



CITY OF
PORTLAND, OREGON

**OFFICIAL
 MINUTES**

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

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

Commissioner Saltzman arrived at 11:10 a.m.

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 No. 301 was pulled for discussion and on a Y-4 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS		Disposition:
287	Request of Mary Peveto to address Council regarding the latest Portland air toxics crisis (Communication)	PLACED ON FILE
288	Request of Mark Riskedahl to address Council regarding Portland air toxics (Communication)	PLACED ON FILE
289	Request of Paul van Orden to address Council regarding state of Portland air pollution enforcement vs Newark New Jersey (Communication)	PLACED ON FILE
290	Request of Sarah Livingstone to address Council regarding the latest Portland air toxics crisis (Communication)	PLACED ON FILE
291	Request of Teresa Keishi Soto to address Council regarding challenges with our Portland air (Communication)	PLACED ON FILE
TIMES CERTAIN		
292	<p>TIME CERTAIN: 9:45 AM – Office of Equity and Human Rights 2015 Annual Report presentation to Council (Report introduced by Mayor Hales) 45 minutes requested</p> <p>Motion to accept the report: Moved by Fritz and seconded by Novick. (Y-4; Saltzman absent)</p>	ACCEPTED

March 30, 2016

293	TIME CERTAIN: 10:30 AM – Create a Local Transportation Infrastructure Charge to fund improvements to unimproved streets (Ordinance introduced by Commissioner Novick; amend Code Chapter 17.88) 30 minutes requested for items 293 and 294 Motion to add directive b. “PBOT shall keep funds collected by this charge in a separate fund and not spent until the completion of the next phase of the project and the allocation methodology is approved by Council”: Moved by Novick and seconded by Fish and modified by Fritz. (Y-5)	PASSED TO SECOND READING AS AMENDED APRIL 6, 2016 AT 2:00 PM TIME CERTAIN
*294	Amend contract with Eco Northwest for additional implementation work for the Local Transportation Infrastructure Charge project Phase III not to exceed \$340,000 (Ordinance introduced by Commissioner Novick; amend Contract No. 30004500)	RESCHEDULED TO APRIL 6, 2016 AT 2:00 PM TIME CERTAIN
CONSENT AGENDA – NO DISCUSSION		
MAYOR CHARLIE HALES		
Bureau of Planning & Sustainability		
*295	Accept and appropriate Community Planning and Development Grant from Metro in the amount of \$200,000 for the 82nd Avenue Study: Understanding Barriers to Development Project (Ordinance) (Y-4; Saltzman absent)	187647
*296	Authorize a three-year Intergovernmental Agreement with Portland State University in the amount of \$162,171 to implement Portland Public Event Recycling Program 2016-19 (Ordinance) (Y-4; Saltzman absent)	187648
297	Authorize an Intergovernmental Agreement to provide the Multnomah County Department of Health Services \$62,035 in FY 2015-16 for efforts related to the enforcement of specified animal regulations in the City (Ordinance)	PASSED TO SECOND READING APRIL 6, 2016 AT 9:30 AM
Office of Management and Finance		
298	Accept contract with Standard Utility Contractors for the construction of the Bureau of Environmental Services - Fanno Creek Pump Station Fiber Optic Construction Project as complete, release retainage and authorize final payment (Report; Contract No. 3003449) (Y-4; Saltzman absent)	ACCEPTED PREPARE CONTRACT
*299	Authorize a contract with Architectural Resources Group, Inc. for City Hall Roof Replacement, Mechanical Units Replacement, Exterior Restoration, Surfaces Cleaning and Balustrade Repair Project for a total not-to-exceed amount of \$404,168 (Ordinance; Contract No. 30005035) (Y-4; Saltzman absent)	187649
COMMISSIONER DAN SALTZMAN		

March 30, 2016

*300	Authorize agreement with Morrison Child and Family Services for up to \$146,062 for training and technical assistance for Portland Children's Levy grantee agency personnel (Ordinance) (Y-4; Saltzman absent)	187650
Bureau of Development Services		
301	Amend Floating Structures Code to add administrative appeal provisions, revise external Appeal Board provisions to conform to the State Building Codes, add term limits to Boards, delete obsolete provisions and make other technical changes (Ordinance; amend Code Title 28)	PASSED TO SECOND READING APRIL 6, 2016 AT 9:30 AM
Portland Fire & Rescue		
302	Authorize an Intergovernmental Agreement with the State of Oregon, Office of the State Fire Marshal for Regional Hazardous Materials Emergency Response Team Services (Second Reading Agenda 276; Contract No. 30004993) (Y-4; Saltzman absent)	187651
COMMISSIONER STEVE NOVICK Bureau of Transportation		
*303	Accept a grant in the amount of \$2,009,953 from the Oregon Department of Transportation for the Downtown I-405 Ped Safety & Operational Improvements Project and authorize an Intergovernmental Agreement (Ordinance) (Y-4; Saltzman absent)	187652
*304	Accept a grant in the amount of \$3,002,357 from the Oregon Department of Transportation and authorize an Intergovernmental Agreement for the St. Johns Truck Strategy Phase II (Ordinance) (Y-4; Saltzman absent)	187653
*305	Accept a grant in the amount of \$2,994,624 from the Oregon Department of Transportation and authorize an Intergovernmental Agreement for the Connected Cully Project (Ordinance) (Y-4; Saltzman absent)	187654
*306	Authorize a contract with the lowest responsible bidder for SW Bond Ave Phase 1 Surcharge (Ordinance) (Y-4; Saltzman absent)	187655
*307	Amend the FY 2015-2016 appropriation schedule in the amount of \$2,005,000 in order to retire the 2007 Series B Limited Tax Revenue Bond (Ordinance) (Y-4; Saltzman absent)	187656
REGULAR AGENDA MAYOR CHARLIE HALES Office of Management and Finance		

March 30, 2016

<p>308</p>	<p>Accept bid of Moore Excavation, Inc. for the Far North Nicolai Sewer Rehabilitation project for \$3,784,536 (Procurement Report - Bid No. 00000187) Rescheduled to March 30, 2016 at 2:00 PM. Motion to accept the report: Moved by Fritz and seconded by Fish. (Y-4; Saltzman absent)</p>	<p>ACCEPTED PREPARE CONTRACT</p>
<p>309</p>	<p>Accept bid of Stettler Supply Company for the Schmeer Pump Station Upgrade Project for \$1,622,815 (Procurement Report - Bid No. 00000196) Rescheduled to March 30, 2016 at 2:00 PM. Motion to accept the report: Moved by Fish and seconded by Fritz. (Y-4; Saltzman absent)</p>	<p>ACCEPTED PREPARE CONTRACT</p>
<p style="text-align: center;">COMMISSIONER NICK FISH Bureau of Environmental Services</p>		<p style="text-align: center;">187657</p>
<p>*310</p>	<p>Amend contract with Otak, Inc. to revise the 100-year floodplain maps for Crystal Springs Creek for \$85,000 (Ordinance; amend Contract No. 30004334) 15 minutes requested Rescheduled to March 30, 2016 at 2:00 PM. (Y-5)</p>	<p style="text-align: center;">187657</p>
<p style="text-align: center;">Water Bureau</p>		<p style="text-align: center;">PASSED TO SECOND READING APRIL 6, 2016 AT 9:30 AM</p>
<p>311</p>	<p>Authorize a competitive solicitation and five year price agreement for water works supplies for an estimated cost of \$11,000,000 (Ordinance) 15 minutes requested Rescheduled to March 30, 2016 at 2:00 PM.</p>	<p style="text-align: center;">PASSED TO SECOND READING APRIL 6, 2016 AT 9:30 AM</p>
<p style="text-align: center;">COMMISSIONER STEVE NOVICK Bureau of Transportation</p>		<p style="text-align: center;">PASSED TO SECOND READING APRIL 6, 2016 AT 9:30 AM</p>
<p>312</p>	<p>Create a local improvement district to construct street, sidewalk, stormwater and sanitary sewer improvements from north of NE Columbia Blvd to south of NE Cornfoot Rd in the NE 47th Ave Phase I Local Improvement District and increase project funding from Portland Bureau of Transportation system development charge revenue by \$315,151 (Hearing; Ordinance; C-10052; amend Ordinance No. 180970) 15 minutes requested</p>	<p style="text-align: center;">PASSED TO SECOND READING APRIL 6, 2016 AT 9:30 AM</p>
<p>313</p>	<p>Vacate a portion of SE Grand Ave between SE Spokane St and SE Tacoma St subject to certain conditions and reservations (Hearing; Ordinance; VAC-10093) 10 minutes requested Rescheduled to March 30, 2016 at 2:00 PM.</p>	<p style="text-align: center;">PASSED TO SECOND READING APRIL 6, 2016 AT 9:30 AM</p>
<p style="text-align: center;">FOUR-FIFTHS AGENDA</p>		

March 30, 2016

313-1

Declare City Council condemnation of North Carolina's Public Facilities Privacy & Securities Act and temporarily suspend City travel by a public employee to the State of North Carolina until the act is overturned (Resolution introduced by Mayor Hales and Commissioners Fritz, Fish, Saltzman and Novick)

Motion to add language in support of Charlotte NC local non-discrimination ordinance: Moved by Fritz and seconded by Fish.
(Y-5)

(Y-5)

37198
AS AMENDED

At 12:53 p.m., Council recessed.

March 30, 2016

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **30TH DAY OF MARCH, 2016** AT 2:00 P.M.

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

Commissioner Saltzman arrived at 2:12 p.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Deni Vannier, Deputy City Attorney; and John Paolazzi and Mike Miller, Sergeants at Arms.

<p>314 TIME CERTAIN: 2:00 PM – Report on year one implementation of Citywide Tree Project (Report introduced by Commissioners Fritz and Saltzman) 1.5 hours requested for items 314 and 315</p>	<p>Disposition: CONTINUED TO MAY 11, 2016 AT 9:30 AM</p>
<p>315 Strengthen regulations for tree preservation in development situations (Previous Agenda 255; Ordinance introduced by Commissioners Saltzman and Fritz; amend Code Chapter 11.50) Motion to accept Saltzman amendment regarding affordable housing developments dated 3-29-16: Moved by Saltzman and seconded by Fish. (Y-4; N-1 Fritz) Motion to reconsider Saltzman amendment: Moved by Fritz and seconded by Hales. (Y-1 Fritz; N-3 Fish, Saltzman, Hales; Novick absent.) Motion failed. Action 4/6/2016: Fritz changed vote on Saltzman amendment to “No.” (There was no objection. Approved.)</p>	<p>PASSED TO SECOND READING AS AMENDED APRIL 6, 2016 AT 9:30 AM</p>

At 4:44 p.m., Council adjourned.

MARY HULL CABALLERO
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

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

March 30, 2016

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.

MARCH 30, 2016 9:30 AM

At 9:33 a.m. Council recessed.

Hales: Good morning everyone and welcome to the March 30th meeting of the Portland city council will you please call the roll.

Fritz: here **Fish:** Here **Saltzman:** Late arrival **Novick:** Here **Hales:** Here

Hales: Welcome, everybody. We have some communications items up front, and we will get those folks up momentarily. Following that we have got some time certain council calendar items, as well as a 4/5 item, which is something that the council can do by mutual agreement, and that is we added an item to the council calendar today, which is the resolution about the human rights developments in North Carolina, and that we'll take up last following the regular council calendar items. If you are here to speak, let our clerk know and she will include you in those. We typically allow three minutes, to testify on items before the council. And if you are representing an organization let us know that, please. We try to practice the rules of decorum in this chamber, obviously, there are exceptions but we ask that we support our fellow citizens with a smile or a wave of the hand or a thumbs up, and if you feel compelled to show disagreement with someone, a thumb's down or some other hand gesture is ok but we don't have applause and demonstration in this chamber with the exception of visiting dignitaries and school children so you might get applaud from your Portlanders this morning. So students, not just children but students and dignitaries, get special treatment, and we discriminate that way, and we will continue until further notice. With that, let's take the communications items 287.

Item 287.

Hales: Good morning, Mary, come on up. I know there is several people that want to speak today so if any of you want to come up together that's fine but, individually, is fine, too. Good morning.

Mary Peveto: Good morning. Thank you for this opportunity, I am Mary Peveto, and I am president of neighbors for clean air. The neighbors for clean air is a grassroots member organization that works to protect the health of the Oregonians from toxic air pollution. While many in Portland woke up to the problem of toxic air on February 3, this news was no surprise to our members. Recent news coverage has focused on the time lag between when deq first learned about the U.S forestry services, study in May of 2015, and February of 2016 when the public did. But the real delay by the agency to address toxic air pollution should be measured not months but in years and decades, this is not a new problem. Just a newly popular one. There were strong activists in the 1990s like Sharon Genasci fighting industrial pollution, and there was jerry Williams Jimenez, and who was the founding member of the justice action group, now opal, who worked to reduce the heavy diesel emissions in north Portland, estimated by epa and deq to be some of the highest in the state. The citizens of north Portland that she was fighting to protect were also found to have the highest rates of respiratory ailments that exceed statewide and national averages. In 2009 six years after the Oregon air quality rules were amended to address the dangerous air toxics that the clean air fact doesn't, I stumbled on a national study

March 30, 2016

showing that Chapman elementary school, the school my three children attended, ranks among the worst 2% in the nation. Since then, NCA has taken on pollution battles that our state regulators would not, and what has been an ongoing David versus Goliath battle, without state level accountability we've been left with do it yourself air emissions regulations, relying on hard one good neighbor agreements and odor regulations to make headway, we've been successful in winning small battles like ESCO, Vigor and Intel and we're proud of these but they don't come easy and are not far enough because they leave too many behind. Still, we know the highest levels of air pollution are in areas of high percentages of people of color and poor and most of these victories have been won by hard one, hard won by white homeowners. I learned about Portland's elevated levels of cadmium and arsenic along with the diesel particulates that exceeded the thresholds over five years ago as a member of the DEQ's Portland air toxic pollution advisory committee. The problem is, not that the agency charged with oversight of the state air quality didn't know about the pollution in the air, but the problem is, that they did not do anything about it. This, I submitted two documents with my testimony, one from 2011 of the north Portland cadmium memo and a second one, the air monitoring report from 2005 which show regulators knew but failed to act, but failed to act to protect our health, which is one of the key emissions. Why I am here today to talk to you, and the rest of the folks here that will speak to you is that we've been working for a long time to deal with this at the state level, and we just can't, regulatory captivity, the strangle hold that the lobbyists have on state legislators make it impossible.

Hales: I think we will have questions for you.

Peveto: So we're here to ask that you join all the city commissioners join Mayor Hales in aggressively seeking more solutions at the local level and to aggressively support Multnomah County and other jurisdictions in looking at local air quality district management, thank you.

Hales: Thank you for your advocacy and we want to hear from the other folks, we might want to discuss it because this is an unusual situation to have a bunch of people on the same topic so I appreciate you coming. Who is next?

Item 288.

Mark Riskedahl: Thank you, Mayor Hales and Commissioner, for the record, I am Mark Riskedahl, I am the executive director of Northwest Environmental Defense Center, at Lewis & Clark law school here in Portland, major flaws in Oregon's air quality regulatory system sparked controversy. Last month the federal congressional delegation representing the metro area said that Portland is in the midst of a public health emergency. Portland's air is filled with toxic hot spots. Moving forward out of this morass will require reduction in pollution, associated with diesel particulate and wood burning but also require reductions in hazardous air pollutants from industrial sources. The legislature said that the program of the air pollution shall be undertaken in a progressive manner. Oregon's lawmakers clearly did not intend for us to get mired in air quality oversight. The loop of inadequate regulatory oversight by the Department of Environmental Quality, DEQ, emerging air pollution problems, and finger pointing at DEQ, demanding that the agency fix the problem and hearing they respond that it doesn't have the resources and is unable to muster the will to address the problem, is simply broken. The agency's recent bed commitment to embark on a time intensive formal toxic hot spot rule-making at some point in the future in which industry inevitably dominates the conversation and predetermines the outcome or to revisit the agency's multi-year, multi-million-dollar Portland air toxic solutions program, a program that utterly failed to identify and craft solutions last time around for the problems that have garnered recent headlines are not enough. DEQ has pre-existing legal authority under Oregon state air toxics program to establish and implement aggressive toxic hot

March 30, 2016

spot assessment and control strategies, particularly for specific categories, such as glass manufacturing. Apparently it lacks the regulatory will to implement those strategies. The Oregon legislature and the Oregon environmental quality commission impressed the deq for years to do more to reduce the threats of harm to public health and the environment and provided the agency with ample authority to regulatory discretion to do just that. That the agency has failed and continues to fail. It's time for a new path forward. If Oregon deq fails to respond, growing core of concerned citizens within Portland's government have expressed an interest and intent to a certain local control over Portland's air pollution problem, and the furtherance of that objective, the legislature has provided a clear avenue for the creation of the regional air control authorities, and old guard industrial polluters will kick and scream that more government is not the solution. We're not just talking about others in government but talking about crafting a local solution to a local problem. Air quality regulation of, by, and for Portlanders, the concept of a local air district or pollution control authority, is well established in other states, even between the west coast neighbors there is 35 air districts in California and 10 in Washington, and this is a solution with strong local leadership, and we can move forward. Thanks for your time.

Item 289.

Hales: Good morning.

Paul van Orden: Good morning. Members of council I am Paul van Orden, I have taken the day off of work today to address you on this issue. Why is New Jersey 30 plus years ahead of Oregon on air pollution? For five to six years in my 25-year career in environmental law enforcement, I worked in New Jersey on air pollution enforcement and contaminant registration, when I moved to Oregon 20 years ago, Portland was at that time 20 years behind the process of identifying and registering and enforcing regulations used by regional health commission in New Jersey. Essex regional is the first pollution agency in the United States and existed before the EPA, the Environmental Protection Agency. It is a regional air authority. Today, sadly, Oregon is at least 30 plus years behind the state of New Jersey in identifying and managing and managing hazardous air pollutants. New Jersey has an organized air pollution regulatory system of using routine inspections and registration and cataloging hazardous contaminants at a given location, and regulation of substance, and monitoring for release and is contaminants and taking the legal enforcement action on behalf of their children and individuals. Regional health, a government structure, much like metro, responds to a single air pollution voter complained. Deq has more or less a test system that requires many complaints and potentially could take action. Portland children, my own two kids under five years of age, should have at least as many safeguards as people offered in New Jersey. I would hope that this might be compelling for the mayor to be part of this legacy in his last months in city council. State air pollution regulation needs more funding, more robustly funded. There's been a lot written about making improvements to the department of environmental quality to rush to formulate rule-making, to address two source locations. The approach to making improvements is not a matter of adding more air pollution monitoring equipment and sampling solve the growing issue of pollution, and in the disparity of the communities that are enacted, a few changes to the state department of environmental quality do not address the heart of the issue. We need to be moving forward in a calculated and thoughtful, local, regional, and statewide fashion to develop a regional and local authority to address the community issues related to air pollution. New Jersey has done that for 40 plus years, and we can stop living off the laurels. In 1991, Barbara Roberts was in a tough position, and started this slow of gutting the entire environmental enforcement programs that the community relied on and could have helped us to prepare our state as it was more dense. We can no longer place our environment, the leading reason we live here, at the

March 30, 2016

bottom of the fiscal ledger. I will skip the comments and say locally we have city options to start making change immediately, directly in the city code. This is contrary to local enforcement saying this is an issue for the state deq, and in Portland city code, title 33 we have a piece of air pollution enforcement regulation. That in title 33, relative to the owners, and could be rewritten.

Hales: We have two more that want to talk on this but we might want to take a few minutes to discuss this. Let me tell you the status of my thinking on this issue. As you know, I signed a letter along with the chair Kafoury and met with the deq and said get on with it. We have this ability in both state law and I was unaware of the city code, to create a local authority if the state is not performing. Let me voice again a work in progress here and a frustration, the city often finds itself in a position of having to do work or perform functions that, actually, are fundamentally the responsibility of another government, and it's the only, sounds a bit like it's not my department, but bear with me. Depending on where you are, in The city of Portland, where we happen to be sitting, there are nine governments that have a responsibility for law, enforcement and public services, and federal, state, metro, tri-met, city, school district, esd, you know, add them up, between eight and 10, depending on where you are. We find ourselves over the long spans of time, the city has ended up performing or assisting the other government's functions. We funded, help funded schools in their hours of need. We have helped to fund a unity center that will provide psychiatric emergency care in the Lloyd district for people that are in a psychiatric crisis in our city, even though we are not the public health authority or the state mental health agency. So, the city often finds itself in this position of our citizens want a higher level of effort, or a higher level of regulatory rigor than we were receiving from some other government, and you know, our resources are not infinite, and we want to maintain good neighboring relations with all these other governments that have their jobs to do. That's the only reticence that I feel on this issue. I don't think this council -- this council is willing to regulate business and industry, we do it all the time. We're willing to stand up for the environment. We do it all the time. But, I think that our only caution here is that we have public agencies that are supposed to be doing this work. Our first choice is for them to do that. That's the status on my thinking, we sign the letter and we are sort of holding our gavel saying that we can do this, and state, we can create a local air authority, and is that our first choice? Not sure.

Fish: Can I add something and I appreciate the mayor's office comments. I want to add we broaden the lens a little bit. I will tell you why. The question of toxins in the air is the issue at the moment because of recent history, and the apparent failures of some of the regulatory systems has been made clear. I think we have to be clear that this is just one of a number of public health issues that we're facing right now. The largest public health issue facing our community today is superfund. And the epa is about to come out with a plan. It could have a price tag between 1.5 and 2 billion, and with a goal of cleaning up the Willamette. We are going to have to figure out how to pay for it with all our partners. In light of Flint, Michigan, and Newark, and this conversation with the lead and copper rule, the epa is looking at revising those rules and changing the landscape and optimizing the compliance. To the mayor's office point that may, from a public health point of view may be very laudable. But who is going to pay for the fallout? You could have a rule at the federal level that causes us to no longer be able to have a variance of treating our water. You could have a new set of dictates that produces 700 million dollars new obligations locally. The, so the two things I just want to mention is one, I think we need to broaden the lens to include an array of public health issues, and two, we have to hold the federal government accountable for being a partner, once upon a time there was money that flowed our way, most of the investments that we have made on public health issues we

March 30, 2016

have had to pay for locally, just in our utilities, \$2 billion. And people can complaining about rising rates and how we pay for it so broader lens and bringing our congressional delegation into the conversation insisting that Washington become a stronger partner, particularly in providing relief for us, if we are going to step up and tackle some of these things, we need funds. And right now, congress is not supporting these efforts, and there is a limit to what we can do with our tax base so I think that your point is well taken. Broaden the lens and find some funding to address this problem.

Novick: I had one comment and two questions, it is that you are right, Oregon is behind and when I worked for the justice department in the 1980s and 1990s, representing epa, Oregon environmental law enforcement was rather a joke within epa. I remember people saying that the enforcement stops at the Columbia River. Washington State took environmental enforcement more seriously than Oregon did and unfortunately that has not changed. Following up on the comment commissioner Fish just made, I am curious as to how the local air authorities are funded, and how they come up with the money to fund those authorities. The other question that I had, there was an on-ed in the Oregonian a few weeks ago reminding me of something I once knew but had forgotten which is that Eugene passed a right to know law, with people of toxic pollutants to report them and the legislature passed language that made it virtually impossible for others to do the same thing. I was curious if you thought that Eugene law, even though it's just a reporting law, has an effect and is it worth our lobbying the legislature to get them to overturn that, among all the others that they have been imposing.

Hales: Yeah, thoughts about that?

Riskedahl: Sure. I think that the right to know, respond to get that question, is that transparency is a critical part of what is a concern for most in people's minds, people don't have a sense of what's going into the air or happening in their neighborhood. So, you know, that length some transparency to that equation but that does not -- that system in Eugene doesn't require any reductions or actions so that the reporting pieces are useful but an informational piece, a lot of that is available through the toxic release inventory and other mechanisms.

on the question of funding in new jersey, one of the interesting things not happening in

Orden: Oregon is an issue across the board, not just for air pollution but also for fire response, if we have an earthquake, I would go into the facilities, when I did environmental law enforcement in new jersey and even a tiny facility I would register the contaminants and toxins and we would have that registered so if there was an issue like we're seeing with the glass manufacturers we may be able to go in and say it could be these folks and we would have a starting point, that contaminant registration fee helps to fund a chunk of work that goes on in that arena, so it's a way to recognize if you choose to use these contaminants, there is a fee for it, and it's a reasonable fee, and it's been in existence for quite some time.

Peveto: I think I would be remiss not to mention that while funding is, obviously, a really important question, the cost, is an incredibly important issue to highlight. We know that Multnomah County, for example, which I understand is broader than Portland, but we understand that our proportion of the cost of the diesel pollution alone is upwards of \$2 billion, and in public health and the loss of life, loss of productivity, and all the related health concerns that are related just to the diesel pollution alone. And we know that we have the highest concentration of that emissions. I will also say that there are federal dollars that come in through the congestion medication air quality fund, and that money, congressional report, in 2012, recommended, did not require, because the government was not one to dictate how the money was spent but the recommendation from the 2012 report was that money was recommended to prioritize the diesel emission reductions, and

March 30, 2016

we have not used a dime of our money on diesel reductions. If you have the dirtiest diesel trucks and fleet in the country running through your city, it does not matter if you are reducing the congestion because the number of trucks, the amount of diesel pollution does not change. We need to prioritize the reduction of the most deadly pollution we have which is diesel.

Fish: Where does that money go?

Peveto: Into the transportation budgets that are metro, oversees the budget.

Fritz: So metro has the ability to send it to some of it towards the diesel emissions.

Peveto: They respond to the requests of the municipalities who apply for the money.

Novick: I'm sorry, but isn't it -- rather than spending public money to facilitate diesel emission reduction, should we just pass a law saying that diesel, they are subject to the same rules as in Washington and California?

Peveto: Yes, that is my clearest advocacy point, we should pass a diesel standard today which our state has the authority to do, with no mandated action. I was responding to commissioner Fish's issue on funding specifically, but yes, I agree.

Fritz: We've been pushing for that for many seasons so we need to continue to add it to our list, in the meantime we can ask metro to get some of the dollars that they have authority over to this issue, and should metro be the regional air authority, Multnomah County, Portland? If we have to do it at a local level.

Peveto: I think the boundaries that metro represents, municipalities that probably should all be in partnership on this. I will not try and speak to the organizational construct at this point. I appreciate that what mayor Hales and commissioner Kafoury have asked for is a strong feasibility study of what the district would look like.

Fritz: Could you talk about that mayor?

Hales: Why don't we let the next two folks speak and we will spend more time. This is a big deal.

Fritz: Maybe we could ask Mary Peveto to stay since she's been such a leader on this.

Hales: Yes, let's hear from the other two folks.

Item 290.

Sarah Livingstone: Good morning, good morning, mayor. I am Sarah Livingstone, and my husband, 26-month-old baby girl, and I live in southeast Portland. Five blocks from Bullseye Glass, within a half mile radius of where the Oregon Health Authority told residents that it's not safe to eat out of our gardens, this past January I had three trips to the E.R., I was diagnosed with pneumonia and pleural effusion, which is fluid between the linings of the lungs. I am normally a healthy person and this came on suddenly. At the time I did not know about Bullseye Glass polluting our neighborhood, five blocks from the house with cadmium, arsenic, chromium and other toxic metals for decades. The story had not broken yet. They had not suspended using heavy metal. I am not the only one whose health is affected. Numerous people in my southeast neighborhood who live close to Bullseye Glass have contacted me telling me that they have had very similar health problems a few women wrote to me that they had pleurisy, inflammation of the linings of the lungs, after they moved to this neighborhood that diversely affected them for six months. They live within two blocks of me. Another mother who ate out of her garden last summer while pregnant had a baby with an unexplainable hole in her lung. An eight-month pregnant mother who lives a block from me and four blocks from Bullseye Glass received her heavy metals test and has arsenic levels that are 59 ug, and they should be between 0-29. How does one calm the minds of a pregnant mother due in one month and has heavy metal two or three times what is considered normal? Some metals pass to the baby and can cause birth defects. Unfortunately, there are many more stories like this. I moved back to Portland to start and raise a family like many have done in the past and are currently

March 30, 2016

doing. This is not the Portland that I thought I knew, and I feel like we've been betrayed. The green is to that we love is not so green, it has been going on for many years. I feel like the rug has been pulled out from under my feet. Toxic, heavy metal poisoning is not only a short-term health problem but also a long-term one, unfortunately. It can take a decade to show itself. We worry in five or ten years from now our 16-month-old daughter will develop cancer or a behavioral disease caused by heavy metals or that my husband or my life will be shortened. How does one not worry about this moving forward? The deq and Portland city officials have known about these chemicals in our air for a decade, and the epa has recognized the one size fits all approach is outdated. The state and the city should dismiss this one size fits all in fixing our air crisis as California has. Children are not smaller versions of adults. Children have developing immune, nerve, and bone systems, much different than adults. Chemicals such as cadmium and lead can cross the placenta negatively impacting the fetal development milestone processes, and chemicals can also be found in breast milk, which is concerning to me, as a breast-feeding mother. The community of Portland and I will not stop fighting and mobilizing until air quality regulations have been improved to protect the public health before polluter profits. Groups such as our east side Portland air coalition and Neighbors to clean air are leading this charge. Let's return Portland to being an environmental leader in this country. We deserve to breathe air that does not make us sick. Please help make this right.

Item 291.

Teresa Keishi Soto: Bueno Diaz, mayor haies and members. May the day be going well for all of you. I am Teresa Keishi Soto and I am here as a member of organizing people, activating leaders and environmental justice Oregon, to talk about my struggles with breathing in southeast Portland. Long before I joined opal in 2010, they were already calling attention to Portland's poor air quality. As you know because I come and talk to you a lot. I live off of Powell Boulevard at southeast 125th place. My apartment door, number one, is 200 feet from the bus stop on Powell. When I moved to Powell cord villa in the fall of 2003, I lived in apartment no. 10, number 10 is 100 feet in apartment number one where I now live. I did not have problems with breathing in that apartment. It's further back from Powell Boulevard. And in 2007, I moved into apartment number one, and by 2011 I found that I could no longer sleep in the bedroom. The smell of fumes and my struggle with breathing, under those conditions, would wake me up and force me to abandon the bedroom. I did try to, try different kinds of air purifiers. I had been sleeping on the floor of the living room since 2012, at first I thought that I would be spared the foul taste of fumes, and the feeling that something heavy is in my throat, by sleeping on the floor in a different room. No, many times I am awakened between 2:30a.m. and 5:30 a.m., by the same conditions that forced me out of the bedroom. I have coughed so hard that I am no longer able to significant, I love to sing. I sang with the southeast symphony chorale for almost the whole 11 years that I lived in eastern Oregon if I have a night of normal breathing I feel great. This usually happens when we have had winds during the day and the evening. I make it a point to ask drivers to stop their engines, while person is writing out a check for the rent, while someone is waiting for a prescription at the drive-through at Walgreens, at the corner of southeast 122nd and Powell, and/or while cleaning the laundromat. The lady cleaning the laundry mat was going to let her engine the whole time that she was cleaning her apartment until I spoke to her and explained to her what was going on, I would like to complain about the fact that deq disconnected the air monitor and, at the corner of southeast 122nd and Powell boulevard in 2004. Thank you, council members, and mayor haies for holding deq accountable for addressing the health issues that are a result of the diesel combustion and for supporting the public transportation, and ror promoting a don't idle your car engine movement in our beautiful city. When it comes

March 30, 2016

to air quality in Portland, we must all work together to keep our city beautiful and livable, and I love Portland. Thank you all. Gracias.

Hales: Thank you very much. I want to thank all of you for coming this morning. This is unusual to take a topic and get into it a bit but this is a critical issue of the community, and it's been something of a bilateral conversation between everyone in Portland that cares about this, you, and a lot of the citizens in these neighbors, chair Kafoury and me and all of us and the state. But we have also filed this point that we can create a local air authority and will if we need to, so I think that really now has risen to the level that we ought to have something of a work session, perhaps, between the county and the city, the city council, to get into this issue in further depth and call on you as resource people. I realize Mr. Van Orden was here on his own time, but he's a unique resource in that he's had this experience having an environmental regulator earlier, but now runs our noise enforcement function in the city so he understands how the, to operate a regulatory program, that the city has taken the leadership for. So, it seems to me that this has gotten to the point that we need to have a longer version of the discussion that we have just had this morning, and perhaps, also, with county leadership because as a government person I don't care that we have an effective regulatory program at the state or the county or the city, I just want one. And if the, if, if in order to get one, if we have to form one locally, we need to determine is that a joint venture or a regional thing, and you know, there is lots of mechanics to figure out. But the principal to have an effective environmental regulator making sure the city that we think is green, actually, is, is something that I think that there is a huge agreement for, not just here in this room but in the community at large.

Fish: Just a comment. We are a couple months away from completing the heavy lifting on the budget and the comp plan. That is taking up a lot of the bandwidth here so heading into late spring or early summer, if you were to give instructions to the bureaus that were front line bureaus, if we had government relations come in with the things, and we structured it like we did the superfund briefing, which is a chance for the public and the council to get briefed on all the dimensions of the issue ahead of thinking through the policy implications I would welcome that.

Hales: I think that's right, and it's the right timing, too, and we are doing this feasibility study, and I am not sure when the results come back but they ought to be by then so we will have more research behind our options.

Fritz: Do we need a budget place-holder, though?

Hales: That's a very good question, and again, the timing is good because we are working on our budget right now, as well as on the comp plan. So, I think that sounds sensible to me that in the next couple of months, we'll line that up and call on some of you again as resources, and to take this discussion to the next level but we appreciate you highlighting it here by signing up. It is a critical issue in Portland, and a lot of people are scared, and they should be because we think that we live in a green city and we have a right to.

Fish: One other question, one of the complications of our government is there are five of us, and the mayor has taken the lead, but obviously you want to make sure that all of us are informed on the issue. Have you thought about the best ways for us to do our homework on, ahead of any broader discussion?

Peveto: I am very happy to email you, some supporting materials, and would make myself available, and anybody else that you would like to speak with individually, we would be happy to avail ourselves.

Hales: And Zach Klonoski in my office is my point person, I will make sure that he's coordinating with all the council offices, as well.

March 30, 2016

Soto: I think it's very important that citizens have a telephone number that they can call in and report situations like mine. I am sure that my situation is not the only one, I think it's really important that it get out there that there is a number that people can call. Thank you.

Fritz: I suggest that we also include some of the folks from environmental quality, there are a lot of really good people trying really hard and who know what some of the barriers and what it's, what's tried and hasn't worked so let's make sure that we include the state as partners to the extent possible.

Hales: We have had good discussions with them, and we are pushing them, but they are good people there that are interested in making a difference. That's a fair point, thank you all so much. This has been a helpful discussion.

Peveto: I appreciate it.

Hales: Thank you.

Hales: Let's take up the consent calendar briefly and then go to the time certain. Let's see, I do have one request to pull something from the consent calendar to the regular calendar, and that's 301, are there any others? Ok. Let's take a vote on the balance of the consent calendar.

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

[gavel pounded]

Hales: Ok. Let's take item 292.

Item 292.

Hales: Good morning, Dante James is going to lead off about how we are acting on living and institutionalizing our values so, and there is a power point? Ok. I will whisper the little incantation necessary to make our av system work.

Hales: Do you want to introduce our visitors? Good morning, and welcome to Portland. Ok. How are we doing?

Dante James: I think that we are good.

Hales: On technology here? Are we ready to roll?

Dante James: I think we are.

Hales: Good morning.

Dante James: Good morning.

Dante James: Thank you.

Dante James, Director, Office of Equity and Human Rights: Good morning. Mr. Mayor, and commissioners, my name is Dante James, the director of the office of equity and human rights, and it is my privilege this morning to be able to present the annual report of the office of equity and human rights for 2015-2016. I think it's very powerful that we have followed the previous presentation on essentially an environmental justice issue, which more often than not is a racial justice and social justice issue, so it's an issue, and having these conversations about the air quality and where and who is impacted so I appreciate your taking that up and moving that forward. Before I begin, I would really like to first -- where did it go.

****: We don't have it, either.

****: Ok.

****: All right.

James: I had like to thank my staff for their passion, for their commitment, and their patience, and their perseverance and expertise in doing this work, I would ask them to stand away so they can be appreciated for the work that they do.

Hales: Good morning. Thank you all. [applause]

James: This would not happen without this phenomenal staff and they put in blood, sweat, and tears in doing this work because they believe in it and it is their passion and their calling, and they don't consider this a 9:00 to 5:00 but what they do all the time so I

March 30, 2016

want to thank them for that. I also want to recognize Mr. Jeff Sellby for his work in the presentation of the annual port document that you have before you. We get comments on how well it's done and you have commented and tried to steal Jeff to do your work. I also want to thank Judith Mowry, acting as the interim director while I am in Portland, I will be in Portland all the month of April finishing our inner city agreement so she is not done yet, and she's ill today, which hopefully doesn't reflect the level of the difficulty in doing this work. And I also want to acknowledge the growing number of city staff and leaders who supported our work by making it theirs and taking it upon themselves to move this forward in their bureaus or departments. We have had a busy year, a year full of success as well as moments with frustration and challenge, the office has expanded the depth of the work but also sometimes, had to fight to be included in the discussions where an equity perspective would bring insight improved outcomes for Portland residents of color and Portlanders with a disability. This year we watched this world, this country and city struggle with issues of race. While also seeing city staff and bureaus become more engaged about addressing racism and how they can work to be part of the change that dismantles it. We celebrated the 25th anniversary of the Americans with disability act, and while seeing the difficulty many have in addressing those with physical and mental challenges. And the institutional barriers that exist in programmatic ways. The office celebrated its fourth birthday, march 12, 2012, was the first day of the office. And in that short period of time, the office has become a model of equity work. And you can see on this slide, anyway, several jurisdictions with whom we have worked, we phone calls every week, from jurisdictions around this country asking how the office works and how we set it up and how does it engage with the governmental aspects of the city. How do we engage with the bureaucracy and how have we done what we have done, so we have become a national model and offering advice and assistance to other public and private entities on a regular basis. Two weeks ago the deputy mayor of New Orleans came with a staff member to spend two days with my office. Learning how we accomplished what we have and how we continue to do our work. We have truly tried to stay true to the Portland plan, and the action items within it. Specifically, we have, in terms of the areas of the Portland Plan, we have closed the gaps. We have engaged the community. We have built partnerships, and we have launched the racial justice initiative, and we have increased focus on disability equity and we have increased internal accountability. So, just what has been our work this past year? We highlighted a number of things in the plan that you have. We can't fit all our work inside of a document that you would spend any time reading, we wanted to highlight the specific areas that we have done, so in general, we have continued to conduct and facilitate equity training. Our training curriculum and approach is a sought after model designed to offer a concrete understanding and approaches to work. If you look on page 4, some of the results of specific surveys that we have invited people to complete. Overall satisfaction with our training from all who completed it is 92%. Satisfaction for facilitation has been 91.6%. And the understanding of equity after the training has been 91.6%. I think most telling is this, that's not in the document. 75% of all of those who participate in the training walked away and said that they have an immediate ability with a practical take away to perform equity in the job that they do. I think that's a huge statistic, and as we have -- I will say this, as we have made the training mandatory for the employees, we may see those numbers slip a bit. The training originally, not originally done but done prior to it being mandatory, people would sign up or bureaus would invited us to come and perform the training. Now, I think that we will see both sides of the spectrum of those supportive and those who are persuadable and those who will never like doing this work. So those, I would just suggested maybe in the next year some of those may slip.

March 30, 2016

Fritz: I have a question on that, on the previous slide the 91% believe that they have an understanding of equity after, is there any kind of test? Do we agree that they have a better understanding?

James: There is no test.

Hales: It's self-reporting.

James: Just self-reporting because what I suggest, in the training, what we talk about is they should be able to walk out and explain to someone what equity is and the philosophy of the city. Whether they agree or not, can they explain it if somebody says what is this stuff and this is their answer.

Fritz: We might want to consider having a post-test on that issue because clearly, the evaluation says, unless you really hated the training, per se, and are willing to say so, obviously, the answer to that question is supposed to be yes and we have a lot of intelligent employees who are going to say yes, so I think it might be worth looking at some qualitative evaluation, or just specifically can you recite the chapter and verse as to what the city's equity understanding is?

James: provide an example or definition, absolutely, and just to be clear, all of these are anonymous so there is no expectation they will be called out because of their answers on the evaluation but that's a good point, thank you. We have, where am I? Am I going the wrong way? Yes. We have add and had improved the capacity of the staff, by adding the responsibility of being on the training team for additional members of the staff. They are passionate about this and they want it to become a part of our training team in addition to the other expected work. We often get requests to offer training to outside entities that have been selective, as we are stewards of our time and the budget you have given to us. We have provided our training to entities such as the senior leadership of both the university of Oregon and Portland state university. As we consider how and what we are teaching the next generation, we have also provided training to senator merkley's staff. We have also allowed other jurisdictions or nonprofits to provide services on behalf of or in contract with the city to attend the trainings. We have continued to provide technical assistance to the city staff and leadership. It's not my intention to go through a list of all of the support that we provided or the accomplishments that we received, I would like to spend most of the time allowing our guests who are going to be invited after my remarks to offer their thoughts and answer any questions that you may have and offer a glimpse of the future of the office and the work. I do want to highlight a few pieces of this year's work. On the leadership of the commission on disability, and with the assistance of human resources we have a better snapshot based on the surveys completed, two, actually, completed of the employees in the city who identify as having a disability. If we are going to be a model employer of people with disability, we need to know if we are improving our hiring and how we are doing in creating a welcoming environment. We provided support to the commissioner staff as we work through regulating uber in the requirements of the providing wheelchair accessible vehicles in their services. We created the pdx yellow cab, a Somali owned and operated company, as it has become a reality, and I believe several of the drivers are here this morning to offer their support. So if you are, wave a hand. We continue to provide assistance with police equity training in the advanced academy and is in-service trainings, and we also provided assistance to the personnel division as they change the oral board questions to understand who the applicants are as individuals and who understand who they are, as members of the largest society in the, and the communities that they serve. Our engagement in the budgeting process that we are in the middle of, with the equity tool, and the offices engagement with council and the budget hearings, never fails to get ohs and awes for its equity engagement. We provided each of you the opportunity to vote on and support the new city-wide racial equity goals and

March 30, 2016

strategies. They represent a model of leadership envied and is being copied around the country. So as you can see, and you are very well aware of these goals and strategies. They provided a goalpost for the bureaus as they prepare their plans. The road maps and the plans lead to a racial equity plan for the next five years. All the bureaus completed their assessments and some completed their plans. The rest are in the final stages of completion, and I would like to share an example of one of those that I thought was very well done. This is not the complete plan but a couple of examples from the bureau of environmental services. It reflects the good internal work that they have done in bringing all of their staff together, to determine how they can better do equity internally and as they provide services from an external point of view. So, and creating action items, metrics, and time frames, and timetables, and as well as who is going to be accountable and responsible for insuring the work gets done. And so they were going to partner with the regional high Schools and colleges and expand the internships, and other opportunities for students who are underrepresented in the bureau. The director's office is responsible for that. And then their metrics is the number of high school internships completed for students from the disadvantaged communities. Another is -- did I just do that? Yes. I am sorry. Similarly, to partner with the high schools and colleges, provide short-term shadowing opportunities so students can come from those underrepresented or underprivileged communities and shadow within the bureau to get a sense of the work opportunities that may be available to them and provide a sense of an awareness to what the bureau does. Additionally, track and have a goalpost for the number of youth focused demonstrations or field trips that are engaged in with underrepresented high schools and under-represented communities. I thought this was important. Since I say if you want to find out what's important to an entity, follow the money. The bureau has its own equity and diversity committee and are establishing a budgeted to assist in training and bringing in an outside capacity to continue the conversation, so that the idea of equity is not a one off but a continuing conversation within that bureau and they are going to resource that with dollars. This also is important. They are going to ensure that there are equity metrics and employment during the performance evaluations. By the end of next year, they will have the performance evaluation criteria within all performance evaluations based on equity and the inclusion. We have, where am I at, the black male achievement is going strong, the bma will be co-sponsoring, along with the county, a black men and boys healing summit. This past summer the city of Portland, through the bma, hosted seven other cities in a two-day national convening which culminated in the hip-hop concert in the city hall, and they will be placing men in the summer works program, and also be leading a project to address an issue specific to their community. So moving forward, our goal is to continue to institutionalize and infuse this work in the city government in the way that we do business. I believe that we're in the most difficult phase of this work. Beginning this work is easy because everybody says I don't know how to do this or what this is.

James: We expect people to listen to what we have to say, but no, they don't know so that's why I say it's easier to do this work in the beginning. We are, again, truly a national model. We have work to do, and we are now at the place where many staff believe that they quote/unquote get it. Unfortunately for some, there has not yet been the depth of understanding of the root causes that are continuing to create the despairs that exist or the opportunities that we can create to better benefit everyone so if I can use an analogy based on my over 40 years of martial arts, some of the most dangerous folks are those before black belt. Brown, red belt because they know a little to be dangerous and hurt themselves as well as others but not yet the expert in their ability to control what they do and understand the depth of what they do. And so I would suggest now that we have a lot of brown belts and red belts running around the city not ready to be black belts. We have

March 30, 2016

reorganized the office, and this year to be more efficient and effective. To ensure the best work for the city. And our next goal for the office is to look at a cbo model. Where we provide expertise to bureaus by staff who are able to be more knowledgeable about the work of the bureaus that they have in a portfolio. The bureaus use a human resource consultant, a budget analyst to assist with the budget. I am a licensed attorney but still expected to, and I need to, use the city attorney's office, especially in areas not of my expertise. And the idea of an equity analyst with a portfolio of bureaus is analogous to each of these. More that we're doing, the diversity empowered employees of Portland, under the umbrella of the office will move forward with their leadership project, specifically, for people of color and women. The goal is to build capacity and opportunity for people of color and women to move into the pipelines that exist explicitly and implicitly in this city, and in the last two years we improved the number of people of color would work for the city from 18 to 21%. While the people in management or supervisory positions has remained 5 to 6%, this would provide mentoring helping to address that number. We plan on enlarging our engagement on the issue of disability, and Portland can become a leader in disability work, work, in the same way it has become a leader in racial equity work. That will require a commitment of resources and a commitment to resource the bureau of human resources, as they lead on making the city truly a model employer of people with disabilities. A commitment to resources our office as we laid on the equity in title 2 and require your commitment individually and collectively not just to be supporters but advocates for this work. Beginning in late spring when I returned from Oakland, our office is planning on going through a strategic planning exercise to map out the next three to five years of the office. We purposely did not do that in the first couple of years as we continue to create and evaluate the programs and the practices that move the work forward, and we talk about writing or building the bike as we ride it. We essentially were number three in the country, really, to begin having an office in this way. Seattle was first, and king county, and Portland. And so we are the o.g.'s, the old guard in doing this work so I won't call us old gangsters but the old guard in doing this work, so as we begin this, we were creating so we are really ready to sink into a concrete three to five-year plan. One of my favorite sayings, organizations move in the direction of the questions that they ask so we are asking questions of the colleagues and we do not shy away from asking ourselves similar questions about what works best and how we can improve it. Our goal is and has been to be transformational and not transactional. We want to imbed this work and this conversation and this way of doing business in our government through our city staff. I want to thank you for your advocacy, for your commitment to this office, and for engaging this office in your work and expecting your bureaus to do the same and I want to thank the mayor who has become a full supporter of not only of this office but of the need for this work. He has included equity and expectations for budgets and other city functions, and regularly raises awareness about institutional, racism and barriers when making presentations. Without the support of each of you we would not be as far as we are now, I'm often asked how can we move this work forward to create change? I usually say it is about building relationships with directors and staff more so than elected because they may come and go. That said, this office has been blessed with a city council that supports this work. You consider the importance of equity as it benefits all the residents of the city, I can say that when I began this work in Portland four years ago I did not expect to use Portland as a role model for equity. I and my staff proudly do so around this country. As I hope you have heard Portland is leading the way, and you are leading the way in moving racial and disability equity forward in this conversation. I want to share a conversation that I had with Andrew Scott the budget director yesterday because when we first started doing the budget equity process, the tool use and having the conversation with the budget office,

March 30, 2016

three years ago, he told me the conversation that he had had with his staff, elicited the comments, we just do numbers and why do we have to worry about equity? That's not the role, why is that, the role? We evaluate the dollars in the cents and that kind of thing. Now, you have seen the budget analysis by many, many members of the office. And I would suggest that it's 180 degrees difference, there is a specific equity analysis in each one of those analyses done by the analysts. I think it has made a difference and that you have seen specific recommendations to do something differently based on an equity analysis. We're going to recommend the capital improvement project over here first as opposed to over here, and funding this, not funding this because it did not address the equity in the way that it should. I think it's a very complete difference from what it's been in the past. In Oakland and other places I have been people ask how do I know that this work is working or making a change? And my answer is, that the conversation now has become normalized in the same way now that we talk about sustainability or anything else, recycling. When we started recycling, oh, I had to separate my trash, I don't want to separate my trash. How do I do that? People get mad because you don't have extra receptacles so it's now a normal conversation and that is where the conversation about equity is, in the bureaus and within the city government. Is that now it's a part of the normal conversation that we ask, who are we impacting? What communities are being impacted by what we do and how we do it? How do we mitigate for issues and to detrimental impacts to folks, that's happening in a way it did not happen three or four years ago. So I hope that you are proud of this work and proud. Office and the city as it moves forward leading in the next phase of enhancing equity. We are not done, we don't always do it well, and we don't even always do it right. But I believe that we do our work with the best interests of all residents in mind. Understanding the extra issues that face people of color and people with a disability, every day. And we have significantly moved the needle and normalized this conversation. Before I bring up invited speakers, where's my slide? There it is. We have a gift for you. The clerk has it and she will offer them to you. We have cards for you that hopefully you can keep at your desk. They will allow you to consider that in all you do in knowing how to start and what kind of questions to ask and how you are evaluating whatever comes before you. Is my bias impacting how I think about this issue? How will this impact the communities of color? How left side impact people with disabilities, there an opportunity to mitigate any disparities? Were we talk about an equity lens, that's the buzz word, I have seen where it is so big it takes a ph.d. To use. It should not be. It should be a simple set of questions that you can run through your mind and evaluate what you are doing and how you are doing this, hopefully you tape this to your desk and use it on a regular basis. Those are my remarks. I have invited guests would love to add to this conversation. Philip wolfe was a member of the commission on disability. And Tracy reeve, the Portland city attorney, and rob, the grassroots giving director at mrg foundation, and after their remarks I am happy to take any questions that you may have or go through this document more closely.

Hales: Thank you very much. Go ahead and bring those up and have them back. Thank you very much. Ok. [applause]

Fish: Let's make sure that we have you on camera here.

Tracy Reeve, City Attorney's Office: Good morning, mayor, and commissioners, I am Tracy reeve, the Portland city attorney. I am here to appreciate the partnership that the office of equity and human rights has shown our office as we seek to achieve our own goals. When I became the city attorney a couple of years ago, we adopted four new goals to guide our work, and one of them is to support and advance the city's objective of achieving equity in all of the program services, and activities. The office of equity and human rights has stepped up to assist us in doing that. Last year we asked the office if

March 30, 2016

they could provide training for all of our attorneys and staff in equity 101 and they did that and tailored it for us. This past year they provided training for our office, lawyers and staff on micro-aggressions and facilitated a discussion on those topics. This year I want to appreciate the work that the office of equity and human rights did to partner with us and the governing alliance for racial equity to put on a two-day conference that was the convening of equity for government lawyers, and Dante's staff, and in particular, Judith Mowry and others from the office did a lot of work organizing that. We were able to piggyback on professor John Powell being up here for some other work, he's a Berkeley law professor, and the proponent of targeted universalism and a known scholar in these areas, and we were able to have all of the lawyers from our office as well as from other government offices and lawyers from the offices around the country to participate for two days to talk about how as government lawyers we can support this in the work that our clients do. It was an excellent opportunity to learn from the best and share information with our colleagues, locally and nationally, and we would not have been able to do that without the office of equity and human rights and our city's membership and participation in the governing alliance for racial equity. We were able to use that to the city's benefit. Our office was able to get that two-day conference certified for 10.5 hours of the Oregon credit so our lawyers received that credit as did the other local lawyers who participated, as we strive and our office is work to Advance the objective of achieving equity we have just found the office of equity and human rights to be an outstanding partner.

Ralph: Good morning, mayor. Commissioners. I wanted to start off by apologizing if I'm jittery, I have a newborn, and just had a ton of coffee this morning. If I jump out of my seat. But.

Fritz: Congratulations.

Ralph: Thank you.

Hales: Sleep deprivation will eventually be less of an issue.

Ralph: Today I am cognizant, but not the first, nor the last, from the members of the public to testify on equity. I think that there is a general fear in the community about equity being a buzz word, equity being the flavor of the month/ or year, like it has in diversity in inclusion in the past. These are not just mere buzz words for us. We're talking about racism and bias. I think OEHR and the city has done much to advance how the city sees equity and tries to address the equity. But I think that there is still challenges ahead that have been brought up to today or alluded to. From what I have heard from the community when we are talking about the equity, we're talking about the benefit agreements around development projects, we're talking about the Portland building and the 1%. Folks are talking about equity and what they mean by equity, talking about the accountability and transparency. Same thing we're talking about today, about how the oversight around our air, our air quality, is no different from air quality to what we're talking about for equity and inclusion within the city, in our workforce. Transparency and accountability. Again, those are the themes today, which is how can we move to where we are now, talking about creating, developing tools, the lenses to see the equity and having an equity lens to, actually, holding ourselves accountable to our equity goals. I think true bedrock to reaching that is partnerships with community groups, and I think it's a good first step internally to think about these things. We have expertise in people outside of the community, talking about urban league, and [inaudible] who have worked on equity and can bring a level of expertise to the city as it oversees the implementation of the equity goals. I think that it's a value added for the city to take that step of true partnership with the community partners as we implement our workforce equity goals. This could be done via the advisory commission or oversight commission, having expertise to review and revise our strategies, to review and revise what our bureau directors are implementing.

March 30, 2016

But to make transparent data, to make sure it is reported in a timely manner. I think steps have been taken but vast improvement needs to be taken in how data is being reported, is if it is not recorded in a timely manner, it inhibits our ability as community partners to effectively provide feedback for this city on the implementation of the equity goals. So today I ask the commission to recommit to it's, to equity, to recommit to the community partners who demanded equity in the past. Not just in the areas of this commission but areas around contracting and purchasing around cbas and the Portland building. Recently, the community partners have partnered with oehr to present a resolution to bring in more oversight. What I would call a stronger partnership between the community groups and the city to bring in a tool, really, to review and revise and give advice on how to implement the workforce equity goals, and until we have that mechanism in place, I feel like the public just believes that equity is just a buzz word, and I think it's time, I think that we're at the moment, the juncture where the groups need to take ownership of the equity. Equity cannot be co-opted. If equity truly matters we want to address a history of racism within the city, then we must not go after the transactional relationships, we must go after transformational change, and I think that if you ask for transparency, accountability, are really easy steps, so I would be happy to talk more about this, there have been other partners talking about this for, before me, for several Years, who continue to -- are ready and willing and able to continue to come back to the table with the city and with the office of equity and human rights to, to put some more teeth, if you will, on how we implement our workforce equity goals of the city. Thank you.

Fritz: Thank you for your comments, I would like to respond. The focus of the office intentionally was internal, and the community, when it was set up, agreed with that, we have made progress that has been reported in this annual summary, we have not trained all our internal folks yet. We have increased the number of people of color from 18% to 21%, in the city's workforce in the last two years, and which is progress. Not yet reflected of the community as a whole so I think that that's probably a conversation that needs to happen with the new mayor as to when it becomes the office starts working more intentionally with the community and inviting the community in to do more oversight, what we heard strongly from the community when we set it up, which was surprising to me I wasn't expecting to hear it. Was first put your own house in order, and I think that we made a lot of progress towards that, how we re-engage with the community is a valid point, and I am going to ask the council to look at the new Portlanders council, and expanding that into a commission. I think that conversation will inform what you are suggesting in terms of an oversight commission or how does the human rights commission interact with disability, a number of -- we're not done yet, and I think that that was your point. There is a lot more to do, and we agree.

Ralph: Could I respond? Thank you for that feedback. From just to echo what we heard earlier today, and Dante's presentation, I think those relationships need to be built outside elected officials. I think it's between the bureau directors and those community partners. There is no reason why we cannot get this done. This is a low-cost, efficient, way of working. We have groups with expertise, and are willing and able to provide that. There is no reason why that cannot happen now. We do not have to wait for a new mayor for this relationship, these conversations to start happening. I think we have -- I would like to believe that we have the leadership now, the urgency of now to take these steps, we have had these conversations, you know, months ago back in august, you know, with the mayor's office, and again, I think that there is no reason, you know, calling back again to the urgency of now, now is a great moment to continue these conversations, to develop the strategies. In terms of with the implementation of the equity numbers, there is no transparency on what levels and job areas are we seeing these numbers and

March 30, 2016

improvement. Is it just on one department or multiple departments? But, either -- sorry. Questions the public has.

Hales: Good points, thank you very much.

Philip Wolfe: I am Philip Wolfe and thanks for having me here today, it's good to see you again, commissioner and is mayor. I took a day off from work to be here today, and to provide a few comments that I want to share. I serve on the commission pcod since 2013. I traveled from different cities, New York, d.c., and I.a. And San Francisco. I even learned gestural signs in France and now I am here in Portland. And with my experience, it is in different communities. Portland really shines. It's not just about equity It's about inclusion and the environment and the people and the opportunities that are here to address the thought and experience and is philosophies out there. People here, they work in regards to equity, and I think that there is a great opportunity that's been started, and now that i've been involved with pcod and the process there and understanding how oehr supports the agencies and supports them, I understand their role now that i've been involved, and I am really impressed with the office and grateful to have Dante and James -- or Dante James be the director and support our work. It's a big office, and to go in and see the pictures on the wall, and get to know him better and interact with him has been a great opportunity so I feel like i'm getting an understanding. And I am proud to be here and on the advisory board. The big success that we had was in regards to the captioning passed. Because of you and the work you did and you took a bold risk to support this bill and you heard us so I want to thank you again for doing that. So to wrap up, Dante talked about equity. And I want to point out about make a point about equity. It's not just a political statement. Or just until the house comes down. It should be a normalized conversation that he was talking about because we are all human. And so as a model, the oehr and the work that they have done, I think, other cities can follow, the work we have done and emulate those results. We will create change, and that will create impact, and there is several other states asking me how we can adopt the stuff that we have done here in their cities, and so, we're closing those gap and is creating bridges between the deaf community and other communities of disability that have been overlooked in the past. And Portland has limited resources, but I am here, I am here as a resource, and to collaborate with the members and the stakeholders involved so I am proud to say I am looking forward to the model we are creating and the successes that we are going to have. I have reviewed the budget and I ask you to continue your support with the oehr and their work with us, and I am looking forward to being here and working with you, so if you have any questions, feel free to ask.

Hales: Great. Thank you very much. I appreciate your presentations and I appreciate your work on this priority for us as a city. Thank you very much. So anyone else want to speak on this report before we bring Dante back up for any final comments and discussions?

Moore-Love: I have three people signed up.

Hales: Go ahead, Mr. Walsh.

Joe Walsh: I am Joe Walsh and I represent individuals for justice, and we take no money from city, county, or state funds. We liked the brochure. One of the questions asked was, is that when we are dealing with equity, we have a problem right now with about 15 candidates running for mayor. Theses forums that are being set up by nonprofits are excluding most of them. There is only two or three or four, or sometimes six invited. Have these arbitrary, decision-making processes that have nothing to do with equity at all. So, when we pat ourselves on the back, and we do really nice brochures with pictures of lots of people smiling, we have a problem. We can't get citizen representatives in front of the public because they don't raise 10,000\$. Think about that. What we're fed is the shells for the corporation because they have got the money. They can raise 10,000\$, snap of a

March 30, 2016

finger. Mr. Wheeler, Mr. Bailey. Even Sarah. So when you say equity, what does that mean? Does that mean that we are going to treat people equally? No. It's a very closed loop. Look at this brochure, it's a closed loop. Congratulations. You are all doing a good job. Is it not a critic of them, it's a critic of the system. The system is wrong. You cannot have equity and turn around and say, we are not going to let you speak. We are not going to let you on the bus. Never mind telling you to get in the back of the bus. That's what exclusion is. It's not getting on the bus. So when you tell this stuff, and you make these brochures. And you are all good people, and you are giving you a time, and I praise that, but I really get angry with you.

Hales: Dante, please come back on up. So any questions, concerns to raise with our great director here?

Fritz: I just have one, in a previous report you asked the council to commit to dedicating 10 hours of staff time within each of our bureaus for the staff to attend the city-wide racial equity committee. That has now transitioned, do you have a new ask for us since that committee is no longer meeting?

James: The ask would be the same. The transitional entity, tentatively is the fellowship for racial equity so it will be a cohort of individuals from not all but a significant population of the bureaus so that we can have, essentially, a fellowship for news line to 12 months where they can be specifically, specifically focused on depth and the breadth of equity work so they can be, in some sense, the next entity that begins to spread this work throughout the city. So, it is not yet in the final phases, but that would be the ask, is that those individuals part of that, that fellowship be allowed the same sense of 10 hours a month of equity work from within their bureaus.

Fritz: It's the same amount of commitment.

James: Yes.

Hales: Anything you want to add to close this discussion?

James: Not really. Just to make it clear that as we have said that the focus of the work is internal but that is so that the communities will benefit from improved ways that the city does its work. Improving the ways that the bureaucrats ask the city employees do their work so the city residents, all the residents will benefit much more specifically because of how the internal aspects are rethinking about how to focus and do their work so I want to be very clear about that. Our goal isn't just to stay focused on just the city employees but because the end user of all the work the employees do are the residents of the city so that's really why we do this work.

Hales: Thank you very much. Ok I think a motion is in order to accept the report.

Fritz: So moved.

Novick: Second.

Hales: Let's take a vote please.

Fritz: Thank you for your work I am pleased with how it's going I want to be very clear with the community and with city employees that our work is not done. We have definitely made a good start and equity has started to become something that many more city employees and people in the community understand, embrace and care passionately about and do feel the urgency. There's still a lot from whom some of those is the case and we must continue to intentionally engage the next mayor, I want to share your lordship of mayor Hales and your leadership mayor Hales of this bureau over the last four years, it has come a long way and there is still a long way to go, but one of the concerns when the community was engaging in 2010-11 and 12 was that it would be like every other diversity and inclusion work that the city has done over the past 10, 20, 50 years that it would come and go and there wouldn't be any outcomes. And we are starting to see outcomes even this early we have established the office funded the office through the recession and through

March 30, 2016

the recover from the recession and we will continue to do so. So it is becoming institutionalized equity starting to take over from institutionalized racism. I'm also especially pleased with the decision we made to include disability as a secondary focus and the work that the commission on disability has done, that your staff have done and that everybody in the city has also embraced also and the work that's being done in the bureaus to work on the transition plan and the specific physical things that need to be fixed. While we are doing the moral imperatives and the philosophical and other discussions which are not so easy to quantify, it's very satisfying to check off that at least we have changed the way the door handle works or whatever. I thank all of your staff and the city bureaus who take those steps and the engaged in the physical works uh how do we become a model employer for people with disabilities, how do we work on all the issues we need to do with a very small number of staff which so then requires engagement of everybody in the city. So I thank you for your work and yes, there's more to do. Aye.

Fish: Thank you for an excellent report. I'm going to hand this out to all my bureaus and all the folks that I have oversight of and say the next time we do an annual report I would like it to look like this. [laughter] I should also say I apologize for poaching one of your team members. I have had a chance to participate in a number of the forums you have convened where you brought a number of community members together and it's very powerful. We're all learning, in a collaborative way. I love the stories in this report. I love the human component, the people piece. As commissioner Fritz said we have a more work do but we are becoming more intentional. There's another piece that we can do, which is through the relationship with our bureau directors we can put clear expectations in our annual letters. That in turn translates to working with your bureau on implementation plans and then action plans. So I thank you for your good work. I just also want to acknowledge that there was great skepticism about this enterprise, but there was a fierce champion in Commissioner Fritz that helped initially with Mayor Adams launch this thing. I appreciate the leadership of mayor Hales as the commissioner in charge and I fully would expect the next mayor, whoever he or she is, picks this up and takes us to the next level. So thank you, sir. Aye.

Novick: Thank you, director James. Thanks for all the work your office does. I'm always particularly appreciative of the budget process and as we pointed out it's how we express our values. So the work of the office in the budget process is critically important. I also want to thank you for this equity lens. You said you don't want it to be about a 1,000 pound monocle, you want it to be something you can actually use. I'm going to keep it on my desk permanently. Thank you. Aye.

Hales: Dante, thank you. I first thank my colleague commissioner Fritz for her leadership on this work. That's why we're here. To you and your professional staff are first rate. If the fact that we're national leaders is perhaps in part due to policy at the council level but it takes really effective people in leadership in the bureaus to achieve what you have so far. That's great. I'm proud of the work you and your team are doing. I also want to thank the volunteers that serve in so many different ways the Portland commission on disabilities, human rights commission, our diverse and empowered employees of Portland who give of their time to support this work. The black male achievement steering committee where we have this amazing group of civic leaders from across the city to support this work. Things become institutionalized, like sustainability. It requires people in the community backing and supporting and enlivening that work. That's what we have going on with these amazing volunteers. You are adding a lot of value. Let me mention three ways I think this work is adding value to the city. One, we're learning. It's a process. And each of us as city employees have had or are having the opportunity to learn about equity thanks to the training and the work that you do. I have learned as a privileged white male, I have

March 30, 2016

learned that i'm although perhaps not to blame for racism i'm responsible for it. That that's true of all of us, that we have the chance to learn where we fit in the work of equity. I have learned a lot from you and your team and I appreciate that. Secondly it's empowering change. You mentioned change in the consciousness of the budget office. I'm proud of the change in the culture and consciousness of the police bureau which you helped support, also a work in progress. But when you see Chief O'dae and his leadership and the approach they take and the work that they are doing in both the community and in the bureau to make that change you understand that equity is becoming real in a place that it must become real. The most dire thing that we do, police our city. Then third and most pleasant is I get to see how this affects individual people in their careers and their opportunities. Ariel, I talked about Stefan Hartley last week as Ariel. Young people that have had their careers and opportunities enhanced through the work of this city and through the opportunities that we create to have a young man in the community come forward as kalid bombeck did and say I have this basketball team. I need a place to play and have that lead to what we have done in the community centers. That to me is one of the greatest pleasures of leadership, to see people grow and develop and exercise leadership on their own. If we become a more equitable city we create more places where people can lead as citizens. Thank you for work well done. Much more to do. Aye. Thank you all. Great report. [applause]

Hales: We're going to take one item out of order here, which is the item we pulled from consent because I think we have somebody here from the bureau who can be around for a minute to explain it but not much longer. Item 301, please.

Item 301.

Nancy Thorington, Bureau of development Services: Thank you for taking this out of order. I have a demolition committee meeting at 12:30 in the office. Basically this ordinance is similar to what I brought forth with all of the other ordinances that bds administers. It's adding, codifying the existing provisions for appeals. It's floating structures a little different from the others because it had two separate appeal boards. So with the work of the river community advisory committee we're combining the two into one. They never met anyway but it didn't make sense. It was almost the exact same players in both those boards. So it just -- you know, is consolidating those and then there's a couple other technical changes at the river community and our inspection staff put in there.

Hales: Any questions for Nancy? We had someone that wanted to speak on this item. That's the primary reason it got pulled. I just wanted a quick explanation. Why don't you stand by in case there are any others. So who wanted to speak? Come on up, please. Good morning.

Lightning: Good morning. I'm lightning. I represent lightening watchdog pdx. One of the reasons why I pulled this item is I don't think we have stressed enough some of the issues on these floating homes and when we want to move these in several locations. One of the concerns I have and I want to have this addressed and watched very close when you move these floating homes in the current marina I want to make sure that these plumbing-sewer connections are watched very closely. Also when you disconnect the electrical and you move the floating home within a marina, I also want to have a licensed electrician hooking these back up. I want to make it very clear I do not like to see when you don't want to have certain permits pulled to be able to do this. I think it's imperative because we're talking again environmental concerns. If we're not hooking up the sewer connections properly, and again, we're talking electrical which isn't just the fact that the floating homes move on water and those connections can bust loose if not put on properly, and again, when that happens, if those lines drop into the water, anybody swimming in that general location has the ability to get electrocuted. It's imperative that when these are

March 30, 2016

moved that the proper inspectors come in and inspect these floating homes. You're saying they will have exemptions and not have to do that. I absolutely disagree with your ordinance this time due to environmental and safety concerns on a proper electrical hookup and due to the fact that if anyone is swimming near floating homes and those lines become disconnected it poses a risk to shock the swimmers in the water. It's necessary to have the proper permits, proper inspections and I want to start seeing that these floating homes are inspected on a regular basis by harbor masters. I want to see the reports in place. I want to make sure that all sewer systems are hooked up properly, all pumps are tested, all tanks are looked at and to have an understanding where they are having these tanks pumped if they are having them pumped or if they are using traditional sewer lines going up into the sewer system. It's imperative to understand these floating homes should be inspected more aggressively than a home on land. That's my position. Thank you.

Hales: Thank you very much. Why don't you come back up for a second? So the concern is about this provision that says the certificate of compliance is not required when you move a structure from one slip to another in the same moorage. Is that the loophole we're concerned about here?

Thorington: I guess that's what he's addressing but they still always have to comply with all of the requirements for the electrical and plumbing code. Those are --

Hales: You still have to get an electrical permit to connect to the electrical system?

Thorington: Yeah, I mean, you just don't have to get a specific certificate of compliance to move it. They were trying to distinguish between moving from one slip to another versus one moorage to another.

Hales: No matter what if you disconnect from electrical service and reconnect to electric service an electrical inspection is required.

Thorington: That's my understanding.

Hales: Same with plumbing?

Thorington: That's my understanding.

Hales: Why don't you verify that? This comes back for second reading next week. That's a legitimate concern. Any other questions? Thank you.

Joe Walsh: I'm Joe Walsh. I represent individuals for justice. One of my concerns we have homeless people living on the river. Does this include this group of people that are on boats?

Hales: No, these are structures. Which are under the state building code.

Walsh: So the people that are on the river living on boats because they have no other place to go are not going to be affected by anything in this ordinance.

Hales: I don't believe so.

Walsh: That's good news. That makes me smile. Thank you.

Hales: This passes to second reading. Why don't you get back to us on that question?

Hales: Let's move to other time certain item, 293. Do you want 294 together with that?

Hales: Not necessarily.

Novick: Well, actually yes although I'm going to ask to have 294 postponed to next week.

Item 293.

Item 294.

Hales: Commission Novick.

Novick: Colleagues, I'm excited as all get out about this little item so I'm going to hold forth a longer time than I normally would. There's a lot of people in this country who think government could mess up a one-car parade. The government is always wasteful, inefficient and silly. We are not in that camp. We believe the government normally does a pretty darn good job with few resources but those who defend government have a special obligation when we see something that is silly to correct it. For a number of years we have

March 30, 2016

been doing something silly when there's a new development on a street without a permit. In too many cases we choose between two unsavory options. We might tell the developer you have to build a curb and sidewalk in front of this new house even though it will be an orphan sidewalk with no prospect there will ever be a curb or sidewalk on the rest of the street. Or we say, you know what? You convinced us this will be an orphan so we won't make you pay anything unless -- putting in a provision if there's ever a move to form a lid along this street your property will be treated as voting for the lid. Which in the vast majority of cases is utterly meaningless because people don't form lids very often. Usually the person who buys the home might see something in the disclosure form, didn't know they are committed to vote for a lid. So three years ago I think even before I was given the privilege of being assigned to pbot I had a conversation about this issue with folks interested in it including folks at pbot. The folks said, we know that this is silly and we would like to do something about it. The logical thing to do is to have the developer pay a fee that goes through a pot saved and used for committed priorities in the area. Improvements that people really think can be done and should be done. Now, there's a perfect example of this phenomenon within about two blocks of my own house. I live on 36th, a quiet residential street in southwest that I think gets along just fine without a sidewalk, but two blocks away there's a new development with a curb and sidewalk in front of it that leads to nowhere. A block east of us is 35th, which is a major street which connects the village with Vermont which then goes to Hillsdale which is a busy street and I see kids walking along it and it worries me that they are walking in the ditch and there should be a sidewalk there. So in a logical world the money spent to build this piece of floating sidewalk should have been put into a pot for the day when we could build sidewalks along 35th. I thought that this was a big deal when I heard about it. Pbot folks explained that they wanted to work on it but it would take some resources and some time to come up with a proposal that would be legally and economically and politically defensible and pbot had not previously had political commitment from folks like us to do the work that needed to be done on this process. So once I was assigned pbot I said, okay, let's do it. Let's devote the time and resources to coming up with something. So we have come up with something. It's a beginning. It's not an end but something significant. What we have here is a proposal that in circumstances like this developers will pay a fee that goes into a pot for future significant improvements. That means we will stop doing the silly thing that we have been doing today, choosing between floating sidewalks and letting developers off the hook. Now, there's a lot of questions that remain to be answered such as what is the geographic limitation on how far away from the original development the money can be spent? Should it be in that neighborhood association, coalition, within half a mile, regardless of what neighborhood is involved? That's something that we haven't worked out yet. Another thing we want to work out is what other sources of revenue public or private do we expect might normally be used that we haven't worked out either. There's a bunch of stuff which is why we propose to engage eco-northwest which has been working with us for these many months to do that kind of work which will include a significant amount of public outreach. We want to keep the emergency clause on it because the work needs to go forward. What 293 is basically a proposal with buy-in from a large number of stakeholders to stop doing the silly thing. We will figure out how smart we can be in future months. I propose we stop being silly. I want to thank our stakeholder work group, virtual hall of fame among stakeholders in the city. Mary Ann Fitzgerald, Mary Helen Kincaid of drac, dan, former lid administrator. Justin Wood, Fish Construction. Jane Leo, development of metropolitan development association of realtors. Christine Leon of pbot and Sue Williams of bes. With that introduction I'm going to -- oh, maybe I should mention we are going to have an amendment that I think Commissioner Fritz's suggestion

March 30, 2016

that the money we collect under this fee before we figure out exactly how -- another thing to figure out is what the prioritization process will be like. Won't be spent until we figure out the other items. It will go into, as Daryl Hammond/al gore would have said on Saturday night live, the money will go into a lock box. We have a lock box amendment to propose. With that I will turn it over to Christine and kirk.

Hales: Good morning.

Christine Leon: Wow, good morning.

Hales: Quite an introduction.

Christine Leon, Portland Bureau of Transportation: I don't think I need to say anything after that. That was excellent. Good morning. I'm Christine Leon, development permitting and transit group manager for pbob. With me is kirk Krueger, our development review manager. You will be joined later by our echo northwest consulting team. I'm very, very pleased to offer you today two items that are related to our new concept, which is our local transportation infrastructure charge. This is a new option for developers on certain types of roads that will be available to them. It's a simple, predictable option that has the support of our stakeholders group, has the support of our development review advisory committee, some of which will be here today testifying in support. But essentially this new Itic is available to a small but mighty group of developers so you have to be a single family infill development, new development, of that type on a local service road and it has to be on one of or problem streets. Our problem streets are classified as those that are unimproved without pavement, without curbs. So we have established this as, again, very simple, straightforward method to get to development for housing quicker and faster. It was asked for, for a number of years, but it took a long time to get here due to the complexity of the issues, and I want to just say that with support of the mayor and commissioner novick we're reaching this milestone today. Also recognize that in 2012, commissioners Fritz and Saltzman and Fish gave us overwhelming support and encouragement through the street by street project and projects like the cully plan to continue to look at alternatives to get development to happen quickly and effectively and encouraged us to come up with a fee then. This will build on a process that council has heard through the Tryon Stephens project determining what standards apply when and where. So our stakeholders group has been in partnership with the bureau of environmental services, city attorney's office and members that commission novick has mentioned, so i'm not going to continue on that piece any more. I will mention, though, that our resources for improving residential streets from pbob is very, very constrained. In most circumstances the adjacent property owner is funding the bulk of the improvements on these streets. Grants generally don't cover this from odot or defense. This is a new option that also has the support and endorsement of the city budget office director Andrew Scott, who is here today in case you want to hear any more about our budget constraints. I would also like to add that the director for the water bureau mike stuhr, who has been a long-standing member of the public works appeal board, is fully in support of this option. The second item is a contract modification to allow echo northwest to engage in a very, very robust process with the community to come up with the answers on where the Itic money should be spent. How and where it should be spent. This process will be going through a consideration of what do we do with existing 10,000 or more waivers we have recorded against properties. So where the street standards apply, to which streets, where the money should be spent and prioritized, and how the neighborhood streets in general are going to be funded with our limited resources. So now I would like to turn it over to Kurt Krueger who is going to illustrate the problem followed by terry more and nick Popenuk from echo northwest who are going to get into more details about the fee. There's also I guess I should mention there's a handout that

March 30, 2016

Karla has that addressed some of the comments that we had from earlier meeting from Commissioner Fritz.

Hales: I don't know if I have that.

Fritz: We don't have monitor capacity this morning. I don't know if we have handouts of what you're showing to everybody else. We can't see it.

Hales: There we go.

Leon: So I'm not sure if you want me to read the amendment that was proposed?

Novick: Yes.

Leon: The proposed amendment is in addition to what's written, item sub b, pbob shall keep funds collected by this charge in a separate fund and not spent until the completion of the next phase of the project and the results are presented to city council.

Hales: Commissioner novick moves. Is there a second?

Fish: Second.

Fritz: I would like to propose an amendment to the amendment. First of all it's interesting that it's in the code rather than somewhere else. I would strike the results are presented to and change that to the allocation methodology is approved by the city council.

Hales: You regard that as a friendly amendment, commissioner novick?

Novick: Christine what do you think?

Leon: I was just going to make a clarification. The ordinance has the subsection a as code modification. This would not be a code change. It's just a council directs.

Fritz: Okay. Good. I'm changing it -- I want more than just the results are presented before I accept the report. I would like the allocation methodology specifically to be approved by city council.

Leon: I think that's fine.

Hales: I would regard that as a friendly amendment. I understanding under state fdc law we have to do that. Anything else, Commissioner Fritz?

Fritz: Yes. We had also discussed when I got the briefing from staff on Monday or yesterday, whenever it was, about continuing to have waivers of remonstrance.

Hales: ok, but what in terms of the amendment?

Fritz: Well this is another amendment though, but ok let's vote on this amendment first.

Hales: The amendment as modified by Commissioner Fritz suggestion, discussion on accepting that amendment. Let's take a roll call on that please.

Roll call on Novick amendment amended by Fritz

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

Hales: Ok did you have another suggestion?

Fritz: This issue of waivers of remonstrance, I see that southeast neighborhood has a request to amend the word zone to insert our issued a waiver of remonstrance. I believe that even though this fee is being paid if the street ever is improved those homes should be waived.

Hales: Well I had that question too. May want to take testimony on that point. By doing this are we going to stop requiring waivers?

Fritz: The intent was.

Leon: This is part of our stakeholder's group debate as to whether or not we should continue or stop with the waivers. After meeting with Commissioner Fritz we went back and considered the impact of it, and there's not an issue with continuing to do waivers.

Hales: A problem with it you mean.

Leon: Yes. We would propose to require the payment of the fee in addition to a waiver of remonstrance be recorded against the property consistent with what our current practices, if the front anal is not brought up to standard. If a local improvement district is formed, this is something we'll sort through in phase 3, that waiver obligates that property to not

March 30, 2016

recommend to not remonstrate formally against the formation of an lid. The lid assessment methodology is the second piece of an lid, where we would be considering what the ltic was paid by this developer. It's a developer paid fee but we don't have any intent of double dipping on these properties. So yes, we can certainly continue to require the waiver's remonstrance.

Hales: In that approach financially they would get credit for having paid the ltic, but be counted in favor of the lid if it was going through the process of being voted on.

Leon: Certainly one way that it would be able to play out. [speaking simultaneously]

Hales: I would like to hear testimony on that as well.

Fritz: We would need I presume an amendment on that if you could also specifically look at the requested language from southwest neighborhoods to see when you come back next week with new language if we can incorporate that too.

Hales: Kurt you want to proceed with anything else?

Novick: If we think we might consider such an amendment, and we don't have the language until next week, will we need to put off the final vote for two weeks or put that conceptual amendment on the table today --

Hales: Well [speaking simultaneously]

Hales: Depends on the speed at which you want to act on this knowing the problem has been around for decades i'm not sure another week will make a difference. I understand the desire to get things done. Suggestion?

Heidi Brown: I think it's okay to go ahead and. [audio not understandable]

Hales: Maybe later in this morning's discussion if somebody has language we could put that on the table and accept it.

Fish: Can I ask a scheduling issue? We have a lot before us, and we have a lot of staff that just need to get a heads up. My hope is that you're going to have us continue through about 1:00.

Hales: That's my thought that we will break at 1:00.

Fish: Then whatever is left we'll pick up at 2:00?

Hales: Yes. If anything is left we'll take it up at 2

Kurt Krueger, Portland Bureau of Transportation: Good Morning mayor Hales and council. Kurt Krueger with pbot before I get going I'll be brief, it just feels a little awkward being here describing a process that we've been doing that's been called silly so it feels a little strange. [Laughter]

Hales: That's ok, make a note we lost our PowerPoint again.

Krueger: As you're well aware development patterns have changed in the past 30 to 40 years and I wanna leave this slide up just for a minute just too kind of recognize that change has been occurring in our city. Large subdivisions have been replace by smaller scale infill particularly in the areas annexed into the city with under or unimproved road ways. As infill development has started to occur more frequently a number of years ago a regulatory tool was established through use of requiring a developer to sign a waiver of remonstrance and record with the county to run with the property. This waiver of remonstrance was essentially a vote of support from the property for the form ages of a local improvement district. The waiver wasn't a waiver of development requirements but a deferral until a majority of deferrals could be collected and an lid could be formed to design and construct an entire street segment at one time. The waiver of remonstrance was a great tool to allow infill development and then allow the city and residents to more efficiently design, build and pay for improvements. Particularly because there were improvement programs such as community block grants to help subsidize costs. As these subsidies disappeared the city was left with few option to improve the many miles of unimproved roads. Pbot moved to require more half street projects relying on piecemeal

March 30, 2016

approach to complete our street networks where physically and legally possible. While not perfect by any stretch an expectation was established that development would construct improvements and over time the system would be completed. While this approach has worked in larger commercial and industrial areas of the city with much greater street frontages it's becoming increasingly more difficult to develop full street improvement once residential development at the time. Additional regulations including changes to strong water requirements in the early 2000's and more challenging and constitutional rulings from the high courts have further hampered our ability to require these improvements. Additionally our public works permitting processes were developed to review and permit much larger scale street permits and have made permitting small infill projects increasingly more expensive. In 2009 we overhauled our permitting process and created a more robust public works appeal process to deal with the challenges associated with infill improvements. This has unfortunately added delays, cost and frustrations for many. This frustration has been reported on over the years as both residents and developers have approached the media. What we are recommending is adoption of a fee program that has support of many infill builders that have been asking to write a check to the city and let the city figure out where to make those improvements. For those close to this issue for a while this is the third and most exhaustive attempt to develop a program that you are going to hear more about in greater detail from our consulting team. I want to acknowledge this is not a final solution but it is a monumental step in the right direction and if approved will provide us with the tool that we have needed for many, many years. I want to thank commissioner novick for his support and thank you to the stakeholder members that have been helpful in guiding us along the way. Thank you.

Hales: Questions? Thank you. I know you have some invited testimony.

Novick: We do, actually may I ask a question related to these amendment concepts? I'm making this up on the fly, which is dangerous, but i'm wondering looking at the ordinance exhibit a, would the appropriate thing to do would it be under section B, where now the language says the team of the local infrastructure charge will satisfy the requirements of this subsection should we amend that to say the payment of a local transportation and commitment to waive the right of remonstrance for future lid, would that be where you put that in? Think about that.

Leon: Okay. Terry Moore and nick Popenuk are coming up next from eco-northwest.

Hales: Good morning.

Terry Moore: Good morning. Mr. Mayor, commissioner's, I'm Terry Moore at eco northwest, I'm one of the three founding principles. We're a Portland based consulting firm in economic, finance, planning. We have been around about 40 years. Working with us on this project were communitas, deb myhoff, who did work with the stakeholder engagement, and kittelson associates who did some of the transportation cost estimating. Move on to my part of the presentation here. I'm here with nick Popenuk. We're going to do four things. First give you a broad overview of the problem which I think has already been covered by the previous speaker's then talk about how this charge of ours fits in then nick will go into the details of that charge and I will talk at the end about what the next phase of work will be. So start with the what are problems creates lots of ways to define it, but a couple things to start with we're talking about only local streets so not talking about arterials, collectors or what you might refer to as busy streets. Its neighborhood streets. When we talk about the problem we aren't talking about congestion we're talking about the state of repair and certain things that come from that as the center of the problems. Local streets are by our estimates about 45% of all your streets, so that's the base that we're working from. What makes a street a problem? Well, the first thing is that they are unpaved. And about 2% of the city streets are unpaved. That's about 40 miles of streets.

March 30, 2016

Another way that they can be classified is they are without curbs, which creates drainage problems and it doesn't mean they just don't have curbs it means they don't have the drainage system that the curbs are taking the water into. That's about 12% of all your streets, so another 250 miles. About half of those streets are in poor condition the other half are in fair condition. So in our definition it's still a problem street even if the pavement is in fair condition if it does not have a curb. We do not include in the definition the paved with a curb, so that means regardless of the condition of the curb or the pavement. If it's got a curb we're assuming drainage and the charge would not apply to that. When we sum that up this is a diagram of what we've got and the part on the right are what we're calling the local streets and of those you can see the ones that we're calling unimproved or problem streets. That's about 14% of all the city streets or roughly 285 miles of streets. The problem with problem streets is four categories. First, physical problems. It makes travel slower, more difficult. There's potential safety issues, there's wear and tear issues. Drainage. And amenity issues put sidewalk in that category. The second problem is the scope of the fix. The financial -- the money that you have to fix those from existing sources is small, very small relative to the size of the problem. And as nick will point out this charge that we're talking about is still a small part of the problem. The third problem Kurt has already talked about, administrative issues relating to permitting waivers and how development moves along. The fourth is a political one. This is a long-standing issue as commissioner novick noted, this has been around not for weeks or months or years but really for decades. It creates problems for the neighborhoods both residents and property owners and for the city council. The problem is widespread. It's not as one might have assumed I did before we started an eastern problem. It is pretty much evenly dispersed on the east and west side. It's spread out across income classes. So it affects -- it's a pretty ecumenical catholic problem, it gets everybody. Trying to solve the problem, it's a long road. We're taking a first step with almost 300 miles of roads to deal with, by our estimates it's over \$1 billion of improvements to just deal with those roads. So there are tradeoffs and choices about what improvements do you do first, what standards do you use under what conditions, all that is not resolved yet. We have taken the first step as commissioner novick said to stop something silly and see if we can at least get to some charge. That's the second part of the presentation that I want to go to, then, is how does this charge fit in. We call it the for short the ltic, local transportation improvement charge. There are four things that it addresses. First the fairness issue. There's now new development that goes in, pays nothing, goes through a waiver process and some development actually puts in the improvements. There are developments outside these areas that are being required to put in improvements, so developers are treated differently. That's a fairness issue. There are funding issues depending on the economy, this fee will generate on the order of a million or two million, maybe more, dollars per year based on the kind of development that's been happening in recent years. So now there's money to start to do something. There's an efficiency issue, big efficiency issue is the one already pointed out, building disconnected improvements is not really a good use of funds. There's more -- it's inefficient for developers in many cases with the process that they go through and the appeals process, not knowing how things are going to work out. There's lack of clarity and certainty. That reflects on staff time trying to deal with those issues as well. Finally, there's why start with the ltic as a momentum issue. This is a big problem. We couldn't deal with everything at once. We decided with commissioner novick's advice and blessing to try to bite off one piece and see if we could get somewhere. That was getting this charge taken care of. So that's where we are right now. Now nick will explain the charge.

March 30, 2016

Novick: Actually Terry can I correct you we talked about this a few weeks ago. I said what about this, what about this, and what about the other thing. You said, I thought your priority was to stop doing the silly thing first. I said, you're right. Do that.

Nick Popenuk: My name is Nick Popenuk I'm with echo northwest. I will try to move quickly through the details of the local transportation infrastructure charge. Commissioner novick, Christine, Kurt, and terry all explained why this is a problem, why we need it. I'm going to tell you how it would work. So first very briefly just to restate, there are existing improvements that development already has. They need to improve the frontage of their property. But we are proposing not a new requirement but a different way of satisfying that existing requirement. This new option, the Itic, is only available to a small slice of development that happens in the city. We're talking about new construction of single family homes. Again, this would be optional. The developers -- the fee applies to everyone but if you make the decision as a developer that you would rather build improvements on your property you put it into the code and now you have the street and sidewalk and curb built to code then the Itic is no longer applying to you. Folks have talked all about stakeholder input. I will say we had outreach efforts to the individual neighborhood associations and coalitions that are particularly affected by these types of problem streets. We had representatives of our team meet with the Sweeney land use commission, the east Portland land use committee, north Portland land use committee as well as homebuilder's association infill developer group. We extended invitations to meet with other groups up as east Portland neighborhood, Central northeast neighbors and southeast uplift. Some of those groups didn't take us up on the invitation to meet with them. Largely because they are more interested in the next phase of this project, where we're actually discussing what now? There is a pot of money being generated. Where should we spend that money, what kind of streets and what other funding sources can be brought to bear to make tangible improvements in our communities. Again, we're talking about single family zones, local service streets, and unimproved streets which we have defined as any street that does not already have a curb in place. There was a very sort of large discussion about what we want to define as unimproved streets. Do we want to have a sliding scale where we have a certain fee for just unpaved roads? Do we want another fee if it's paved with no curb? What if there's a curb but no sidewalk. At the end of the day the city attorney's office and key stakeholders it was decided that this approach, this simple, clear approach, one fee applies to everybody who is on an unimproved street defined as not having a curb was the best way forward. Again, this doesn't solve all of our problems on all streets but we think this is an important first step.

Fritz: It has to be all three of those?

Popenuk: Yes it has to be no curb, single family residential zone and a local service street. When the Itic applies the simple answer is building permit for a new single family home or land division. There are a couple of caveats. First, when we talk about some fees and charges that happen on development if there's a demolition and replacement of that home sometimes they don't pay the fee because of the impacts that are being felt. That's not the case with the Itic. This is a charge on development. If you're building a home regardless of what used to be on that site you're still going to be charged the Itic. An exception to that would be if it's a disaster replacement. If someone has their home burn down in a fire and they are just replacing it we don't want to place additional hardships on them. Additional accessory dwelling units those are not included for the Itic. It would cost as much or perhaps more than the accessory dwelling unit its self. One other just thing to point out alteration of existing structures. If you're remodeling your kitchen, adding a new bedroom, we are not proposing that the Itic would apply there either. In terms of land division this would not apply to subdivision defined as creating four lots or more. If you're

March 30, 2016

creating a subdivision you would still have to go through existing requirements of building those improvements. The initial rate of the Itic. I'm sure in the testimony today you'll hear folks arguing that the initial rates should be higher and lower depending on their point of view. The rate that we have proposed is \$600 per linear foot. We came up with this rate with the input from transportation engineering firm Kittle Son and Associates. They reviewed all the city lid projects that have been built since 2004 and looked at the average cost over time including cost of street, curb, storm water, all of the typical components of a street. They excluded excessive costs for related projects but not the direct impact of building a street. For example if you were going to go in and upsize a storm water or regular water or sanitary sewer pipe that was under the traveling through that right of way and you said since we're paving this we may as well upsize that pipe. Those costs were excluded from the analysis. The average cost of improvements when adjusted for inflation is \$600 per linear foot. This says the amount of the charge should be based on average actual cost to the city to build local street improvements. So it's a mathematical calculation, not just a number pulled out of the air. The code language also allows for this amount of the charge to increase over time. The administrative rules that will be drafted will propose that there are annual adjustments based purely on inflation on the construction cost index. That periodically every five years or so the city would undertake a new sort of rate study in which they would look at all of the new streets built and see what those costs were and they would make adjustment for the amount of the fee to ensure that it stays tracking with the actual construction costs for these sorts of projects. One thing to point out is that the code language does allow for multiple zones of the Itic, where each would have a different rate. We're proposing we would create two zones but that each zone would start off with the same initial rate. A lot of this conversation came from talking to some of our stakeholders who said, in my neighborhood I think the streets are going to cost more to build and we drilled down into that and said, what is it about your neighborhood that makes you think they will be more expensive. The answer was almost always storm water management. That is something that we anticipate will be an issue. But as we looked at the historical data not enough projects had been built in these different geographic areas to clearly delineate what the cost would be in one area from another. Just not enough examples to come up with a statistically significant difference in those. Over time as we're able to build more streets and we have more data on this issue we do anticipate that we might see differences in the costs in these different areas and that we would be to distinguish the rate in the future. The different rates we didn't want to create new custom made zones that we're the ones saying we think this block will be more expensive than that block. Instead the city already has areas defined as the municipal separate storm system or MS4. That's an EPA deal that has to do with how storm water is treated and where it does or doesn't infiltrate into the soils. You can see that mostly in southwest Portland but also parts of the east side of Portland and north Portland do have some of the MS4 areas so we're anticipating there may be a separate rate of the Itic applied to those areas if construction costs turn out to show a difference between those areas. On the use of funds it was always the intention that the improvements would be used on unimproved local streets and adjacent and related transportation facilities but that money would not be spent until after the next phase of the project has been completed. I think that amendment to the proposed ordinance is exactly in line with what the staffs and consulting team had always envisioned which is until we finish the next phase of the project, until the public has had to weigh in on their priorities and we have looked at the different revenue sources and how we might start to fund improvements that the funds would be put into a lock box to keep them safe and keep track of who paid them and where so that when we do have rules for where we want to spend these we can invest

March 30, 2016

those into the communities where the funds came from. I'll turn it over to Terry for a very quick piece on the next phase of the project.

Moore: The fourth piece is this one, the next phase, and I'll do that in just one slide. The next part of the program has four important components to it. The technical components are the first three, which is what are the standards that we're going to use? The size of this problem is such that is certainly—if we're going to solve it even over a long period of time 20 or 30 years, it's almost certainly going to require some sophistication about what streets get treated and what different ways, because to do everything to what I'll call full typical standards is as we pointed out a one-to \$2 billion bite, which is more than what we think is appropriate. So the city has alternative standards. They are not in use much now. We're going to start with those as a place to work from. Then the question becomes now that we know what standards might apply, we have a limited pot of funds. How do we know where do we go first? There's a prioritization process which is part of our plan. We have several ideas about that that came up during the first phase of the project. Can go into those under questioning later if you want to. Then where does the funding come from? Not just the source that we're talking about, not just the lot, what other sources of funds will come into that, how can they be leveraged, et cetera. All that is roughly a half -- a little more than half of the budget for the project. The other in 40 to 45% is community involvement part. That includes couple of surveys, 10 focus groups, public events and then the typical communication websites and things like that.

Fish: Can I pose a question here? I know we're not supposed jump ahead and talk about that next phase, but since you mentioned the word leverage, I just wanted to just put a marker down. Commissioner Novick and I on behalf of pbob, bureau of environmental services and water bureau, have been holding meetings discussing how can we better coordinate our work. The ultimate example of leverage is making sure that one of us doesn't do a project followed by another one coming along and digging it up and doing it again and the like. The challenge will be depending how you define leverage it may not need an equity screen or be necessarily viewed as fair to the people who put the money in the pot or it may bump up against geographical challenges. When you do that second phase I really want to drill down on the leverage in terms of coordination of city bureaus. On the cusp of doing things a little differently, this seems like a unique opportunity to institutionalize it. But there's tradeoffs. That even goes to the question of whether the money is spent proximate to the property that generated the fee or there's more latitude to be opportunistic when you can do a bigger project with perhaps broader community benefits. I want to make sure that's front and center on phase 2.

Moore: It is, commissioner. All the points that you're talking about are ones we have talked about and part of the things we'll be addressing.

Hales: Great. Questions?

Fritz: I have questions later. I really want to get to public testimony first.

Hales: Let's do that. Go ahead.

Saltzman: Since we were given a detailed breakdown of public expenses why do we need two city-wide polls? This is a pretty narrow issue. 2% of streets are affected. What are we going to gain from two city-wide public opinion polls?

Moore: They are not city-wide. Well, it depends what you mean by that. They are focused in the areas that we're talking about that are so that where these fees might be charged. The issue that we're trying to deal with as we look back historically of really study after study of real disagreement on whether -- what's the purpose of the street, do I need a street, have I already paid for that street. I want this standard, I want that standard. We want the conclusion among the staff, consultants and stakeholder group was that we wanted some more statistical validity than just coming back to the same people all the time

March 30, 2016

and hearing from them. So we have one when we're going out with to go out and get clear on the definition of the problem, what people are concerned about, what types of things they would like resolved. Then a second one to come back after we have got some ideas about prioritization standards, et cetera, to get opinions about that. That's the purpose, and I certainly debatable point about whether that would be necessary

Saltzman: As we all know this issue has been around for decades, I don't think there's a lot of stuff that you call a typical person and they are really going to -- I think a majority will have no opinion or don't know. I think we're poised to make some decisions here. It just seems excessive to have to do two rounds of public opinion polling.

Novick: I respectfully disagree. I think it's worthwhile asking questions like do you think any project has to be within six blocks of where the improvement is made or do you think that we should have a wider focus. One of the questions actually that we asked in polling on the gas tax was do you think that the money should be evenly divided between different neighborhoods or should it go to the neighborhoods where it's needed most even if it means your neighborhood doesn't get its share. Those are questions important to ask. There's a limited number of people that get involved in these discussions on a regular basis, but I think that there's a wide variety of people that will care about how we resolve it.

Hales: Other questions? Thank you very much. Do you have testimony?

Novick: Officially we don't. One idea that Kurt and Eric suggested was we might ask the members of the stakeholder advisory committee to come up first.

Hales: Let's do that first. If you want to speak, come on up, please. Good afternoon.

Marianne Fitzgerald: Well, hello, I'm Marianne Fitzgerald from southwest neighborhoods. Yes, I was a member of the stakeholder advisory committee. Sweeney submitted a letter yesterday that I hope you all have received by now. We have in southwest Portland the least improved street network in the city of Portland. With all the equity discussions it's impossible to live in southwest Portland in a wheelchair or a walker. You have no sidewalks to be able to get to what little transit service that we have. We know it's expensive to build sidewalks in southwest Portland because it triggers storm water requirements. It can be as much as half the cost of building sidewalks. Because it's more cost effective to build sidewalks in other parts of the city we frequently see funding for sidewalk and street improvements go elsewhere in the city and not in Southwest Portland. So we agree this issue of issuing waiver of remonstrance is not working. We know we have had a lot of infill in southwest Portland and a large portion, I don't know exactly how much, a large portion of the waivers are in southwest Portland. Therefore we get all the people moving in and all the cars because you can't get around on a bike or by walking because you're forced to drive a car. It just perpetuates that cycle. So what we have agreed to among Sweeney board is conditionally supporting the local transportation charge. We know that having the charge is better than the current system, but we also have a lot of concerns about this next phase, and so in our letter we suggested quite a few changes. The first is to amend the draft city code so that those that pay the Itic also get the waivers of remonstrance. I know that's already on the table. The second one is that those that get a waiver on the busy streets also pay the fee. They tell me we don't do waivers on busy streets but we know that they do. We have seen them on capital highway, we've seen them on Taylors ferry rd, we have seen lots of them on busy streets. You pay the Itic, you get the waiver, you get the waiver, you pay the Itic, hand in hand no matter what. The third is a plea that the funds be spent within the area that they are generated. We can argue about it. When I met with the other coalitions we agreed on coalition area as a good possible geographic area. We talked about that at the stakeholder committee as well. We're also planning for a lot of community involvement. As Terry Moore just said there's some disagreement. I like my dirt road. I like no traffic on

March 30, 2016

my road. Why would I want improvement, so cars can start using it as a cut-through? There's the example that commission novick gave where you have a sidewalk on a local street but not on a busy street that you can't walk on very safely. We are pleased with the ordinance finding number 17 that allows funds to be used on these adjacent or related transportation facilities and not just local streets. In southwest Portland only one-third of busy streets have sidewalks. That's two-thirds not walkable. Most of the people I talk with agree. We have to target funds toward streets that will get you to the centers and exists on the corridors that you're going to adopt in the comprehensive plan. We want some flexibility so we can target those improvements and then finally I appreciate commissioner Fish's comments about the bureau of environmental services. We know there are few lids in southeast Portland because of the cost of storm water improvement blows it out of the water. The ones like the Texas street lid were done because of the bes paying for the storm water improvements. So we're requesting that the bes contribute and fund the storm management component that also require storm water improvements. In other words continue that partnership because we know that it will benefit water quality as well as walkability in southwest Portland. That's our Sweeney ask list. I'm pleased to hear about these amendments that are being proposed and i'll be here to answer questions if you have them.

Hales: Thank you.

Fritz: I seem to remember that southwest neighborhoods came up with a prioritized list of where you would like street improvements.

Fitzgerald: Many years ago Mayor Adams, I think Commissioner Adams at the time, talked sidewalk infills. We came up with one for every neighborhood. We had six built. We still have a list sitting on the back burner. Under the southwest corridor plan we submitted priorities in our area. We're still waiting to begin this project but there's though shortage of prioritize the lists. We send them over and over again.

Fritz: Thank you.

Hales: Good afternoon.

Justin Wood: Good afternoon. I'm Justin wood. I'm residential infill homebuilder in the city of Portland with our company is Fish construction. I again served on the stakeholder committee. I wanted to testify in support of the Itic. I sat on all three of the committees that worked on this and took stabs at them. I remember meetings in Mayor Adams' office I think six or seven years ago where we tried to come up with a solution to this. Every time we got close there was always a road block that we couldn't get past. So I think staff and econorthwest has done a really good job trying to come up with something that works for everybody. As from a builder's perspective for those of you who haven't heard we can have a single lot, maybe 25 -- 30 foot wide lot, that would require, trigger frontage improvements that might cost thousands of dollars and on top of that also takes months. Could be ten, 12 months, a year to get through the process. When the building permit I self-might only take six weeks. So unfortunately, our system of asking for street improvements is designed for large scale subdivisions. It's just not meant for single lots. So putting this charge in place gives us an option. It's important to memorize to notice for all of us it's still optional. The builder always has the right to do the improvements. There may be some situations where they want to improve their street because it makes more sense to have it or if you have 150 feet of frontage it may be cheaper to put the improvements in. You may hear testimony talking about the fee being either too high or too low. I will say when I took this to a group of infill builders their initial reaction was the fee was too high but I made the case after using the data that kittleson provided that it was a fair number. It was based on actual data to build city streets. It would seem the cost for doing a 25 foot wide street improvement is higher than the \$600 being proposed but that's

March 30, 2016

because when you do a long scale project even at city prevailing wage rates, the cost is substantially cheaper when you're doing it a block at a time rather than one lot. So it's a much better use of funds to do this and hopefully creates a better road network. I think Marianne's examples were perfect examples why it works in neighborhoods like the southwest because that gives the city the discretion or the neighborhoods the discretion to actually take that money and put it places where it makes sense rather than asking a developer one block or one lot at a time to put something in that doesn't benefit anybody. One thing I would ask you to consider, I support the amendment to ask for waivers. If we're going to build a project it's fine to ask the people who buy the homes to not fight the lid if it were to come into place. But I do think there should still maintain some system whether it's the current appeal process or not for a single homeowner or builder or developer to appeal the developments in general. I can come up with one example of a case where you might have a lot that is on a corner lot in southwest and you want to do a large remodel to your house. If it's large enough it could trigger improvements and you're on a corner that has 300 feet of street improvements, i'm sure you would see that homeowner here at council asking why do I have to pay \$180,000 Itic for a remodel on my house. So I think there should be a mechanism, it shouldn't be easy it should be the default position staff should be you do the improvements or pay your Itic, however there should be an appeal process to not have to do either. That's what I want to say about that thank you for your support.

Hales: Thank you both. Others that want to speak from the stakeholders committee, then anyone else who would like to speak.

Moore-Love: Six other people signed up.

Hales: I think you're first.

Joe Walsh: For the record I'm Joe Walsh. I represent individuals for justice. Mayor, I have good news. We're going to pass on this. We had a position before but with the testimony that we listened to it's made us at least confused at best and at worse the wondering how people can understand this at home, and I was last week as I was ill, I would be banging my head on my cocktail table because there's so much to comprehend in this, but people keep saying it's simple. I don't get the simple part. It seems to me if a developer develops an area that they should build the sidewalks. It just seems simple to me. Now, that single home is problematic, and what do you do with that? I think some people have tried to answer that but it's very confusing. So we're going to pass on this we're not going to take a position on this at all because it's confusing and normally when we get confused we say no. I think there are points on each one of you that your face said I don't have a clue what that person just said. I'm glad you're not going to vote on it today. I would ask this question. I know we don't have back and forth but just answer one question. Can we keep the record open for the two weeks that you're going to hold this over so people can go back and look at this and maybe weigh in that have more expertise than we do, or at least a few weeks to look at it. Maybe send an email then take a position on it. We would request that. I don't know if that's automatic.

Hales: It's certainly possible. Certainly in this case.

Walsh: That's our position. Thank you.

Claire Carder: Thank you very much. I'm Claire carder. I'm at 6156 southwest Nevada court, Portland, Oregon. I'm here as a neighborhood representative from the development review advisory committee to testify in support of the proposed initiative. I live in Maplewood neighborhood in southwest. It has the lowest miles of streets with sidewalks in the southwest area and ranks in the top three lowest neighborhood in the city for miles of sidewalks. We have a big investment in the Itic fund. In the past five years Maplewood is a mostly residential neighborhood with many older homes on large or double lots and we

March 30, 2016

have been a prime target for infill housing over the past five years. Over the past five years we have had about 35 houses constructed. Only two are built in the past year have had sidewalk improvements in front of them. As a neighborhood, we are not totally committed to sidewalks on every street. We like sidewalks on the higher traffic streets of which we don't have many in our neighborhood but also on our safe routes to school streets which we do have in our neighborhood. This is kind of an example of how the Itic might -- well, I don't know. How the waive verse affected neighborhoods. We had two houses about three years ago that were built almost across the street from Maplewood elementary school. Waivers were granted. No sidewalks were built although this is a safe route and it also is on the bus route and it's one of the major kind of through routes in Maplewood neighborhood. Paint shoulders were put in by the developer which was good except now the homeowner's park their cars on the paved shoulders and the children are forced to walk on the white line to the school, which is almost across the street from where the two new houses are built. We really want to see some opportunities to get some good transportation and actually pedestrian improvements funded in our neighborhoods. Then the other piece too is the Itic funds are not inconsequential when you look at the potential for leveraging more improvements in the neighborhoods. The 35 houses in Maplewood would have generated about \$840,000 at the current rate, and that if you wanted to go to some of the special funds that might be available for transportation improvements could have leveraged as much as \$8 million because the match for some funds, local match is a 1-10. Very good. So we have an opportunity that we just cannot afford to not go forward with. I have i'm going to skip forward. I have a couple of amendments I would like to propose. The most important is this one. It's for the phase 3 scope of work, and that is the Itic program is not just a neighborhood street program. I would like to see this reference changed throughout the entire scope to a neighborhood transportation program which will be much more inclusive and much more reflective of what the needs really are for these funds. 2 the fees need to be index to the cost inflation and construction. 3 The cost for constructing transportation infrastructure is not equitable and that needs to be part of our focus of the phase 3 scope of work. Also fourth but maybe not last is we need to look at ways to achieve economic parity in the use of funds throughout the city. Maplewood one of the smallest neighborhoods in the city could generate because of its infill activity as much as \$840,000: There are some neighborhoods in the city which will not generate that but still have critical active transportation infrastructure needs. I think that part of the phase 3 work needs to be to figure out how to adjust that equity and parity throughout the city in the application of the use of these funds. I really appreciate pbot and the city's forward thinking on this. I think this is an absolutely great proposal we have before us. We cannot afford to not make it go forward into phase 3. Thank you so much for your time.

Hales: Thanks very much. Welcome.

Tom Karwaki: Tom Karwaki University park neighborhood association vice chair also one of the members of the Portland bureau of transportation advisory committee. On behalf of both i'm supporting the ordinance and associated consulting contract. I have spoken with five different neighborhood associations and other boards, and the neat part of this whole thing, we have talked to people about this, proposed ordinance takes a lot of the problems. That's why we need it. There are always separate situations where one size doesn't fit all. The first problem that has not been identified so far but you will be hearing later from the folks from east Columbia, is the drainage district. On the map it's not included in a ms4 area and it should be. So the area around the adjacent to the Columbia River, drainage districts will restrict any potential development, sidewalks, et cetera, so therefore any payment will never be able to be used there. There are new concerns there. I have

March 30, 2016

offered three solutions. That's a fourth one the drainage district had language as well. One you can define the way a situation away like captain kirk or an economist does and eliminate that area drainage district area. You could alternatively exempt them. I provided language on that to not collect the fee until the study is done so the study can do a little bit more. Look at this issue or tell the consultant to look at it. There's an insufficient cost recovery issue because of the inflation index having inflation I understand that that is part of it however that's not in the code itself and so that is why there's always a concern that a lawyer might argue that it's not available to have an index unless it's actually spelled out in the code so I have added suggestions. I understand pbob thinks they have the authority to do that. We have solution c, which affects Commissioner Fritz's proposal, which is the payment of a local transportation infrastructure charge and issuance of a waiver of remonstrance will satisfy the requirements in the subsection. There's specific language there as well. The use of funds nobody trusts pbob. This is a major issue. I have talked about to 75% of the coalition, people look at me and take my head off and say it should be 100% within the coalition territory, but it's an issue of when the funds are going to be available and whether people will see things. I think it's a matter of trust that we actually do solve this solution and my amendment that I have suggested I think that southwest neighbors and other groups have done is well, that the Itic must be within the geographic area which they have been collected. It spells it out. Rather than waiting for the study to do is solidify and narrow the scope of the study but it will also provide it show that fewer people will have a problem waiting. You'll collect the money and wait and hope that we get the results out of the study. You can actually do that right now. Thank you.

Hales: Thank you, tom. Okay, we have others that want to speak?

Hales: We'll take testimony on this then we're going to take up next our resolution, four-fifths resolution about North Carolina then take a lunch break. Anyone waiting for other calendar items we'll come back to those at 2:00.

Novick: Actually, mayor, he can't stick around until after 2:00, so he asked that the lid issue be resolved.

Hales: We'll do that as well. Shouldn't take long. Good afternoon.

Gary Clifford: Good afternoon. I'm Gary Clifford. I live on flower road in east Columbia neighborhood. What i'm presenting is a proposed amendment worked out between our neighborhood organization leadership and Multnomah county drainage district. One problem is as most ordinances one size doesn't always fit. We're saying that because we're in a managed flood plain the addition of impermeable surfaces such as paved sidewalks and parking lots work directly against the mission of the Multnomah county drainage district to manage our storm water. As you go through our neighborhood you'll see the open ditches, the slews, the massive pumps that pump millions of gallons of water that's all paid for by our neighborhood directly to the drainage district, not the city. What we're proposing is in consultation with the drainage district these words. As amendment. In that some Portland neighborhoods exist within a managed flood plain whose characteristics require immediate removal of storm water to prevent local flooding the Itic should be amended to exclude collection of the transportation improvement charge where it's deemed by the local drainage district to create adverse conditions on the existing drainage system. The rationale for this amendment is the requirement that storm water be immediately dealt with is to prevent local flood damage. Methods of removal include absorption by permeable ground, mechanical pumping or ponding. Adding impermeable services that collect and concentrate storm water works against the safe and effective management of a flood plain thus it's unlikely ever to be made so money for them should not be collected in advance. I strongly urge you to -- your staff to work with the drainage district and take into consideration the uniqueness of our situation. Thank you.

March 30, 2016

Hales: Thank you very much. Paul?

Paul Grove: Mayor Hales, members of the council, Paul Grove with Portland Homebuilders. I'll be brief. We are here to testify in support of the proposal. You heard of Justin Wood, who served as part of the stakeholder work group, one of our members. Really appreciate the work of the stakeholder work group to try to arrive at a very balanced, thoughtful outcome on the issue. Internally we had some very robust discussions and particularly around the cost of the fee. And what the waiver would look like or not look like moving forward. Those did present concerns to our membership. However, as has been alluded to oftentimes on this today, we're talking about tradeoffs. That cost in terms of having a higher degree of certainty in the process, getting things through in a more timely fashion, was ultimately of great interest and benefit for our membership, so recognizing that tradeoff and understanding that degree of certainty in the process moving forward was something that appealed to our folks and ultimately around us to arrive at that decision to be supportive of the proposal. With that I thank you for the opportunity.

Hales: Thank you. This is not cheap, but the certainty obviously has a value. I get it. Thank you. Good afternoon. Welcome.

Marth Johnston: Hi. Martha Johnston. This is my personal response to this proposal listed on today's agenda. Please hear my plea. I'm writing this to extend my personal grievance on lack of understanding on the future impacts of the ITC going before city council today. Although I must admit I have had a lot of answers to questions that weren't answered before. I'm very disappointed that the neighborhood task force member who was acting as our representative for our neighborhood interests did not have an appearance to have an agenda presence with our north Portland neighborhood association groups or is not elected or appointed by consensus by the north Portland land use group or its chairs. The working group did not pursue the city-wide mailing to the affected parties or public discussion on this proposal. A done deal I'm told. People realize for the purported 17% of lots without sidewalks or even streets local transportation improvement charge is proposed at \$6 per linear foot so a person with an r5 corner lot with 150 foot of frontage would have to pay 90,000, not the 5 to 50,000 purported into this pot slush fund for future improvements that will not likely be used and are in fact disqualified from being used on the street in which it originated. For the east Columbia neighborhood for which the smallest lots would be r.10, r20, rf, this could be several hundred thousand dollars payable on permitting. Before you with build your home. Many citizens don't want sidewalks due to horses, wildlife, prefer wide, soft shoulders, also storm water drainage issues complicated buildout of such structures. The other option would be to build without the benefit of economies of scale and benefits of an lid construction financing at a favorable rate over 20 years. Without these appropriate public benefits this required building would be an onerous burden as well. That's why 12 to 16,000 homeowners have appealed and been awarded waivers which provide for yes on participation in future financial development costs through the lid process. This is a rational approach. We should look at that first for any needed improvement. If it's not providing streets and sidewalks an ordinance would possibly remove sustainability of all of the economic value from the properties targeted. How can it be said by adding \$100,000 of development cost to a single residential lot that it will not have an effect on the affordability? If purchasing a home from a developer does one really think that a developer will not pass every dollar of costs and then some on to the cost of the building? It obviously will. If safety alone is the factor driving this horrendous confiscation of funds let's get busy with an elected consensus appointed representative to develop a full bodied discussion and perhaps consent might have a fair say. I have a corner r10 lot for sale and am greatly affected by

March 30, 2016

this Itic. I have been saving for it all my life. My husband and I have owned it 38 years. This is our retirement. Now we got to have a streets and sidewalks on an area that has no streets and sidewalks or very few. I only found out by chance. No mail out to the 7,000 or so affected owners about to lose this important tool for street and street development. Let the citizens make the choice if they want to do an lid. That's what it's all about. Did I mention the issue if your house burned down would your insurance cover the rebuild cost of this charge? It's not a permit fee, right? I talked to several agents and they are not quite certain. You better take out code -- increased code increase, increased amount of insurance because if this burns down they are willing to pay the \$50,000 in permit fees but would they be willing to pay \$150,000 charge?

Fritz: I think they said it doesn't count.

Johnston: That's what I heard today but I didn't see it in the ordinance.

[simultaneously talking]

Hales: Thank you very much, those were some great issues thank you all. Ok anyone else wish to speak on this item? Ok so commissioner this has been a first reading we've got work to do on amendments, how would you like to proceed?

Novick: Well we might have amendment language to present, but the city attorney's office said that since the weaver amendment is a substitute they prefer us to hold on that until next week. What I'm hoping we can do is say that this has been the hearing on every other aspect of this ordinance and that next week we'll present an amendment specifically on that language and we'll take testimony only on that amendment not on anything else.

Hales: I think that sounds reasonable to me, this hearing is ventilated the issue, there's obviously technical work to do so.

Fritz: I might have multiple things actually given that we have other folks waiting to testify and it's lunchtime I'd like to just continue.

Hales: Bring staff back for a discussion?

Fritz: Because I have potentially another amendment.

Fish: Could I just clarify one thing with staff?

Fish: We had a letter from our friends at University Park neighborhood association and others about stormwater cost recovery. Could you just clarify what is contemplated within the \$600 per foot proposal?

Krueger: For the record Kurt Krueger with pbob, the \$600 per foot was based on the averaging of a number of projects that include all elements that go into the improvements of street trees, storm water, sidewalks, pavement, the rock below the pavement, all of those elements were put into the mix to come up with those costs.

Fish: I think it's going to be useful to clarify that and give folks a breakdown. It's been raised by some of our most engaged partners. I want to make sure that's clear and that we're not in addition proposing shifting any new cost to be as part of this proposal.

Hales: So commissioner, I think because of the hour and complexity of this, that continuing this hearing is a good idea. I want to reassure you, I know there might be a fear this is going bog down. Quite the contrary, I think you're cut the Gordian knot of an issue that's been around for a very, very long time. There are technical issues like the drainage districts that need to be addressed but I think you have finally found the solution to a problem we've been talking about for decades. I'm very enthusiastic. On a personal note, if somebody needs to wait for the bus at the corner of 35th and Vermont, amongst the mud puddles, I can certainly sympathize with the need to get on with this.

Novick: I wanted to make it clear that I do not think we're going address every issue including the issue related to drainage districts next week.

Hales: Not next week, no.

March 30, 2016

Novick: But our goal here is to pass something that stops what we're doing now, and starts doing something somewhat smart and work out a lot of details later.

Hales: I agree with that. I understand the phased approach that you're taking. We'll take up the amendment next week on the subject of lids and perhaps next week?

Saltzman: I've heard good suggestions that I don't want to belabor now, but some of the suggestions, I am concerned about the drainage district and an appeal process. I want to have the opportunity to delve into those but not now.

Hales: So let's continue this then for a week, is that enough?

Fritz: I think that's enough time, yeah.

Hales: Council will return to the item and take up proposed amendments based on councilmembers' own ideas and the testimony we've heard today.

Fish: On a time certain or a regular agenda?

Hales: What's next week look like, Karla?

Moore-Love: We're already going to 11:00 with time certain.

Hales: We'll have to put it on the regular agenda then.

Moore-Love: Afternoon is available.

Hales: Let's put it on the afternoon as a time certain.

Moore: 2:00 p.m.?

Hales: Does that work, Steve?

Leon: Next weekend traveling to Kansas City for the streetcar coalition. So my team would be here without me. If you want to delay it for a week after that --

Hales: Two weeks?

Leon: I hate to do that.

Hales: All right. Two weeks from now, how does that look, Karla?

Fish: We have a very, very crazy day. I would stick with next week.

Hales: All right. We'll continue this for one week to 2:00 p.m. Time certain next Wednesday.

Leon: Thank you very much.

Hales: Thank you, good work, good work. One more week after 25 years, we're getting close. All right. Now let's move please to item 313-1. I know we have people here to speak on this. Then we'll take up the lid after that.

Item 313-1.

Hales: We put this on the council calendar today because, just as we had to a year ago when I understand it passed legislation that was contrary to the progress that we've made as a country in human rights, once again, we've had a state going the wrong direction. To my eye there are really two things that are fundamentally wrong where what's happened in North Carolina. One is that we do believe that we're on a march of progress towards more understanding of human rights, more support for human rights, and more acceptance of our differences as a society. Yes, there are places in the world and current in the world going in the wrong direction but I believe as an American that we're making progress. And when we slide backwards that's wrong. And then secondly, once again we have a state legislature telling a city not to do something. That's a fundamentally bad idea, too. Cities need to have the authority to take care of their own citizens. Cities are where a majority of people live, and a majority -- a huge majority of economic activity takes place. Legislatures need to simply stop doing this. We just got our legislature to lift a prevention on inclusionary housing, something we should have done years ago. Legislatures have better things to do than to stop cities from making progress. That's my motivation behind this. I know other councilmembers have strong feelings on the matter, as well. We have some folks here that would like to speak.

March 30, 2016

Fritz: With that in mind mayor I have a minor amendment, I do believe we need to call out the courage of the city of charlotte, North Carolina. So my amendment is to first, whereas the city of charlotte, north Carolina, voted February 22nd, 2016, to approve a local nondiscrimination ordinance and; and then add after the first be it resolved: Be it further resolved that the Portland city council commends the charlotte city council in their action in approving their local nondiscrimination ordinance and Mayor Charlie Hales will contact Mayor Jennifer Roberts to express support the decision.

Hales: Very good idea. Motion to accept the amendment. Let's take a vote, please.

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

Hales: Aye, thank you very much. [gavel pounded]

Hales: I know there are some folks that would like to speak on this item. Come on up, we'd love to hear from you. [names being read]

Hales: Good afternoon.

Jeana Frazzini: Good afternoon, thank you, mayor Hales and city councilmembers. I know this resolution comes forward with the unanimous support of the council and could not be less surprised at your continuing leadership. Portland has let the way in our state and across the country and extending human rights and in tackling tough conversations. My name is Jeana Frazzini. My testimony today is really aimed at folks in the larger community who may not understand just how dangerous this law in North Carolina is. Of course I'm here to express strong support for your resolution to ban travel to North Carolina. I love that you're encouraging businesses and other governments to follow your lead. Law passed this past week is deeply troubling, targeting transgender people who are among the most vulnerable in our communities. More than 90% of our advance gender citizens report discrimination in their workplace and 40% will attempt suicide due to the lack of acceptance and outright discrimination they face. North Carolina has codified discrimination with the passage of hb2. People will not be able to use the bathroom in libraries, public hospitals or most airports because of fear of violence, harassment, and now arrests. This law is in direct conflict with federal laws that say transgender people have the right to use restrooms that match their gender. It also bars local protections in public accommodations on the basis of gender identity, sexual orientation and veteran status. The folks who pass this law argued wrongly that transgender people endanger others. It's hurtful and wrong and feeds the culture of violence and misunderstanding that transgender people already face. Oregon passed legal protections based on their Identity and sexual orientation in 2007, after similar ordinances had been passed here in Portland and in a dozen other cities counties across the state and no harm has been caused. These protections strengthen our communities and ensure dignity and respect for all who call Oregon home. This year basic rights Oregon celebrates its 20th year working in partnership with government leaders, with businesses in the community. Together we've made Oregon one of the most LGBTQ friendly states in the country. We're so grateful to live in a city and state that values fairness and equality, a state that gives all of us the opportunity to succeed no matter who we are and who we love. Thank you for your leadership.

Hales: And thank you for yours.

Hales: Anyone else like to speak on this item? Before we vote I want to clarify that the purpose of this -- the effect of this resolution is it'll be directing the chief administrative officer to identify North Carolina as a probated travel destination and update the cities travel procedures accordingly. Bureau directors will be responsible for assuring compliance with his prohibition. Let's vote, please.

Fritz: Thank you for all of your work and I'm glad to take this opportunity to announce in the upgrade of the pioneer courthouse square bathrooms that has been funded with the fix

March 30, 2016

our parks budget—bond measure as well as system development charges it will have a gender neutral bathroom as well that folks can choose one side or the other as well. We're putting it into practice here and it's going to provide service for everybody, which is what we try to do. And thank you, mayor, for your leadership, thank you Rachel Wiggins for yours in drafting this resolution. Aye.

Novick: Mayor Hales, thank you for taking the lead and acting so swiftly. We were very proud to partner with Jeana in December to adopt an all-user rest room policy in the city following the good work of the county and building on the expertise of your organization. So thank you. I want to just note, mayor, that the city of -- city council of Charlotte voted February 22nd, 2016 to, approve legislation expanding antidiscrimination protections. When the North Carolina assembly met in an emergency session to preempt the city's ordinance, within 12 hours a bill was introduced, debated passed and signed by the governor they probably set a legislature record. It passed in the house 82-26, unanimously in the senate 32-0. Not a single dissenting voice in the senate of the great state of North Carolina. So shame on them. I'm very proud to join with my colleagues in making a clear statement that we value all Oregonians and we believe in basic rights for everyone. Aye.

Saltzman: Thank you, mayor Hales, for bringing this forward. It's always surprising to me how out of touch increasingly state capitols are with the people they are elected to represent, as opposed to cities. I know mayor Hales has made this point over and over that cities are increasingly where great decisions are made, whether it's around climate change, basic rights, other issues around equity, and this was another prime example of exactly that, where a state capitol is complete out of touch with probably I would guess the majority of the citizens and residents they are elected to represent, as opposed to the city of Charlotte, which seems to have an accurate pulse of what matters to people. I'm very proud to stand with you to condemn the state legislature and the governor of North Carolina, just as we did with Indiana about a year ago, and make it hurt, make it hurt in their economic pocketbook. That's what this will do along with the combined actions of cities and states throughout this nation. Aye.

Novick: Thank you mayor, for your leadership in this, thank you, Jeana for your leadership. It's sad to see what's happened to the North Carolina legislature in the past several years. It used to be a moderately progressive southern state and the legislature has been taken over by zealots on this and a variety of other issues. Nice to have this opportunity to express solidarity with the people of Charlotte and other people in that state who are living under this outrageous legislature. We have some complaints about our legislature periodically but I'm glad we don't live in North Carolina and hoping that state will right itself at some point. Aye.

Hales: This summer the United States conference of mayors is going to meet in Indianapolis. I'm going to be very happy to go there because similar action was taken by cities all over the country and by people all over the country to condemn the backsliding effort of the Indiana state legislature, so walk back towards the dark ages. And it worked and they repealed that law. And I congratulated Mayor Ballard in Indianapolis at that point, and of course we're all going to go to Indianapolis and celebrate the progress of that great city. And likewise our good wishes go out to the thoughtful leadership of the city of Charlotte. I will call Mayor Roberts this afternoon and let her know we've taken this action and that we support the progressive public policy that that city has enacted. It's something I hope will work to their benefit soon when this wrongheaded idea is reversed, just as it was in Indianapolis approximate for the moment of the state assembly of the state of North Carolina has decided to go back to the dark ages and we literally will not go there. Our employees will be barred from traveling to that state until such time as this terrible law is

March 30, 2016

repealed. Jeana, thank you for your support and leadership for good policy in our state. Aye. [gavel pounded]

Hales: Thank you all very much. Okay, let's take up our final item of the so-called morning agenda, and then we'll take a break.

Item 312.

Moore: Create local improvement district to construct street, sidewalk, storm water and sanitary sewer improvements from the north of northeast Columbia Boulevard to south of northeast corn foot road in the northeast 47th avenue phase 1. Increase system development charge revenue by \$315,151.

Hales: Commissioner Novick

Novick: Andrew Aebi

Andrew Aebi, Portland Bureau of Transportation: You're very kind to take this up as your final agenda item this morning. On March 2nd council approved a resolution of intent for Ne 47th ave, we had 10 people here to testify in favor of lid, eleven written letters of support. For today we received no remonstrances against lid formation. We received a 12th letter of support from the cully association of neighbors, I passed that out to Karla and she is handing that out to you right now. One change from the resolution phase to the ordinance phase today is that the resolution phase we had a project budget of \$5,706,291. The budget is increased by \$516,599 for the purpose of adding a dry line and sanitary sewer when the bes adjustment committee approved yesterday, an extraordinary collaboration between bes and pbot thereby increasing the budget to 6,222,890 with no increase in the proposed assessment to property owners. The only other point I wanted to make, I was just monitoring the discussion this morning and I wanted to clarify there was a comment made, there were 40 miles of unpaved streets in the city of Portland. I did want to clarify as of June 30th there were 55.7 centerline miles of unpaved street, I thought it would be worth clarifying that. This particular project will help reduce the backlog of 306 miles of streets without curbs.

Hales: There are less miles of such streets because of you, thank you.

Aebi: You'll hear more about that April 20th. We have made progress over the last 15 years. Not as much as we'd like but we are slowly chipping away at that backlog.

Fish: Andrew, if we adopt commissioner novick's proposal we discussed earlier will that mean you have fewer opportunities to come before us and invoke waivers of remonstrances?

Aebi: I said I wanted to get all the streets paved and put myself out of a job. At the current rate I think i'll live to be about 600 years old.

Hales: That's a prescription for long life:

Hales: Longevity.

Fish: To the next 600:

Hales: We'd like you to have a really great 200-year life.

Aebi: I would like to retire before then.

Hales: Anyone else like to speak on this item? We'll close the hearing and come back next week. Thank you very much. We're recessed to 2:00 p.m. [gavel pounded]

At 12:53 p.m. council recessed.

March 30, 2016

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.**

MARCH 30, 2016 2:00 PM

Hales: Good afternoon, everyone, and welcome to the afternoon session of the City Council for March 30th. Would you please call the roll?

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

Hales: Welcome, everyone. We have five items left over from our morning calendar that we're going to try to power through with reasonable brevity, and then we'll get to the things we have on the afternoon schedule. Let's begin with item 308, please.

Item 308.

Hales: Ms. Moody, good afternoon.

Christine Moody, Chief Procurement Officer, Office of Management and Finance: Good afternoon, Mayor and Commissioners. Christine Moody, procurement services.

You have you before you the procurement report recommending a contract award to Moore Excavation. The engineer's estimate on this project was \$4,090,000. On February 18th, 2016, five bids were received, and Moore Excavation is the low bidder at \$3,784,536, which is 9.65 percent under the engineer's estimate.

The City identified six divisions of work for potential minority, women, and emerging small business subcontracting opportunities. MWESB subcontracting participation on this project is at 19 percent with work being performed in traffic control, hauling, and asphalt paving. I will turn this back over to Council if have any questions.

Hales: Thank you. Questions?

Fritz: So, yet again with Moore Excavation, we have a pitiful amount of money going out to minority and women-owned businesses. Nineteen percent of the subcontracting, but only 84,000 out of 3.7 million. So, I'm -- it's late -- it's early in the afternoon but it's late from the morning. I don't need to go into this again. I'd be interested in looking at, maybe in the future, could we see what subcontract pieces they did not get any bids for? Did they get bids and reject the bids? Are they making any progress in their own workforce in terms of increasing the diversity within the workers there? Just --

Moody: OK -- yes, Commissioner. We actually had somebody from the contracting agency here this morning, and because of the schedule I kind of let him go for the day.

Fritz: Yeah, that's fine. We don't really have time to go into it anyway.

Moody: OK.

Fritz: I know that you do due diligence and you try your darndest to make sure as many people are benefiting from these big contracts as possible. So, I'm ready to support it. It's just another example of how we need to figure out some other things to do.

Moody: That's correct, and --

Hales: I appreciate you raising those issues, Commissioner. Other questions for Christine? Thank you very much. Anyone want to speak on this item? If not, a motion to accept the report?

Fritz: So moved.

Fish: Second.

Hales: Further discussion? Roll call, please.

March 30, 2016

Item 308 Roll.

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

Item 309.

Hales: Christine.

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

Christine Moody, procurement services. You have before you the procurement report recommending a contract award to Stettler Supply Company. The engineer's estimate on this project was \$1.8 million. On February 4th, 2016, six bids were received, and Stettler Supply is the low bidder at \$1,622,815 which is 11 percent under the engineer's estimate.

The City identified six divisions of work for potential minority, women, and emerging small business subcontracting opportunities, and the subcontracting participation on this project is at 17 percent with work being performed in concrete cutting, landscape, fencing, and rebar installation. I'll turn this back over to Council.

Hales: Alright. Similar issues here, yeah. This is pretty specialized work, but -- maybe a little more specialized than the last one, but the same problems.

Fritz: But still, it's 680 --

Moody: The contractor was here this morning and I let him go, too, but he did say that they've found additional subcontracting opportunities that they're going to be using during the project itself.

Fritz: That's good. Because it's still -- it's 680,000 that was possible. Less than a fifth of that is actually going out to the target businesses out of 1.6 million.

Hales: I appreciate you keeping the pressure on.

Fritz: I know you do.

Hales: Thank you very much. Anyone else want to speak? OK. Vote to accept this report.

Fish: So moved.

Fritz: Second.

Hales: Roll call, please.

Item 309 Roll.

Fritz: Aye.

Fish: Aye.

Novick: I want to reiterate my concern that we should not be constructing pump stations out of cream cheese. Aye.

Hales: Aye. How did it get that name, anyway? There's got to be a story there somewhere. Alright, let's move on to item 310.

Item 310.

Hales: Commissioner Fish.

Fish: Thank you, Mayor and colleagues. As you know, Crystal Springs Creek in Southeast Portland has some of the best salmon habitat in the city, but a series of culverts along the creek blocked fish passage and impeded the stream flow for years. In the last six years, the Bureau of Environmental Services has worked with many partners to replace or remove nine of the culverts, and a project scheduled this summer will replace the last two culverts. For the first time in a generation, salmon will be able to access the entire stream. These projects have also improved stream flow to the point that the creek's floodplain has changed. This ordinance would authorize a project to revise the floodplain maps accordingly. Here with more information is our science integration manager, Kaitlin Lovell. Kaitlin, welcome.

Kaitlin Lovell, Bureau of Environmental Services: Thank you. Good afternoon, Mayor, Commissioners. I'm Kaitlin Lovell, the science integration division manager. Here to request an amendment to Otak's contract number 30004334 for a not-to-exceed amount of

March 30, 2016

\$85,000. Because the amendment is greater than 25 percent increase over cost, it requires Council approval.

I want to give you a little bit of context. In 2008, as part of the Grey to Green initiative, Council tasked BES with replacing eight culverts for fish passage. We looked at that and decided to take the step of looking for measurable, immediate improvements to watershed health by additionally addressing water quality, flooding risks, and habitat improvements -- all issues that are core to BES' mission. We found all that concentrated in the 2.7-mile long Crystal Springs Creek tributary of Johnson Creek.

In the eight years since, we've been hard at work with impressive results. We've replaced six culverts and abandoned one. We have restored over 2000 feet of the stream, representing nearly 15 percent of the entire system. Together with Parks and the Corps of Engineers, we reimagined a neighborhood park into a nature sanctuary that simultaneously reduced stream temperatures by three degrees Celsius and served as a muse for a wildly popular nature play area and annual salmon celebration. We have treated over an acre of impervious surface in the watershed by cleaning it and locally infiltrating it using green streets and pervious pavement, only the second instance of pervious pavement in the city. That was just actually poured a couple weeks ago.

And we couldn't have done this alone. We have engaged over 21 different partners from individual landowners like Reed College and the Brannon family to large public agencies like the Corps of Engineers and TriMet. And I do not exaggerate when I say it took a village of City employees from BES, PBOT, and Parks to make all of this happen.

We have two culverts to go. The Bybee culvert on the right and the -- I'm sorry, on the left -- and the Glenwood culvert on the right. We are planning on doing those this summer.

From the beginning, we intended to reduce floodplain impacts, and we intentionally waited until we were done with all of the projects before we did the actual modeling. We hired USGS to redo the modeling, and we hired Otak to help us with the FEMA permits for Bybee and Glenwood. However, since that time, a number of requests have come to us to accelerate the floodplain analysis because of the potential benefits that it can provide in terms of ongoing projects. Multiple landowners along SE 22nd have been calling us, and the ODOT Highway 99 bridge replacement schedule for 2017 would like to have the benefit of a new floodplain map. We can accommodate this request through a contract amendment, and it would further strengthen our ongoing partnerships and community benefits in the watershed.

The amendment before you expands the scope of the Otak contract beyond the Bybee Glenwood project to include entirety of Crystal Springs using the modeling work already completed by USGS. Additional engineering and survey work is needed, but the goal is to submit a floodplain map revision to FEMA this year. Otak will serve as the City's representative to FEMA. While we cannot say for sure that FEMA will approve any map revision that will reduce the floodplain, we have a high degree of confidence that some landowners will see these benefits.

I want to conclude with a bit of a story from the December floods. In 1996, Crystal Springs flooded but very differently than other streams in the city of Portland. Because it's a stream-fed system, it didn't flood until June of 1996 and it entered into a near-permanent state of flooding for the next 20 months. BES commissioned an investigation into local flooding and found that it was due to high groundwater and to the culverts, the undersized culverts. However, the homeowners in the area felt that a local aquatic plant known as elodea was actually exacerbating the flooding by clogging the creek. The City's unwillingness to acknowledge and address the elodea created an atmosphere of acrimony and distrust that persisted until 2008.

March 30, 2016

One of our most vocal critics was a creekside landowner, Lane Brown. We worked very closely with Mr. Brown and his neighbors to restore that relationship through the replacement of the Tacoma Street culvert. In December of 2015, we experienced rainfall and flooding that was reminiscent of 1996. By that point, though, we had completed nine of our 11 total projects in Crystal Springs. So, we reached out to Mr. Brown to see how his property fared, and here's his response. He wrote, "The creek has been behaving itself quite well. On the day a few weeks ago we had record rainfall, the creek rose to 1.8 feet depth -- normal this time of year is .7 to .8 feet. This did not even reach the top of bank at my house. In November of 2006, with slightly less rainfall, the depth was 2.4 feet, which reached the foundation of my house. The water also went down quickly this year. The next morning, it was down to 1.2 feet. I am very pleased with those results."

His neighbor, Joe Mitchoff, sent us this report at the height of the flooding. "A quick thanks to you all for your hard work on Crystal Springs. In the balmy, amazingly dry late afternoon, I went for a run by every project you worked on. The plan for Crystal Springs is working and you all deserve a lot of credit for making it happen. I went up Springwater, and of course we have a ways to go, but it is still important to remember that even that has gotten much better over the years. It is thrilling to see the new floodways doing their job."

So, with that, we have a high degree of confidence that the landowners will benefit from this floodplain mapping, and we'd like to get started on it quickly. Thank you.

Fish: Kaitlin, thank you very much. Colleagues, there's another little bit of serendipity here I'll just preview for you. While we cannot with absolutely certainty predict the outcome of this floodplain remapping, if our view of the world is, if accepted, there is a retirement home for union members on the other side of the road that has been going through a rehabilitation that if it is no longer in a floodplain will see millions of dollars in savings in costs that would have to incur in insurance and other things because they're in a floodplain. So, one of the things I loved about this -- again, if we're successful and based on the investments we've made -- there's this downstream benefit to an affordable housing that's in the catchment area. I thought that was neat.

Hales: Good work. Thank you. Other questions?

Novick: I just wanted to say that the work you have done to reduce flooding and restore fish habitat in this area has just been absolutely incredible.

Lovell: Thank you.

Novick: It's one of the -- probably the top five most impressive things the City has done since I've lived here. So, I just want to say thank you.

Lovell: Thank you.

Hales: Great work. People love it. People love the park.

Lovell: It's always crowded, even on the rainiest day.

Fish: We'll have copies of the new map that's been produced and the walking tour for all my colleagues soon. They were so popular we ran out, so we'll have more published.
Printed.

Hales: Thank you very much.

Lovell: Thank you.

Hales: Anyone else want to speak on this item? If not, then it's an emergency ordinance, let's take a vote, please.

Item 310 Roll.

Fritz: Thank you very much for your work, and I am very proud of the work of Parks, Transportation, Environmental Services, working together as we so often do. And those who say otherwise just don't know how the City really works. Aye.

Fish: I'll just say amen to that. This was a fantastic partnership with the Parks Bureau and others. And colleagues, when the last leadership bike ride was held that Mike Houck

March 30, 2016

organizes every year, one of the real treats and highlights of that was going to Crystal Springs and having Kaitlin do the presentation. And Mike Houck is a stern task master, but he gave her best in class for presentations during that event. We're very proud of her work. Thank you. Aye.

Saltzman: Well, I remember doing some plantings with Kaitlin along Crystal Springs watershed, and it's really great, and that walking map is really nice. So, good work. Aye.

Novick: Bravo. Aye.

Hales: In an even more impressive sign of his support during that bike ride, Mike Houck let Kaitlin talk. [laughter] That's high praise, indeed. Well done. Aye. Thank you very much.

Item 311.

Hales: Commissioner Fish.

Fish: Some guy named Mr. Kovatch or something is here to present.

Hales: That guy.

Fish: That guy.

Hales: Good afternoon, Ty.

Ty Kovatch, Portland Water Bureau: Good afternoon. This is a request from the Water Bureau to authorize us to pursue a competitive contract for the renewal of our efforts to procure the nuts and bolts of the water system effectively. All are fittings everywhere we make a transition, everywhere we move from one material type to another material type, from one size of pipe to another size of pipe, and requires us to purchase fairly specialized components, and there's over 500 of them that are part of this contract. And it's time for us to do out for a new bid for it, and we intend to do that with your support. So, if you have questions --

Hales: Fill up that pretty new warehouse with stuff.

Kovatch: Well, it's a very -- it's a very --

Fish: You don't have to answer that.

Kovatch: -- wonderful space.

Hales: It is, it's wonderfully done. Good. Questions about this big bag of parts?

Fritz: I appreciate you working with my staff to answer my questions. Just in case there's anybody at home wondering about the five percent annual increase that's built in, can you explain how we're going to try to keep annual cost increases less than five percent?

Kovatch: So, the estimate here is \$11 million. And that's not necessarily saying that there's going to be a cost increase each year. It's saying we're estimating that based on what we've spent over the past couple years, we're going to spend this amount in the future. And we've given five percent as sort of the steady state of increasing costs with inflation and the price of goods, and it accounts for the fact that we've done an increasing amount of work each year over the past four or five years, and that also results in greater costs in this area. So, the five percent isn't saying our costs are effectively and necessarily going to go up, it's saying that to make our estimate as accurate as can be given that we're trying to project over a five-year period what our usage and specific parts that there's 510 different kinds of over that period of time, it gives us a cushion in knowing where we're going to be in our estimates. So then, what happens from here is we say, "OK, potentials providers of these parts, these are the parts we need, give us your price for each." And we go with the one who provides the best prices. And that is established at the front end.

Fritz: And then what's to stop them from saying, "this is government work and I'm guaranteed five percent price increases every year"?

Kovatch: They declare what the prices are and how they address any theoretical increase year over year on day one. So, we have predictability, they have predictability about what goes on. I presume that they -- when they make their bid, they include all of those -- all of

March 30, 2016

their projections for what they think their costs are going to be going up. They don't get to come back every year and say, "We want five percent more."

Fritz: Right, but what's to stop them from in their bid saying, "Well, it's in writing that we're going to have a five percent increase every year," so just calculating that in?

Fish: We don't have to accept that bid.

Kovatch: Right.

Fish: This is not atypical procedure for us in doing our bidding. We would be happy to give you a further briefing on it, but it is a standard procedure for them. They will then pick the best price, best value.

Hales: So you're still getting supplier bids within this authorization.

Kovatch: It doesn't say in here that it goes up five percent every year. I think that's communication via the people about how we arrive at the \$11 million number. So, the \$11 million number is basically the Water Bureau saying, "City Council, we would like authorization for the next five years to spend up to \$11 million." So, we get a five-year contract, and either the five years expires or the \$11 million expires. And if either one of those expire, we have to come to you for additional authorization. So, the \$11 million is that number. We may not spend all of that money in the five-year period, or if we get there before the end of the five years, we have to come back. That's separate from what the contractor's piece is.

Fritz: I'm not worried about the Water Bureau, I know that you do really great work. I'm worried about all of the contractors thinking because we're selling stuff to the government, we can make the price go up every year.

Kovatch: They're competing with other contractors, and whatever the -- whoever wins the competition wins the competition. And that is regardless of what our estimate of how much we'll spend over five years is.

Fritz: And is that a total for the five years that they'll be bidding on, or is it an initial cost?

Kovatch: No, that's just what we're authorizing -- so they could say, it costs X. Say X is more than we thought it would be and say that results in us eating up the \$11 million sooner. We have to come back to you for authorization. The \$11 million is your authorization. We get to decide on an ongoing and regular basis -- we keep an inventory of all these parts in the warehouse. And sometimes, we don't have particular events in our system that require us to use very specialized equipment that's more expensive, so we don't buy that stuff in those given years. So, it's a time constraint and a monetary constraint that you're giving us, and then the competitive bid process goes out, and the decision is made based on the most competitive bid that's offered.

Fritz: Thank you.

Hales: Good clarification. Thank you very much. Anything else for Ty? Thank you very much.

Kovatch: Thank you.

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

Item 313.

Hales: Commissioner Novick.

Novick: Please proceed.

Karl Arruda, Portland Bureau of Transportation: Thank you. Karl Arruda, Right of Way agent with the Bureau of Transportation. This is an ordinance for a street vacation for a small sliver of SE Grand Avenue between Spokane Street and Tacoma Street, which is fairly close to the newly-opened Sellwood Bridge. This was initially proposed back in 2014 by the adjacent property owner, Diana Richardson, who owns the block to the east of this proposed vacation area. SE Grand in this block is 80 feet wide, and the vacation area is --

March 30, 2016

for the most part of it -- is about 17.6 feet wide, and so there's still sizable chunk of Grand Avenue remaining after the street vacation.

Based on some discussions with City staff, PBOT asked the petitioner to adjust her original proposal to make sure that it included a retaining wall along Grand Avenue, since the retaining wall holds up her property. And so generally, PBOT asks that retaining walls go into private ownership when they hold up private property. Which she agreed to that revision.

There's another revision that we asked her to make based on information from the County's plans for the Sellwood Bridge project so that she modified her original proposal to avoid the newly-constructed bike and pedestrian ramps that lead from Tacoma and curve around down to Grand Avenue, which lead down to the Springwater trail. And so those are still publicly-owned.

After those revisions were made, there were no other concerns from City bureaus or public agencies. The neighborhood association SMILE originally had concerns about that connection between Grand and Tacoma and the bike ramps, and so once that revision was made, SMILE had no further objections to the proposal. And I'll be happy to take any questions.

Fritz: Is the parking that's to the east of the proposed vacation area public parking?

Arruda: There is public parking on Grand Avenue. The striping that you might see on that Grand Avenue is not -- PBOT did not do that striping. And so we actually -- when we were initially going through the vacation process, we noticed that striping that was there, and we talked to our parking enforcement and parking management folks and they confirmed that PBOT did not do that striping. The petitioner did not do that striping, either. So, we handed over that issue to our parking folks and so they may at some point do some investigation or enforcement of that striping.

Fritz: But that side of the street does have public parking.

Arruda: Yes, it is available for public street parking. Yes.

Fritz: And will the vacation affect the public's ability to use the east side of the street parking?

Arruda: No. The vacation area ends immediately at the retaining wall, so the -- all the currently paved part of the street is remaining public street.

Fritz: So the street itself stays the same.

Arruda: The street itself is staying the same. The vacation area is just a little grassy strip and the retaining wall.

Fritz: So it already looks like it's in private property.

Arruda: Yes, it does.

Fritz: OK, thank you.

Hales: So that diagonal parking is not the City's doing?

Arruda: No.

Fritz: That looks like a good idea, actually --

Hales: A stealth striper went out there --

Arruda: Yes --

Fritz: There's a lot of parking there --

Arruda: I do not know exactly who did the stealth striping, but.

Hales: It seems to work.

Arruda: Yes, actually --

Hales: Ahead of their time -- [speaking simultaneously] -- our parking manager was dismayed to see that there.

Fritz: There's more to the north, too. Did you see that?

Arruda: Oh, on the other side of Spokane, yes.

March 30, 2016

Hales: OK. Other questions about this proposed vacation? Thank you very much. Anyone here to speak? This is a hearing on this proposal. OK, seeing none. This passes to second reading next week.

Alright, now we're to our afternoon calendar, which is starting with item -- well, consisting of items 314 and 315. I assume you want them read together?

Fritz: Yes, please.

Item 314.

Item 315.

Hales: Commissioner Fritz.

Fritz: Thank you, Mayor. Commissioner Saltzman and I are co-introducing this and we've been asked by Development Services to take testimony on each of them separately even though we had them read together. So, we'll start with item 314, which is the tree project implementation report.

Portland is well-known for its greenery, and trees are a valued part of what makes our community special. This project started way back when I was a young community activist in Southwest Portland -- I got to hang out with some of the folks who helped instigate it yesterday evening at the southwest neighborhoods forum. And because of the tree review project started in 2007, we eventually -- and I say that advisedly -- in 2011 adopted Title 11, and because of the recession, we were not able to implement it until this Council authorized the funding. So, the tree code Title 11 went into effect on January 1st of 2015. It consolidates the tree policies amongst the Bureau of Development Services, Parks and Recreation, and at the time I had the pleasure of leading both as the Commissioner-in-Charge.

This afternoon, we will hear reports from Parks and Development Services staff about what -- the accomplishments, lessons learned, and challenges associated with the first year of implementation. A lot of progress has been made, and there are still many concerns. We will also have an opportunity to hear from the tree code advisory committee, which I formed in 2014 to ensure strong community oversight of the tree project implementation, provide recommendations about what is working well and what needs improvement. We've also had a lot of good input from the Urban Forestry Commission in Parks and from the Development Review Advisory Committee in Development Services. Commissioner Saltzman?

Saltzman: Thank you, Commissioner Fritz. I'd also like to thank staff for putting together the tree project implementation report we're about to receive. It's very timely, given that we are considering potential amendments to the tree code right now -- in fact, following this item.

The report gives us a chance to step back and really think about the bigger picture in what is happening with the tree project implementation and what we'd like to see moving forward. And so, I'm looking forward to hearing about that from Directors Mike Abbaté and Paul Scarlett.

Mike Abbaté, Director, Portland Parks and Recreation: Thank you, Commissioner, Mayor. Mike Abbaté, Director of Portland Parks and Recreation. And we do greatly -- Paul and I -- appreciate this opportunity to report to Council on the first year of implementation of the Citywide Tree Project.

As you know, some of the key goals of the Citywide Tree Project involve streamlining and consolidating tree regulations, improving customer service, improving enforcement of regulations -- all for the cause of preserving and enhancing the urban forest.

Implementation of Title 11 has been a huge undertaking involving the work of many people, and as you'll hear, the efforts so far have been greatly successful. I'd like to

March 30, 2016

especially commend our City Forester Jenn Cairo; from Bureau of Development Services, Stephanie Beckman; and many, many other staff who've worked hard over the past about 18 months in implementing this. And so, collaboration between Urban Forestry, Parks and Recreation, and Bureau of Development Services has really been remarkable, and that's been the key to this success.

We've also in this process -- ever since it was implemented -- seen that there are some areas of improvement that need to be made. And I think Commissioner Fritz identified that this is a project that started in 2007. It's nine years later, and so the code probably has to be updated, and we'll talk about one of those items shortly.

And so, we hope to pursue focused code changes dealing with the most significant issues that have come up in the past year. We track these key concerns, we'll be prioritizing them in the next few weeks and coming back to share that. So with this, I'd like to pass it over to Paul.

Paul Scarlett, Director, Bureau of Development Services: Appreciate it. My name is Paul Scarlett, Bureau of Development Services Director. I want to thank you for the opportunity to provide a report on the tree project that's been occurring over the last year and a bit. I want to acknowledge staff who have worked on this project, importantly Mike Hayakawa, who is now retired; Mieke Keenan who worked tirelessly in pulling all the pieces and coordinating the different bureaus and different regulations into the tree code and having the report to this point.

A lot of work has occurred over the period of time. The project has ramped up and effort is major. There has been and continues to be a lot of hard work by staff and bureaus that have been identified -- mostly bureau of Parks and Recreation and BDS. We've learned a lot about the requirements -- both bureaus have -- and we did a lot of outreach about those requirements. This involved over 50 training sessions for City staff, customers, and other groups.

We have also introduced Urban Forestry's expertise into the private development permit process. Urban Forestry tree inspectors do tree preservation inspection on permits and are available on-call to help BDS staff with tree issues. This has worked so well we're entering into another negotiation through an IGA to have the Urban Forestry be the expert we can consult with on issues around tree preservation or arborist reports where there might be questions. So, that's been a very helpful change.

I do want to point out that along with the big ramp-up in effort, a big part of the implementation effort has been the inter-bureau coordination at all levels. And Director Abbaté spoke to it -- the collaboration between he, myself, bureau staff -- our respective bureaus all the way to the front line staff. And I might add -- and Commissioner Fritz mentioned that BDS and Parks were under her portfolio a little bit over a year ago -- or less than a year ago -- and Mike and I would meet often. And we actually continued to do so because of the mutual investment and importance of the tree code and making sure that it continues to be processed well. Big high-level items come our way, and we're able to discuss those and give guidance to staff on how to resolve those issues. So, I do want to share that. Of course, we look forward -- I look forward to continuing to work collaboratively and efficiently on the implementation efforts both with the director and staff in the respective bureaus, and of course their customers who point things out to us.

There's also been a big effort into tracking the outcomes. Certainly, one of the -- you'll hear later -- what has happened since the tree code went into effect January of 2015. And so, data has been compiled to share information on what's working, what's not working. And you heard from Commissioner Saltzman, there's things around do we need to amend the current code to deal with, for example, large trees and fees that are in place that might not be proportional. Sort of some of the issues.

March 30, 2016

So, more work to come, but this is an exciting and very critical initiative and project. I might add -- kind of if you bear with me -- BDS works and you hear mostly about built environment and that we have regulations to ensure that things are built safely and livability, so forth. But we also have a huge investment in the natural environment, and trees, erosions, grading, all those things are also critically important. And so, we pride ourselves in making sure all of it contributes to the city's livability.

And of course, Portland is a beautiful place. It's unique, it's special. I was on a jog at lunch at the Waterfront Park and the blossoms are coming out. And I had good fortune as a student athlete in college and beyond to have traveled to a lot of places, and you can see the difference. Portland is unique. It is beautiful. You've got tree-lined streets, you have parks, you have neighborhoods that have large trees, small trees, shrubbery, and it's all protected. We have regulations. And Commissioner Fritz mentioned 2007 -- I happened to be now a long-standing employee -- I was here prior to that, and I remember the code for trees being in like seven different places and you to go to Delta Park, and here, and there. And so, we made this gallant effort that took a long time, but now it's in one code and maybe here and there and other places, but Title 11 -- you can go there and find out, how is this impacting neighborhoods? What is required? How does BDS staff deal with a particular issue and what does Urban Forestry and Parks do? And so, I want to commit to you that BDS -- and I'm proud of our staff -- that we are in this with Parks and others to ensure that the tree code contributes to the city's livability and continues to make Portland a beautiful place and a special place and a unique place. So, with that, I'll hand it over.

Hales: Thank you both.

Abbaté: We're going to turn it over to Jenn Cairo, the City Forester, and Stephanie Beckman from BDS.

Fish: I just wanna say, when Paul says he's jogging, that's a euphemism because he's a famous sprinter. And I had a friend visit the other day, Paul -- one of his first times in Oregon. He's 57 years old, and he runs the miracle mile in Manhattan and he is in the top five in his age group and he recently ran a sub four-minute mile.

Scarlett: Wow, that's crazy. That's good.

Fish: He could probably almost keep up with you.

Scarlett: No, I actually really do jog now -- [laughter] -- I live off the memories. [laughter]

Hales: Thank you. OK. Come on up. Good afternoon.

Stephanie Beckman, Bureau of Development Services: Thank you. I'm Stephanie Beckman, senior planner with Bureau of Development Services, and with me is --

Jenn Cairo, City Forester, Portland Parks and Recreation: I'm Jenn Cairo, the City Forester with Portland Parks and Recreation.

Beckman: And we're going to be giving the staff presentation today. As you know, Title 11 Trees became effective on January 1st of last year. BDS and Parks Urban Forestry are the two main implementing bureaus. We've been implementing the code for a little over a year now, and we're here to provide a report on how that's gone.

In the presentation today, we're going to be covering implementation activities and accomplishments over that first year, data report findings telling you a little bit about what's actually happened on the ground, some implementation challenges we have discovered, next steps, and resource needs.

Just to quickly go over what was in your packet, there were a few different documents that you received. The first one was a report to Council memo, and the presentation today is basically going to be just covering the key points of what's in that memo. There were three exhibits. Exhibit A has outreach information, exhibit B is the Tree Code Oversight Advisory Committee's recommendation report, and exhibit C was the

March 30, 2016

Citywide Tree Project data report for the first year. And we'll be touching on a little bit of what's in all of those exhibits as we move through the presentation.

The first item I'm going to cover is staffing coordination and program development. This involved a big effort to get the new programs called for under the Citywide Tree Project up and running. Some of the key items was creating a single point of contact for tree-related inquiries, really responding to concerns the public had about not having clear information about who was responsible for what aspects of tree issues. Bringing Urban Forestry staff to the 1900 Building where they're available -- more available to the public, and also responding to and providing tree expertise for inspections and providing information for the development review process when tree issues come up.

Urban Forestry also established some new programs of their own to review trees on the City's capital improvement projects providing early consultation on those, a streamlined programmatic permit for utilities and other public agencies that do routine tree work, and a streamlined online street tree pruning permit option. There was also a major staff training effort with -- we tracked over 30 staff training sessions with six different bureaus, but we're sure there were a lot more in individual work groups.

Moving on to public outreach. A lot of work went into getting the word out to the public, as Paul mentioned earlier. We held training sessions geared toward different groups, both at the City offices and out in the community for different types of groups like development customers, tree care providers, and neighborhood groups. We also developed and implemented an outreach plan with the help of a consultant, EnvirolIssues. The primary goal of the outreach plan was to let people know about the new code and where to find information. The secondary goal was to provide education of the value of trees and what that does for the city as well. Information was distributed a number of different ways that are listed on the slide here, but you may recall seeing kind of the catch phrase, "call before you cut." And we put that out in neighborhood community newsletters as well as distributed at community events with a refrigerator magnet.

I should also note that this month, there was a set of targeted outreach emails and letters that were sent out as a way of getting the word out before spring yard projects started. Those went to about 450 recipients of different groups like environmental groups, neighborhood groups, and local businesses that do tree care in nurseries and that sort of thing. And as I said earlier, exhibit A provides more details about the outreach that was done.

BDS and Urban Forestry jointly staffed the Tree Code Oversight Advisory Committee. It was the citizen group that was formed by Commissioner Fritz to provide advice on tree code implementation for the first year. They met for a year and issued a report in February, which is exhibit B in your packet, as I mentioned earlier. Members of the oversight advisory committee are here to present their recommendations after the staff presentation, so I'll just quickly note that the report found implementation of the code as written was generally successful. Of course, there were some bumps in the road that it has not met community expectations primarily regarding preservation of large trees. I should also note that the report primarily reflects the views of the final eight members. There were four additional members originally that resigned that represented development interests. They resigned near the end of the process before the report was created.

There has been quite a bit of work done to date on code changes and clarifications. The first is the administrative rule filed in October that established specific replanting standards where the code left the requirement for replanting up to City Forester discretion to provide more certainty in those situations. Second is the proposed amendments you're going to be hearing about next on the agenda regarding preservation of large trees in development situations.

March 30, 2016

And then lastly, BDS and Forestry staff have been working with the Bureau of Planning and Sustainability to address some technical and clarification issues as part of the annual Regulatory Improvement Code Amendment Package -- so, part of RICAP 8. There are a number of tree issues that are proposed to be addressed in that package. Unfortunately, that has been delayed a bit because of staff turnover, so we're expecting that package to come before Council in October.

We've also been monitoring how things are going. This includes tracking issues with the code by both bureaus, and as I just noted, some of those kind of more technical issues have been included in the RICAP 8 work plan. This also includes tracking outcomes of the code. There was work -- a lot of work done up front to get data collection processes in place so that we're able to provide you the reporting now, and that's resulted in the Citywide Tree Project data report, which was exhibit C in your packet. And on the slide here, there's a list of the main topic areas covered by the report, and we're going to cover just a few of those in the presentation today, but there is a lot more detail in the report itself.

So, the next few slides are data report findings and they're a little meaty, so bear with us. I'm going to cover development permits on private property, which is the portion of the code implemented by BDS, and then hand it over to Jenn to cover some additional findings and then finish out the presentation.

So, all of the findings on this slide are for development permits on private property -- so, not street trees and not someone wanting to remove a tree in their yard just because they want to. It's for development permits. So, for example, a building permit for a new house, apartments, or commercial structures, or additions, or alterations to those same properties. And generally, what we're talking about here is tree preservation and tree density standards. And when we say tree density, we're really talking about tree planting standards.

The first three bullets are telling us how often tree preservation and planting standards applied and to what type of permits. And we found that the code applies to actually a relatively low percent of permits overall --15.7 percent -- and only 3.9 percent of commercial permits.

Hales: That seems low to me. Is that because you're also sweeping remodels in with this -

Beckman: Yes. So, yeah, it's important to keep in mind that this is all permits that BDS issues, so it's over --

Hales: Remodels, tenant improvements, all that stuff is in the basket along with site development stuff that actually affects trees?

Beckman: Yes.

Hales: OK.

Beckman: So, it's over 7000 permits, and over half of those are alterations and those really rarely have tree preservation or planting requirements because they're internal to a building or they don't reach the dollar threshold that requires upgrades. So, that's why it's low. There are also some exemptions, which I'll talk about in a minute, which is another reason why those numbers are low.

Title 11 does apply to a much higher rate for residential permit subtypes, up to 63 percent for new construction, and then you can see for additions, 27.6 percent, and demolitions, 34 percent.

The third bullet provides information about exemptions that we're able to report on. Sites that are less than 5000 square feet are exempt from tree preservation requirements. So, about one-fifth of residential permit sites -- that's 940 sites -- were exempt due to site size. They were less than 5000 square feet.

March 30, 2016

And then certain commercial employment or industrial zones are exempt from both tree preservation and planting requirements because they are higher intensity zones and they are exempt from those requirements. About one-third of commercial permit sites -- that's 439 sites -- were exempt because of zoning. They fell into one of those exempt zones.

So, while some of these rates of applicability may seem low, it is important to note that there were no tree preservation requirements that applied in most of these situations before, so anything you're seeing apply is newly added as part of Title 11. The one area we did have tree preservation requirements prior to Title 11 was new single family residential construction. So, we did collect data from 2014 on this permit type in order to compare outcomes pre-Title 11 and post, and we actually found similar results from 2014 to 2015 and actually slightly higher rates of planting and preservation in 2014.

I'm going to move on. I have a few more points to cover for development permits and private property. So, in development situations, Title 11 always provides an option to pay a fee in lieu of preservation or planting requirements. You always have that option. So, the first bullet is showing the percent of residential permits where preservation or planting standards apply that paid a fee in lieu of either preservation or planting. We found the rate of payment in lieu is highest for residential demolition permits at 43 percent. That affected 86 permits. But overall, it really doesn't seem to be occurring that often. We've got 18 percent of new single family residential paid a fee in lieu of preservation -- that's 17 permits -- and two percent of new single family paid in lieu of planting at seven permits. And again, I want to emphasize this is the percent -- it's not a percent of all permits, but the percent of permits where the preservation or planting standard actually applied to the site.

The last three bullets tell us about trees planted, preserved, and removed. We found that there's a relatively low percent of large canopy trees being planted on development sites. Only 13 percent of large canopy trees were planted, even though there's a built incentive in the code to plant larger trees in that if you plant large canopy trees, you get to plant fewer trees. So, we were a little surprised by that finding.

Approximately 60 percent of inventoried trees were preserved, which is actually a pretty high rate. And I want to clarify that this includes only inventoried trees, so sites that were exempt where there was no tree plan required, we wouldn't have information on those trees. This is only for sites where we actually collected the information.

And lastly, the average size of trees both that were preserved and removed was 17 inches in diameter. And as a reminder, the code applies to trees that are 12 inches in diameter and greater. And that is all that I have. I'm going to pass it on to Jenn.

Cairo: Good afternoon, Mayor and Commissioners. I am going to cover non-development tree permit information and then go on to customer service, some implementation challenges that we experienced, a little bit about resources for implementation, and then some next steps.

Hales: I'm experiencing a challenge -- I strained my back but not by climbing a tree, so if I get up and wander around, that's why.

Cairo: You can stand.

Hales: [laughs] I might.

Fish: Mayor Hales, I think you are channeling my back pain. For the last -- the entire day, I've had the same strain. What triggered yours?

Hales: I don't know -- must have been that budget hearing. It slayed both of us.

Fish: You're blaming the public utilities for this?

Hales: That's right -- they get blamed for everything else.

Fish: Why not.

Cairo: As long as it wasn't trees.

March 30, 2016

Hales: Trees are not at fault here, let's be clear about that.

Cairo: OK, non-development tree permits. As a reminder, non-development tree permits are, for example, when someone wants to remove a street tree or regulated yard tree and there's no associated development or ground disturbance.

We saw over the course of the first year a significant permit volume and workload increase greater than we anticipated seeing, actually. We saw 34 percent more permit applications for non-development permits and a 26 percent increase in just public inquiries to our trees at email address and 823-TREE hotline number. And the private tree removal application specifically increased more than four times over the previous year's volume.

The vast majority of the non-development permits that were issued over the first year were referred to as a type A, which is a little bit of code jargon. These are issued as per specific standards and review factors in the code for regulated trees that are, for example, dead, dying, or dangerous; nuisance species trees; trees within 10 feet of a building or an attached structure; or up to four non-nuisance species that are healthy private property trees and less than 20 inches diameter breast height per calendar year. And in these cases for type A permit as per code, tree-for-tree replacement is mitigation specified.

There were far fewer type B permits issued, only 51 of those total for the course of the year. And as a reminder, type B permits are for healthy, non-nuisance, and private trees greater than 20 inches diameter breast height, or more than four healthy non-nuisance trees greater than 12 inches per site per year and are not within 10 feet of a building or an attached structure. As per code, mitigation for these is up to inch-per-inch to be determined on a case-by-case basis by the City Forester. During new code implementation, as Stephanie reminded us, mitigation in these cases was further defined by the administrative rule that was finalized in October of 2015.

We found that for type B permits, mitigation often falls below the tree-for-tree standard of type As, which is to say that more trees are being permitted for removal in those type B situations than are required to be replaced. We also found that large form and evergreen species are often replaced with small form and deciduous trees. For example, on private tree removals, we saw a net loss of over a thousand large canopy trees and a net gain of over 500 small canopy trees.

This is important because large canopy and evergreen trees provide notably greater public services than others. More improvement of air quality, mitigation of summer heat, retention of stormwater instead of having it managed by expensive public systems, sequestering carbon, and providing wildlife habitat. So, large and evergreen trees do more of that, and evergreens do it year-round.

These high service trees maximize the urban forest asset. They're the most desirable to preserve and to plant in the city where we have limited space for trees. And these are also goals in the City's urban forest management plan -- to have larger quantities of large and evergreen trees.

The last bullet here is about code enforcement. The first six months of code implementation focused on increasing awareness of tree regulations and doing a lot of outreach with the public. We all suspected that most folks didn't realize that there were tree regulation and wanted to spend a lot of time and energy -- as much as we could muster -- trying to change that. So in those cases, in those first six months where we did receive complaints about compliance, warnings were given and explanations and some interpretations of the code.

Over the course of the year, there were 699 code compliance complaints of which 22 -- only 22 -- were pursued as actual violations. Most were resolved prior to moving to a violation or fine stage. For example, in some cases, these were reported by the public and

March 30, 2016

they may have been unfounded, so actually weren't violations. Or, others could be rectified without moving to the fine stage. For example, remedial pruning on something that had been done incorrectly before. And to date, the enforcement system for non-development permitting is not reactive -- it is reactive, I'm sorry. We really base it off of complaints received about possible violations rather than doing a consistent compliance check ourselves. And this is due to staffing levels at present.

I'm going to move on to customer service. This was a primary goal of the Citywide Tree Project. Intake staff -- which are primarily our tree technicians who serve in this role -- met response goals for 99 percent of the public inquiries. So, that's a good rate. Our response goal is two business days. And this was even with an increase in this initial contact with customers of 26 percent over 2014 volumes. And the primary means of this kind of contact is our hotline, 823-TREE, 8733 for all your tree needs in the city. Or emailing trees@PortlandOregon.gov. We also have staff at the permit center on the first floor in the 1900 Building.

Moving on to initial inspection response. Our tree inspectors met the goals for initial inspections on tree permits at least 60 percent of the time, and as much as 86 percent of the time depending on the type of permit. And this is similar to the levels of meeting standards in 2014, but there was a significant workload increase, as you recall from earlier slides. So, that is an interesting thing to note. Our target response time in these cases is 10 business days, and this is from when the permit is received by the tree inspection staff to when they start working on it with the applicants.

The reason that some of the permit types are at 60 percent and others are at a different number -- 86 or in between -- is because there are different processes and time frames for different permit types. For example, our target for street tree root pruning permits is 48 hours in order to coordinate with PBOT sidewalk inspection timelines. So, we prioritize the permit workload according to the permit type, and other permits therefore take longer to do due to the number of staff we have. And I'll just also note here that these same staff, our tree inspectors, with support from our tree technicians provide 24/7 response to tree emergencies and fallen trees in city streets to keep them safe and clear the way for traffic. And this emergency work displaces and delays permit processes whenever the wind blows a lot.

Last point here is we did have a customer service survey conducted by the independent consultant Envirolssues. It was an internet-based survey that ran for a month, and the respondents self-selected -- they chose to respond. There were about 350 respondents, and we found that they rated customer service good or outstanding 60 percent of the time, versus 23 percent poor or needing improvement. A question was asked about their previous experiences related to their more recent experiences, and most said those had improved. And many of the responders also highlighted professionalism and helpfulness of staff, and we received more positive than negative comments.

Now, I'll get into some of the challenges of implementation. A key goal of the tree project was to preserve and improve the city's tree canopy, so we evaluated how the first year went in regards to the urban forest. And we found that -- as we heard earlier from Stephanie in the case of development -- also in non-development situations, we see a lack of large trees being planted back. And in non-development, for some permit types, more trees are permitted for removal than required to be re-planted, meaning there's a net loss of large and evergreen trees. So, our data suggests that the trees being planted will not fully replace tree canopy lost, resulting in long-term canopy implications.

We also found that there was some questions about the ability of the current tree preservation standards to incentivize the retention of high-quality, larger trees. In development situations, for example, applicants choose whether they preserve a tree on

March 30, 2016

the property or remove and pay a fee in lieu of preservation. And in not all cases do applicants choose to retain trees, or, the type of tree they retain is up to them as well as long as it's above the size threshold. It might not be the best tree, the healthiest tree, the largest tree, or the highest service tree on the property. Also, I'll mention the present fee in lieu rate is less than the full recovery cost for planting and establishing trees to partly compensate for those removed.

Our last point here -- one year of implementation provides a small data sample. Trees and forests show trends over longer time periods, and our methods to measure those changes are on longer time frames than one year as well. So, we've got a good sample and a baseline to start with and we've got some indications and we'll need to continue tracking.

A few more challenges to mention to you in regards to implementation. Some tree plans we found that are submitted as required parts of applications in development situations can be inaccurate -- this is anecdotally. For example, tree health, the size of the tree or species we found sometimes were incorrect. Also, the way we're implementing it now, building inspectors are the staff who confirm tree-related information on development sites in some cases. For example, if tree planting was required, those are the folks who are the ones who are going to be out there doing the whole building inspection and trying to confirm whether the trees meet the standards that are required. Building inspectors generally have other expertise from trees, and tree permits involve tree-specific information such as appropriate tree protection, fencing, installation, were the trees planted correctly, are the species that were permitted the ones that actually ended up on the property. So, that was a challenge -- is a challenge.

There are also some unintended incentives to removing trees during demolition phases. For example, in a demolition permit, the applicant should show the trees but can and sometimes removes those to not have to address them in the land use review process that might come later. And these last two points, compliance is largely complaint-driven in non-development, as you heard me say earlier. And some of the staff workloads -- especially in Parks -- for non-development permitting and also City development projects resulted in response rates that are lower than we would like to see, given the staffing levels.

Fish: Jenn, can I ask a question about that?

Cairo: Yes.

Fish: What's the impact on your workload of the work that PBOT does with homeowners to replace or repair sidewalks? So, there's a lot of that going on in my neighborhood. It seems like every street has some work going on. And my understanding is once it's opened up, someone has to come and verify, has to inspect it about roots and tree-related issues. How does that impact your workload?

Cairo: Right. Good question. There is an impact. It is a lot lower impact, I think, than the other permit types we do. The situation you're speaking of, Commissioner Fish, would have come to us as a City development project in most cases if it's like a whole stretch of street that's being worked on, and we assign a tree inspector to that early who works with the PBOT staff directly, and actually going out in the property and looking at roots is a detail of that process. They do take a lot of time, but they're also spread out a lot, and the tree inspector does a lot of other permitting work in that same time span.

The other thing that you could be seeing is when there's a sidewalk root conflict, and it's not -- or there's a smaller project that really isn't a capital improvement project, that's the root pruning permit situation. And that is a significant amount of work for staff, especially because we're committed to responding in 48 hours in those situations because we don't want to leave the sidewalk open for people to trip on.

March 30, 2016

Fish: So would it be helpful if PBOT issued fewer of those letters requiring homeowners to repair the sidewalks? [laughter]

Cairo: For workload, yes. For other things, perhaps not.

Novick: It would also be helpful if Urban Forestry dedicated a huge public relations budget to explain to people they can remove tree roots that are going to break up their sidewalk.

Cairo: With a permit, yes. If possible.

Fish: I want to ask you about complaints and non-development. Are you seeing any change in the amount of complaints around potentially improper, illegal pruning?

Cairo: I'm getting nods of no from the staff in the audience. I don't think we saw that as a distinct change in the trends we see. We do get those complaints, but they haven't increased, to our knowledge.

Fish: Is that because of our education and outreach efforts with the contractors making sure that they understand what our code requires that's maybe unique and different from other jurisdictions?

Cairo: I'd like to say yes, but we haven't really found a way to measure that yet. We do have a thorough attempt at trying to communicate with contractors. We need to do more work in that area. We know that some still do work without the appropriate permits, and sometimes we know they knew they should have had them and sometimes they don't.

Fish: Well, the example -- the last time you and I had a conversation about this was when I observed a company that was sort of doing this blitz through the Pearl District. And when I spoke to them, they were a California company that had just scheduled these visits of cities up and down the coast, and they did not seem to be aware of any of the unique quality of our law. And I think you folks ended up sending them a note or something to make sure they became aware. But those -- it's the people doing that sort of rider work, coming through our community, who are low bidders, may not know our laws, and that are here quickly and gone. Those are the ones I have a concern about.

Cairo: And I think, Commissioner, you're right to have that concern. They're hard for us to connect with since they're not in the community. Stephanie mentioned earlier that we did a whole other set of emails, just reminding people "call before you cut," and it went to our usual suspects -- you know, those that we have on file. So, those from out of town that we don't know about. We're really hoping they just think that a city has such regulations and would want to check. If you can think of a better way to catch that before it happens, we'd love to hear it.

Fish: The other way to get at it is to communicate with the building owners. Because often, they're hired by the major property owners, they go through an RFP process, they choose the low cost. And sometimes, the low cost is someone from out of the community that doesn't know our rules. But I think we squarely put the burden back on the property management company.

Cairo: Thank you, that's a good comment. Where was I? I finished. OK. I'm going to speak a little bit about resource needs. Funding of Title 11 implementation included establishing new positions, and those were one permanent BDS associate planner. Council also authorized two Parks Urban Forestry tree technicians, those are the folks who do the 823-TREE and the email as well as the permit center; and two and a half Parks tree inspectors -- those are the folks who actually have the tree expertise and handle the permits. We found that given the unanticipated higher workload, we had to get some additional staff during --

Fritz: I think we anticipated it, we just didn't get the staffing for it.

Cairo: That may be true as well.

Fritz: That was nice of you to frame it like that, Jenn. Good job.

March 30, 2016

Cairo: So, over the course of the year, we found ourselves needing to bring on in a temporary capacity someone who served as a tree technician and two temporary tree inspectors.

So in terms of future needs, if we're going to retain the workload and turnaround times that we've seen this far, if our permit volumes stay at the same level that we have seen, we'll need to add some permanent positions. We've already done so in one case and are working on another one currently, and others we're planning on for the future -- when we can -- funding them through tree permit fee revenues. And some of those short-term needs are an additional permit tree technician -- that's the one we have already -- additional tree inspectors, and additional staff needed to do policy and outreach type work. And we're working on that one now.

Fritz: To be clear, Council, we're going to be asking for position authority, but funded as expected through the program fees.

Cairo: Next steps for the Citywide Tree Project. You've heard that, to date, we haven't done any real proactive compliance checks, so we are aiming to change that in the near future. We're beginning work on a compliance strategy, and it will probably include encouraging and supporting compliance through means such as outreach and training, and also some form of conducting inspections for permit compliance rather than waiting for citizens to call us with concerns. Better enforcement of the City's tree regulations was also a Citywide Tree Project goal, and it's a concern that we hear frequently from the public and stakeholders. This compliance work we feel is very timely, since we have had a significant general and targeted outreach push and we've learned a lot from the first year of implementation to help us.

Another next step is addressing certain code issues that have been revealed in the first year of implementation. We are hoping to do an amendment project, and this would consist of a BPS-led code amendment project. Parks and BDS would be central to the project, and this project would involve certain issue areas that have shown to be of concern in the initial use of the code, but it would not be a full-scale opening up and revamping of Title 11. And that project would absolutely need to include other bureaus and public stakeholders in the process.

Some first steps of that project would include a more thorough project scoping of what issues could be addressed, and the central project staff for the three bureaus would be funded from Urban Forestry trust funds, not from general fund and not in budget requests. Those trust funds can be used in support of urban forest management and Urban Forestry programs, and they are separate from tree mitigation payments that go into the tree planting and preservation fund established by the new code. So, each time someone pay as tree mitigation fee, those funds go for tree planting and are not the funds we're speaking of. And we would hope the project could start as soon as possible.

Saltzman: What are the trust funds?

Cairo: There are two types of general categories of trust funds in Urban Forestry's portfolio. One is very narrowly defined by code, it's tree planting and preservation, and its sources include primarily -- there are a few sources, but mitigation payments that are received through tree permitting for removals. The intention of that fund is to replace what's lost to some degree. So, that's for planting, and it could also be used for purchase of property or property rights where there's significant trees. That's not the one we're talking about.

The other category is Urban Forestry trust fund, it's very general. And that fund can be used for education, outreach, all manner of program support and implementation needs that we might have, potentially even things like purchasing equipment. And it's not an

March 30, 2016

unlimited fund, but in our determination, amending the tree code is a very high priority and that would be a reasonable and appropriate use of the funds.

A little bit more about the amendment project. You actually have a handout in your packet, also, on Parks letterhead. It's just two pages, and it a list of six categories with some subcategories in it. And the six categories are the same as are on the slide you have here too. These are broad categories in which we feel that there may be amendments needed, and we'll be working more on these in the next few weeks to bring back to Council for consideration. And these categories reflect the findings of staff from the bureau's tracking and doing some program evaluation about what is working and what is maybe not working so well in the code. And the recommendations and questions from the oversight advisory committee -- and they're going to report to you after this, you'll hear more about that -- and others. And you've heard many of these issues today in one form or another.

Please note these are areas to review, not necessarily to change. The project itself would determine if and what changes should be made. Oh, and I wanted to note, the last bullet on this slide -- so the sixth category area, technical items and minor changes -- includes potentially changing the street tree pruning permit threshold from one-quarter to one-half-inch. The Commissioner --

Fritz: Commissioner Novick's amendment.

Cairo: The Novick amendment.

Fritz: So, I'm not seeing that in my packet -- I'm seeing my colleagues flip through theirs. What we're proposing, colleagues, is to continue this hearing on the report for four weeks so that there's more input into what the side boards of that amendment project are. And so, we can get that information out as to what the first scoping of that list of potential amendments would be, and then encouraging public input, including today, on what issues are prime to be addressed in the next -- in this amendment process whenever the Council authorizes the staffing to be able to do it.

Novick: So, this is going to be a lengthy amendment process. Does that mean we can expect that we can see the amendments proposed like a year from now or something like that?

Fritz: Yes, and we could also -- as they get finalized, we could do full packages of them if you prefer rather than bringing them all together at once.

Novick: Well, I would -- I mean, I have highlighted this issue of you have to get a permit in order to prune a branch of more than a quarter inch, which frankly suggests that you'd need a permit before your kid climbs a tree because he or she might inadvertently break off a twig. And I think that we've made a large number of tree owners in the city into law-breakers. So, if there was some way -- I know the discussion about how you arrived at half an inch, but if there was some way to speed up that process, that would be nice.

Cairo: OK. Thank you, Commissioner. And we also -- one of the early steps would be prioritizing also what things would be working on and in what order.

Our recommendation today from staff is that Council carry over the report and the accompanying documents, including the sheet that you hopefully all have now about potential amendment project, and vote to accept them with that project category list in four weeks. The Tree Code Oversight Advisory Committee representatives will now give you their report, and time for questions and deliberation will follow. Thank you.

Fritz: Thank you.

Hales: Thank you both.

Fritz: Welcome, and thank you for all of your work. It's been a long project and you've put in a lot of time, I appreciate it.

March 30, 2016

Arlene Kimura: Thank you, Commissioner Fritz. Thank you, Council, Mayor Hales. I had the -- I guess it's an honor to be one of the co-chairs of this committee. And it was a fairly intensive process.

Fritz: Can you state your name for the record?

Kimura: My name is Arlene Kimura, and I live in East Portland. Thank you very much. We want to also thank the staff for the work they did. They provided an enormous amount of data, and what we did learn is there's not enough data available to make a real comparison. So, the staff is aware of that and is trying -- has done the very best they could, given the amount of time we had.

We do feel there is more work that needs to be done, as you have seen from the staff report. There's a number of issues that came up from the citizen point of view, which our committee heard about in great detail. And I think that those were unintended consequences that did not actually get addressed in the initial rollout as well as the code itself.

I want to say that one thing I think has been an issue for us -- those of us who live in neighborhoods that are not tree-lined and have the kind of mature plantings -- is that we're losing our canopy at a much faster rate than any place else because we also have available, developable lands. It is critical that we get this code and be able to do that in a way that is supportive of the citizenry as well as the environment. We're supposed to be a green city, we also have the issue of affordable housing. I don't think they are mutually exclusive. And people who live in affordable housing also deserve a nice environment. My neighborhoods are economically not as advantaged, they are not as old, and they were all farmlands so there was lots of clearing. I do believe this is a first step -- this code and the implementation is a very good first step, but more work needs to be done. And like Title 33 and Title 17, Title 11 should be an iterative process. And we are going to be looking at things as they come up, and I don't think you need to whole cloth revisit it, but there are tweaks that are going to happen as we learn more things and as development and the City moves forward. And with that, I want to turn that over to Kris.

Kris Hikari: Thank you. My name is Kris Hikari, formerly Kris Day. I'm an Urban Forestry Commissioner, as well as Friends of Trees regional programs manager. I live at 8715 N Foss Avenue in North Portland.

To begin with, I'd like to thank the bureau directors' acknowledgment and dedication to protecting Portland's trees, as stated earlier. I felt that was a good omen coming into today's session here. I'd also like to thank all of you for the energy that you put into putting in place a stop gap emergency amendment here to protect large trees and development. Thank you again for that. Along those lines, your responsiveness to public testimony earlier this month -- it was very nice to see on-the-spot changes in your recommendations in such a quick manner. As one of the audience members, I was really impressed by that. But moving forward, I'd like to challenge all of you as well as everyone else in the room to move beyond thinking of there being an inherent conflict between these two land uses -- that is, development and trees.

It seems that the current paradigm sees infill development, commercial development, development in general as a good thing for Portland, and I don't disagree. Development-related activities spur the economy, provide additional tax bases, and provide of course much-needed housing for our growing city. The same prevailing paradigm is also doing a pretty good job of incorporating the values of trees into our policy language in Portland -- that trees provide essential services to people, the city, and our surrounding ecosystems. City trees help slow the effects of climate change, they clean our air, help keep polluted runoff out of rivers. Trees increase home values and positively contribute to measures of human health, and on and on -- you've heard all of this before.

March 30, 2016

My point is that we need to set up a system of urban land management that provides tangible reinforcement of values that we put on development on to trees as well. Right now, the ways that we're acknowledging trees are in many ways still on paper -- in reports, in guidelines. We need trees and the spaces needed for them to grow to really make it on to the priority list. And we're making great strides. Again, thanks to the lot of you and many folks in the room here. But again, we need to recognize, yes, trees have been prioritized lower, historically, and we need to turn the tide and flip that page and give them their due.

The piece of the OAC recommendations report that I'd like to highlight here offers suggestions on moving us into this next paradigm and how we think about and manage our urban land resources. It concerns the preservation standards and flexible design options, details of which can be found on pages seven and eight of that report, which is I believe exhibit B in your packets. Notably, Jenn Cairo also called attention to some of these in her presentation a few minutes ago.

In countless meetings, the committee attempted to explore ways that trees and development can complement one another rather than compete with each other. And I think it's fair to say that all of us on the committee felt additional flexibility and incentives to meet standards and protect trees are needed for developers as well as homeowners doing improvements, and particularly for trees 20 inch DBH and larger. Support was expressed specifically for reduced setbacks, waiving parking requirements in single dwelling zones, and allowing parking and required outdoor area within front setbacks.

We also recommend a discretionary review process be required when trees 36 inches or larger are slated for removal. And this is the threshold identified in the current amendment as where we move into inch-per-inch mitigation, so it sort of falls in line with a size of tree that is already jumping to an additional layer of review. This would shift the burden of proof to the developer to demonstrate there's no other way to complete a project than to remove a vital element of the city's infrastructure in what amounts to essentially a private profit situation. We cannot continue to give away such high service-providing features of the environment as well as future potential for them as we do when we convert unbuilt urban spaces to buildings or parking lots or sidewalks or streets.

Lastly, we feel that to achieve better consistency across city regulations, as well as to achieve truly meaningful transition in our collective thinking, trees as essential infrastructure elements -- and again, the space needed for them to grow -- must be addressed head-on as part of any and all development and land use projects, such as the currently-underway mixed use zoning project and the residential infill projects.

Coordination with other City policies, projects, and codes is paramount to the protection of Portland's urban forest. And with that, I thank you all again, and I will pass the mic to Jim.

Jim Labbe: Thanks. I'm Jim Labbe, I served on the original citywide tree project advisory committee, and then last year, the oversight committee. I'm going focus on two specific recommendations on page nine of the report that really deal with closing key gaps in Title 11 that I think are important aspects or ways that Title 11 aren't meeting Portlanders' expectations.

We talk about this as a Citywide Tree Project because we originally developed a consistent, cohesive, comprehensive framework, but the reality is we've fallen short in key ways, and the OAC recommends looking at those. Broadly, they fall into some of the triggers and exemptions that affect specific types of developments and then also issues in the public right-of-way. In terms of valuing the triggers and exemptions, the oversight committee recommends the City evaluate these triggers and exemptions -- specifically, the 5000 square foot site trigger, which applies in pockets around the city -- but also more broadly, the exemptions for commercial and industrial lands. Which, if you look at a map --

March 30, 2016

and the Urban Forestry developed a map -- it's quite striking the extent that we're leaning out of the citywide tree code. And these are areas that are particularly important to combat Portland's serious urban heat island problem, important to critical health, and important to public health, and they also tend to fall in areas -- to an extent, industrial land is closer to lower income neighborhoods like on the Columbia corridor in East Portland. There's important -- it's important to address trees in those areas to achieve the equitable health outcomes that are high priorities for the City.

The other area is in the public right-of-way. We've heard a lot about the importance of concerns about large, healthy trees and private development situations. We also heard about problems with large, healthy trees on the public right-of-way, and most of them being removed and the need to grow them there. So, the committee recommended kind of a big look, inter-bureau unified big look at addressing trees in the public right-of-way -- how we can preserve large, healthy trees there and how we can help grow more there. It's clear there's significant and avoidable conflicts between street improvement and tree preservation and planting, and we need more leadership, innovation, collaboration in the bureaus to address these conflicts. We need to make innovative, tree-friendly designs and technologies for sidewalks -- for example -- the default, not something that neighbors have to fight for.

Cully residents pointed out to us that in their neighborhood, 75 percent of large -- trees over 24 inches in diameter -- are in or near unimproved streets, which make up 60 percent of all the streets in the neighborhood. And you have similar situations like this throughout East Portland, even in Southwest Portland, too.

So, I think there's lots of solutions here that would be lots of support in the community, but we need to address those and we need to address them soon. I think we should start, for example, in the mixed use zone project, which I think we were also surprised to hear really wasn't dealing with street trees in the public right-of-way next to some of these areas that are the corridors, the main commercial corridors -- what we want -- envisioning these places as livable, viable places.

Lastly, I'll just point out that in 2007, the data indicate that the City's falling the farthest short in achieving its tree canopy targets in two areas: commercial industrial land and in the public right-of-way, where we're only about 50 percent of the targets for those particular areas. While Title 11 is expected to only be one tool to achieve these targets, it's a big concern that Title 11 exempts or really is kind of the weakest in these very areas. So, I hope that relates the need to put focus in both of these areas going forward. Thank you very much for the opportunity to serve on the committee and to report to you today, and we look forward to being involved in the next steps.

Hales: Thank you, thank you all.

Fritz: Thank you for all of your service.

Hales: Thank you very much. Do we have some other invited testimony?

Fritz: No, that's it. And I understand that the staff wants us to take testimony on the report first, and then we move to continue it for four weeks.

Hales: Alright, then let's do that, please. Who's signed up?

Moore-Love: For 314 I have five people signed up -- four people.

Hales: Come on up. Good afternoon.

*****: Good afternoon, Commissioners.

Fritz: Give us your name for the record, please.

*****: Um -- excuse me --

Jim Kitchin: I'll introduce myself. I'm Jim Kitchin, general contractor. Thanks for having us. A lot of work that's gone into this. We are general contractors specializing in renovation and remodeling industry, and this is specific to the report just in the remodeling context.

March 30, 2016

We both belong to the Oregon Remodelers Association and the Homebuilders Association. The Homebuilders have not been participating in this process, unfortunately, and we've been a little bit absent as well. We've all been very busy since the recession.

So, what we've seen -- we understand the health and vitality of the urban canopy and trees in Portland in contributing to livability. What's been frustrating is the consequences of the new tree code regulations. It's been difficult, people have been frustrated, there's been an educational process, they don't understand the fees involved, the level of protection that we had to go to. Our comment -- my comment would be that the regulations are not clear and consistent and easy to implement. I think there's still a learning curve, and we've had frustration expressed by our building inspectors. They've spent time presenting to us at some of our membership meetings. Our clients are frustrated and angry. I even had a retired building official that was very angry about the requirements for the tree code. Wanna say anything, Joe?

Joe Petrina: Yeah. Let me introduce myself. My name's Joe Petrina, I'm a remodeling contractor. I've been in business in the city of Portland for 35 years. I also was born and raised in the city of Portland, and I live presently in Laurelhurst.

As a remodeling contractor, I come to you to suggest improving the existing tree code to serve both the urban forest as well as residents in the city. I believe in the spirit this code -- I believe the spirit of the code. However, I believe the present code has some unintended consequences to the remodeling industry and to landscape contractors.

I'm presently a member of the Oregon Remodelers Association as well as a member of the Homebuilders Association, which are two professional associations that represent the building community. I believe in the spirit of the new code, so I'm not here to protest the fact that we have a new code. I think it's great. As Jim said, we feel like there might be a few things that might be able to be tweaked in order to make the code a little bit more affordable but still live by that spirit.

At my house in Portland, I have a large canopy in my backyard. I have a 100-foot pin oak and I had another one -- pin oak -- and unfortunately -- tried to save it for five years and was unable to do so. I have two sweetgums in the front yard that are 80 feet tall. I have two smaller dogwoods, I have two 40-foot red leaf maples. So, I do like trees. I think we all do. However -- I also have to say that I believe that the trees beautify the city, that's how they help with the rain run-off, how they help improve the value of the property, our neighborhood, and the city as a whole. However, I am not in favor of the present restrictions.

I have come to the Council to express my concern about expensive procedures that are in my mind unnecessary measures for the code currently that are enforced. Speaking to the building community, to the City inspectors, City planners, and City building officials, I've come prepared to make four proposed changes for the remodeling projects. The four proposed changes would change the code with the regard of how to protect the trees.

The first proposed change that I would -- and I, by the way, I have e-mailed all of you this information, so you have it. The first change that I would recommend is that right now, the code is enforcing us to put six-foot chain-link fence --which I'm sure you are aware of -- around a tree. Sometimes, it gets to the point that it's such a distance around the tree that it's almost impossible or difficult to do the building. You know, like, there's projects where, you know, the tree has a canopy of 20 feet, 25 feet, and you're trying to put a driveway next to it. Well, it's legal to do it, but it is difficult because the protection is in the way -- [beeping] --

Fish: -- [inaudible] -- two extra minutes so we can get his amendments --

Petrina: OK -- I'm sorry --

Hales: Yeah, why don't you -- yeah, lay out your amendments.

March 30, 2016

Fish: You're in a sense giving us four amendments --

Fritz: He has emailed them to us.

Fish: Well, I'd like to hear them from him, if I could.

Fritz: OK.

Petrina: Thank you. I will try and pick up the pace. So, my suggestion -- instead of putting up the chain-link fence, my suggestion -- we talked to the members of the Oregon Remodelers Association. Instead of using chain-link fence, why can't we use the orange -- you know, there's a four-foot orange caution fence that an average contractor can purchase relatively inexpensively, they can keep it in their shop, they can use it. It's still a means of protecting that tree, it's just not as expensive.

Hales: You're talking about the plastic net?

Petrina: That's right -- with metal post, and it would be a four-foot high fence, and most contractors can afford to keep it.

Fish: And it probably doesn't rust. What are the other three, sir?

Petrina: Second proposal was that we think that there should be several things that are exempt, and one of the proposals is footings and foundations. Sometimes, you know, there's a deck builders -- I don't do really build decks, I do more major remodels -- but there's deck builders. Say they'll build a deck, and they build a deck in the backyard, and there's a tree in the front yard on the opposite end of the house that falls under protection. But that -- by code, the deck builder needs to protect the tree. So, he has to spend \$500 or whatever it costs to rent it, to buy it, to assembled it, dismantle it, take it back. For a small project. It seems like it should be exempt.

And then also, I think and we believe that the small additions for less than 200 square feet -- which I think was originally proposed for that to be exempt and then somehow it fell off the map.

Two other items for exemption would say hand-dug wells -- window wells for egress, and any other related items that would not affect the tree roots.

Kitchin: Low impact excavation methods.

Petrina: That's right. And I feel like this would save the homeowner unnecessary expenses but still live by the spirit of the tree code.

Third proposal -- let me try and sum this up. The trees located on a building site in a remodel should only be protected if it's a specific distance away from the work or if it's in the path of the construction, which I just explained to you about. I had a job recently where we were putting our front porch on this house and we are doing a kitchen remodel. There was a huge tree on the very back of the property. There was a fence between us and that back tree and there wasn't any work being done to the back, but by code, we are supposed to protect that tree in the backyard. And the owners said, "I can't believe it. I can't believe that we have to put tree protection and spend \$500 for a tree in the backyard where it has no effect." Or, another thing is like I have a job where we're putting in a driveway, or the driveway is there and we're putting a new garage in where an existing garage was. There's a tree on the opposite side of the property on the front of the house -- you would never come close to it. So, we're just wondering, why do we have to put the tree protection for areas like that? So that would be my third proposal.

And my last proposal -- which is pretty simple -- is this is the code right now. It's a 95-page document for the existing tree codes, and what we are suggesting from the Homebuilders Association and the Oregon Remodelers Association is that we could simplify the tree ordinance so we can have a tri-fold -- which the City of Portland has a dozen of these for attic conversions, for staircases, for dormers, for basement remodels. So, why can't we take this and put it in this?

Fritz: That's really hard to do.

March 30, 2016

Petrina: It may be hard to do, but we need to simplify it so the average homeowner -- you know, for the guy working out of the back of his truck who's a small landscape contractor and has no clue what, you know, what's being discussed and may not follow the news, may not read the news, may not find out about it until he has a violation. And we don't want people like that to get harmed. We're trying to save money for -- to homeowners so they're not paying unintended expenses.

So, I just wanted to say, I talked to a lot of professionals and they're saying that this code is probably one of the more difficult codes to implement because it's expensive. And I've talked to people that are City inspectors, contractors, homeowners, and the bottom line is it's coming down the homeowners' expenses. It's not that I don't want to protect trees, but we want to do it in a reasonable fashion. So, I truly believe in the spirit of the code and I think there are several unintended consequences, and we would appreciate the Council's consideration in this matter.

Hales: Thank you very much.

Kitchin: Alright, just closing -- kind of summarize -- so, I think that there's a distinction between remodeling and site redevelopment. I don't know if this code addresses that adequately. And then, we're going to continue to participate in whatever levels we can still participate with the Urban Forestry people.

Hales: Thank you both very much.

Petrina: Thank you for your time.

Hales: OK, who's next? Good afternoon.

Sara Long: Hello. OK, so --

Hales: Just give us your name, Sara, for the record.

Long: Sara Long. I'm waiting for the file that I just sent to Karla.

Hales: OK. Give her a second to route it to us here.

Long: What that is is a photograph of a copy of an email sent from Luke Miller to Stephanie Beckman, who spoke earlier today who's sitting next to Mike Abbaté right there. What was going on was the developer who owned the house that I lived in submitted a very falsified arborist report, and as you can see in this email here, Luke Miller was trying to bring light to that. He said this was far from the only time it happened and that he was going to use it as an example. I never heard from Luke Miller again after I saw this email. He didn't send it to me, I got it from a public records' request. In fact, I was never able to talk to Luke Miller again, and I'm kind of concerned about his career in Urban Forestry given that he was trying to bring light to corruption within the bureau. In the end, I actually had to go to Stephanie Beckman's supervisor because she would not listen to me on the fact that the arborist report had been falsified. And I finally got to her supervisor who oversees a lot of people -- she's extremely busy -- and the supervisor after months of Stephanie's stonewalling was finally able to force for this thing to take place, and he wrote this really scathing email, as you can see.

At the end of this episode, all of the trees I tried to save were killed except for one. I saved one. And two of them had never been fixed, they were never identified as the correct species. And my former landlord got out of paying \$2400. I have proof that they were the wrong species. I got another arborist report, but there is no enforcement written in for the safeguards in situations of fraud. And so, there's nothing that can be done in arrears to -- about those trees that were killed wrongly. So, I just wanted to bring that to your attention.

Hales: Thank you. Bob, come on up.

Bob Sallinger: Good afternoon, my name's Bob Sallinger, I'm the conservation director for Portland Audubon. This is Judd. His mom's sick today, so he got to come to Council. I apologize for the various noises from the back of the room.

March 30, 2016

Hales: None needed.

Sallinger: I'll be very brief today. I just wanted to first of all express Audubon's appreciation for the work done by this committee. I think they've done really good work. It's important work. But I also want to point out something that I think is really ironic. I pointed it out once before but I will keep pointing this out, and that is the fact that we are spending this incredible amount of time and money -- and we should be -- to protect our trees. The goal is to increase our urban canopy. And yet, we're also at the same proposing to cut the Dutch elm program which would be the largest loss of trees -- up to 3000 trees -- to save a couple hundred thousand dollars. As we're doing all this work and putting all this code in these inspections and saving one tree at a time -- and spending a lot of money doing it -- we're talking about, for a small amount of money, the biggest loss of big, beautiful trees literally in decades. And I don't understand how we get there.

Fritz: We're not really.

Sallinger: Well, we are.

Fritz: Well, we had to propose that, but the City Budget Office is recommending against the cut, and I doubt very much whether the Council will approve it.

Sallinger: OK, well, when I hear that confirmed, I'll be very happy to hear it. I will say that it's come up year in and year out. I think this is probably the fifth or sixth time I testified against it. It came up every year I was on the Parks board, and I really wish that we would stop doing these kinds of things because it just takes a tremendous amount of resources. And we know if we don't come in and testify, it does go through if Council doesn't hear. So, what it requires us to do year in and year out is come back and testify like this, and then get told, "well, we weren't intending to do it in the first place." That's not good public process. It's not good public policy.

I hope we can come up with a plan. And one of the things that I would recommend for this plan, if we're really thinking holistically about trees -- and we've recommended it for many years -- is to get a plan for the Dutch elms. Let's put that in place. It should be in the Central City Plan. It should be in the tree plan -- wherever it needs to live -- but let's invest the time to think about how do we transition these thousands of trees? What makes sense over the next 50 or 60 years? Because we probably don't want to spend money every year on them. What we probably want to do is save some for the full 60 years, save some for a period of that, and then transition some out and sort of sequence it so that we replace that canopy and save money as we do it, but don't just lose them in all in one fell swoop. So, I really encourage folks to add that to the plan going forward. I think it would save us a lot of time and angst every single year in the budget process and also be, you know, probably the most significant thing that we could do to preserve the canopy because it's gonna save far more trees in the short run than what we're doing here. Both are important. Thank you. And again, I apologize for all the noise at the back of the room.

Hales: No apologies needed.

Novick: I really appreciate you highlighting this issue both because it's an important issue and I agree with you, but also because I do think it's important for people know the budget choices we're making. Because as Commissioner Fritz said, the City Budget Office did not recommend that cut, but they recommended other cuts in Parks. They recommended eliminating the police officers in the school program. That's the way they balanced the budget. So, I think that the Commissioner is right, that the Dutch elm program is probably safe, but people out there need to know these are the kinds of tough choices that we are making.

Fritz: And it's because we're dedicating millions of dollars to affordable housing. So, Council, we are supposed to be moving to the next item, but -- wait right there, Bob -- in

March 30, 2016

light of the fact that Bob is full-time parenting right now, I'm wondering if you would let him testify on the next one before we even hear the staff report on it so that he can --

Fish: And Bob --

Fritz: -- bring full attention --

Fish: -- since you're next in queue. Bob, the other thing I'll say about the five percent cut package is that I may be in a minority -- I don't know what the views of all my colleagues are -- but when Mayor Hales came in and did a modified zero-based budgeting at 95 percent, it created a lot of very uncomfortable conversations because it forced people to rank and prioritize and think about some things. We actually spun off some work and we created new partnerships for some work in some bureaus and rethought where things should land. And the push back we get is that each year, we're having this painful conversation about identifying things, and if it wasn't the Dutch elm cut it would be a swimming pool, and people would come say, "You're a healthy Portland, how can you dare put a pool on it? It's against your health mandate." Or anything -- a maintenance cut, "well, how can you do that? You're supposed to be maintaining things." I still think personally that this exercise that the Mayor initiated we've done every other year is a healthy one, even though I understand your frustration. And you and I both -- and Commissioner Fritz was very clear that most of her proposed cuts were -- what did you call them?

Fritz: Against my recommendation.

Fish: Well, you called them -- not Empire State buildings but --

Saltzman: Washington Monuments.

Fritz: I said that everything in Parks is a Washington Monument.

Fish: Yeah, so she made it very clear that there was no cut that she was going to advocate for. But my personal view is that it's an exercise that every once in a while does bear fruit in a bureau, causing us to rethink something. But I take your point. Your point is also accurate that it produces the anomaly of us doing a hearing like this and having a cut that is inconsistent. But almost every cut on the five percent cut package is inconsistent with the core mission of the bureau that's proposed it. So, therein lies the dilemma.

Hales: Right. It's a process.

Fritz: So, if we could move to the stopgap amendments which we had two weeks ago, and then there was the amendment to the amendment. If you'd like to testify on that, Bob.

Sallinger: Sure. I appreciate that, and I apologize. Jim's doing a wonderful job of parenting back there. It's good to know that.

So, we did send a letter. We appreciate the intent behind Commissioner Saltzman's proposed additional amendment regarding affordable housing. Certainly, no one wants to drive up the cost of affordable housing. But we think this is the wrong way to do it. We think we're trading one inequity against another because the neighborhoods that are getting the most affordable housing are also the neighborhoods with the least trees. I don't think we can pit one inequity against another. I think it's not a zero sum game where the poorest neighborhoods can either have trees or sidewalks or clean water or healthy air. We have to all those things, and when we consider that, we need to compare it against the whole budget and where we spend money in other places. And I certainly can come up with a lot of places that are better to cut than trading one inequity against another in a poor neighborhood.

And, you know, I've been asked by staff the question, "well, how many trees is it? It might be a few trees." And my answer to that is a couple things. First of all, if it's only a few trees, then the City can subsidize that mitigation, and that's our recommendation. Don't just put in the exception for affordable housing, also agree to mitigate for those trees that would be lost out of the City's fund if we need to do an exception for an affordable housing complex. And if it's only a few, you can afford to do that. And if it's a lot of trees, then you

March 30, 2016

can't afford not to do that, because those are the neighbors that don't have very many trees. And when there were three big trees being cut down in Eastmoreland, that was so important that the Mayor's Office directly intervened and got involved, and I'm glad that they did. But that's a neighborhood with a heck of a lot of trees, and the loss of those means a heck of a lot less in that neighborhood than one big tree in, for example, my neighborhood, King neighborhood, where there are no big trees left. If you cut down the one tree that's there, it may be the one tree for blocks and blocks that's big.

So, I really think that when we do these kinds of things, we can't play this zero sum game. If we're going to exempt affordable housing, let's also put in place first of all very strict standards to make sure that the exemption is really needed in this case, that there's no way to avoid cutting the tree. And that to me would be a site inspection.

And two, I think the City should step up and create a fund -- and it doesn't have to be very big -- where they subsidize the replacement of those trees so we don't see the neighborhoods with the least trees and the communities that need them the most lose the few trees that they have left. And the Climate Change Action Plan which I quoted directly in my letter speaks very specifically to this. How are we going to deal with urban heat island in underserved islands? We're gonna plant trees. Let's live up to that obligation. Thank you.

Hales: Thank you, Bob. Thanks very much. OK, let's move onto the rest of the list on the first item.

Moore-Love: On 315 --

Fritz: I think we're done on the first.

Moore-Love: Right.

Hales: I'm sorry -- go ahead, then.

Fritz: So now we have to frame the second item.

Hales: Right.

Saltzman: I'm ready to offer my amendment -- I didn't hear Karla read the item -- oh, I guess you read them both -- [speaking simultaneously] --

Fritz: Remind us what we did two weeks ago -- that this is a stopgap measure to stop the removal of very large trees. The proposal has a significant impact only on trees greater than 36 inches, which is a very small percentage of trees, and that by requiring inch-per-inch mitigation for above 36 inches, it will create a significant disincentive to remove these historic trees. And then if the developer chooses to remove them, then there is significant mitigation. And I understand that Commissioner Saltzman wishes to offer an amendment.

Saltzman: Yes, thank you. I'd like to first -- well, this is a substitute amendment for the amendment that Commissioner Fish offered on my behalf two weeks ago when I was out sick. So, I'd like to offer this as a substitute.

Fish: Second.

Fritz: Could you read it, please, for everybody?

Saltzman: How about if I describe the intent. It's a long amendment, it's got a lot of words in it. It's fundamentally the same amendment. It will exempt the inch-by-inch diameter tree mitigation requirement for affordable housing projects that are approved for our system development charge waiver due to their affordable housing component. The substitute -- or the subtle changes here between what was offered two weeks ago and today is that, one, this will pro rate the exemption to the percentage of units that achieve the SDC waiver, and two, the Housing Director may craft administrative rules to refine this process as real world circumstances dictate.

I also want to point out that the amendment makes clear that the developer must demonstrate to the City that the proposed development cannot be situated on the lot to save the trees in question. And I'm confident with the improved working relationship

March 30, 2016

between the Bureau of Development Services and the Housing Bureau, this requirement can be utilized to push hard on the developers to save trees. I want to thank everybody who's worked on this amendment over the last few weeks, and we'll take testimony and hopefully we'll act on this amendment and on the package today.

Fritz: I would like to have some Council discussion since I wasn't involved in preparing this amendment. Could you tell us how you see the demonstration of the retention requirement? How will it happen?

Saltzman: Be happy to bring Matt Grumm up from my office to explain.

Fish: Charlie, our normal procedure is to have it seconded and placed on the table and then we can have discussion.

Hales: OK, let's do that.

Fritz: I'm sorry, I thought that had already been done.

Hales: Let's proceed to get it on the table. Is there a second for Dan's amendment?

Fish: Second.

Hales: Further discussion to accept the amendment and begin discussion? Let's accept it and then we'll move on into discussion.

Roll.

Fritz: I will accept it for discussion. Aye.

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

Hales: OK. Matt, please.

Matt Grumm, Office of Commissioner Dan Saltzman: Matt Grumm, Commissioner Dan Saltzman's Office. Yes, basically, my understanding is when a developer comes in and wants to use the SDC exemption program, they work with the Housing Bureau to apply for that. In those circumstances, the Housing Bureau will contact the Bureau of Development Services, work with them to say, hey, let's look at this plot, if need be we can send a tree inspector out to the lot to work with them find out why they need to put the homes where they are. And if the inspectors feel that there's a way, we will continue to work with them. And it's ultimately the Housing Bureau that approves whether they allowed to get the exemption, is my understanding.

Fritz: The intent of the code, Title 11, is to streamline it so that there are fewer bureaus being involved. So, you're -- who -- the Housing Bureau will have tree inspectors?

Grumm: No, these are the Bureau of Development Services inspectors that are co-located at the Bureau of Development Services.

Hales: But this says the Housing Bureau is adopting the rules.

Grumm: If need be in the real world. Basically, as it works now, you have to go to the Housing Bureau to get the SDC exemption and you also need to go to the Bureau of Development Services to get your permits and your tree -- obviously all your permits. They work together and they basically meet weekly to talk about affordable housing projects and this can easily pop up in those meetings that, hey, we have a developer trying to get the SDC exemption as well as the tree exemption, let's talk about this and if we need to send out an inspector, we'll look at the site.

Fish: Matt, what do you make of the proposal that Bob Salinger raised about having the City possibly subsidize the mitigation?

Grumm: Obviously, that's a policy call for the City Council and the use of your resources.

Fish: Good answer.

Saltzman: Well, it's true. That is a policy call. [laughter]

Fish: How long have you been doing this?

Fritz: The amendment assumes that the cost of removing the tree is less than the cost of mitigation. Is there any kind of weighing? Some of these large trees are expensive to

March 30, 2016

remove. Is there any -- under your proposal, how would you evaluate whether it's actually more expensive to remove the tree than to save it?

Grumm: I guess I don't quite understand -- that would be I guess the determination of the developer and not the City of the cost.

Fritz: But if the basis of the amendment is to save the applicant money.

Grumm: The applicant doesn't have to pay the inch-for-inch mitigation. They still have to pay the \$1200 fee that we normally have under the amendment, they just don't have to pay the inch-for-inch mitigation fee.

Fritz: \$1200 for a 50-inch tree.

Grumm: As it is now under current code.

Fritz: I'm sure we'll have citizens who want to testify on this, and I would like to return to the discussion after that.

Grumm: Thank you.

Hales: Thanks, Matt. Let's go ahead and take testimony on the second item, which is the regulatory changes.

Moore-Love: I show eight more people.

Hales: Good afternoon, Michael.

Michael Withey: Good afternoon. Mike Withey with Micro Community Concepts. Although we've only designed a couple of small communities in Portland, we've been able to design around them. Whenever we design something, we bring in landscapers, plant biologists, and architects. So, the 151st and Stark project, we saved an old growth tree, hazelnut trees -- we even saved grapes that were existing there. So, we believe it can be done with a little ingenuity. I'm very excited you guys are willing to let folks building low income housing get some exemptions and that the City may work with us on that.

There is one problem that I see and I think that Joe Petrina made a good point of it. I live across the street from -- [indistinguishable] -- and they have a garage falling down. So, they need to fix this garage. But in order to do that, they had to spend \$7000 to be able to just scope it out, get the -- before the permit process actually happened. And part of that was \$700 so that they could surround a fence, even though it's 50 feet away from the project. So, I think that -- so there's some things that need to be straightened out about this, but I think for the most part, it looks pretty good. I'm very impressed with the work done that's been so far and I really don't have anything negative to say other than we can bring down the cost for the developers and the builders and the homeowners, and that's one of the ways, one way to do that is to not make people fence things that really don't need to be fenced.

Fritz: In terms of the stopgap of Commissioner Saltzman's amendment, you're in favor of not requiring trees to be preserved on affordable housing sites?

Withey: I think that when you build affordable housing, it's extremely hard to get anybody to build affordable housing anyway. I think you know that. Unless, of course, it's financed by the City for the most part, whether it's through our own sort of inclusionary zoning non-rules or not. It's very hard to build affordable housing affordably. So, anything that you can do to mitigate those costs, whether it's replacing trees at the sidewalks or any other thing you can do to make it more affordable to developers to come in and build affordable housing, then year, I think it's a good idea. If the City can help pay too bring new trees in, then, yeah --

Fritz: That's not what's being proposed.

Withey: Mitigate. Cutting the trees down and then mitigating the cost.

Fritz: What's being proposed under Commissioner Saltzman's amendment is not doing the mitigation, just a \$1200 fee.

Withey: Oh.

March 30, 2016

Hales: OK, let's move on. Mark, go ahead.

Mark Bello: Good afternoon, it's a pleasure to be here. My name is Mark Bello, I live at 2146 NE 9th Avenue. I'm the new chair of the Urban Forestry Commission. I was also on the oversight advisory committee, and it's been quite a task this last year. As you know -- thank you for passing that out --

Fish: What was more challenging, leading a distinguished unit of public employees or chairing the Urban Forestry Commissioner?

Bello: The union is easier, because union employees like to shout at each other and it's OK. [laughter] OK.

We wrote before urging you to pass the tree ordinance, and we were delighted. I will not repeat the kudos about that hearing, how well that went. We saw the amendment from Commissioner Saltzman and we felt we needed to do due diligence and looked at alternative approaches, and now I have a substitute ordinance which raises one last issue, and perhaps another way of hoping.

First of all, I was very concerned -- it's not in the letter -- but Trillium was raised to you as a reason why we need to exempt affordable housing from the SDC charges or that we need to have no policy, unlike the proposal from the Audubon Society. I looked at what we gained and lost. That project just very quickly was 18,000 square feet, 4000 square feet was an environmental zone. There were three trees on the site, a Doug fir 48 inches, a Doug fir 58 inches, and a sequoia 66 inches. I tried to figure out how much we lost by allowing the Doug firs to be cut, because those trees once cut no longer provide the benefits. Just to keep it simple, I looked at stormwater. I went to the i-Tree software, the national software base -- those trees are so large they fall off the chart. Just extrapolating, it looks like every year those trees prevent 15,000 gallons of water flowing off the site. Over 10 years, that's a million gallons. Over the 20 years for the replacement trees it's two million gallons. Because it was an environmental zone, the trees proposed will perhaps stop 1000 gallons a year, and they will ramp up. So, what we gained was seven affordable housing units. What we lost was two million gallons of stormwater and the other issues.

So, finally, looking at the site plan, trees are cut not for building square footage but for a surface parking lot. That's why we thought we need to have perhaps look at these. Because in some cases, a large multi-dwelling project with many affordable housing units -- you just can't have both. You can't save the trees and have the housing. And we have a housing affordability crisis. But in low density or some of these low unit affordable projects, it's extremely important that we have that look which is what we tried to craft in our amendment.

Let me just finish by saying the new amendment -- really, I feel, the devil is in the details. The new SDC rules could require -- as Matt alluded to -- something very much along the lines of a competent City official having a quick discussion. So, I do feel that there's a workable solution, I just am concerned that the Council not feel compelled to a) underestimate what we're losing by cutting these trees, and b) thinking that it's trees versus affordable housing. I think that would be big mistake. I think like a design zone, like an environmental zone, if you have big enough trees, it really is worth it to have that conversation.

Finally, it's \$150 for -- when I was a planner, it was \$150 for a one-hour discussion. It could be \$300 or there could be an early assistance appointment. But I think as part of this, we could ask the housing providers to meet with the City and talk about what is on-site and what can be saved. Thank you.

Hales: Thank you.

Saltzman: That's what my amendment requires.

March 30, 2016

Fritz: Mark, did the Urban Forestry Commission send this to Council and to Commissioner Novick -- I mean, Saltzman?

Bello: Our letter? Yes.

Fritz: Commissioner Saltzman, did you consider this amendment?

Saltzman: We did, and I thought -- we thought it was a little bit more onerous and expensive for developers of affordable housing and could result in them not being able to build the affordable housing that is so necessary. I mean, we're very glib about saying nobody favors the trade-offs, but reality requires some trade-offs. And right now, we lack 34,000 units of affordable housing in this city. So, I'm trying to make sure -- I'm trying to strike a compromise here that will allow affordable housing to be constructed without gumming up the works so much that people throw up their hands and say "forget it."

Fritz: How many units are we expecting on single family lots?

Saltzman: This applies to multi-family as well, but -- I don't have that number.

Hales: This isn't just single family lots. OK, let's go ahead. I have some questions, but go ahead, Justin.

Justin Wood: I'm Justin Wood. I am an infill home builder, I also was on the original Title 11 tree code work group and one of the original members of the tree oversight committee. I do support the original proposal in front of you that I guess I'm going to call it the Fritz-Saltzman proposal, which placed large trees in the development situations at a 48-inch threshold. However, I'm here today to ask you to not support the amendment lowering that threshold to 36 inches.

Both the Bureau of Planning and Sustainability, BDS, and the original -- when the tree oversight committee originally heard -- the ask from Council was to figure out a way to preserve the large trees in development situations. And every amount of discussion and data and statistics that we looked at dealt with trees in the 48 to 50-inch threshold. I had communications with several of you, including Commissioner Fritz at one point, when it was mentioned that we weren't talking about a great number of trees larger than 48 inches, and I do believe that to be correct. I don't think that we're talking about a huge number to be universally impacted. I think it's a good way to save large trees. However, I think the amount of trees that are going to be affected at 36 inches is a huge number. Just in the last couple weeks alone, I have gone out and looked at sites that have quite a large number of trees in the 36 to 40-inch range. And a lot of times, the single one, two lots of the houses we built on are not big enough to design around the trees.

I've used an example that if one of you were to offer up an amendment today changing the threshold to 65 inches or some other number, there would be an equal number of people in the audience upset about the fact that there was no data to support 65 inches as opposed to 36 inches. I think that we need to go back and look at how many trees are going to be impacted at 36 inches, what's the number, and not -- I think that -- because 48 inches was what most everybody had studied and had worked on

I sat on a housing affordability task force that put together by the speaker and several other members of the state legislature dealing with affordability issues on houses, and I'm not talking about just the families below median income, but housing costs across the spectrum. And as somebody who builds houses that some qualify for SDC waivers but some are just above that spectrum, I think we're creating a system where those -- I've heard some of you mention the missing middle housing, and I think that we're creating a system where the missing middle housing is getting adversely impacted. Because we're exempting and going to work for the family with the lowest wages, and quite frankly, the people building the McMansions -- they're so affectionately termed -- can afford to pay \$10,000 or \$20,000 to remove a tree. but those of us who might be building one at \$320,000 for the cop who lives in Portland can't. And so, that will take that lot out of the

March 30, 2016

inventory for somebody like me who wants to build that house. So, it's not just the lowest levels that this is going impact. It's everybody.

I would ask the Council to -- with the report you received earlier -- to look at some problems with the existing City code regulations. [beeping] You've heard some of them in regards to the fencing. I have some sites I've sent you guys examples on where we've had situations where saving the trees was harder to do than taking them out because it was harder to meet the regulations to save them. Matter of fact, we just had a lot that had 11 trees on a lot. We turned in to remove all 11 trees. I'm not intending to remove them, I'm going to design around the houses, but it's easier to pay the fee and say I'm going remove the trees and then design the house around them without having the fences up and have the inspections and arborists on site every time we do it. So, it's actually easier for us to on paper.

Lastly, as someone who's served on Title 11, I would ask the Council to consider that when we were trying to craft Title 11, we all decided -- we were striving to come up with something that was easy, and we also were trying to come up with something that didn't require an arborist on every project. That was specifically one of our goals. Unfortunately, I think we're going down a path that will require us back to having an arborist on everything, every project to verify the size, the species of the tree, whether or not it needs to be saved, and we're getting away from what that -- so, I would ask the Council to please consider the original proposal at 48 inches and if 36 is the number you ultimately end up on, ask the stakeholders that have worked on that to determine what the impacts to affordability are going to be and the tree canopy will be and come back with that as a later package.

Hales: Thank you very much.

Fritz: Justin, what portion of the Fish Construction homes are eligible for the system charge exemptions?

Wood: Right now, we're at about 50-50.

Fritz: Thank you.

Hales: Thank you all very much.

Paul Grove: Mayor Hales and members of Council, Paul Grove with the Portland Homebuilders. Thank you for the opportunity to testify today. Appreciate Commissioner Saltzman's amendment. It certainly impacts some of our members, as was previously testified to, and then also folks like Habitat and others that are in and around that range. It is a benefit. But at the end of the day, I would echo Justin's sentiments around that threshold figure and note that the impacts to housing affordability -- and in particular, if you're looking at a long spectrum, those that are within that middle range and just above the SDC waiver threshold. You know, we're looking at the impacts to the middle class, to workforce housing at a time when frankly we should be doing what we can in our power to protect and to grow workforce-related housing.

And I think, moving forward, the initial stopgap measure again was contemplated under the notion of these large trees, and the advisory bodies that looked and discussed it worked its way through a process that initially landed at that 48-inch threshold. And I think that threshold is much more reflective of the discussions that had led up to the initial proposal that was before Council, and I think much more indicative and reflective of the genesis of the issue from the November timeframe. So, I think that it's something these costs get either passed on to the ultimate homebuyer at the end of the day, or make the development potentially prohibitive on certain lots, and I think we have to be mindful of that middle portion of the spectrum when we're looking at those proposals and understand that this impact taken in concert has cumulative effects to housing affordability. It's something that we have to be mindful off at the end of the day. Thank you.

March 30, 2016

Hales: Good afternoon.

Carol McCarthy: Hi. Can you hear me? My name's Carol McCarthy, I live at 4311 SW Freeman Street, and I'm testifying today as the chair of the Multnomah Neighborhood Association. The Multnomah Neighborhood Association adopted a position in January supporting the Audubon Society's proposed reforms to Title 11. In addition, we requested that the exemption from the tree code provision for development lots under 5000 square feet be removed. I have copies of my letter that I forgot to hand out.

Our letter to you promoting our support of the Audubon Society's reforms and removal of the exemption for development lots smaller than 5000 square feet was endorsed by SWNI, the coalition of 17 southwest neighborhoods. Today, I want to focus on the importance of removing the exemption from the tree code protections to trees on development lots under 5000 square feet. This exemption removes protections to the trees on most of the development infill lots in our neighborhood. These lots may be clear cut.

This type of infill typically removes an affordable house from a large lot and then is split into two lots with two large houses at about twice the price are constructed. These houses are often inhabited by two people each or four people total, when for decades families with that many or more people have lived on that larger lot. In many cases, there is a little or no increase in the density with this type of infill. The trees are removed, and with them, we lose all the benefits that we have heard about today -- to air, water quality, noise reduction, wildlife habitat, and neighbors and aesthetics. And this is not a good bargain.

It is distressing our residents who strongly identify with our neighborhood trees. We do not have the financial resources or the good fortune of knowing South Park heroes to save the trees that are as noble as the Eastmoreland giant sequoias. We are relying on you to equitably preserve trees on our less-affluent side of the river.

Just listening to the testimony here today, I guess I would now like to speak as myself. If the process doesn't allow you to remove the exemption of the lots, that you immediately impose a moratorium on cutting down the trees of 36 inches at breast height until the amendments can be considered. Because right now, every day we're seeing large trees being cut down. And they take so long to replace -- you know, 100 years. It's too fast to cut them down now. Thank you.

Hales: Thanks very much. Martie, welcome.

Martie Sucec: Martie Sucec, 7005, SW 34th, 97219.

Fish: Actually, we don't need your address anymore.

Sucec: OK, can I have those minutes back, then? [laughter]

Hales: You bet.

Sucec: I haven't been here for a while. I'm here to tell you about a specific thing, and I was going to say all things that have been said to you many times about the value of trees, their enormous benefits, etc. I heard a lot of stuff here that put much better than I could by the tree code people, the implementation people, the tree code committee people. And the remodelers made a lot of sense to me. Especially the guy where the tree is in the back -- and I remodeled 10 years ago, I have a tree very close to that, but, you know, I wouldn't want that, so I would encourage you to consider that.

And I also want to say about the middle trees, the 36-inch trees, the 48-inch trees -- how old are your kids? The kids now who are seven and eight who are in middle school, are they going to not grow up with trees the way that we've had them if you reduce that? If you increase the lower threshold? We're gonna have large trees and little trees planted by the Friends of Trees? That's not good. We need to do something to protect that. And because of what I've seen in my neighborhood, I don't think that it's all that costly.

March 30, 2016

In our neighborhood, there is a giant specimen of a cedar. These pictures are in my written testimony. It's coming down on or after April 5th. An old man and the people who brought it brought it from England and it was planted in the 1900s, probably. It's got two trunks. It is almost 80 inches in diameter. The developer reported that it was 41 inches in diameter, which would have been a middle sized tree that could go down, you know. The old man sold the tree -- I mean, sold the property when he was assured it would be OK for \$185,000. When you buy a property in the 1900s for \$28,000, you think you're getting a big profit, maybe. In less than three weeks, it was sold to a developer for \$450,000. Less than three weeks. This is a predatory situation that we find is occurring more and more in our neighborhoods -- not just our neighborhood, but around where people don't have family watching out for them.

I like the tree code. I would like to say what Carol did -- 5000 square feet should not be exempted because large trees do not know that they are in 5000 square feet. They give their benefits no matter the size of the lot. They're just like salmon, they don't know when they're crossing the urban growth boundary. So, we've got to find a way to use imagines in order to put these houses on trees. We're not getting density in our neighborhood. What we're getting is -- as Carol said -- we're getting the removal of modest houses that need energy upgrading, that have well-established gardens or well-established habitats for pollinators or gardens for people to grow their own food. So, I'm asking you to exempt the exemption -- take the 5000 square foot exemption off.

Two Commissioners say because our policy in the city is density, we have to do this. But they're not head-on trade-offs. We can get the density in ways and places that don't require us to cut down trees, even the 36-inch ones. And I would ask you that for the future of the children of this neighborhood and this region. Oh -- the developer told us that Portland is the only place that they can do this, and they're taking advantage of it, and he's a businessman and is taking advantage of that. We don't quibble with that. We quibble with the fact that Portland is only area where you can do this kind of disruption.

Fish: Martie, can I ask you a question?

Sucec: Sure.

Fish: Would you do me a favor after you finish testifying? Would you, on a piece of paper, write the name of the seller and the address of the property?

Sucec: I will. I don't know the gentleman's name but I can get it for you --

Fish: Whatever you have, if you could give me a primarily -- I have your contact information. You've raised another issue in your statement to us that may be of interest to the Attorney General elder fraud unit, and I just -- the numbers are so striking that I want to make sure that we don't overlook that as well.

Sucec: OK. Thank you very much.

Fish: Thank you very much for bringing that to our attention.

Sucec: Elder fraud?

Hales: Yeah, there's an elder fraud unit.

Fish: If you give me some contact information, I will follow up with you.

Sucec: OK. Mayor, may I e-mail that to your office or do you want it now -- OK, I will email.

Fish: Thank you very much.

Sucec: Thank you.

Hales: Thank you all very much. Welcome, Linda.

Linda Robinson: Hi. I'm Linda Robinson from East Portland. I feel a bit at a disadvantage testifying about the amendment because the amendment is different than what I thought it was when I prepared to testify. I haven't read it. I don't know -- it sounds quite complicated. I do want to say that I have some real concerns about exempting affordable housing from the tree code requirements for many of the same reasons that Bob Sallinger and a couple

March 30, 2016

of the people on the committee -- I think, it was Jim Labbe who mentioned -- an equity issue. Many of the affordable housing units are being built in and near low income neighborhoods. These neighbors have fewer trees to start with. In some cases, the exemption probably doesn't make much difference because I don't think that there are very many very big trees. There aren't that many that are even 36 inches -- let alone 48 or 54 -- but I'd hate to have them exempt from the tree code requirements because these neighborhoods are heat islands, these neighborhoods -- they need the services of the trees as much or more than other neighborhoods do. So, I have some real problems with that.

And since others have been talking about some of the other stuff, I'll mention that as well. I, too, think that the 5000 foot and under threshold should go away. I think that it gives an incentive to create lots that are not quite 5000 and therefore be exempt from all of the tree code provisions, and I don't see that as a good thing. Particularly if they're dividing things up, they could create lots that are not quite 5000 feet and then be exempt. So, I just -- I have problems with a number of those things, but the exemption of the public property or public bureaus, the exemption of the affordable housing, the exemption -- I don't like seeing the exemption of all the road right-of-ways as a flat out exemption. I think that there are a lot of cases where sidewalks can be designed in different ways. I've seen it done in the inner city neighborhoods around big trees. That can happen in some of the areas where we're putting in sidewalks for the first time as well. So, I think there has to be a way that is not just a flat out broad exemption.

Hales: Alright. Sara, welcome.

Sara Long: My name is Sara Long. I just looked up the tree at 7316 SW 33rd Avenue that we are talking about. This is what it looks like, guys. Commissioner Fritz, see? This tree will come down over my cold, dead body. The trees at 7707 SE Alder Street will come down over my cold, dead body. It's not gonna happen. It's long past time for the citizens of this city to stand up to the developers and their skills, especially the ones who work at BDS. Quit smiling at me, Stephanie.

We're going to put a stop to this. I know you guys are pretty insulated. You don't feel the anger out there on the street, especially since working people don't have time to come in here in the middle of the day and talk to you. You hear mostly from people who are making a salary to be here and talk to you. That's all that I have to say.

Hales: Thank you. Any more testimony?

Fish: Mayor, I have a couple of questions of staff. I understand we may be losing Commissioner Novick. What's your pleasure for the end game here?

Hales: I have some questions of staff, too. I know we are going to lose Steve in a moment.

Novick: Can I -- I might come back. [laughs] I'm waiting for a call that I absolutely have to take, but I can come back after the call if we're still going on.

Hales: Alright. Let's proceed with --

Fish: Here, let me just -- I will just tell you what -- so I'll be guided by you and Commissioner Fritz on this. I have some questions relating to the matter which we set over. Should I just put those in writing to, Commissioner Fritz, you and staff?

Fritz: For the report, yes.

Fish: There were some questions that came up that I thought were interesting comments. They were almost like recapped questions, and they struck me that there might be some fixes that we can come up with. So, I'll send the distinguished City Forester a copy, my colleagues, those questions. So, that's done.

Hales: OK, good plan.

Fritz: Thank you. Is that it?

March 30, 2016

Hales: Simple enough. So, can we ask the staff to come back up and address some issues, I think? So refresh my memory on the 5000 square foot provision.

Fritz: So, it was, it was a huge -- well, it's not refreshing your memory, Mayor Hales, because you weren't here. It was a huge discussion in 2011 in adopting the code. The entire code is structured to not apply to 5000 square foot lots. So, if that's something that the Council wants us -- and to actually direct the Bureau of Planning and Sustainability to look at in the ongoing project, we can do that. But we couldn't just change the number. The whole code is put together with the -- having it in mind that it doesn't apply under 5000 square foot. In fact, for the smaller lots, the additional street tree requirements and other such things.

Hales: OK. I guess it seems to me that provision would function even if the item sub A1 wasn't there.

Fritz: No, there's a whole bunch of other things that are connected to that that the -- why don't you -- can you explain --

Hales: Can you help me out here -- not having been here in 2011 and not having --

****: I'm not going to say it any better than Commissioner Fritz, but it's -- the whole Title 11 is -- you just kind of got to think of it as a package deal. The 5000 square foot lot exemption -- it's based on a number of considerations, including the urban development pattern, and there's trade-offs that would also apply to smaller sites. I think you mentioned the street tree issue. So it's not -- it's not an isolated -- it's not something isolated and can be looked at in isolation. It could be. I think her point is it's better to look at the whole package together.

Fritz: It's not just in that section, it's in multiple sections.

Hales: OK. But as a matter of policy, the thought was -- ?

Fritz: We could -- the thought was in order to have a sized house that a family could live in on a lot that's less than 5000 square foot, it might -- as you've heard -- be really challenging to both save and plant significant numbers of trees on very small lots.

Cairo: I'll just clarify, too -- that item is on the preliminary list of items to look at with the bigger amendment project.

Fritz: And I'm glad to hear that you're interested in it. I didn't like it in the first place.

Hales: I'm worried about -- I'm not sure if this is the correct term of art -- pernicious synergy between other things in the zoning code that might cause people to split lots and this.

Fritz: I think that from what we're seeing, developers don't need encouragement to make the smallest possible lots and the largest number off of them in order to maximize their profit.

Hales: I understand that -- I understand that problem. OK. Then, some of these relatively minor but I thought constructive suggestions about orange plastic fencing versus chain-link fencing and such.

Fish: Mayor, those are all the things that we agreed to send by email to follow up --

Fritz: Although, that's who -- I do want to state for the record that was extensively discussed in 2011 along with multiple pictures --

Hales: See what I missed?

Fritz: -- of bulldozers knocking over said orange fencing.

Fish: But because in my view they feel more like recap issues, the cornerstone issues --

Hales: They are, clearly.

Fish: And we've set that matter over, anyway. I think that we can send our emails and get responses and decide whether we want to do amendments.

Hales: I got it. OK, thank you. That's helpful to me.

March 30, 2016

Fritz: If I could just return to the issue of Commissioner Saltzman's amendment. As it was described by Matt Grumm, you would call the BDS tree inspectors to inspect the lots?

Grumm: That's the understanding. If the site plan or the developer was saying, "I need to get the exemption for the tree, I have a 42-inch tree on the lot, I'd like to get that exemption," that's exactly when the Housing Bureau would connect up with BDS and say, "Hey, what's going on out here? Let's take a look at that. Do they deserve that? Where's the house going?" Those kind of questions.

Fritz: Does BDS have tree inspectors that do that?

*****: Well, it would be the Urban Forestry tree inspectors.

Fritz: So, you would be contacting Parks.

Grumm: Co-located.

*****: There's a system in place right now where planners can consult with the Urban Forestry inspections when there's questions about tree reservation plans or arborist reports. I can let Jenn speak -- I know we're in the middle of doing an IGA, whether that would -- how much workload that would increase or how much staff time on the Urban Forestry's end that would add, but --

Fritz: Which we would charge for, right? In development situations, we would charge for Urban Forestry's inspection time.

Cairo: I would think that we would need to because of the staffing issues that we have currently. Yeah, that would be additional staff work --

Fish: Can I make a proposal just for a path forward? And I do this out of deep respect to my colleagues. Commissioner Fritz and Commissioner Saltzman together brought us to this moment. We're talking about an interim set of rules, and I view this amended amendment -- substitute amendment as being almost like a pilot that has limited application.

Fritz: No, it doesn't. I -- please don't continue -- I need to finish what I was about to say --

Fish: OK, but --

Fritz: -- because what's in this new amendment that was only just put out today that bothers me the most is the Director of the Portland Housing Bureau may adopt administrative rules for the administration and enforcement of the exemption of tree preservation mitigation requirements. It took us 10 months to do an administrative rule because the code says that it's BDS and Parks who are jointly responsible for doing administrative rules. To bring in a third bureau that's now going to do administrative rules on Title 11 is a nightmare.

Saltzman: Well, Commissioner Fritz, first of all, this was sent out with the Tuesday memo. It's no different than what was sent out in the Tuesday memo --

Fritz: Yes, I was in a meeting last night --

Saltzman: So when you characterize it as seeing it today, that's inaccurate.

Fritz: I had to be in a meeting last night.

Saltzman: OK, but you're always pretty good about catching things. So, I just want to make sure that the record stands corrected. This was not presented today, it was presented Tuesday.

Secondly, we're bringing in the Housing Bureau because they are the ones that have administered the SDC waivers for affordability and we want to make sure that any project that qualifies under this provision -- truly qualifies as an affordable project as deemed by the Portland Housing Bureau in making a decision about to waive SDCs or not. We're not asking them to become the third cook in the kitchen.

Fritz: You are, you're putting it in Title 11.

March 30, 2016

Saltzman: We're only asking them to sign off on the project truly meets the Housing Bureau's affordability criteria and that the BDS and the Urban Forestry folks conduct an inspection and make sure that they do all possible to preserve the trees.

Fish: Well, the point I was just going to make, though -- because I feel like with all the work put into this, I would like the two colleagues who worked the hardest to take a joint bow. I just -- I'm a stickler for protocol. Is there a tweak, Commissioner Fritz, to that provision? Something like "in consultation with," or something like that that would make it more palatable?

Fritz: No.

Saltzman: So, colleagues, we've reached irreconcilable differences -- Commissioner Fritz and myself -- on this item. It's going to require the Council to settle it. So, I would call the question.

Hales: Anything else that needs to be discussed?

Fritz: Well, I actually need to move for reconsideration on my vote on the amendment because I can't support the whole package with this amendment as part of it. So, I'll have to -- and I don't want to vote against something that I've worked on for a year to bring to Council with a stopgap measure, which is supposed to save large trees in neighborhoods across the city. I move reconsideration of the amendment.

Hales: We're going to reconsider the vote to accept the amendment, right?

Fritz: This is a second to that.

Hales: And take a vote on accepting Commissioner Saltzman's amendment afresh.

Fritz: Are you seconding my motion to reconsider?

Hales: Sure, I'll second your motion to reconsider.

Roll.

Fritz: Aye. **Fish:** No. **Saltzman:** No. **Hales:** No.

Fritz: So, wait a minute -- you're going to have me vote "no" on the whole thing?

Saltzman: You're going to have you vote no on the whole thing. Don't look at me.

Fritz: No -- that was a professional courtesy. I cannot believe this! I cannot believe that you would not allow me to vote no on the amendment so that I could vote no on the -- so I could vote yes on the whole thing.

Saltzman: Well, I guess I'm a little lost from a parliamentary point of view. I certainly want to accommodate your desires, Commissioner Fritz, but I'm not sure why you're preparing to walk out right now.

Fritz: Because the motion to reconsider lost. I'm sorry if you don't understand parliamentary procedure.

Saltzman: I guess I don't.

Hales: OK, I think that we are at the point where we need to vote, correct?

Novick: Um, I apologize that I had to leave, but apparently missed some drama. Can somebody fill me in?

Fritz: I'll tell you later.

Hales: Yeah, I think it would be -- the best way to summarize it is that Commissioner Saltzman and Commissioner Fritz disagree about Commissioner Saltzman's amendment, and Commissioner Fritz asked for the opportunity to reconsider the move by which it was accepted.

Fritz: And the Council voted no to do that --

Hales: -- [indistinguishable] -- failed --

Fish: What's now before us, the amended?

Hales: What's before us is the amended ordinance. So, we should take a vote on that.

Moore-Love: I'm sorry -- you just amended the ordinance?

Hales: It's not actually -- it is -- yeah, it is the amended ordinance.

March 30, 2016

Moore-Love: It's a non-emergency, so --

Hales: It's non-emergency but it's previous agenda, so all we were doing is taking testimony on it --

Moore-Love: But you amended it today.

Hales: So therefore it has to pass the second reading?

Moore-Love: It has to pass to a second reading.

Hales: OK, I think you're right about that. You're right, we did take testimony and amend it today, so --

Fish: Karla, this is why we like to have you here. We missed you during the budget hearing.

Hales: You helped me out of that one, so, thank you.

Fritz: So, let me make some comments, if I may, because staff has done an amazing job on this whole project and I greatly appreciate that, and so have the citizens who worked so diligently on this. Starting with Mike Hayakawa, who was the project manager before he retired. It's significant that two of the three main staff on this have now retired. Kind of licking -- not quite licking their wounds, but certainly with many scars to show for the whole process. So, Mike Hayakawa was absolutely fantastic, as was Mieke Keenan, who's now moved to help solve the ITAP challenge in the Bureau of Development Services. Patti Howard on my staff worked on this pretty much full time for the entire first year of implementation, and so did Tom Bizeau. So, I really appreciate them. Jenn Cairo and Casey Jogerst and Jeff Ramsey and Daniel Bohannon and Angie DiSalvo and Shannon Stall and Director Abbaté in the Parks Bureau. Amazing, amazing work. Development Services staff Rebecca Esau, Stephanie Beckman, Mike Hayakawa, Emily Sandy, Mieke Kennan, and Director Scarlett; and all of the members of the tree oversight committee, all of the folks who worked so hard on this from 2007 onwards. Thank you, Margot Barnett; thank you, Greg Schifsky; thank you to everybody who is going to continue to work on this, and we will get some fixes made as we go along. Thank you.

Hales: OK. I think we actually -- I need to back up because we have not accepted the report, which is item 314.

Fritz: We're not doing that, that's moving -- being continued for four weeks.

Fish: That's the part that's being continued, Mayor, and that's also the area where you and I have some potential amendments.

Hales: Right. So, while we bring those ideas forward, that's being continued. Are we going to continue that to a certain date?

Fritz: Yes. I think we've saved one, right? Or did we --

Hales: We need to set -- we need to set the trajectory for 314. So --

Moore-Love: One or two weeks?

Fish: I thought we said four --

Fritz: Four weeks.

Moore-Love: That's right, sorry.

Fritz: I don't think that there is a time certain because all of the Comprehensive Plan time certains.

Hales: It wouldn't be a time certain, but it would be a date.

Fish: Karla, I'm gone the first week of June. Is it possible to go to the next week?

Moore-Love: Four weeks would have been the 27th, and you're gone then, too.

Fish: I'm gone that afternoon.

Moore-Love: You're gone for two weeks, so that would be April 11th.

Hales: May 11th.

Moore-Love: May 11th, I'm sorry.

Fish: That acceptable?

March 30, 2016

Hales: Works for me. So, item 314 is continued to May 11th. And now, item 315 is the one we still need to act on, right?

Fritz: Passing to a second reading next week.

Hales: Passing to second reading next week. No reason to wait longer on that one, OK. Done procedurally? Alright, we're adjourned. Thank you.

At 4:44 p.m., Council adjourned.