quoting from the report -- and the officers and the sergeants who responded to the call involving Mr. Hatch all recognized the appropriate goal was to contain and isolate Mr. Hatch with the hopes of stabilizing the situation. On the contrary, in the Higginbotham case, officers -- quote, neither recognized how to make a more informed decision about whether or how to approach the lively armed violent man in the confined space, they might not have allowed the officers to avoid being in the position where they were forced to use deadly force. And in addition, additional discussion of this case, they said, quote, as we have stated before, tactical decision making that is consistent with the principles of officer safety provides smart techniques for detention and apprehension and provides the police the ability to more frequently influence how the encounter will end. Particularly here, when Mr. Higginbotham was found holed up in a room not going anywhere, and did not present a threat to anyone else. Time and resources were on the side of the officers. I would urge continued attention be given to recommendation one, which emphasizes bureau's opportunity to influence the outcome of encountered with dangerous individuals. The other area where bureau management can influence the outcome is making sure that the sergeant in command, looking at the whole situation and delegates others to carry out tactical assignments, shootings on the scene sergeants assign themselves to tactical roles despite the presence of officers to whom they could have delegated these tasks. So, since the training was that the sergeant should not be involved in tactical activity, and should remain in control, that's something that has been overlooked in the reviews by the training review and by the commanders and controls. I think it is important that we continue as management of the bureau to emphasize those two recommendations. I appreciate your attention and I appreciate the opportunity to testify.

Hales: Thanks very much. Welcome.

Jared Hager: Hi, my name is Jared Hager, assistant United States attorney with the department of justice. We're currently involved in overseeing a settlement agreement with the city of Portland and the Portland police bureau. I wanted to make a few comments on the issue of compelled statements given the question from the commissioners and Mr. Mayor, I appreciate the time. As an overarching issue, I do want to commend the city and the Portland police bureau. We have seen incredible seriousness that they have taken with these issues, and I have seen incredible progress with respect to, you know, just to name one, the behavioral health unit and taking these issues seriously. To the point of compelled statements and the risk of immunity, we are in conversations with the district attorney and the city of Portland to try to come to a resolution and understanding of those issues. As you mentioned, commissioner Fish, they are incredibly complicated and there are various academic issues at stake or at play where -- there isn't necessarily clear guidance. That being said, the department of justice has given advice and guidance to other cities and respect to other settlement agreements with police use of force issues. Our understanding is that certain reports are not considered compelled and so I would like to just raise -- add two issues for you to consider. First, on the issue of whether something is compelled. The case law, as we understand it, says something compelled only when you face the threat of a job loss, not necessarily just discipline. So, there is a question of whether at what point are you actually compelling a response? A second, and what I think more important exception to the risk of immunity is for routine reports. There are cases from all over the country, federal court, where they have held that routine reporting as part of a public employee's job duty, for example, a use of force report or a police report at the end of your shift, is not something that is subject to immunity. We are going to continue our discussions with the city and the district attorney but I just wanted to bring those two

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issues, whether or not something is compelled and whether or not a routine report is subject to immunity to the council's attention.

Hales: Thank you.

Fish: It is amazing to have you here testifying. It almost feels like a woody Allen movie, all of the sudden someone off stage comes in representing the u.s. Attorney with a view on this, and something in that scene, in one of the woody allen movies, talking about Marshall, and he then comes in, you know nothing of my work. What I gather from this conversation, your testimony, is that we've got two issues before us. One is the city has the right to sit down and negotiate a change in the contract with our labor partner. That is a separate issue. That is guided by a set of rules and laws. Second issue, though, is if we eliminate the 48-hour rule, what is the best practice in order -- in order to get the information that we need and not unduly compromise potential criminal investigations? Mr. Handleman earlier testified, I think made a compelling point, given that there very rarely criminal charges brought against police officers, he would rather err on the side of one, he would rather have earlier investigations to be able to develop evidence which can be used in a disciplinary proceeding to get to bring charges against police officers who violate policies and rules, even at the cost of the occasional -- but that's really the -- that's the tension and I'm heartened that you're here because it seems to me, mayor, we have an opportunity with the justice department assistant to come up with a model rule to commissioner Fritz's point, there is national -- there is other jurisdictions who do this, come up with a national -- come up with a standard that we could then consider adopting based on what you think is the best practice and bring the district attorney into that conversation, because I think the best outcome is one that the police bureau, da, and the feds all think is best practice and we can discuss that with the community.

Hager: Yeah, and I don't want to -- I respect Mr. Handleman's view and I don't think that would be the view of the u.s. Attorney's office that we would sacrifice a criminal prosecution --

Fish: I understand. I think he was also making it for dramatic effect. He was just stating a preference.

Hager: Our view is that you don't -- settlement agreement as it stands now, for the Portland police bureau to require a use of force report before the end of the shift because that is a routine report that officers currently fill out for any use of force except deadly force. The settlement agreement that we have with the city of Portland requires that use of force report to also be required for deadly force.

Fish: What is your view of the impact of the settlement agreement on collective bargaining law?

Hager: That's higher than my pay scale. Not prepared to speak on that. I do believe it doesn't upset those rights. I know that the Portland police association is at the table with the settlement agreement, and something I'm not prepared to address.

Fish: Thank you, sir.

Fritz: That's a use of force report. It is not an interview. It is a standard, I'm filling out my report at the end of the shift. Does the settlement agreement specify when that should be done by?

Hager: Yeah, before the end of the shift.

Fritz: No, I mean, when do we have to change the policy --

Hager: We're not going away until the settlement agreement is complied with. We will either change the settlement agreement or it will be --

Fritz: Some of the paragraphs specify such and such date --

Hager: It doesn't have a time line. It does require us to consult with the district attorney, which we are consulting with and the city of Portland. We understand they're complex

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issues and the last thing we want to do is jeopardize a criminal prosecution, but at the same time we feel the law is on the side of at least allowing some limited routine reporting. Analysis is pretty clear that public employees have a job to do. This distinction with Oliver north and a police officer, that police officer, part of the daily job duties is to fill out a use of force report when force is used. So you're not bringing them before some, you know, special proceeding and compelling them at the threat of losing their job to answer questions. You are just requiring them to do their job. If you don't do their -- if they don't do their job, you can discipline. I think the case law is pretty clear on that. We are still in discussion. There are unique aspect of Oregon law and we are discussing them with the city and district attorney --

Fritz: City and district attorney, you are in those discussions.

Hager: Yes,

Fritz: I am glad to hear that. I don't know there is a national standard I would want to follow. In many cases, work can the department of justice here, we are setting the best practices so it is not like I think we should be following, you know, name the jurisdiction where something horrendous has happened and there wasn't an outcome that the community had confidence in. We should not be following their best -- their practices. I would like to see -- but I would be interested to know what Beaverton, Medford, other jurisdictions in Oregon. As you said, Oregon's laws are slightly different and we have to be in compliance with them. Thank you very much.

Fish: Benefit for me knowing what a national standard is if it exists, disproves the negative. Told you can't do something -- if routinely it is done differently elsewhere that gives us confidence we're going in the right direction. We will obviously craft our own rule. When do you think those negotiations will be through?

Hager: Hard to say.

Fish: What's holding them up?

Hager: We have meetings scheduled for next month, beginning of next month, and we hope -- this is something that is a priority of the u.s. Attorney to get resolved. And so we're trying to escalate a resolution.

Fish: Is there something -- is there something we can do, the city can do to accelerate them?

Hager: I'm not sure.

Hales: Thank you very much. Thank you all. Anyone else wanting to speak on this item? Any further questions for our bureau or our consultants?

Fritz: I have a question for the auditor and director.

Hales: Could you come up please, auditor.

Fritz: Yesterday evening, I attended a fundraiser for the national crime victim law institute, which is based out of Lewis and Clark. And it is a support service for the victims of crimes, and I learned that there is very little support for the victims of crimes, and, in fact, there in some cases is more support for the defendant -- there is more support for a defendant in a criminal prosecution than there is for the victim, that the defendant gets a public defender, and a -- every step of the way through the system, and the victim does not. I'm wondering when somebody comes to ipr with a complaint, do we have any resources or any -- do we refer them to any kind of support services to help either the aggrieved family or the victim who survived -- is there anything we do to support them?

Severe: So, when somebody files a complaint with the ipr, the only time where there is a -- say somebody, help them shepherd through the process, advocate, appeal stage, crc, citizen review committee member, and then also refer them to the national lawyers guild if they want to avail themselves of that.

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Fritz: Just it was new information to me. I just assumed that there would be people helping, and similarly I had previously assumed that there would be counseling and other support services for police officers involved in extremely stressful situations. I know we have an employee assistance program, however there isn't necessarily a formal way that officers are encouraged to use that or whether they do. I just wanted to put that out there as something that we should be thinking about is how do we support people who are coming to you with a perceived injustice, with something horrible that happened to them, how are -- are there places like -- could we give them information about the crime victims law institute, other services that at Multnomah county or elsewhere that we could encourage them to seek as a kind of counseling, legal assistance beyond the --

Severe: So, we do refer community members who -- so, let's say someone comes to our office and they present themselves with some sort of mental health issue in particular that we have a relationship with different community groups that we will say, hey, here is a number that you might want to call. But the difficulty with that kind of thing, there isn't one place that you can call on particularly with people who are in a position of crisis. They want simplicity, and unfortunately as you know in other kind of realms, there isn't a very simple process for any of that, where, you know, if somebody comes to our office, they're either in some sort of crisis or they're very upset, giving them four, five different phone numbers this may or may not be of some use to them. I don't know how much good we're doing. We do, do that sometimes where, you know, our office is set up under city code to help process community member complaints about police misconduct and also to get commendations -- we don't want to be in a position of trying to diagnose, you are, let's say, a victim of police misconduct. Our system, we're fact gatherers and supposed to be a neutral body.

Fritz: I wasn't saying I thought it was your job to do that and I know you don't have staff to do that. Mayor, in your conversations with the county chair through the budget, it seems to me this is a big gap in our system that we don't provide services to victims and we don't help them work through a very traumatic experience that they have experienced, perhaps even to the same extent that we are required to provide public defenders and other structured support to those who may have committed a crime. Just wanted to raise that as an issue.

Caballero: It is my understanding in other jurisdictions where I have lived that there is a distinction between a crime victim and there are programs that I believe reside or are associated with the district attorney's office, and so there is the obvious central function there that a crime victim will most likely end up interacting with them and they have some support systems and I believe those are state funded programs and I do not know if Oregon has anything like that or not.

Fritz: Just learned about this last night. So it is something that I could contract the district attorney and ask what we have here in addition to talking to the county chair. It seems like a missing piece from our system that we're trying to improve.

Caballero: I would say that it -- for the complainants at ipr, not necessarily crime victims as complainants -- maybe more attention given to the crime victim side than somebody who comes in with a complaint, not being a victim.

Fritz: I was thinking specifically in the use of deadly force or --

Caballero: Okay. I'm sorry, I didn't understand that. I'm sorry.

Fritz: I wasn't think about a complaint for somebody using a swear word or something, but more of the serious force issue.

*****: Thank you.

Fish: Can I follow up on a question that Dan raised which is what are your plans to continue the reporting and do you have the budgetary resources to do so?

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Caballero: We, the contract with the oir group ends at the end of this month. And it is our intention to open up the competition through the rfp process for the next round. And I believe in our current budget we have the money to do that and we are -- when we put our proposal in, we're cutting some of the money we have set aside for the contract but not the contract amount. So that is in our --

Hales: You are proceeding with a new rfp.

Caballero: Yes, that is our intention.

Fish: Just to be clear, do you have sufficient resources to fund that or might you be seeking an additional appropriation?

Caballero: I believe we have the proper resources to fund the next rfp process.

Fish: Thank you.

Hales: Thank you both. Thank you very much.

Severe: Thank you.

Hales: Further questions or discussion. If not a motion --

Fish: So moved.

Fritz: Second.

Hales: Roll call, please.

Fritz: I'm somewhat heartened that both chambers are not filled the way they have been on some of these previous reports. I do believe we are making progress. I know that we all know that we need to make more than that we're by no means where all of us want to be, which is zero use of deadly force and appropriate staffing and training and support for our police bureau. But I think we're making -- I know we're making progress and I know that many of the folks who testified today have also been engaged in the community oversight advisory board for the department of justice settlement. And, again, I believe that they are making progress from what I have seen. Thank you chief o'dea and your entire team. Extremely encouraged by your acknowledgment of the recommendations and your willingness to work on them. As you said, I believe there is a changing culture in the police bureau. Certainly not all of the way, and the same way that the rest of the city government and indeed the rest of society is not where we need to be when dealing on issues of race and people experiencing mental illness. It's heartening that we're making progress though. Thank you. Thank you very much to our consultants and for a very good report and all of the guidance you have given to us over the years. I hope you will be applying for the rfp process. A fair and open process as you would expect. Thank you. Aye.

Fish: With everything Commissioner Fritz just said. I want to thank the mayor. He has made this a priority in his administration, and as commissioner Fritz noted, we have had hearings here on this topic that have been filled, the room filled, and I, too, am heartened by the response of the bureau, the recommendations and the fact that up to 31 you have agreed largely without condition with the vast majority of them. And there are two that still remain in dispute. I'm especially heartened to hear from our friends at the u.s. Attorney's office that there is a collaborative process underway to resolve the issue of how once the 48 hour rule is removed, and I say that advisedly, once the 48 hour rule is removed in the contract, how we are going to administer the new protocol. I really appreciate the conversation today. I learned a lot. I think it was very thoughtful and I concur with Commissioner Fritz we are clearly moving in the right direction. Thank you all very much. Thank you to our consultants. Aye.

Hales: It is my privilege to work with chief o'dea and the command staff and officers that have been changing the practices of the police bureau in positive ways this is one more sign of that progress. Thank you commissioners. I think it is -- it is right to praise the good and there is really good work underway here. And I think it is also really important that we have this kind of objective nationally-informed outside review of what we do because

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deadly force is the most dire and terrible interaction any government can ever have with one of the people that it serves. So we have to always take it seriously. Part of the burden of being police commissioner is that when there are officer-involved shootings, the chief calls the commissioner in charge and you go to the scene and so, therefore, in these regrettable moments I have had a chance to see some of these procedures in action and also how assiduously seriously the bureau takes these cases. I mean, there is great care, great effort, no detail spared, sometimes even the scenes, I'm in a hurry for them to get on with this. And George burke and his team, methodical about we are going to do it the right way every step of the way and I appreciate that. The way it should be. Thank you to the oir group. Thank you chief o'dea for a thoughtful response as well, and I really appreciate where we are today and where we are not. Thank you for great work. The fact that this is a thoughtful discussion among concerned citizens and not a moment for outrage is high praise. Well done. Aye. [gavel pounded]

Hales: And we are adjourned. [gavel pounded]

At 4:03 p.m. Council Adjourned