



CITY OF
PORTLAND, OREGON

**OFFICIAL
 MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **12TH DAY OF APRIL, 2017** AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Wheeler, Presiding; Commissioners Fish and Fritz, 3. At 11:30 a.m. Commissioner Eudaly arrived and Commissioner Fritz left.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Jason Loos, Deputy City Attorney; and Elia Saolele and John Paolazzi, Sergeants at Arms.

Item Nos. 350 and 351 were pulled for discussion and on a Y-4 roll call, the balance of the Consent Agenda was adopted. Due to attendance of only three members at the 9:30 am session, the Consent Agenda vote was taken at the 2:00 pm session when four members were present.

The meeting recessed at 11:09 a.m. and reconvened at 11:35 a.m.

Council Chambers in City Hall was updated with new audio technology March 1-April 14. City Council meetings were held in the Portland Building Auditorium on the 2nd floor while the changes were made.

COMMUNICATIONS		Disposition:
341	Request of Sarah Lara to address Council regarding Madison South neighborhood seek a permanent solution to the homeless camp on Broadway/Jonesmore (Communication)	PLACED ON FILE
342	Request of Dominic Kukla to address Council regarding Civic Education (Communication)	PLACED ON FILE
343	Request of Charlie Mattouk to address Council regarding challenges small businesses face in downtown neighborhoods (Communication)	PLACED ON FILE
344	Request of Keith Ketterling to address Council regarding the City housing shortage, crime, drugs, and homelessness issues (Communication)	PLACED ON FILE
345	Request of B Max Grad to address Council regarding fire service - water line price increases (Communication)	PLACED ON FILE
TIMES CERTAIN		

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346	TIME CERTAIN: 9:45 AM – Reappoint James Young to the Citizen Review Committee advisory board to the Independent Police Review, a division of the City Auditor’s Office (Resolution introduced by Auditor Hull Caballero) 15 minutes requested Motion to correct two Whereas clauses to reflect one vacancy: Moved by Fritz and seconded by Fish. (Y-3; Eudaly absent)	37279 AS AMENDED
347	TIME CERTAIN: 10:00 AM – Proclaim April 2017 to be Fair Housing Month in Portland (Proclamation introduced by Mayor Wheeler) 30 minutes requested	PLACED ON FILE
CONSENT AGENDA – NO DISCUSSION Due to attendance of only three members at the 9:30 am session, the Consent Agenda vote was taken at the 2:00 pm session when four members were present.		
Mayor Ted Wheeler		
Bureau of Planning & Sustainability		
*348	Authorize a three-year Intergovernmental Agreement with Portland State University in the amount of \$187,289 for the Multifamily Waste Reduction Project to implement, evaluate and improve the recycling, garbage and compost system for multifamily communities (Ordinance) (Y-4)	188317
Commissioner Dan Saltzman		
Bureau of Transportation		
*349	Authorize contracts as required with eight firms for on-call survey and photogrammetric services in support of the Portland Bureau of Transportation and other Bureaus (Ordinance) (Y-4)	
350	Accept a grant in the amount of \$1,000,000 from Oregon Department of Transportation for the Regional Signal System Concept of Operations and Implementation (Ordinance)	PASSED TO SECOND READING APRIL 19, 2017 AT 9:30 AM
Commissioner Chloe Eudaly		
Office of Neighborhood Involvement		
351	Amend marijuana business regulations definition of wholesaler, and use of temporary Certificate of Occupancy (Ordinance; amend Code Sections 14B.130.020 and .070)	
REGULAR AGENDA		
Mayor Ted Wheeler		

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<p>352</p>	<p>Reappoint Jeff Bachrach, Michelle Rudd, Katherine Schultz, Chris Smith, and Mike Houck to the Planning and Sustainability Commission for terms to expire May 31, 2021; and extend the terms for Gary Oxman and Margaret Tallmadge to expire on May 31, 2017 (Previous Agenda 318) Motion to accept report: Moved by Fish and seconded by Eudaly. (Y-3; Fritz absent)</p>	<p>CONFIRMED</p>
<p>City Attorney</p>		
<p>S-353</p>	<p>Authorize City Attorney to join as a party in litigation challenging President's Executive Order on Sanctuary Cities (Resolution) Motion to accept substitute resolution: Moved by Fish and seconded by Eudaly. (Y-3; Fritz and Saltzman absent) (Y-3; Fritz absent)</p>	<p>Substitute 37280</p>
<p>Office of Management and Finance</p>		
<p>354</p>	<p>Accept bid of Stellar J. Corporation for the Safeway Pump Station Upgrade project for \$1,148,683 (Procurement Report - Bid No. 00000507) Motion to accept report: Moved by Fish and seconded by Eudaly. (Y-3; Fritz absent)</p>	<p>ACCEPTED PREPARE CONTRACT</p>
<p>*355</p>	<p>Increase contract with Convergence Architecture for \$42,017 to provide additional services for the 1900 Building Restroom Upgrade project (Ordinance; amend Contract No. 30005465) Rescheduled to April 12, 2017 at 2:00 p.m. (Y-4)</p>	<p>188319</p>
<p>*356</p>	<p>Authorize a contract with the lowest responsible bidder for Elevator Modernization of two Smart Park Garages for an estimated \$1,676,325 (Previous Agenda 326) Rescheduled to April 12, 2017 at 2:00 p.m. (Y-4)</p>	<p>188320</p>
<p>357</p>	<p>Extend term of franchise granted to MCI Communications Services, Inc. to build and operate telecommunications facilities within City streets (Second Reading Agenda 321; amend Ordinance No. 170954) (Y-3; Fritz absent)</p>	<p>188313</p>
<p>Commissioner Nick Fish</p>		
<p>Water Bureau</p>		
<p>358</p>	<p>Authorize a contract with Cornforth Consultants Inc. in the amount of \$139,776 for the Federal Energy Regulatory Commission Part 12 Dam Safety Report for Portland Hydropower Project 1 and Project 2 (Second Reading Agenda 333) (Y-3; Fritz absent)</p>	<p>188314</p>
<p>Commissioner Dan Saltzman</p>		
<p>Bureau of Transportation</p>		

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359	Approve an agreement with Christopher D. Duffin and Elizabeth C. Staver in the amount of \$75,975 to construct sidewalk improvements to the north side of SE Henderson St from 300 feet east of SE 78th Ave to 545 feet west of SE 82nd Ave (Second Reading Agenda 335) (Y-3; Fritz absent)	188315
360	Authorize the Bureau of Transportation to acquire certain permanent and temporary rights necessary for construction of the NE 47th Avenue Phase I LID project, through the exercise of the City's Eminent Domain Authority (Second Reading 336; C-10052) (Y-3; Fritz absent)	188316
Portland Fire & Rescue		
361	Authorize a purchase order with Pierce Manufacturing, Inc. for the purchase of three emergency response apparatus for a total not-to-exceed amount of \$2,000,000 (Ordinance)	PASSED TO SECOND READING APRIL 19, 2017 AT 9:30 AM
City Auditor Mary Hull Caballero		
362	Assess property for sidewalk repair for the Portland Bureau of Transportation (Hearing; Ordinance Y1091) 15 minutes requested	PASSED TO SECOND READING APRIL 19, 2017 AT 9:30 AM

At 12:18 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 12TH DAY OF APRIL, 2017 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Wheeler, Presiding; Commissioners Eudaly, Fish and Fritz, 4.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Linly Rees, Deputy City Attorney; and John Paolazzi and Elia Saolele, Sergeants at Arms.

363 **TIME CERTAIN: 2:00 PM** – Appeal of Landon Crowell against Design Commission’s decision of denial for design review of a new 5 to 6 story, approximately 70’ tall, 17 unit apartment building in the Central Eastside Subdistrict of the Central City Plan District, at 1122 SE Ankeny St (Hearing introduced by Commissioner Eudaly; LU 16-184524 DZM) 1.5 hours requested

Motion to continue the hearing to May 11, 2017 at 2:00pm Time Certain and to keep the record open for 30 days.

- **Submissions from representatives of each side are to be no more than 4 pages.**
- **The appellant is to conduct two meetings, one with the Neighborhood Association and one with immediate homes on that block.**
- **On May 11, 2017 representatives of each side will have maximum of 15 minutes for presentations:** Moved by Fish and seconded by Fritz. (Y-4)

**CONTINUED TO
MAY 11, 2017
AT 2:00 PM
TIME CERTAIN**

At 5:02 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 13TH DAY OF APRIL, 2017 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Wheeler, Presiding; Commissioners Eudaly, Fish, Fritz and Saltzman, 5.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Denis Vannier, Deputy City Attorney and Roger Hediger and Jim Wood, Sergeants at Arms.

- 364** **TIME CERTAIN: 2:00 PM** – Amend Independent Police Review code to revise filing process, investigation, and appeal provisions of complaints of police officer misconduct (Ordinance introduced by Auditor Hull Caballero; amend Code Chapter 3.21) 2 hours requested
1. **Motion to accept amendments in Fritz handout to 3.21.150 B Case File Review and 3.21.160 A Hearing Appeals to delete “the end of the meeting,” add “through a vote” and delete last sentence of 3.21.150 B:** Moved by Fritz and seconded by Fish. Motion withdrawn.
 2. **Motion to accept addition 3.21.120 H regarding appeal process for complaints that are dismissed by the IPR Director:** Moved by Fritz and seconded by Eudaly. Motion withdrawn.
 3. **Motion #1 as above but restore last sentence to 3.21.150 B:** Moved by Fritz and seconded by Fish. Motion withdrawn.
 4. **Motion to delete the Auditor proposed amendments 3.21.150 B and 3.21.160 A to delete all references that limit testimony to after the decision:** Moved by Fish and seconded by Fritz. (Y-5)
 5. **Motion to put back the sentences in 3.21.150 B and 3.21.160 A with the change to specify public comment is “allowed before” the Committee decision and recommendation is made:** Moved by Fritz and seconded by Fish. (Y-5)

**PASSED TO
SECOND READING
AS AMENDED
APRIL 19, 2017
AT 9:30 AM**

At 5:00 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.

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.**

APRIL 12, 2017 9:30 AM

Wheeler: The purpose of the council meetings is to do the city's business including hearing from the community on issues of concern. In order for us to hear from everyone and give due consideration to matters before the council we all endeavor to preserve the order and decorum of these meetings. To make sure that the process is clear for everyone I want to review some of the basic guidelines which I hope will help everybody feel comfortable, welcome, safe and respected at the meeting and also insure the decorum is maintained. There are two opportunities for public participation first we have the opportunity for people to sign up for communications to speak about any subject they wish to address. These items must be scheduled in advance with the clerk's office, second people may sign up for public testimony on first readings of reports, resolutions and ordinances. If you sign up, your testimony must address the matter being considered at the time. Please state your name for the record. We don't need address. If you are a lobbyist, please disclose that or if you are here representing an organization, disclose that as well. Individuals typically have three minutes to testify unless otherwise stated. When you have 30 seconds left, the yellow light in the center there will flash. Conduct that disrupts the meeting, shouting or interrupting other people's testimony or council deliberations is not allowed. People that disrupt the meetings face objection. If there is a disruption, I'll issue a warning that if a further disruption occurs, anyone that disrupts will be subject to ejection. Anyone who fails to leave the meeting will be subject to arrest for trespass. If folks would like to show your support, do a thumbs up. If you want to not support, thumbs down. Thank you and we'll get the council session started. We have a couple complications today in the form of we are missing two people. So we will skip the consent agenda until we get to 11-ish. 11:00. We are not yet at the point where we can do time certain. So with that --
Fish: Mayor? I move we pull items 350, 351 and put them on the regular agenda. That gives us an extra level of insurance.

Wheeler: Commissioner Fish moves we pull 350 and 351.

Fritz: Second.

Wheeler: Any further discussion? Hearing no objection, so done. And with that, why don't we start with the regular agenda. Oh, the proclamation. This is an important moment. We have kids outside. Let's bring in the kids. And thank you for reminding me of that. I would have been embarrassed to forget that. Please read.

Fritz: Thank you, everybody. A proclamation signed today by the mayor. Whereas, emergencies can occur at any time and require police, fire or emergency medical services and whereas when an emergency occurs, the prompt response of police officers, firefighters and paramedics is crucial to the protection of life and preservation of property and whereas the safety of our police officers and firefighters depends on the quality and accuracy of information obtained from Portlanders who call 911. And professional public safety communicators are a vital link between Portlanders and first responders. Public safety telecommunicators monitor the activities of police officers, firefighters and emergency medical personnel by radio and provide them with information while seeking to ensure the safety. And according to the association of public safety officials international, national public safety telecommunication's week was conceived in 1981 by Patricia

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Anderson of the contra costa county sheriff's office in California and congress formally designated the week in 1991. And whereas public safety communicators at the city of Portland's bureau of emergency communications have contributed substantially to the apprehension of criminals, suppressions of fires and life-saving treatments of patients experiencing medical and mental health emergencies and whereas telecommunicators in the bureau of the emergency communications exhibit compassion, understanding and professionalism while performing a crucially important job as Multnomah county's first responders. Now therefore Ted Wheeler the mayor of the city of Portland, Oregon the city of roses does hear by proclaim April 9th to 15th, 2017 to be national public safety telecommunicator's week in Portland and encourages all residents to observe this week. And if I might just add the commission charged as the bureau the communications and staff work as hard as possible 24/7 to make sure that response is prompt and accurate. And we, last week, had an outage. The first time it's happened in 20 years, the interim director lisa saint helen has been in the bureau. And they scrambled to make sure it got back up as soon as possible. It's been a good lesson for us that we need to have many more redundancies built into the system in case of emergencies. So we will be moving forward with that. And in the meantime, the front line operators are truly the first responders and I appreciate and honored by serving as their commissioner. Thank you, mayor.

Wheeler: Thank you. Any further comments? Any further testimony? Great. Thank you. Commissioner Fish, did you have a motion?

Fish: Mayor, because we have some young people with us today who also are away from school, I move that we suspend the rules and bring the fair housing month proclamation forward.

Wheeler: Any objection?

Fritz: What number is that please commissioner Fish?

Fish: It's 347.

Fritz: Thank you.

Wheeler: Why don't we do the proclamation first.

Moore-Love: That's a 10 a.m. Time certain.

Wheeler: We just moved to suspend the rules.

Moore-Love: Don't we need four people to suspend the rules?

Fritz: You need four people to suspend the rules. Maybe we can do communications first then that will get us to 10:00.

Wheeler: Okay. Good idea. So for the children with us, we'll ask for a few more minutes of patience. We appreciate you being here very much. So with that, we'll move to communications. Is donna Hayes here yet?

Moore-Love: I believe they said she's on her way.

Wheeler: Okay. Very good. When she gets here, we'll accommodate her. First item.

Item 341.

Wheeler: Is Sarah Lara here? I do not see Sarah. Next item please.

Item 342.

Wheeler: Next item, please.

Item 343.

Moore-Love: He had to work today he's not able to make it.

Item 344.

Wheeler: Good morning.

Keith Ketterling: Thank you. I'm the managing partner of the stuhlburn law firm we have 18 lawyers at the old police headquarters building. A few weeks ago, our building was broken into and burglarized my office was specifically burglarized, credit cards taken. And

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in an ironic twist, the man who broke in was so high that he couldn't figure out how to get out of the building and he didn't see the green button to push to leave so he was still there when the police showed up in the morning. And that caused so much unsettlement among our employees that we've talked about whether we should move out of downtown Portland. And our landlord improved our building security and we've hired a security guard to be in the building, but that's not really the solution. We talked to our landlord and we don't want a compound. We don't want someplace where we're safe but can't leave the building. My employees have a hard time going to lunch, running errands, going for a run during lunch because there's so much drug problem around our area and so much homelessness. And I think that Portland needs to consider how to have more beds, shelters for families, shelters for families with pets, prioritize funding for mental health services for drug and alcohol addiction. We need more secure affordable housing for those who are homeless or housing insecurity. We need to support families that are in homes or in apartments. Help them pay their rent, keep them from slipping into homelessness. Simply not good enough that we say we don't have the money. The cost to Portland and the damage to Portland in terms of livability and the resulting loss of businesses far exceeds what we would spend to take care of these problems. We need to address them. I know the council is concerned about that. Mayor Wheeler has outlined his plans for those issues and we support those. With spring and summer coming, we tend to become more complacent because the homeless aren't out in the cold. It's warmer. But we need to address these issues now. And we need to support the mayor and the issues of homelessness and drug addiction in our city because it affects the businesses in our city. It affects our desire to stay here. And in the end, that affects Portland's livability overall. I know council is concerned about this. Just asking you to keep this on the very front of your decision making because it's very important to the businesses and the people that live here in Portland.

Wheeler: Thank you, Keith. We appreciate you coming in today.

Fish: Can I ask you a quick question? Since you did show up today. How many employees do you have in your office downtown?

Ketterling: We have approximately 38 people that work for us.

Fish: And do you have a sense of what percentage of those people live in Portland verses people who commute?

Ketterling: It's about 50/50.

Fish: Okay. And I know the building that you work in. It's the old police building. It's across the street from an outdoor store. And there's a gentleman who used to work in the outdoor store who a couple years ago was taking garbage out and was attacked. And he was assaulted, hit in the head and had severe injury and ended up retiring. So the safety issues you are talking about are issues that impact everybody. And that particular two or three block area has some challenges. I believe there's still an undeveloped lot adjacent to your property; is that correct?

Ketterling: Yes. I think it's owned by a foreign corporation.

Fish: That is an attractive nuisance. Because there's no development. That presents unique challenges. I know you are firm, your firm represents plaintiff's in class actions across the world and does good work. We all have a shared interest in making sure the people who work downtown feel safe. I hope we have a chance to follow up with you and talk about solutions.

Ketterling: Yeah. We would appreciate that. Thank you very much.

Wheeler: Thank you, sir. Appreciate it. Next item.

Item 345.

Wheeler: Good morning.

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B Max Grad: Hi. The paper I provided was copies. My name is max grad and 10 years ago I rented a building. I often joke I wouldn't rent to me. It is the building long ago out in sellwood. And so what I have in front of you is my pge bill for a service I don't use. And every three months I get a bill and started at \$50 and now it's \$69. Not too bad. 38% increase over ten years.

Fish: For what again?

Grad: For a service that I don't use. It's an extra service. No electricity goes through it. Volts. 480 volts. And the other one is for my sprinkler service. The sprinkler service began at \$55 a month. No water ever goes through it. Over the course of 10 years, it's more than doubled. So I'm here to say that either you could make it better or you could make it worse. By that, I mean, how many buildings in this city have sprinkler services and already paying \$50 a month to the city? You are looking for a street fee. So you could actually charge the buildings that don't have fire lines for the fact they don't have fire lines and that would give buildings like mine a break.

Fish: The materials in my packet don't include your bill. Did you give us your bill?

Grad: There should be a table that says water bureau.

Fish: So the pge bill is something we don't track.

Grad: It's a line we don't use but the change in price is just \$19.

Fish: Who bills you for the sprinkler?

Grad: Portland water bureau.

Fish: Water not fire?

Grad: Right.

Fish: There's no water going through the pipes?

Grad: Right.

Fish: And the fire bureau certified it's an active sprinkler?

Grad: No, it's active. Water never flows through it. So here we have a service that the water bureau charges you for just to have it in case you need it. And the price went from \$150 every three months to \$352 every three months. It's huge.

Fish: And that's the fee unrelated to whether the water flows.

Grad: Exactly. I didn't flow any water. If I did, I'd get charged for that.

Fish: So you are asking us to review the charge to see whether it's appropriate.

Grad: Right. And what I'm suggesting is you could leave it but then say, hey, everybody who doesn't have a fire service, you are costing us risk. That's going to be our street fee. You don't have a fire sprinkler service so we're going to charge you. Buildings that do, here's a break.

Fish: Mayor, I'm not personally familiar with this issue. The question of the fee that you are charged for the service, that's of great interest to me. Both what do you get for it and then how has it gone from x to y. So the bureau will investigate that. I would be interested in knowing more about what your vision for that and is that in writing?

Grad: No. Just putting it to suggest. How many buildings already have a sprinkler service? Where is the \$50 a month -- at this point it's \$120 a month. If there are 1,000 buildings, then they are taking money every month for water that doesn't flow. Is the water bureau essentially slush funding operating costs on the back of every new construction has to have one? So now you are signing up for, at this point, I can't do the math. \$1200 a year that gets taken by the city for doing the right thing with your construction.

Fish: Right. It's an issue that commissioner in charge will take a look at. Thank you for your time.

Grad: Thank you so much.

Wheeler: It's my understanding that donna Hayes is here. If you'd like to come up --

Donna Hayes: Oh no I have a date for May 24th at 10am

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Wheeler: Very good. Okay. Thank you.

Fritz: I think we've changed it to the afternoon so there's more space, if that's okay with you.

Hayes: No that's not ok with me.

Fritz: So that doesn't work for you?

Hayes: 2:00 May 24th I can do that.

Fritz: Okay. Thank you very much. We'll set a good amount of time. Thank you.

Fish: And commissioner Fritz, you helped to arrange for the time certain which we appreciate.

Wheeler: Very good.

Teressa Raiford: Commissioner Fritz, since you made sure we have a time certain will you just let for the record.

Fritz: We do. The time certain is 2:00 on May 24th and posted later today, I believe. Thank you.

Wheeler: : All right. Very good. I believe we are close enough to the times certain for item 347.

Item 347.

Wheeler: Portland is in a rental housing crisis. However, this crisis has always been present for people of low income and communities of color. Recent immigrants and refugees. People with limited English populations, people with disabilities, and other protected classes due to Portland's long history of rental housing discrimination. The historic patterns of racial segregation and disinvestment by lenders still predict housing quality, health, income and access to services and community amenities. Urban renewal of global walkable neighborhoods have increased Portland's housing demand and as this rental market tightens households should not be fearful of losing their home or so fearful of losing their home they accept harassment or substandard housing conditions. We want housing that stabilizes families and the community as a whole. Despite fair housing laws that are currently in place, we've heard of recent incidents of harassment on the basis of religion, race and ethnicity. So this is a very real and very current issue in our current. This proclamation demonstrates our belief that hate has no place in-housing or inner city. We know the most defective way to stabilize households is to keep people in the housing they already have. I'm working with the Portland housing bureau and community stakeholders and all of my colleagues on the Portland city council to alleviate and defend everyone's civil rights. We're committed to finding solutions that focus on education of all landlords and renters. Fair standards for the contract between renters and landlords. Enforcement of fair housing law. Not only at the time of seeking housing but also after a renter has secured their housing. There's a cost to everyone when families are displaced. It puts stress on our schools, our healthcare system, transportation system, the quality of housing and every other public institution in our community. The increased social and economic cost are not compensated for rising rents. So we must start by breaking down the barriers for housing choice for our most vulnerable populations in Portland. By starting with these communities, we can create long-term solutions that will work for everyone. We will use this fair housing proclamation to guide us in the coming year around policy making, around sound rental housing stabilization. So without further ado, I'm excited to read Portland's fair housing month proclamation. Whereas our community is committed to equal opportunity and housing choices for all. And whereas this year immigrants, refugees, people of color and religious community members are facing unacceptable harassment and discrimination that impede their housing and civil rights and whereas low income community members are increasingly more likely to experience substandard housing and community conditions due to economic displacement. And whereas under federal fair

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housing law it is illegal for a landlord or real estate agent to treat anyone differently because of immigration status, national origin, race, color, religion, sex, disability or familiar status. And whereas in addition to fair laws, Portland city code state it is unlawful to discriminate on the base of marital status, sexual orientation, source of income including housing assistance, military status, gender identity or history of domestic violence or sexual assault. And whereas, the theme of Portland's fair housing month is hate has no place in-housing. The fair housing council of Oregon's annual poster contest is it's fun having all kinds of neighbors. And whereas the city of Portland and its partners are working together to stop hate in-housing by educating all members of the community about how harassment is a violation of fair housing rights. How discrimination harms communities and how housing choice for everyone benefits the whole city. And whereas the Portland housing bureau is working with policy makers, renters and landlords to increase housing choice city wide and prevent displacement of low income renters and 2017 marks the 49th anniversary of the signing of title 8 of the federal civil rights act. That's the federal fair housing act of 1968. And the 29th anniversary of the fair housing act amendments of 1988. And now therefore, I, ted wheeler mayor of the city of Portland the city of roses, do hereby proclaim April 2017 to be fair housing month in Portland and encourage all residents to observe this month by joining the effort to promote fair housing for all. Please no disruptions. If you disrupt again, you'll be asked to leave. And with that, we have the panel.

Kim McCarthy, Portland Housing Bureau: Good morning. I'm Kim McCarty from the Portland housing bureau and I coordinate the bureau's fair housing contracts. The city's federal entitlement grant and our fair housing advocacy committee. So here today, we have representatives from the fair housing advocacy committee that represent the city of Portland, the city of Gresham and Multnomah county. We'll hear remarks from our housing bureau director Kurt Creager and namely our committee members Jason Trombley who is the chair and represents the coalition of communities of color. Patricia Rojas may be joining us and she is the representative for la programa and she represents the city of Gresham on our committee. And Alan Lazo who is also a member of the committee and serves as a technical advisor.

Jason Trombley: Good morning mayor wheeler and commissioners I'm the chair of the fair housing advocacy committee and also a member of the coalition for communities of color. Our committee comprised of representatives from the city of Portland, Gresham, Multnomah county is charged with updating the analysis to impediments and guidance on the fair housing action plan. The analysis outlines the issues the city must address to bring fair housing choice to everyone. Both the analysis and the fair housing action plan are requirements for cities in order to access federal entitlement grants. The analysis helps us plan investments that build communities that meet the intent of title 8 of the civil rights act of 1968, and the fair housing act amendments of 1988. While many facts about housing discrimination remain unchanged, this analysis shows that we need to give extra attention to the issues of unlawful harassment that results in fear of exercising rights. We present this year's theme for fair housing month. Hate has no place in-housing. Fair housing equals opportunity. Equal access to housing is a fundamental promise of America said Brian green. When access to housing is unfairly limited, it, in turn, limits access to good-paying jobs, quality schools and economic opportunity. The fair housing advocacy committee is focusing on how harassment. While housing harassment is not new the stories our partners are telling us lead us to believe the issues more pronounced in recent months due to anti-immigration sentiments. These sentiments mixed with negative stereotypes create a dangerous environment for many Portlanders. A context which Patricia Rojas will expand on. We must remind ourselves it is illegal to treat people differently because of their race, ethnicity, national origin, religion, family status or sexual

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orientation. It is the obligation of public institutions to protect citizens from housing discrimination and policies that would present a barrier to housing choice because of one's protected class status. Harassment impacts in different ways but results in inability to fully enjoy home and access opportunity. Renters may change where they park their car or restrict where they enter or leave homes. Harassment may come from neighbors through vandalism, taunts or calls. Or may come from the landlord of repairs or making eviction threats. Alan Lazo the executive director will share observations on the types of harassments and housing that exists. When faced with harassment individuals respond differently. They retreat, leave and some may feel confined. Some seek to help from the property manager but refuses to intervene or believes they should not intervene. Others reach out to police for help only to find themselves as the subject of a police reaction. Often the harassment leads to threat of eviction and when this is directed to people who are a member of a protected class or because they are in a protected class, this also becomes a civil rights violation. When harassment is not addressed particularly in this housing environment, there's a cost to the community. An eviction could easily make a low-income household homeless or displaced.

If, for example, you are a large family or disabled, the time to be rehoused is much greater and the cost on the city is much greater. A recent statement from HUD notes that 12% of complaints filed allege discrimination. This is quote, often a proxy for race discrimination. In addition to the loss of housing, this type of discrimination has a destabilizing affect that prevents families from positioning themselves in ways that allow the next generation to take advantage of what the next generation has to offer. Finding affordable housing for families is essential for younger generations to access opportunity as seen with the efforts to keep families in their apartments in both the Roosevelt and Wiggler school communities this year. Also, as the leader in Portland public schools leading the commission to redraw school boundaries because of enrollment shifts, we need to plan for change that is equitable and sustainable. Knowing this, there are policies we can pursue to resolve these issues. One, Portland can institute a landlord registration in order to train all landlords. And tenant landlord rights and responsibilities including rights and responsibilities to intervene when residents report harassment. Two, Portland can create a mandatory rental inspection program to ensure families do not delay asking for need of repairs because harassment created a fear of eviction or rental increase. Three, Portland can invest in organizations that work with people of color, immigrant grants and refugees to educate people about their right not to endure harassment. Four, Portland can increase enforcement tools to expand access to housing choice. And five, Portland can reinvest in media education campaigns to identify different housing discrimination or desperate impacts. These are just some of the ideas that could address housing crisis and will soon share his frame for furthering fair housing in our area. Thank you very much for dedicating this month fair housing month and allowing me to speak. I'll turn to Patricia Rojas for her remarks.

Wheeler: Thank you.

Patricia Rojas: Good morning. Sorry, I was late. I would like to speak with you about the impacts of housing policies as well as immigrant communities and when I mention this, it's much more than our local environment. It is also the national decisions that are being made and going to have local impact here on the difficult housing market. And in a community that's already afraid.

So it is very important we take a look at behaviors and practices we're seeing amongst landlords. Though everybody is impacted by the current housing market, communities of color and immigrant communities who do not speak English and are not familiar with the system are disproportionately impacted by our housing market as well as policies. So today, I'm here to ask you to create policies that create an inclusive Portland. Having an

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inclusive Portland, it's much more than a statement, much more than ethical and moral decision, it is a policy decision we have to create policies that enable communities of color not only to come to Portland, but to stay in Portland. As a part of the east Portland action planning, you might be familiar with this group. We did a listening session and came up with recommendations for fair housing a couple years ago. What we heard from immigrant communities is that they don't have anywhere to go. In their situation coming with a family of five, there is no housing in Portland that they are able to access. And that situation has gotten worse since then two years ago. And we now know that because of the heightened -- we have to call it out for what it is. Racist practices and language that is coming out from this administration. People are afraid. And we're seeing that in our community where unless we have a regulatory body that can oversee the practices of landlords, we can't expect them to not demand social security cards. We can't expect people to just out of their own will not expect to see driver's licenses. So I ask you to consider what kind of practices and policies we can put in place to create an inclusive Portland that will allow all of us to be able to stay and grow in this city. So I want you to please consider that we're in a moment in time where we can make a decision and as a representative of our community, we ask you to make the right decision to create policies that are going to be able to not only allow families like mine stay in Portland. It's really sad to see that there's not many of us left in the Latino community there. And we have to understand and take responsibility for our part in this issue and it's not accidental. It is intentional. And the policies that we have put in place so we have the opportunity and responsibility to recognize that and correct it for generations to come. So thank you for listening today and I appreciate you making this month fair housing month.

Wheeler: Thank you. We appreciate that.

Kurt Creager, Director, Portland Housing Bureau: Members of council, Kurt Creager housing bureau director. My pleasure to be here. I wanted to talk about how far we've come and how far we have yet to go. You would think after nearly 50 years of fair housing education enforcement; our society would be more inclusive accepting and equitable. But things have gotten more subtle. We have a climate at the federal level which is challenging federal law. And it's important that you know that senator lee from Utah, representative gosar from Arizona have each sponsored senate and house legislation that would prevent the use to study, evaluate desperate impacts created by fair housing. What is desperate impact? There was a Texas case against the state department of housing which found the state policy was in a way that created a desperate impact on people of color limiting access to opportunity. And the u.s. supreme court found an impact of a policy if it has a desperate impact is just as impactful if it is intentional. They did not ascribe intention but found the outcome was just the same. So a lot of what the housing bureau does and Jason mentioned the analysis to fair housing. We look rather deeply at desperate impact and evaluate those affects. And we use federal money for that purpose. So clearly, it's an attempt to try to stifle local efforts to create a more inclusive Portland. And while those bills have been proffered, they haven't yet been heard. I think it's just an illustration of how far we have to go of some 50 years for progress.

My purpose today is to introduce Alan lazo. Alan was mentioned last week as a appointee to the general bond oversight committee. All the members of the oversight committee are cashed on the phb web site. You can learn more about Alan's impressive career on our web site. He is the executive director of the fair counseling in Oregon. He participates throughout the region and served on Portland's human rights commission for the last five years. He served a year as commission chairman and vocal on the issues of fair housing. And yesterday, we had a four-hour bus tour. It was like the magical misery tour. From recent history where skin heads beat to death people of color in southeast Portland to

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more profoundly important where people were prescribed to live in a flood plain which people should have known was a dangerous place to put them. So that's an effort to raise people's awareness that in our everyday lives, decisions are made.

And a decision was made by responsible people. And we have moments of inflection.

Decisions can be made to put housing in high opportunity areas and it does mean that it costs more. And we're trying to correct some of the desperate impacts. With that, I've introduced Alan Lazo. He has good news for you.

Alan Lazo: Good morning, mayor, and commissioners. Thank you for having us this morning. Thank you for your proclamation around fair housing month. My role is really to introduce these young artists. I will circle back to what Jason said and talk about what the other speakers had talked about. In the future of fair housing. An environment at the federal level and throughout our country that is filled with hate. Prior to preparing for my remarks this morning, I did look through our records for calls since the beginning of the year. I didn't see any specific incidents related to hate and harassment. But we have had those calls come in since the beginning of the year.

Director Creager talked about the forms of racism that are happening in housing discrimination now. But what I saw at the turn was that seemed to be out the window. I have two examples for you we had one caller from the metro area that called, it was a Latino couple that said when they went to rent an apartment that they were told the apartment was available. They went and showed up and spoke with the landlord and the landlord identified that person was of Latino descent. He told them that he was not going to rent to them because they were Mexican and he was afraid that Mexicans would beat him up. We had another incident within the metro area where people are being told they cannot rent an apartment without proving they are U.S. citizens. That's the environment we're in today. It is starting to translate into these incidents. We do believe they are out there. The market now might have a chilling effect on people being able to report incidents. When the artwork of young students from around the state appear in our office. And this morning here, the students who received the grand prize and the posters from our poster contest. I'm going to read their bios for you and have you hold up and I'm going to give you a certificate and an award for those winners this morning. So our grand prize winners are Hannah Dersa and Sophia Jordan from Duniway elementary. They collaborated on their poster. Hannah is 11 years old. You want to hold that up and show the folks behind you. [applause] So Hannah is 11 years old in the 5th grade. She has many interests like math, writing and softball. When she grows up she would like to be a mathematician, author and even a scientist. Sophia is 10 years old and she's in the 5th grade at Duniway. She's involved in school and has a wide range of interests including reading, writing and softball. When she grows up she'd also like to be an author, artist or graphic designer. So thank you. We ask the young artists our theme which is intended to attract young people to fair housing through this approach. We asked them what they believe this year's theme. You can have fun no matter what your neighbors look like. Having diversity creates better opportunity to make new friends and learn about different cultures and traditions. All of the diverse people we drew were to explain everyone is welcome in our neighborhood. So thank you Hannah and Sophia. In the grades 1 through 3, our first prize winner was Rachel Clay from Chief Joseph elementary. [applause] So Rachel is 9 years old and in the third grade at Chief Joseph elementary. She loves reading, writing and creating gifts for her friends. She has an older brother William, two cats and three fish. Due to her love of animals and fashion, she'd like to be a veterinarian or fashion designer and maybe even design clothing for cats and dogs. Thank you so much, Rachel. And for grades 4th and 5th, first prize winners is Ava Gruin also from Duniway school she is 10 years old. If you want to show us your poster. She enjoys creative writing, drawing and listening to music

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she's a true advocate who's interested in starting a house for abandoned dogs with special needs. Ava believes this year's theme around it's fun having all kinds of neighbors means a world with people from different races, gender, sexual orientation, being friendly neighbors to one another. Thank you so much, ava. [applause] And grade 6 through 8, first prize winner was Laura lane she's from Capelin Gable school. So Laura is 12 years old. She's in the 6th grade and artist who's been taking numerous art classes since the third grade. When she isn't honing art skills, she enjoys rock climbing and enters rock climbing competitions every year. She also enjoys donating her time and her efforts to good causes here in Portland. Thank you so much. And welcome to all. [applause]

Wheeler: Hoping we can get some photos.

Fritz: I want to say something. This is the 9th time I've had the honor of hearing this presentation. I believe it's the first time the grand prize winners have collaborated on a poster. That's really important thing particularly at this point we work together to get things done. So thank you very much.

Wheeler: Thank you.

[applause]

Fritz: I want to thank all of the family members and teachers who helped these young artists to participate in the competition. It really is a family work.

Wheeler: Commissioner Fish did you have a comment?

Fish: First of all, thank you for bringing this forward. And thanks to the young people who joined us today. If you come back, in each council office, your art is on display. We've had testimony today reminding us the fair housing act arose quite a long time ago in the 1960s. It was signed into law by Linden Johnson. The interesting thing we learned is the biggest area of discrimination is discrimination against families. And the fair housing act did not address families and we did not get teeth into the law until 1988. That's important because that was signed into law by George Bush, Bush 41. So to those who say there's a partisan aspect to fair housing, it was launched by Democrat and it was strengthened by President Bush a Republican now, please, please.

Wheeler: Folks, again, any disruptions and you will be asked to leave.

Fish: Let's reflect for a moment on the confirmation hearings of HUD, Secretary Carson.

The question of fair housing came up and the director of the housing bureau noted there's a dispute about whether the law should cover treatment. Mr. Carson in his testimony refer to the whole concept of furthering fair housing as social engineering which had gone too far. So this secretary of HUD has called into question our nation's commitment to enforcing fair housing laws. And with environmental laws and many other laws in this country, it is now clear the primary role is going to dissolve to states and cities. We cannot count on a robust federal partner to enforce the laws. That brings us to the state of the city address. In his speech, which was cut short because of a timing snafu, the mayor pledged to increase funding for fair housing testing. It was one of the most important parts of his speech.

Because of the timing of the city club, he did not get to deliver that. So mayor, you will be the first mayor who has made that commitment to increase funding for fair housing testing and who has elevated the role of fair housing enforcement in the housing bureau and I congratulate you. And it could not come at a better time. But I also want to observe that something else one of our testifiers said was that when we build areas of high opportunity, we are furthering fair housing. I want to underline that Director Creager. You sort of said in passing that we are sometimes criticized for being in high opportunity. Places with good schools and good infrastructure and we're criticized for building housing that low income families can occupy. We're told we can hold it for less in areas that have less opportunity. Higher concentrations of poverty and inadequate infrastructure. I would remind my colleagues that every time we do invest in opportunity, we're investing in people's

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opportunity and families to succeed. And that when people tell us we should save a dollar by going against opportunity or by paying construction workers less than a prevailing wage or by not putting standards into housing, the question should always be at what cost. At what cost are we backing off our values. We should be proud we are building quality affordable housing in high opportunity areas and making it available to low income families. And finally, I want to call out the work of the fair housing advisory committee and the fair housing council of Oregon. This has been a difficult path for us. When we launched testing, we were criticized by friends and foes alike. And they didn't know what they were talking about. The fair housing council of Oregon is our partner in enforcing the law. And we are allowing them to believe they can take advantage of the law. I appreciate the mayor chose personal support. And people should be shamed for what they are doing. So mayor, thank you. Thank you for bringing this forward.

Wheeler: Very good. Let's go back to time certain 346.

Item 346.

Wheeler: Good morning.

Anika Bent-Albert, Independent Police Review: My name is Anika Bent-Albert assistant director for the independent police review.

Rachel Mortimer, Independent Police Review: Rachel Mortimer assistant manager at the independent police review.

Irene Konev, Independent Police Review: Outreach coordinator for the independent police review.

Bent-Albert: We are here before you all to seek the reappointment of James Young to the citizen's review committee. The crc is a voluntary --.

Wheeler: This is your warning. Do not do that again. This is a disruption. It is in violation of the council policy. Sorry.

Bent-Albert: It's okay. The crc is voluntary advisory board to the independent police review. Crc members are responsible for gathering community concerns about police services, developing policy recommendations to address patterns with problems with police services, conducting, reviewing and advising ipr on the complaint handling process and hearing appeals from community members and officers regarding the recommended findings of completed administrative investigations. The reappointment of Mr. Young will fill a vacancy of the committee that stems from the expiration of Mr. Young's prior term which was 3 years which would bring the total number of members to 11. Mr. Young is here today and we are very grateful of his continued interest in serving on the crc.

Wheeler: Thank you is there public testimony on this item?

Moore-Love: We have six people signed up..

Mimi German: It's not a good morning when we have people on the independent police review board who only love the cops. It doesn't get us very far when we need justice. This is a poem that I wrote for my testimony for this. I grow the names of the dead. Beside the river southern banks on these northwest fertile grasses, I've planted years of harvests grown, rooting time while yielding passing's. Here, the rounded turnips grow beside the wild parsnips, no rows for which to catch them. Rise lettuces and kale and chard, beats so red and gold. Asparagus and radishes breathed into life. Oh, to soiled earth. By the side of the house, stands of daffodils, iris and lilies rise. For I grow the names of the dead as young black lives are yanked like weeds from their mother's sides. I plant these names like a burial beneath storm clouds breaching the swollen spine of dawns vertebral sky. I oppose this man being on the ipr. I oppose everybody on the ipr right now. I think that we need people who are trust worthy and if, what you said, mayor, in the state of the city address was true that you were truly wanting, and I was hoping that you do and still do, wanting trust between the black community and the police, we have at least 11 cops right

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now who are on notice for racism. Somebody's got to get fired. This guy cannot come on to do this work to support our community when we're in need from being targeted and being killed, from kids being killed. From having a corrupt grand jury system that allows cops to walk free. We can't have racist people on the ipr investigating racist cops. We might as well get Jeff sessions here. That's it.

Cameron Stark: My name is Cameron stark and I'm a resident of north Portland. I oppose Mr. Young being reappointed. We have not found accountability through the crc. It seems to have been a failed process over and over again. I'm not sure that it even is the people that are on there. I kind of feel like the crc is set up to not work. That system does not provide accountability. I don't think you should reappoint somebody when they were found to not prove accountability. He claims he didn't know about Mark Krueger the Nazi cop. You think you'd be educated on what you are overseeing I don't think the system provides accountability and that it works I think that it needs to be redone. I understand it was part of the department of justice settlement that you have the crc. I don't feel like it's actually working. I think that you can find better members to be on the crc other than people who work with prosecutors and even sometimes people that are from other states. I think he was from Michigan or something like that. And if we had somebody home grown on that board, it would provide a better chance at accountability. Once again, I oppose Mr. Young's reappointment. Thank you for your time.

Wheeler: Good morning.

Lightning: Good morning I'm Lightning I represent lightning super watchdog. As you know we have a bio here. And last week, you did not want to have a bio on the affordable housing bond committee. Again, your statement of going to the internet to pull up a name. There were 15 names that I pulled up at that time.

Wheeler: Today we've linked them all in the contracts per your request.

Lightning: Like I've stated to you. According to open meetings law the information that we're provided must have enough information for us to make a reasonable decision to vote yes or no. That is an open meeting's law that you need to follow and understand. Now, pertaining to this individual, again, I went to another meeting on behalf of Mr. Davis and positioning himself against a retaliation claim against police. It was inappropriate for crc to do that. On having camera phones picking up the video. Why have you not put body cams on Portland police officers? Why don't you put those on them so we have more information, more data to look at to have a clear understanding on what happens out there in the claims they are making and basically don't believe. We need to have body cams on every Portland police officer and there's no reason you can't push that forward now. Other cities are I'm currently reviewing 50 different policies.

Wheeler: This isn't about body cameras.

Lightning: Oh, yes it is.

Wheeler: I'll be happy to answer your question.

Lightning: That information pertains to the crc meetings on having adequate information to make a reasonable decision for you for whatever reason do not want to have body cams on Portland police. What is the reason, mayor wheeler?

Wheeler: I will give you the reason. There will be body cams but I have not adopted my first budget as mayor. And as I've said many times, we will pursue that program, but it has to be budgeted first. Excuse me, you are mistaken. Continue.

Lightning: Federal grants were not applied for. I'm not mistaken. I can pull that data up.

Wheeler: I've been mayor for 13 weeks. And you should wait and see what my budget and my priorities look like. Next three please.

Dan Handelman: My name is Dan handleman. I'm with Portland group watch. I want to start by looking at the resolution. Seems like this was copied and pasted from the last

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round of appointees. Gives me a sense things are in disarray. To that point though, the ipr could have appointed more members to the crc. The stakeholder group that met last fall recommended expanding crc's membership to 13 members or 15 members, rather. And that was ignored. It's not in the item you are hearing tomorrow afternoon. And we're going to talk more about that then. The crc members are restrained. They are hearing one to two cases per month. Although that seems to have cleared out. We at cop watch feel the best solution would be to create legislation allowing civilian members to rotate in to the crc on an as-needed basis. The training is mostly the same. Which are different between prb and crc. Council learned when you heard the taser case in February the differences between the reasonable person's standards and the preponderance of evidence standard which are different between prb and crc, crc members currently have to learn those two standards when they sit on police review panels on shootings and death cases. Another solution would be changed crc standards and reviews. Since council has final say, the crc votes are only recommendations anyway. We'll talk more about the ordinance tomorrow. Related to the crc's concern, there aren't enough members to attend five person panels reviewing appeals. It's crucial that crc members at least show up to as many meetings as possible. The reappointment to Mr. Young to crc is objectionable but because he's made valuable contribution to crc. He's advocated that crc should hear deadly force appeals. And also made statements we disagree with.

These are not personal concerns we have. We checked the minutes and found out that from 15 crc meetings held from May 16 April 2017 Mr. Young only attended five. Crc has a protocol for each crc member to attend all scheduled meetings. Excuses may be granted for occasional schedule conflicts. We suggest missing 10 to 15 meetings falls outside the occasional conflicts protocol. We ask Mr. Young not be renewed. He can still participate in work groups and clear up front that they may be attending two or more meetings a month so they are not disappearing. Two other quick points. I may have raised this issue before. There's no closed captioning or projection here. When it's hard to hear, I don't know what people who are hard of hearing do or deaf. And finally, this was a 9:45 time certain. And you moved it behind the 10 a.m. Time certain. For those of us came down here knowing this has been on the schedule, it's frustrating to have you move the schedule around like that. Thank you.

Wheeler: Thank you. And I do apologize for the schedule shift. We made a decision just based on the fact we had kids who needed to get to school. I do appreciate your patience.

Davis Elton: Good morning David Elton I grew up in Lake Oswego and spent most of my life in Washington d.c. I moved home five, six years ago and lived mostly on the beach. In Spokane, Washington I've worked mostly with the sheriff the Ozzy Conesovich. A person I knew of wasn't a really close friend was killed by police. His name is otto zehm. The police officer he did go to jail for four years. I am generally pro police. Although I am active on investigating police lawyers, judges and ceos and the gca. I try to be objective. I know you've been mayor for 13 weeks. I very much support you. Our family is looking to help with this and homelessness issues. Our family is looking at a partnership with a number of mostly lawyers and Mormons, Catholics and people of the Jewish faith. Tends to be wealthy Mormons. We're going to plunk down some money - - My father died 10 months ago. We're going to get together people that will plunk down deposit. He was one of the co-founders. And I worked for dad and bill coleson. There are people in Lake Oswego and surrounding areas that want to help you solve this problem. This can fall under homelessness and police oversight. I generally support the reappointment. My issues have been in Spokane. There are people that want to help you solve two issues. Homelessness and police oversight is still important. I hope we can meet with you in the next few weeks. I support the reappointment of this gentleman. He should be attending more meetings.

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There are people outside of Portland should be able to meet more people that have hundreds of millions of dollars. My mom is 77. She's not going to live forever. She'll probably live to 95. We want to help you. So I hope you have time for coffee. We look forward to help. I do support the reappointment of this gentleman. You ought to consider someone like myself or this gentleman or someone from outside the normal community of police. Thank you.

Wheeler: Thank you, sir. Good morning.

Joe Walsh: Good morning for the record, my name is Joe Walsh. I'm sorry. One of the things that bothers me about is not showing up for the meetings. That bothers me. It seems if you only show up for one-third of the meetings, if my math is right, then you shouldn't serve. By the way, where are the other two commissioners? If they don't show up, they shouldn't serve either. We take our time and we go through some hassles of getting here. It's important to us. I know you think there's a small group of thugs. I don't think we are thugs. I've never been called a thug in my whole life. I've been called mouthy. I've been called Irish. I've been called a jerk. And that's okay.

Thug is a little bit too much. The CRC does not work. We all know that. We keep reappointing people to the committee that doesn't work. They can only recommend. You need an organization that says that cop did something really bad, he's out of here. I don't care what you call it. I want them independent. I want them funded independently. I don't want you guys to touch it. I want them to come before you as equals with their own funding and own investigation. So we trust them. We don't trust the CRC. They just recommend and it's overturned or pushed aside or postponed. And you wonder why we get so angry. If you want to stop your interruptions, respond to us. In real terms. Say no, we're not going to reassign anybody. You keep doing it. And you get the same results and you keep doing it. That's insanity. We know that cliché. Why do you keep doing it? That's the thing I don't understand. You are not going to stop us from interrupting our services unless you respond to us. You are going to rubber stamp this again and we're going to leave here angry.

Moore-Love: That's all who signed up.

Wheeler: Very good. Any further council discussion?

Fritz: I'd like to have Mr. Young come up and also like to clarify about the number of vacancies that we have.

Wheeler: Mr. Young why don't come forward as well.

Mortimer: We also just noticed that listed three vacancies and we apologize. That should have listed one. This is the only vacancy at this time. So this is the only vacancy at this time. So we need to correct that for the record. I can also just answer that our office and the auditor did have a robust discussion about the attendance issue. The numbers are not quite correct as given by Mr. Handelman, I think, for 2016, there were 17 meetings. And Mr. Young missed 7 of those meetings. He did during that same time attend all of his work group meetings. And was very engaged in policy work and additional work that was going on during the days and not during the official meetings. He was in very close communication in our office for each of those meetings. We were aware of the circumstances going on there. The auditor feels his contribution is valuable.

Wheeler: I don't know Mr. Young. So this is not in any way intended to impugn you or any of our colleagues. We have heard this criticism that it is hard to get the quorum together and hard to schedule so many people when they are so busy are meetings are available by phone.

Mortimer: It would be logistically difficult but something we could consider.

Wheeler: Here is the only condition under which I will give a yes vote. I will assume you are as valuable to the committee work as the auditor says. I trust the auditor and I trust

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that. I want a commitment you will find a way for people to participate in those meetings by phone so it doesn't drag these conversations out and allows a quorum to get together on a regular basis and we'll just have to find you a meeting that has a multi phone. So I'd like the commitment that if it is available, you will make an effort to attend. I think it's important for consistency purpose that people attend. So do I have that commitment?

Mortimer: We'll have to check and make sure that would work for voting purposes and no code restrictions against that. Absolutely.

Wheeler: Are you aware of any code restrictions about meetings being conducted by telephone? We do this with the city council from time to time.

Jason Loos, Deputy City Attorney: Mayor and council, it is allowed under the code. It would be the same rules.

Fish: Mayor, as I understand it, if for some reason needs to be a change or modification or clarification in the code, the condition which you are establishing would require the auditor to come to the council. We can assume the code would allow it.

Fritz: May I suggest we ask Mr. Young and give him a turn to say why hasn't he been attending?

Wheeler: Sure. I'd also like to hear why you are attending.

James Young: Thank you. Two answers the data regarding the attendance has been in the past year. And also doesn't include all the time commitments. And whether it was under coab, set up by the city attorney's office or use of force, part of crc. I've attended those. As a former city attorney, I've been asked to serve council to a very complex rate litigation in my former state of Michigan. Unfortunately, many court hearings take place during the first week of the month. And as a result, during the past year, because of travel, I just haven't been there.

German: You can ask me to leave. This whole team here is making up their own rules. They don't get to make up the rules.

Young: To the extent that even before I would leave, I would check with ipr to make sure they had a quorum set up. If I might, the suggestion regarding -- participation by phone is -- number one, it could resolve my issue --

Wheeler: Excuse me. Please leave, thank you.

Young: To the extent that if I'm required to travel. We've also had crc members -- years ago you looked for diversity in all areas. And having people with families has made it difficult to sometimes for members to attend and participation by phone would really assess. The key is prepping beforehand but then to the extent you can't attend the meeting itself, it would provide, I think, excellent flexibility if attendance by phone was permitted. That's number one. And number two, I initially got involved because as fate had it years ago, I met a former mayor and didn't realize she was mayor and told her my background and gave me things she thought I should do. And crc and casa were two of the items. As I've seen the process and I agree with the comments.

I'm telling you. The current oversight of police officers does not work. It is not fair to citizens and not fair to the police. Attendance by police is they simply do not attend for a variety of reasons. So I'm committed as a matter of trying to make my -- where I've lived for ten years in my new home do something meaningful. And being committed to meaningful police oversight is now on my bucket list. And just as the other gentleman is sitting here, I would be happy to meet whether it's with Nicole or you or anybody else what can be done to what can be done.

Wheeler: Thank you. I appreciate that. Thank you. Commissioner Fish.

Fish: Mr. Young. I'm going to tell you why I'm going to support the reappointment that we allow people to participate by phone. And with the -- excuse me. With the condition that your attendance be consistent with what is expected. After the council heard the crc

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appeal recently, which was the first crc appeal, you and I had a conversation because you took the time to be in the audience. I Appreciated your perspective on that issue. There were a number of irregularities that arose in Mr. Klugs appeal. The two and a half years it took to get to us. The fact that the wrong directives were presented to the crc, and had to be withdrawn and updated. The fact that on a number of occasions people did not show up for meetings and had to be rescheduled. In addition, for me I had as you know concerns about the six tasers and the use of force. What I gleaned from our conversation, however, is that you share the concerns that the council expressed that day in overturning the recommendation of the chief. That the system is not working the way it should. So in reappointing you, I would ask you to also share with us on an ongoing basis your recommendations for how we can improve this process. I know we're going to hear from Mr. Handelman and others who have views. I believe you have suburb leadership. I think the current chair is outstanding. Her presentation was one of the reasons I voted not to sustain the chief's recommendation. But I think there are improvements that need to be made and we don't want to wear people out. To take 2.5 years to deal with one case cannot become the norm so I appreciate your willingness to serve and I ask you to help us get it right.

Young: I agree with everything you just said. Yes, sir.

Fritz: I move an amendment to the third whereas that will now say whereas the committee has one vacancy resulting from the completion of James young's term and then the fourth whereas substituting one applicant instead of three applicants at the end of that sentence. Thank you, Mr. Handelman, for pointing that out.

Wheeler: It's a motion seconded, any further discussion? Call the roll on the amendment.

Fish: Aye. **Fritz:** Aye. **Wheeler:** Aye.

Wheeler: I'm sorry Mr. Walsh isn't here to hear me say this. I'm relatively new to this process and a few weeks into my administration I had the opportunity to participate in one of the hearings. I was largely left with more questions than answers. I have come to be very frustrated with the accountability process generally and this is not a condemnation of anyone individually. I think collectively there are some acknowledgment these things are taking too long. They are ploddingly slow. I'm only now seeing things cross my desk that were started in some cases over two years ago. That's problematic. On the other hand, there are some things that finally cross my desk and I go, why the heck was there ever an investigation and why did it take this long to get to this point? I'm putting my flag in the air on the side of the oversight process isn't working the way we need it to work. I applaud you for wanting to serve on this committee. I will take you at your word. You've said a lot of important things on the record for all of us to hear. I actually don't think the problem is appointments to a committee. It's deeper than that and it's going to take a lot of work to have the accountability system that the public supports that does justice and is fair to the people in the police bureau. I think if we pulled all of the above, if we pulled all of the above none would be particularly satisfied with what we've got today so I'm looking for changes and we're having a conversation tomorrow which will be I think the beginning of a longer conversation around accountability systems and mechanisms in place and we need to continue to push it. Because Mr. Walsh was I believe actually correct. He said one of the reasons that people are angry is that there is a lack of confidence in the system itself, and I agree with him on that. Thank you of the best of luck. Please call the roll.

Fish: Aye.

Fritz: Thank you for this important discussion, mayor. I agree with you, one of the things most helpful to me in that appeal hearing last month, several weeks ago, was seeing the timeline of how things happen internally. Then I know that the citizens review committee has been chastised for not getting things done in 180 days. Often the matter doesn't even

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get to you in that time frame and certainly not in the time frame that would allow you to make the decisions with the appeal. That is true. I agree with the mayor that the oversight system is not working. I think we would all like it to be better. So we should have a robust discussion tomorrow about what does that look like and how the independent police review committee accountability when things aren't taken care of in a timely manner. I thank you and all of the members of the citizen review committee certainly my -- particularly my liaison christine. **[No Audio]** lots and lots of meetings. Assisting figuring out a better system. One of the reasons I'm voting to support Mr. Young is I have seen you give opposing viewpoints. When that may not be popular, including one particular instance where you suffered an assault by a community member and I appreciate you being willing to serve after that. That's why I'm voting to support you. I don't expect people to agree on extremely challenging things. I want robust debate. Thank you very much for providing that. Also for giving us the assurance that we'll be able to attend in person more this year as well as by phone if necessary aye.

Wheeler: So as I said I will support this with all of the provisos that I put forward earlier. But I gotta say, sort of the new kid on the block it's frustrating for me to come in after having heard for 12 weeks about how hard it is to get people together for these meetings and how slow the process is and to only learn now that we're still not using a telephone for people to be able to call in. That's just like meeting basics 101. I guess my frustration is how many other of these impediments do we have out there that could be solved with a really simple common sense solution. So I blame myself for that. I don't think we are giving people enough an opportunity to just say here's like ten things you could do to make things easier, more convenient, less expensive, and ultimately more effective in this city. I'm putting out the call. I want you to think hard, innovate, work with the auditor who is a great innovative leader and see if we can't improve this process. I know we'll have the opportunity to talk about this again tomorrow. Thank you. The appointment is approved.

*****: Thank you.

Wheeler: Next item, please.

Moore-Love: Do you want to go to the regular or pulled items?

Wheeler: The pulled.

Item 350

Fish: This was pulled so we could vote on it because we didn't have the requisite votes in the consent agenda.

Wheeler: Very good. Is this the first reading? So is there any further question? I'm sorry, is there any public testimony? [shouting]

Wheeler: You're going to have to leave. Mr. Walsh, you have to leave. [shouting] you have to leave. Please leave. Folks, we're going to take a recess and clear the chamber. If you would like to come back in a few minutes I would ask you to go out to room c, just to the left, and we'll reconvene in a few minutes. [shouting]

At 11:09 a.m. council recessed.

At 11:35 a.m. council reconvened.

Wheeler: There was no testimony on 350 it's a non-emergency item. It moves to second reading. Let's take 351, then go back to the consent agenda when commissioner Fritz is back.

Moore-Love: Commissioner Fritz will not be returning. She's out until 2:00. 351.

Item 351.

Wheeler: Commissioner Eudaly.

Eudaly: Well, these are some small code changes, our first steps towards resolving some of the issues with our city marijuana regulation. I don't think anyone is here to speak or -- do we need --

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Wheeler: It's not required. Is there any public testimony?

Moore-Love: I did not have a signup sheet. We're on 351.

Wheeler: Would anyone like to testify on marijuana code? Come on up. Then there will be other opportunities. You don't have to testify right away. There's others. Very good. Please call -- excuse me, this is nonemergency first reading. It moves to second reading. Back to the regular agenda. Assuming we have Susan Anderson. Is she back in the room yet? Very good. 352.

Item 352.

Wheeler: Good morning.

Joe Zehnder, Bureau of Planning and Sustainability: Good morning. This is an item that was on consent that was pulled off with the request that we provide biographical information. Resume for the appointees and we have done that and made it available online. Five of the commissioners are being appointed for a four-year term, two are being extended to the ends of may so that we can complete the work on the comprehensive plan. Central city plan.

Wheeler: Any further questions? Any public testimony on this item, 352?

Moore-Love: I had four people sign up.

Wheeler: Apparently they are not here. I'm sorry, come on up. No worries.

Wheeler: Nonemergency first reading, it moves to second reading. Next item, please.

Moore-Love: This is an appointment.

Wheeler: I apologize this is a report. We have a motion.

Eudaly: I second it.

Wheeler: Please call the roll.

Fish: Folks who serve on this body put a lot of time- - the people who were reappointing put a lot of time and energy into their service on the planning and sustainability commission board and help us make good decisions and we're grateful for their service. Aye.

Eudaly: Aye.

Wheeler: Aye. The report is accepted. Next item, please.

Item 353.

Wheeler: Before we begin this, the city attorney has asked us to take up a substitute. Could I get -- why don't you read the substitute language.

******:** I don't have the substitute in front of me. I believe it was filed as a substitute.

Wheeler: This is the substitute language? Very good. Can I get a motion and second?

Fish: So moved.

Eudaly: Second.

Wheeler: Call the roll.

Fish: Aye. **Eudaly:** Aye.

Wheeler: Aye. Now we're discussing the substitute. Good morning.

Tracy Reeve, City Attorney: Just to clarify the reason for the substitute was there may be one procedural mechanism or another by which we either join or bring our own lawsuit on this matter and it was just to clarify that we had authority to do it either way if you authorize us to proceed. So what we're asking is for the authority to file a lawsuit against the federal government and president trump and attorney general sessions and the director of the department of homeland security, either joining in the lawsuit that Seattle has already filed or filing our own lawsuit and then moving to join the lawsuits. We're in the process of sorting it out. I have been in communication with Pete Holmes, the Seattle city attorney. He very much supports as do their officials the city joining in their efforts. This lawsuit pertains to the president's executive order 13768 which threatens all so-called sanctuary jurisdictions with has withdrawal of all federal grant funding if they refuse to participate in

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the enforcement of federal immigration law. The lawsuit is based on a number of factors but primarily asserts that there's a misinterpretation of 8 usc 1373, which is the only applicable federal statute and with which we and Seattle comply. The president's executive order in addition to requiring compliance with that statute appears to more affirmatively require that we partner with ice in enforcing federal immigration law. We believe that's both not required by federal statute at issue and more importantly would violate constitutional principles of states' rights, local jurisdictions' right, an over reach by the federal government. In addition, even if we were not compliant with 8 usc, 1373, it would not be a basis to withhold all federal funding which is what the administration is threatening to do. We have been in close contact with Seattle. We work well with them and they welcomed this step and authorizing our participation. We also have very fortunately received a generous offer of pro bono representation by a major west coast law firm. I'm waiting until conflicts are cleared before we announce that they will actually be representing us. They have some work to do to clear that up but don't anticipate any difficulty. Our office will do a lot of the substantive work but they will work with us and act as our counsel in Seattle so that we will not incur additional expense to hire outside counsel. With me is chief deputy city attorney harry auerbach and we're available to answer any questions you may have about this.

Wheeler: I would like to start with the question on teeing you up for this with a little bit of an introduction. I first raised this possibility of joining with Seattle because I was advised that if we sue independently the way Seattle has done, the way Los Angeles has done, we will be using exactly the same legal framework to do so. So my thinking was by partnering with Seattle we send a strong message as a unified northwest and in addition to that there was the possibility of teaming up our legal efforts, which I believe can only make us stronger in this endeavor. I would like to get your perspectives on this as well. Together versus independently.

Reeve: We believe that there is a mechanism -- it purely has to do with some procedural requirements and we believe and we're in discussions with the Seattle city attorney we believe there's a way forward for us to join the lawsuit as a matter of right. We simply want to cover our bases and if for some reason it would be more advantageous procedural to file our own lawsuit in Seattle and move to join them we wanted council to have given us broad enough authority to do that, but we agree with you that we think that Seattle's complaint is very well thought out. We have the same bases, legal bases to sue the federal government that Seattle does and our hope is that it will work out for us to join them as a plaintiff in their lawsuit which would involve them filing and us with them filing an amended complaint in that action and that is what we anticipate as the preferred course of action. There are some things that could occur that might necessitate us filing our own action, were, for example, a response to be filed prior to time the amended complaint is prepared which we don't anticipate then we would have to file for leave, but it's just to make sure we filed the amended resolution merely to make sure that were it necessary council authorization was broad enough to authorize us to file ourselves and move to join should that become procedural necessary.

Harry Auerbach, Chief Deputy City Attorney: The only thing I would add, the law is like medicine. There's a lot of differential diagnosis that goes with it. An issue has been raised about technically whether we can sue in Washington or join Seattle's lawsuit. Having reviewed that I don't think it's an impediment and our expectation is we will be joining Seattle's lawsuit but in case it turns out that that won't work we just want to have an avenue to go forward of the.

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Wheeler: Just to doubly underscore what we are authorizing you to do through this resolution substitute is to go either path. Obviously the preferred path is joint but if necessary we'll go forward independently as well.

Auerbach: That's correct.

Wheeler: Thank you.

Fish: I have a couple of questions or comments. First I'm pleased you brought this to council but to be clear if this issue comes up during a time when the mayor doesn't have the chance to come to council and it involves whether we join with an existing lawsuit, I believe the council has said the mayor has authority to make that call is that correct?

Reeve: So what we previously asked council to do was to give the mayor authority to authorize the city attorney to join with any other jurisdictions on related issues as an amicus. In this case we're seeking authorization to file as a plaintiff.

Fish: The mayor made a very important point, raised an important point about the value of us joining in existing lawsuit versus filing our own. The one thing I didn't hear you say which is worth noting, we all understand these issues are going to be decided ultimately at the circuit court level if not the supreme court level, and the Seattle and Portland are in the same circuit, the 9th circuit, so it will ultimately be decided by the same appellate court whether we initiate or whether they do. That's another reason why it makes sense to partner as I understand it.

Reeve: Absolutely. Even if we file an independent lawsuit our intention would be to file it in the western district of Washington to move to join the lawsuit. Either way our intention is to present a united front with Seattle and potentially my understanding is speaking with Pete Holmes that there are a number of other jurisdictions that may also be looking to participate as plaintiffs.

Fish: Finally, we're getting I think all of us are getting emails from people that seem to be as confused as the general public is about this issue partly because of conflicting statements made by different actors. Some of it emanates from the trump administration where they have said things as far as I can tell flat out not true and others people reading in. I think it's very important just because we need to speak with one voice and you're our attorney, number one, your view that is we are currently not in violation of federal law.

Reeve: Correct.

Fish: Number two, since we all took an oath of office and swore to uphold the state constitution, Oregon law very clearly says we cannot use public resources to enforce federal immigration laws.

Reeve: Correct.

Fish: Number three, we have the benefit of a supreme court case on a related issue which rose under the affordable care act when the federal government under threat of withholding Medicaid dollars so the to compel states to expand Medicaid. A supreme court headed by justice Roberts, the current chief justice, said that that violated the 10th amendment and article 1 of the constitution because it could coerce a state to do something which they otherwise wouldn't do or didn't want to do. So we do have the benefit here even if someone says we did violate federal law which we don't believe we did, if there is a conflict, even if the 9th circuit view doesn't hold, we have the benefit of a supreme court case issued by a conservative court and this current chief justice that upholds the idea that we can't be coerced to do something and that would be our best line of defense if we ever got there.

Reeve: Correct. That would be a spending clause violation and that's what the sevilus case holds.

Fish: I only know this because you gave this excellent memo, the final point, to the extent that president has said that we would forfeit all federal money that is also would violate

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both statutory and constitutional principles because the court very narrowly defines what you can actually condition so as not to cross that line into coercion and unlawful conduct under the constitution. So as I understand it, if we were wrong in everything, which we don't think we are, and under the worst case scenario we may be putting at risk a couple of the grants we get from the federal government to augment the police work we do and the like, those are a tiny fraction of our overall budget.

Reeve: That's correct. Interestingly, commissioner Fish, the administration has at the same time indicated that the law enforcement grants are the ones that they don't want to pull even though technically those are the ones with the closest nexus to the conduct. So I think even those we would have good arguments.

Fish: Thank you.

Eudaly: I have a quick question. It would be interesting to me and some members of the public, what is the benefit for the city and for the lawsuit of us joining us as a party rather than as an amicus?

Reeve: What the difference is that we ourselves would be suing as a plaintiff, the president, the administration, the other members of the administration that I had mentioned in saying that Portland has legal interests itself that it is seeking to protect through the lawsuit some of the we're not just saying as a municipal jurisdiction we're genuinely interested in the resolution of these legal issues. But we're saying that we ourselves have federal funding at stake, that we ourselves comply with the state law and that the actions the trump administration is taking negatively impact the legal interests of the city of Portland and we would have a judge ruling on that issue whereas as an amicus a judge would not rule on any issue particular to the city of Portland. We're just there as a friend of the court. We're not a party affected by the outcome.

Wheeler: I'm sorry, we have some disturbance in the hallway, I'm not sure what that is, but looks like there's plenty of people to address it. Do we have any public testimony on this item?

Wheeler: Are any of those individuals here?

Moore-Love: Mr. Stark is here.

Wheeler: Thank you.

Cameron Stark: I'm sorry I'm having a really hard time. That's my godmother out there screaming. Since this pertains to the -- I'm Cameron stark for the record, by the way. While we're talking about the ordinance of a sanctuary city, I can't agree that this is a sanctuary city. I do agree with your actions filing the lawsuit in conjoint with Seattle. I believe it shows strong representation and solidarity. I do think that you should move forward with this lawsuit. But in a sanctuary city I think that you and Seattle should work together to -- there's a lot of crime, a lot of drugs, a lot of gangs, a lot of problems in Portland and Seattle as well. We're losing a lot of lives. We're losing a lot of lives of black people, of children, family members of community members. Those things shouldn't happen in a sanctuary city. Commonly as they do. Yesterday there was a shooting in a park by Lloyd center. Turns out the person that died was a don't shoot Portland activist. Our whole community is shaken. The whole city of Portland. Just from the top to the bottom. It's nonstop. The violence. The police killing people, quanice Hayes, James chasse. It's ridiculous. If this is sanctuary, this needs to be safe, and we need to be safe not only from each other, the police, safety is all around. Sanctuary is all around people have to come here and feel safe. I just don't feel that it's a sanctuary city when you can come into Portland from who knows where, Europe, and it's a Wednesday afternoon and there's riot cops running around. That doesn't send a message of safety. I do agree with the lawsuit, though. I just want to be safe. I just want to feel safe. I want our community to feel safe and it's really hard when we're losing people we love on a daily. Thank you.

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Wheeler: Thank you. Was there anyone else signed up?

Moore-Love: That's all.

Wheeler: This is a nonemergency first reading.

Moore-Love: This is a resolution.

Wheeler: I'm sorry, it is. Says that in plain English on my sheet. I apologize.

Commissioner? Did you have a question? Very good. Can I get a motion? I'm sorry, resolution. Roll call.

Fish: Mayor, thank you for bringing this forward. City attorney, thank you for the work you've done to educate the council and the public about these issues. I was proud when the city unambiguously reaffirmed our commitment as a sanctuary city and I'm honored we're joining with sister cities along the west coast to resist what I consider an unconstitutional and un-American executive order. Thank you. Aye.

Eudaly: Aye.

Wheeler: I have been asked many times what does it mean that we are a sanctuary city. We just heard I thought some very provocative testimony on that question. I'm with those who say that it's important and it was important to articulate what a sanctuary city is and what a sanctuary city is not. I think it's even more important that we back those words with concrete action. I'll be honest with you. Five years ago I never would have envisioned myself suing a president of the united states on an issue of what I believe is an issue of morality. Yet here we are. I think it's very important that we're taking this action. I think it's important that we're doing it jointly with other large urban areas on the west coast and around the united states. I have every confidence that we will prevail in this action. I'm very proud of my colleagues, the legal team, and everybody else who is engaged in this process. We'll push forward. With that, the resolution is adopted. Aye. Next item, please.

Item 354.

Wheeler: Good morning.

*****: Almost afternoon.

Wheeler: Almost. Another Wednesday.

Larry Pelatt, Procurement Services: Good morning, mayor, members of the city council, I'm Larry Pelatt from procurement services. You have before you the procurement report recommending contract award to stellar j corporation for the Safeway pump station upgrade for \$1,148,683. The engineer's estimate was \$1,090,000. Okay. There we go. I have to hold this stuff back far enough so I can see it. Engineer's estimate was 1,090,000. The bureau's confidence level was high. On January 4, 2017, council approved ordinance number 188188 for procurement services to competitively solicit the pump station upgrade. The project was advertised in the electronic procurement system and bids opened February 14, 2017. Six bids were received in response to the solicitation and stellar j corporation is the lowest responsive and responsible bidder at \$1,148,683, which is 5.3% over the engineer's estimate. The bureau of environmental services along with procurement services identified an aspirational goal for the certified dmweb subcontractors and supplier's utilization at 20% of the hard construction costs. There is a total of \$53,132 or 4.6% of certified firm participation on this project including certified subcontractors, db, 21,275 doing trucking, fencing and traffic control.

Wheeler: Can I get that on a percentage basis?

Pelatt: I don't have it that would be roughly -- 2.3%. I'm doing fast math, mayor. I'm sorry. I don't have those specifically broken up. The total is 4.6. The wbe at \$4,340 would be less than 1%. Esb providing plumbing services at \$27,517 would be just over 50% of the total subcontracting. Stellar j is located in woodland, Washington, not a state certified dmw or esb contractor. They are in full compliance with the city's contracting requirements. If the council has any questions regarding the bidding process, I can answer those. I believe

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Dan Hebert from bes is here. The vendor was here and had to leave for a separate meeting.

Wheeler: No doubt. Thank you. Any further questions?

Fish: I have a couple of questions, mayor. The 4.6% participation against 20% aspiration is in addition not an Oregon cope and not a state certified in terms of mwesb. So what did we learn from this procurement that we can apply to a future procurement to get better numbers?

Pelatt: Bes wants to come up that's great. What happens is in the procurement, bidding process, all of the forms are out they are required to submit to contact and submit information relatives to the contacts of all of the certified firms that they have been in touch with relative to various and assorted pieces of available subcontracting. Stellar jay is a very large corporation and has capacity to self-perform many things, not that that's -- there's a we do business with a lot of really big firms, but that's been the issue here. They are self-performing and the certified firms that they contacted either on their form did not respond or had a bid that was too high for them to use.

Dan Hebert, Bureau of Environmental Services: I'm Dan Hebert with bes, the project manager for the project. It's difficult to say what might have happened in the procurement process. When we put together the contract documents and specification we identify a number of divisions of work, specific divisions of work that the bidders are then required to contact these mwesb firms and get five quotes. Document they tried to get quotes from a minimum of five firms. We try to identify as many divisions of work that would be applicable to smaller firms like fencing, plumbing, grading, traffic control, structural concrete. There's about 30 different divisions on one sheet of paper that we could check off to make sure we identify as many as we possibly can.

Fish: Let me ask something. I'm not saying this to be critical but the dbe opportunities here are less than perfunctory. 6,000 for fencing, 6,000 for traffic. This is not about engaging under-represented contractors and people in business. This is not even window dressing it's so paltry and spread out in ways that will be utterly meaningless. What is the track record of stellar j -- I object to referring to them as the stellar corporation. What is the track record of the stellar j corporation in achieving the goals that we have mandated for these kinds of contracts?

Hebert: I can tell you that we have not maintained those kinds of records so I don't know.

Fish: One thing I'm --

Pelatt: They are not very good.

Fish: That's one thing I'm going to suggest we start doing. Particularly where there is a modest difference between first, second and third. Here I think the differences -- what is it? First and second is 7% then 2.4%. We do have alternative contracting approaches that the council has authorized in certain situations. The concern I have about this one is I don't know that the pump station work per se constitutes the kind of specialized work like maybe Willamette river crossing where we just know going in that there's only a handful of people that do it. It's highly specialized work and unlikely we're going to get the numbers we want. If we see consistency with a particular company of not meeting our goals I think, we have to know that because then we have to have a trigger say what do we have to do differently? One of the things we can do differently obviously sitting down with the company saying what barriers are you facing. We don't want to hear you sent out five notices and got no responses. Let's make sure you're mailing to the right places, engaging people. At the housing bureau and pdc they do open houses with subcontractors and others to make sure people are aware. Number two, at some point I would want to know when we want to rethink the kind of contracting we're doing on these projects. That we need to go a different route if we're not getting the numbers. When we're down to 4.6%

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and its divided up in ways that are almost meaningless to the companies that get them I feel like we failed. I'm not putting that on you, but I don't feel like I have the mechanism to understand whether the company is consistently falling short, how we're doing the contracting is the culprit or if there's something else we need to do. The mayor has been very clear he wants better numbers. I'm not -- I know that our pump stations need upgrading and these are very sensitive and we can't afford to have them fail. I get that. I'm not going to stand on ceremony but I will ask you to report back to us on the record of stellar j corporation and also I would like a written report on what have we learned from this particular project that can inform how we look at future procurements. Because we're spending a lot of ratepayer dollars in upgrading our infrastructure and I applaud that but we're also seeing a number of contracts that don't even meet minimal standards council has set. I want to make sure it's not because we have gone the extra mile to address that problem.

Pelatt: Well said. Thank you. Quick question, sir. Would you like that report sent directly to you?

Fish: To me and my colleagues.

Wheeler: I would like to see it as well.

Pelatt: Will do.

Fish: If you believe there's some structural problem or you believe they have consistently fallen short of the mark, let us know that so we have the information to then engage you on some problem solving.

Pelatt: We have the background information to deliver that report and the follow-up information.

Fish: Thank you.

Wheeler: Is there any public testimony?

Moore-Love: No one signed up.

Wheeler: We have a motion.

Eudaly: Second.

Wheeler: Any further questions? Call the roll.

Fish: Appreciate the discussion and thank you for getting back to us. Thank you both for the work you do you do a lot of procurement and I know your hearts in the right place aye.

Eudaly: Aye.

Wheeler: I second everything commissioner Fish said. These numbers are way too low and I want to underscore the second point that he made which is the nature of the work that is being done by mwsb firms. It's very, very low to nonskilled work that doesn't actually build any capacity of minority or women owned contractors, and doesn't do much by way of vocational training, setting up a fence is setting up a fence. So it always sort of galls me when I hear contractors come and we asked, what are the actual skill sets that you have engaged women owned and minority owned contractors to do, and I'll just tell you I wince when I hear flagging and truck driving although those pay great in the short term, I also want to hear people are actually involved in trades. People involved in technical skills development, I want to hear them make a commitment -- I'm feeling a little get because they were here and they could have answered these questions in their own words and unfortunately they weren't able to stay. Maybe they had a very good answer and we have to give them the benefit of the doubt. But 2% or even 3% frankly even if it's 10% it's too low. I want to work with and develop the capacity of master contractors who are really committed to building up skill set and equity in human resources over the long term. I'm not convinced this does it. With all of the stipulations commissioner Fish put on the table I will support this contract but I would like to get that information.

Pelatt: Absolutely.

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Wheeler: Thank you. With that the report is accepted. Thank you for your hard work. Next item, please.

Item 355.

Wheeler: Never mind. That's an emergency. We'll have to skip it.

Moore-Love: 357, second reading.

Wheeler: Yep.

Item 357.

Wheeler: Any further council discussion? Call the roll.

Fish: Aye. **Eudaly:** Aye.

Wheeler: Aye. The ordinance is adopted. Next item, please.

Item 358.

Wheeler: Other than loving the name is there any further council discussion? Hearing none please call the roll.

Fish: I just want to note for my two newest colleagues the first time David schaff made a presentation on a related subject he said I want to talk about the dam safety report or the dam 2 project we stopped him and cautioned him about using that kind of language at a council meeting. But of course it is the dam safety report. It has to do with a dam --

Wheeler: Just move on, commissioner. [laughter]

Fish: Aye. **Eudaly:** Aye.

Wheeler: Aye. The contract is approved. Next item, please.

Item 359.

Wheeler: Any further council discussion on this item? Call the roll, please.

Fish: Aye. **Eudaly:** Aye.

Wheeler: Aye. The agreement is approved. Just so people know these are second readings so we have already had public testimony and presentations on all of these. Next item, please.

Item 360.

Wheeler: Any further discussion on this item? Please call the roll.

Fish: Aye. **Eudaly:** Aye.

Wheeler: Aye. The acquisition is approved. Next item, please.

Item 361.

Wheeler: Good morning. Thank you, gentlemen. Are the green lights on the mikes?

******:** Yes.

Jay Gao, Portland Fire and Rescue: Good afternoon, mayor, commissioner. I'm Jay Gao senior business operations manager for Portland fire and rescue.

David Mackovjak, Portland Fire and Rescue: I'm David Mackovjak I'm the logistics chief for Portland fire and rescue.

Wheeler: Very good. Thank you.

Mackovjak: These apparatus is an ongoing replacement project we have for replacing aging apparatus for our Portland fire and rescue stations fleet in general. This was just three more new apparatus. One is a foam unit that's desperately needed for the region for hopefully helping with crude type oil train situation we have been struggling with around the country. This will give us apparatus in the central area above the railyards station 24 north interstate Lombard. It will carry about 1200 gallons of foam being able to respond to any of the oil tank farms or any incidents up and down the rail systems that we have or any other foam required response. The other is a replacement for heavy squad, heavy rescue downtown in the main fire station. That apparatus is about 15 years old now. We keep those front line for 15 years and then they go to reserve for five. So it's on schedule to be replaced. The third apparatus is a brand new fire engine. Just one more of many we need to replace over time. If there's any questions --

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Wheeler: Any questions? I just had one question. What is the disposition program for used apparatus?

Mackovjak: Used I have a whole list of needy organizations, mainly volunteer and other fire departments around the state, and our region, that have requests in for any aging or apparatus we want to surplus. This list is long. We have about I think right now I have 15 departments most of them small, that we usually when we decommission our apparatus we offer them to those departments. 99% of the time they accept them. So we go through the process, do the paperwork then just provide those apparatuses to those fire departments. Mostly around the state of Oregon.

Wheeler: Thank you. Further questions?

Fish: I thought we gave some of these apparatuses to Guadalajara.

Mackovjak: We have. We have given several to bombaras and Guadalajara, Mexico.

Wheeler: Unless there's further discussion this moves to second reading. It's a nonemergency first reading. Thank you.

Mackovjak: Thank you.

Wheeler: Next item, please.

Item 362.

Wheeler: Good afternoon.

Sherree Mathias, Auditors Office: Good afternoon I'm sherree mathias with the auditor's office.

Mike Zeller, Portland Bureau of Transportation: I am Mike Zeller I'm a sidewalk inspector with maintenance operations.

*****: [Audio not understandable]

Mathias: This is for sidewalk repair on property that is required by the city. Any remonstrance's have been pulled from this assessment and are not in this ordinance.

Fish: So there's no objections pending before us.

Wheeler: Is anyone here to testify on this item?

Moore-Love: Mr. David Elton requested to speak.

Wheeler: I don't see him here. Any other public testimony.

Fish: Did he file a remonstrance?

Mathias: No. Not to my knowledge.

Wheeler: Then this pass -- commissioner Eudaly? This passes to second reading.

Fish: Mayor can I clarify something? Because we didn't have the requisite quorum we have set over emergency item 355. But I believe this is time sensitive. Is it your intention to have this brought back this afternoon or tomorrow afternoon? So that we can act on it. It's just a minor modification to a contract.

Wheeler: If we have four people available this afternoon I would be happy to take that up this afternoon after the time certain issue. We have a rather lengthy time certain at 2:00 p.m.

Moore-Love: Commissioner Fritz is expected back at 2:00.

Wheeler: Let's set it over to this afternoon and time permitting we'll do it at the end. Let's move the rest of the consent agenda.

Moore-Love: And 356 as well.

Wheeler: We'll do it at the end we'll do the time certain first. There being no further business we're adjourned until 2:00 p.m. Thank you.

At 12:18 p.m. council recessed.

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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

APRIL 12, 2017 2:00 PM

Wheeler: This is the Wednesday, April 12 afternoon session of the Portland city council. We're going to take up our evidentiary hearing first and at the end of the council session time permitting we'll take up some of the items from this morning's session that we didn't quite complete. So with that, would you please call the roll.

[roll call taken]

Wheeler: If you could read the first item, time certain, please.

Item 363.

Wheeler: Before we get into the hearing, there's just a standard notice of decorum that I'm asked to read on behalf of the council. The purpose of council meetings is to do the city's business including hearing from the community on issues of concern. In order for us to hear from everyone and to give due consideration to matters before the council we must all endeavor to preserve order and decorum of the meetings to make sure the process is clear for everyone I want to review basic guidelines which will help everybody feel comfortable, respected, welcome, safe and ensure decorum is maintained. Individuals during testimony typically have three minutes to testify. There's some lights there in front, the yellow light tells you have 30 seconds, the green light tells you you're done. Those invited for testimony today obviously you'll have different standards and I will tell you what those are as you come up to speak. If there's a disruption I will issue a warning, any further disruption occurs you will be subject to ejection for the remainder of the meeting and anyone who meets those requirements but fails to leave is subject to arrest for trespassing. Don't let that happen to you. In order to maintain decorum, we ask if people like something they can give thumbs up, if not thumbs down. That's usually sufficient. We'll leave it at that. There are some things I need to do before I turn this over, so first of all, the city attorney will make some announcements about today's hearing.

Linly Rees, Deputy City Attorney: I will. These are required by state law and city code. First of all this is an evidentiary hearing. It means you may submit new evidence to council in support of your arguments. Today begins with a staff report by the bureau of development services for approximately ten minutes following that council will hear from interested persons in the following order. The appellant will go first and will have ten minutes to present his or her case. Following the appellant persons who support the appeal will go next. Each person will have three minutes. The principal opponent will have 15 minutes to address council and rebut the appellant's presentation. Then council will hear from persons who opposed appeal and each will also have three minutes. Finally, the appellant will have five minutes to rebut the presentation of the opponents of the appeal. At that point the council may decide to close the hearing, deliberate and take a vote on the appeal. If the vote is tentative the council will set a future date for adoption of findings and final vote on appeal. If council takes a final vote today that will conclude the matter before council. There are several guidelines for your addressing council and providing testimony today. First any letters or documents you wish to become part of the record must be given to council clerk Karla after you testify or before you testify. Similarly, the original or a copy of any slides, photographs, drawings, maps or other items you show to council including power point presentations should be given to the council clerk to make sure they become

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part of this land use record. Second, any testimony must be directed to the approval criteria for this review. Any testimony, arguments, evidence you present are directed to applicable approval criteria or other criteria in the city's comprehensive plan or zoning code you believe applies to the decision. Bds staff will identify the applicable criteria as part of their initial staff report to council. Third, you must raise an issue clearly enough to give council and the parties an opportunity to respond to the issue. If you do not, you will be precluded from appealing to the land use board of appeals based on that issue. Finally, an applicant must identify constitutional challenges to conditions of approval. If the applicant fails to raise constitutional or other issues relating to proposed conditions of approval with enough specificity to allow council to respond the applicant will be precluded from bringing an action for damages in circuit court. That concludes my remarks.

Wheeler: Thank you. Do any members of the council wish to declare a conflict of interest? There are no council members declaring any conflict of interest. Does anyone present in the council chambers -- do any members of the council have any ex parte contacts to declare information gathered outside of this hearing to disclose? No council members have ex parte contacts to declare. Does anyone -- sorry, I have to skip that. Have members of the council made any visits to the site involved in this matter? No councilor has made a visit to the site. So we'll commence with the testimony. We'll start with the staff report approximately ten minutes. Again, as per usual, name for the record. Good afternoon.

Grace Jeffreys, Bureau of Development Services: Good afternoon. I'm grace jeffreys from bds, land use services. I have a presentation.

Wheeler: Squirrels are starting to run. [laughter] steam is being generated.

Jeffreys: The appellant brought this in, this is a model of the site area, the darker wood model is the development proposed. [audio not understandable] I know that the city used to have a model that they required but that's been a while.

Wheeler: We have hard copies of the presentation, don't we? We'll just go old school?

Jeffreys: No. Sorry.

Wheeler: Who was that masked lady: [laughter]

Jeffreys: Here we are, ready to go. I'm going to give you a quick overview --

Fish: Your time is up. That was an excellent presentation. This is heavily proscribed, mayor. [laughter]

Jeffreys: It went well, I think. So I'm going to give a quick overview of the context, talk about the proposal a little bit about the process, the decision that was made and then the appeal. The context is the site is located in the central city plan district and central east side sub district on the far edge of the central east side sub district. Southeast 12th avenue forms almost the entire length of the eastern edge of the central city plan district. The applicable criteria based on the location of the site, are the central city fundamental guidelines and special guidelines for the design zone of the central east side district. The proposal is located on a small 5380 square foot uniquely L-shaped site with narrow frontage of 35 feet wide on southwest Ankeny and 30 feet wide on southeast 12th avenue. The site sits about a block south of southeast sandy boulevard. The site is just a little larger than a typical 50 by 100-foot residential site in Portland, 5,000 feet. It's comprised of two mid-block lots with rear abutting lot lines. The lot fronting southeast Ankeny contains a 1.5 story house constructed in 1903 which is proposed to be demolished and the other lot sits vacant. Here's an image of the site and surrounding context. The site wraps two lots on the corner not owned by the applicant both of which contain houses constructed around 1904. The remaining three lots south of the site running southeast 12th contain houses constructed in 1894 and 1895 in the queen Anne vernacular style. All three have been identified as having potential architectural and historical significance and are listed on the city of Portland historic resource inventory or hri. Images of the frontage on southeast 12th.

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You can see the three queen Anne houses are to the left. The southeast 12th part of the site is in the middle outlined in red. The two early 20th century houses are to the right. The context, this is a view from southeast 12th showing the corner of Ankeny and southeast 12th with the neighboring house on the corner. To the left is a general location of the vacant site on 12th and the part of the site on Ankeny with the house to be demolished to the right. Here's a view of the site across sandy boulevard to the right of the site is a one-story commercial structure which holds the corner of Ankeny and 11th and to the left is the house on 12th and Ankeny. This is a view of the context. It shows residential neighborhood that is there 12th goes along from the left to the right there. It shows the residential neighborhood beyond southeast 12th. So the site is zoned exd, central employment, with a design overlay. The floor area ratio, base allowance is up to 3-1 maximum. There's a potential additional floor area ratio residential bonus which there's another 3-1. The total proposed floor area ratio is 4.93-1. I just want to note that development standards that describe the maximum is permitted on a site such as height, floor area, they are not entitlement, they are maximum allowances. By their nature they must address a broad range of conditions. They are not site specific and must be adapted to fit a great variety of site conditions in an area of importance such as central city which allows great density the design guidelines are used to help address contextual response. Height allowance, base height is up to 50 feet maximum. There's additional height general bonus of up to 45 feet. The total proposed height is approximately 78 feet. It's for a six story mixed use building with 17 market rate units and grounds floor retail. No parking or loading is provided. These are the street elevations, southeast Ankeny is at the top, with adjacent 1.5 story house to the left and the one-story commercial structure to the right. Southeast 12th avenue elevations below that with the adjacent residential structures thrown in. The proposal has two -- the design review request has two additional reviews. One is a modification to allow reduce the width of bike parking spaces within the building. This is a common modification and generally supported by design review and pbot. There's also an exception requested to the window projections into the right of way and this is to allow windows wider than the max 12-foot width allowed for individual window bay. In this case the proposed widths are 15 feet 9.5 inches on southeast Ankeny and 14 feet eight inches on southeast 12th avenue. Now I'll talk about the process. Before the design review application is submitted, pre-application conference is required. That was held on April 7th. At that conference, staff provided feedback that the majority of the design guidelines appeared not to be met. Due to the inherent challenges proposed by this development staff strongly advised team to hold a voluntary design advice request hearing prior to submittal so the team could get early feedback from the decision makers, the design commission. However, the applicant chose not to have a dar. So they submitted their type 3 design review, the first design review hearing was held October 6th. At that time the feedback from the commission was the majority of the design guidelines weren't met. Public testimony noted that the applicant had also not yet met with the neighborhood association. The applicant requested to return with revised design. At the second design review hearing on December 1, 2016, feedback was still most of the design guidelines were not met. The applicant requested to return with further revised design. The third design review hearing January 5 the feedback was the design guidelines were still not met. The applicant requested to return without a revised design for a final decision. Fourth design review hearing was held on January 19th. The applicant requested return with design options and design commission offered a return work session. The 5th review hearing was February 2, 2017. The applicant requested a decision based on a scheme presented at the third hearing on January 5, 2017, which was denied. Appeal was received on march 2nd, 2017. Here are some images how the design evolved through the process. Image at the top is floor plan proposal at the first hearing.

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The majority of the ground floor program was taken up with parking and services as shown in blue. The retail space shown as red and the lobby yellow. The commission voiced strong concerns about the design not addressing guidelines related to proposed pedestrian realm. At the second hearing the parking was removed and one residential unit moved to the ground indicated in orange. The tower on southeast 12th was lowered to five stories and the unit count remained 17. This created a much more pedestrian friendly frontage on both streets and there were small adjustments to the floor plan. Here's the design evolution showing the building in three dimensions. No images are provided from the fourth and fifth hearing as applicant did not submit further revisions after the third hearing. At the first the commission voiced strong concerns about the design not addressing guidelines related to pedestrian realm, coherency, quality and permanence. At the second hearing the commission felt the pedestrian realm was addressed but they still had concerns with the other three issues. At the third hearing slight adjustments were made such as revising materials however changes were not substantial enough to address the commission's strong concerns about the proposal meeting the guidelines. The decision, the design commission found approval criteria not yet met the request was denied. Portland zoning code 33.825.050 states.

Wheeler: Let me ask a question of legal counsel. The staff report in my notes seems to be more vague around the time allotment.

Rees: It's about ten minutes. If it's necessary for them to get the information, it's fine.

Wheeler: Okay. You can continue. Thank you.

Jeffreys: Thank you. Application will be approved if the review body finds the applicant has shown proposal complies please with design guideline for the area. Not yet met are a4, a5, c2, c31, c3, c32, c4, c5. Here's a list of them. In particular I just want to call your attention to c31 and c32. Those are specific for the east side. District guidelines. Especially c32, respect adjacent residential neighborhoods. This guideline only applies to the area along southeast 12th on the east side of the district there. So that says respect the architectural character and development passengers of adjacent residential neighborhoods. Applicant states in the appeal that the project is within allowed height and density under exd and central city plan designations. Open stairwells were thought to be endorsed at one of the five hearings earning the project revised staff report recommendation of approval on stairway design but that was reversed on the final hearing. In response bds, the proposal was not denied on grounds of height or density but because it did not approval criteria. The commission provided input on how to improve the side wall conditions to meet guidelines suggestions included shifting height away from southeast 12th thwart the west and providing side step backs to adjacent residential while maintaining desired unit counts. Second the applicant made changes to the stairwell lighting however the six story tall open stairwells were found not compatible with adjacent residential rear yards due to concerns about light and noise spill outs. The applicant made changes to the material choices however the large expanses of metal clad side walls were found to not be compatible with adjacent residential context. The city council alternatives are to deny appeal and uphold the decision to deny. Grant the appeal and overturn the design commission's decision to deny the proposal approving the proposal, or continue the hearing and request the design revisions to be reviewed at a return council hearing. That's my report. If you have any questions.

Wheeler: Any questions?

Fritz: That house to be demolished, is that in any way a an historic resource is there any problem with demolishing that house?

Jeffreys: No.

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Eudaly: I had thought part of the issue was lowering the height. You just said that wasn't a primary issue? Or you wanted him to move the massing around --

Jeffreys: The commission are always trying to help applicant meet their goals and also the guidelines. From one of the comments was why don't you look at taking the mass that's on the wing on 12th and moving those units to the wing that's on Ankeny.

Eudaly: That wasn't necessarily -- [speaking simultaneously]

Eudaly: Restricting height far, it was more remassing the whole building to bring it more into --

Jeffreys: Yes. The discussion wasn't about height. It was about where -- it was where that sat and how -- it's a really complex proposal. Not complex proposal but complex site. It's very difficult, very small, narrow frontages. It's a tough challenge. So there was a lot of discussion back and forth about how the design guidelines could be met within what the applicant wanted to do.

Eudaly: Thank you.

Fritz: I do have one more question my understanding is that the building is proposed to be built right on the lot line, no setback from the lot line. Would that not require using the adjacent neighbors' side setback to do some of the construction? Is it possible to not avoid disturbance to the neighbors?

Jeffreys: That's a great question that I might ask the applicant. I don't understand how that could happen. I think the neighbors had some -- might have some commentary also. I think that played into the denial in that the commission felt that there was -- how are they going to maintain the siding once it is -- if they are able to construct it how are they going to go back at a later date they would have to have an easement to maintain all the side walls and the building is almost 80% side wall on property lines. So I think that played into the concerns about the quality and permanence.

Eudaly: Was part of the suggestion to set it back from the property line?

Jeffreys: Along 12th. And historically the commission encourages that type of setback on developments that are in this type of situation where there's a real juxtaposition. In this case a strong residential neighborhood feel. So applicants with sites that are wider had some scope to do setbacks. This site poses a particular challenge because of the narrowness of the lots. Highly unusual site for this scale of development.

Eudaly: Thank you.

Wheeler: Any further questions? Very good. Thank you very much. Now the appellant has ten minutes.

Landon Crowell: Good afternoon. I'm Landon Crowell, I am the managing partner of our land development. I have owned and my business at the current site for over 12 years. We are developing the very first net zero multi-family building in Oregon. The development will consist of 18 one and two bedroom units. It will meet house standards, have four d.c. charging stations for electric vehicles and solar photovoltaic on the roof and south side wall which makes net zero reality. As a net zero building Ankeny apartments will require no power from the utility. In fact, Ankeny apartments will be the first multi-family building to send power back to the community. In addition, Ankeny apartments will save 21 tons of carbon from entering the environment, equivalent to 500 trees or elimination of burning 21,000 pounds of coal. Ankeny apartments exemplifies energy efficiencies at highest level and supports the Portland central city 2035 plan, 2050 climate action plan, Oregon's climate action goals while adhering to the title 33 of the Portland zoning code. Ankeny apartments is a design for the future of Portland.

Jerry Waters: Thank you. I'm Jerry Waters. We're excited and proud to present to you this responsible and forward thinking project. As you can see this is a 12th street rendering that shows the building is set back at the ground level where the one apartment is and the

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stoop at the ground level mimicking the adjacent neighborhood. Then there's a three-coat plaster bay window that is used to mimic the plaster that's often used in the central east side area. Then there's the zinc-clad element of the additional massing of the housing and the zinc is a very durable 80-year material often reserved for commercial projects. You see on the south wall here some solar panels which are necessary and required to make up the renewables to get to a net zero project. A net zero project is not easy to achieve. There's only seven multi-family housing projects in the United States that have achieved net zero at this point. Here you have the Ankeny site elevation. Again, with a retail shop at the ground level activating the street. Then the apartment component above and zinc, the three coat plaster on the bay window that is taking advantage of the open space created by sandy intersection and then views because this is a little bit of a high prospect views to the west and to the river and downtown. You can see the stair here that is a part of the wing that goes out to 12th street, that opening. Then there's a similar opening on the Ankeny side that will allow both south light to penetrate through and the west light to penetrate through into the adjacent properties. The 12th street site is one story lower than the Ankeny side. There was talk about transferring some of this far over to the Ankeny -- that's actually very difficult due to fire egress scenarios needed with two exits and stairs required and what not. So there's a lot of supporters of this project from a green and sustainability standpoint. The bureau of planning and sustainability, Connecticut bank, Portland development commission is supporting this and housing and urban development wants to see this exemplary project that can show how net zero can be achieved. It's like I said very difficult but in the not so distant future the state of California in 2020 will require all multi-family housing projects to meet a net zero standard, so we're trying to show that it can be done and in fact needs to be done and be exemplary to how that can be done. It's largely improved envelope, improved window to prevent infiltration and improved mechanical systems.

Bob Zimmerman: Thank you. As Grace noted allowed height is 95 feet and we're proposing five story structure on the 12th side of 63 feet and six story, 73 feet height structure on the Ankeny side. We would like to note that next year this will be increased by another 30 feet, so that's roughly an 11 to 12 story building that would be roughly half of and I want to point out the same development envelope restrictions in fact applied for the adjacent development in many ways we have thought of this project as a bridge between these lovely older homes and the future ones that are coming. Also note that, that empty site that Grace pointed out actually has been empty since the '20s so any structure here will be an intrusion upon the adjacent houses. In looking at the kind of existing context and what the market is doing, the four most recent projects within a block radius of our site have no setbacks, three of them have been approved by design commission, they are of the same basic form and five to six stories in height. So we're very much consistent in terms of the scale of the projects that are being developed around it. This is our initial design that was submitted for the type 3 review last June. In this case it was two 75 foot towers of six stories. We had a long and extended conversation both with Grace and her staff as well as with the design commission. These are the changes that we have worked through, many of which she has noted, that reduced a story on 12th street side. We changed all the exterior materials. Originally it was aluminum, now it's zinc. The zinc oxidizes to a lovely patina, and is a lot more expensive. We replaced concrete block and cedar with tricolor system to help out the adjacent. Removal of the parking was a great suggestion that came from the design commission which enabled us to get rid of the garage doors which on the 30 to 35 foot frontages are a high percentage so there was significant activation of the street frontage. We simplified the front as Jerry noted and actually did a lot of work on the stairs. I would like to point out that the bedrooms within these units actually face the stairs

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so we have pretty much the exact same concerns about privacy and lighting. From a design and an operational standpoint, we're in sync with the concerns. We also reduced the overall area by 2,000 square feet. So at the end of design review 2 this incorporated changes, staff actually recommended approval and said the project met all of the guidelines. At design review 3 there was a different group of commissioners so the sentiment changed and essentially will I returned to the principal concern, the scale of the project relative to adjacent houses this. Is a view from 12th looking north with that design in place and as I noted, we got rid of the curb cuts at design reviews suggestion we were able to keep all of the existing trees and add more to them. So gives you the scale. Today what we are really doing is trying to request that council essentially accept the staff report from what we have submitted for design review and recommendation for approval.

Tim Ramis: Tim Ramis, legal counsel for the applicant. In its most basic form the decision you're being asked to make is to choose between the analysis in the denial decision, which you have in the record, or the analysis in the January 5th staff report, which you also have in the record and which finds that all of the criteria and all of the guidelines are met by the design that's been shown to you. That is fundamentally the issue that we bring to you. This case is heavily about compatibility. Our land use board of appeals has had some things to say about that and certainly taken the position that sameness is not the only way to address compatibility, that it can be done by quality design that pays attention to the context. So context is really the key part of understanding the case and making a decision about the design. In this particular case, the two critical aspects of context are that the zoning district is high density, very intense central city development, and the block has on it some houses which are nonconforming, couldn't legally be built today, and the city policy on that is that nonconforming use should not impact the development of new conforming structures. So that is our concern, that that policy has been reversed by this decision.

Wheeler: Thank you. To be clear, legal counsel, for the remainder it is the time is a fairly hard cut off beyond the staff report?

Rees: It is although when looking at what legal will look at they will look at equity and fairness. To the extent you wish to extend time for one party you would need to extend it for the other. That's in your discretion.

Fish: Mr. Ramis, I reviewed your letter again. I'm trying to reconcile your view and the staff report. The staff report is heavy on changes that could be made to the development to potentially get to the design commission, and your letter is heavy on bigger policy questions and potentially some legal questions down the road. But I still am compelled to ask you, was there not some middle grounds here in terms of design element that could have satisfied both concerns?

Ramis: Well, I should probably defer the substance of that question to the designers here. Let me give a quick road map.

Fish: We generally don't view ourselves as the first or last word on design aesthetics. We prefer this come to us cooked and resolved by the professionals, the people that we ask to solve it. When we're put in this role, and we have to reconcile competing claims and values, I think it is worth asking could this be resolved on the basis of modification to the design.

Zimmerman: I think it would be great if we could speak to it. We frankly had the exact same question ourselves. We came out of design review 2 thinking that if we simply followed the recommendations that we would get approval, staff obviously felt the same way because they wrote the report. When we essentially faithfully followed the recommendation of design review 2. Different group, different feelings. So going forward we scheduled a meeting and submitted a letter where we essentially asked the question did the design commission feel if we fixed the overall floor area, did they feel confident that

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we would be able to work together to get to exactly what you were asking, resolution that worked for everybody. I would describe the response as lukewarm but we said fine, we'll do some studies, which we brought to the 5th design review and essentially showed that if we -- let me go back. What we basically proposed was that if we added area on top of this tower, I realize there were earlier suggestions of could we shift over to this side and basically if you look at the fire regulations for aerial access, for exiting and for construction materials, we simply couldn't get significant area over on to this side. So but we did feel like we could add, sorry, we didn't realize we were going to do this, but if we added an apartment up here we could push the face on the 12th street side quite a ways and we look at other options. The clarification of that for us as a design team we have too much program, which is what design review said on the first session was this project is way over programmed. Simply look back, way over programmed. The other comment was we normally approve these projects. So it's very much the compatibility and context issue of the adjacent single family residences. We simply within the restrictions of the fire and building code couldn't shift it to make this 12th street side more like a house with side yard setbacks and three stories in height.

Fish: So I understand this, Tim, your view is since the single family homes are nonconforming we should not -- that the question of compatibility should be looked at through a different lens?

Ramis: That's correct. In a situation where the code policy says that these uses are to be phased out where the zoning in the area calls for much more intense use in the future, according them the highest status in terms of developing a plan for compatibility seems to get it backwards. What should have happened is that there should be recognition that there are small homes there but it shouldn't have driven the decision. To read that decision the denial is based primarily on the idea there's too much mass, too close to small structures. Our point is those structures are today illegal. Nonconforming use provisions.

Wheeler: Commissioner Fritz?

Fritz: Would you address the problem of encroaching on the neighbors' property and how would you maintain it without needing an easement?

Zimmerman: On the construction side we have worked with the contractor who is in the audience. Construction with an opportunity for essentially prefabricating indicating the individual walls as they go up and erecting them and having seal the exterior siding. We have -- essentially double wall system to achieve the thermal resistance for the net zero. So that part is relatively straightforward. We're also as Jerry pointed out putting an 80-year material on a party wall. If you think of most infill development in the city that's where you put the cheap stuff.

Fritz: That doesn't answer my question. How are you going to maintain the siding of the building without having access to the neighbors' property?

Crowell: Well, the building is metal. Zinc. I have been in that area for many years, been in Portland many years. I have never seen anybody maintain a metal building.

Fritz: I actually have metal trim on my house and it blew off in the latest storm.

Crowell: I understand metal trim on the house is a lot different than metal cladding.

Fritz: Let me go back to the design guidelines. This is A5 it says identify an area special features or qualities by integrating them into new development what kinds of special features and qualities of the surrounding neighborhood do you recognize and how are they reflected in the proposed design?

Waters: Right, so after presenting our first proposal where we had actually some cedar and aluminum on it working with commission that's where we came up with changes that three-coat plaster system which is very prominent on the central east side. The warehouses around the corner and throughout the area of are a plaster system so we

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picked up on that materiality. Then the high quality zinc material is again an industrial element that was often used on buildings of the area.

Fritz: Is there zinc on other buildings in the area?

Waters: There's metal panels. We started with aluminum but with zinc, you get a more matte finish that would weather over time and become the patina would have a beauty to it rather than many of the painted aluminums or other things that you see. That gets to the permanence, particularly the side walls you're mentioning.

Zimmerman: The question that was really helpful one because of the word neighborhood. The neighborhood the four adjacent houses on the block was in fact the district if you look at the rest of the district it's quite consistent.

Fritz: It's difficult to tell from the model which ones have been recently done, which have been there. Some of the ones shown on the model do have more of a residential look, not flat roofs. More like the adjacent residential units. Did you consider looking at that?

Waters: At pitched roofs?

Fritz: The pitched roofs are the ones closest to me. Even though they are higher, they do have more residential style.

Waters: Right. So again because of the net zero goals and the sustainability requirements we have photovoltaic panels on the roof that cover the entire roof. Then we have the wall on the south which is canted wall which echo's some of that pitched roof nature but doesn't exactly mimic it. We felt that that was again a combination of trying to meet the standards of the future with a net zero building and sustainability goals and a nod to our building being a bridge building smaller scale pulling it back from the residential structures and reducing height.

Fritz: There isn't currently anywhere in the design guidelines that speaks to net zero or energy efficiency.

Waters: That's correct.

Fritz: So when the adjacent property develops to the south side, that's probably as you pointed out with rezoning even higher, won't that impact the solar aspects to the south wall photovoltaic?

Waters: It could.

Fritz: What's the backup plan for that then?

Zimmerman: We came up with the design commission if you actually look at our roof plan, we have had to provide fire access all the way around this field of panels. I would simply describe that we have all been fortunate that the cost of photovoltaic panels have come down dramatically because it used to be somewhat of a fool's errand to do this in Portland, Oregon, but with reduction in cost and also with our understanding of climate change issues, we are seeing a lot more use of this. But the regulatory aspect and environment -- we will be able to put larger areas of pv on to the roof as time goes by and we will be able to put panels that are much more efficient. This is really a leading edge project to help pave the way in many was a prototype to help enable us to collectively do net zero multi--- projects.

Waters: With the increased efficiency of panels and the ability to put more on the roof in the future if someone was to build there we think we have the time that before that happens again the increased efficiency in panel will allow us to get more energy just out of the roof.

Fritz: Actually I'm not really talking about the roof I'm talking about the south wall.

Waters: I know. I'm saying if the south wall is blocked, which would be sometime in the future, with increased efficiency of solar panels we could get the energy we need just on the roof in the future by changing out the panels. They continue to get more efficient.

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Fritz: Without entering the neighbor's property you can just leave the old panels there to be switched off and nonfunctional? Does that last?

Zimmerman: There's actually a metal roof underneath the panel. You could take the panels off and there would be a metal roof underneath it.

Fritz: That gets back to my first question. How did you do that without access to the neighbors' property. I realize this is going into details. Thank you.

Fish: Just following up on my colleague's question, the last project that I was involved with that had a similar issue was the Bud Clark commons. It has it's a lead platinum building with photovoltaic on the roof but they are bulky and has the technology -- how far has the technology evolved and what's the difference now?

Zimmerman: I believe there's probably a 25% improvement in the overall efficiency of the panels. Trying to remember when those panels were actually installed but we have seen a 30 to 40% improvement over all from the earliest pv panels in terms of performance and they are thinner, lighter and way cheaper. They are also a lot smarter about how to hold them up. I believe that five years from now when we talk with the fire marshal about how they are mounted so that when their crews if they had to go up in the event of an emergency would know how to deal with them and we could cover a much larger area. Right now you make conservative choices at the beginning.

Fish: How many units in this development and what are the sizes?

Crowell: 18 units when we took one floor out and parking we increased the number of units. At this present time there's 12 two-bedrooms and six one-bedrooms. Average size minimum of 600 square feet up to 1400. We have tried to accommodate families living in the inner city. Taken that into consideration.

Eudaly: Hello. I have a couple questions along the same line as commissioner Fritz. I do want to point out that although this development, which is really interesting and exciting building, is not at a scale with buildings on adjacent blocks. Those buildings are not next to single family homes. When you look at it next to these single family homes it is a little intimidating, I guess. So the two issues that I most am interested in are the issue of access when you have this zero lot line, how do you build this, and how do you maintain it when this is not your property? You're building right up to the property line.

Zimmerman: To begin you realize the exact same condition exists across the street.

Eudaly: I do not realize that.

Zimmerman: This building is under construction is against the property line and adjacent to it but because it's on the east side of 12th it is not subject to the design review guidelines.

Eudaly: Oh. Yes. You guys probably feel a little unlucky right now. The other question I have is to those open stairwells which you have acknowledged you share concerns because the noise and light could affect your tenants as well as the neighboring buildings. Is there a plan b for that? Are there elevators in the building?

Waters: Yes.

Eudaly: Not everyone will take the stairs. But what is your thinking around that? What if it is an ongoing nuisance that is making residents -- impact their livability?

Waters: With the nature of the units a lot of them being two bedroom and such a high quality project we do see the intent is to attract families as tenants and therefore typically they have a little more conservative behavior I would say. As far as the lighting goes --

Eudaly: Families with children? [laughter] okay. Well -- you probably wouldn't want my kid to live there. [laughter]

Waters: As far as the lighting goes it's been we have tuned it and detailed it with led lighting that is focused specifically on to the upward facing surface of the stairs and the landings which is required for exiting and circulation, but since it is narrowly focused on the

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treads the light trespass we feel would be very minimal to none. Especially with leds. You only have to provide one-foot candle. It's not going to cause a lot of light trespass.

Eudaly: Thank you.

Wheeler: Could you clarify the comments you made a couple of times, I'm not tracking. There was a request to move some of the bulk towards the two towers side of your building. You said fire egress made that impossible. Could you describe that in a little more detail? I'm not sure I'm following you.

Zimmerman: So this is the original design but the same issues apply. This is what's commonly referred to as a five over one, base to the structure is built of concrete, noncombustible then you're allowed to build five stories of wood on top of it. At one of the commission meetings there was a discussion about, oh, the city occasionally allows five over two. So we explored building a second level out of concrete and going which would have enabled us to put another level on top of this. Where we ran afoul was the open stairs. The code didn't allow for that. The connections between them. So we really feel while there's concern about the lighting, the light that can come through both into ours but also into the adjacent neighbors is extraordinarily beneficial. We have a very fine stainless steel mesh that serves as a guardrail. But we're just really precluded by both by fire department access as well as height allowed for open stairs.

Wheeler: The proposal wasn't actually to reduce bulk on the front and transfer it. I thought I heard someone say something about a transfer.

Zimmerman: Right. Originally if there was a way to have shifted this up significantly that would have been the most efficient. When that didn't pan out after discussions with both the fire marshal and the building department, we went back to, oh, can we add an area here and pull back this face or start carving into the walls.

Wheeler: It was a pull-back from the street frontage.

Zimmerman: Yes.

Wheeler: I understand now. Thank you. Good. Any further questions for this panel? Great. Thank you, gentlemen. Next up, if there are supporters of the appeal who would like to speak you have three minutes each. We'll have people sign up with Karla. Our amazing council clerk.

Moore-Love: I have eight people signed up.

Wheeler: If you could state your name for the record we don't need to know your address. Just name for the record.

Lisa Kaner: Hi. I'm Lisa Kaner. I'm in support of this project. I'd emphasize to you that this is a changing neighborhood that this project was supported by the January 5th staff report. They said the design met the guidelines. This meets the zoning requirements in this neighborhood. This is a project that you can legally approve and this is a project that you should approve. This is a project that its goals is to add density close in. It's going to be a project that is net zero. This is the future of our community. It's a model for future growth of our city and this is a local entrepreneur who is making a positive impact and this is the kind of project that this city council should support. Thank you.

Fritz: How are you connected?

Kaner: I'm a friend and supporter and I have been watching this project go through the design review and the accommodations that this design team have made in order to continue to achieve the net zero goals but yet hear from the design commission what could be done and they tried very hard. In fact, it was we all thought that in January this was going to be a proved. The idea that this wouldn't be approved when you see the all the projects around it that are much bigger than it, more mass, in the same zoning area, this is a project that should be approved. If you're concerned about those residential houses, this is an area that is designed to have more density. It's close in. It's supposed to be the type

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of project that's being presented to you. And frankly, if you wanted to preserve those houses, they need to be moved somewhere else because that's not the direction that this community is going. The zoning requirements are actually as you saw getting much larger, 125 feet. This is going to be dwarfed by what comes to the future.

Fritz: Thank you.

Carolyn Maxey Easterly: Good afternoon. I'm Carolyn Maxey Easterly. I don't know Mr. Crowell but I took interest in this project when I saw an article in the tribune, in the Portland tribune. I followed the articles. There were two. And looked at the process and in reading these articles I thought about the property that I own on Williams avenue. The extensive building that has gone on there. A lot larger than what Mr. Crowell is thinking about. I think based on the person that testified before me I'm not an expert in any of this, I just know what doesn't feel right, especially with so many hearings and the information being totally changed as a layperson I just have wonders about what is going on here. So I know that neighborhood associations sometimes carry a lot of power. But I would be interested in this project moving forward in particular because of the net zero standing that it has and that it would be only one of seven in the country. So again, I do support this. I'm hoping that the council takes this into consideration and votes positive on it. Thank you.

Wheeler: Thank you.

Doug Klotz: Hi. Doug Klotz. I don't know anyone involved with the project. I have just been following it. I am concerned that there has been a trend in the city for design review has ended up reducing height, bulk, far, and I know we have heard that it's not supposed to do that, this is concerning here. I'm looking at the standards that are said not to be met. With respect to adjacent residential neighborhoods the houses on 12th on the west side are in ex zone, houses that have been there but that's not what's planned for that street. On the east side it's cg and cs, commercial zones. None of this is residential zoning. There are houses there now and they can stay but I don't think as was mentioned they should be the determinant of what goes on with a new building. As far as zero lot line, every building in the central city is built to zero lot line. Somehow we're able to do it. Technology is there. It's easier sometimes if you can get an easement but it can be done without easements and I'm sure folks involved have figured that out. Complement the existing buildings. I looked at the change on the 12th avenue facade reducing it to basically a three-story block of stucco wall, it scales down pretty well to the other houses on 12th, set back to the zinc, will recede into the background. I think they have done well to complement existing buildings. I think there's coherency as they mentioned in the materials. The other standards unifying elements, stucco and metal is unifying with the rest of the district. Designed to enhance existing themes, I think that they are doing a good job of it. These are all subjective standards that the design commission could say one way or the other. I would say that in the interests of getting more housing in the central city I ride on transit lines near transit in this dense area I think this is what we need to be doing. I think we need to perhaps take another look at how the design standards or guidelines relate to the zoning of lots throughout the city.

Wheeler: Thank you, sir.

Anthony Crowell: I'm Anthony Crowell. I have been getting my hair cut in the salon for 12 years. I watched the process of the changes, design review commission. It was very confusing from hearing to hearing. One minute it's approved, they are always talking about massing. Massing is relevant to the houses there will not work from a building to a house but they changed the structures to make it look correct. But the changes that are going on over there all around are bigger than what he's proposing to build. I feel the commission design review commission, not having the same people there every hearing you start over each time. You are chasing a ball. When you can never get a feel where you were at. I sat

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there and watched. I watched commissions before that. I watched the group before that. It was too subjective. I think the overall needs to be looked at. Might not be a winner, may not be a loser but changes are coming.

Wheeler: Thank you, sir.

Kristin Malone: I'm Kristin Malone. I wanted to make a brief statement in support of the Crowell's. Portland is a city with a strong vision for what its future should be. I think we understand we need to be more conscious of what we're doing to the environment, develop sustainably. I think we recognize we need to house more people in the space that we've got and I think we have adopted standards that are going to get us there and I'm concerned looking at this case feeling like those are anchoring us to what we decided otherwise we don't want to be tied to. I think I have seen something I'm familiar with is a committee based on who shows up. City council has a chance to look at it and make the right decision.

Wheeler: Thank you.

Charles Morton: I'm Charles Morton in favor of the project. I don't like to say the most exciting time in Portland history to be alive is right now. You may ask why. Because you would see creativity, innovation in ways you have never seen before. I think as other people in our community see this project I believe it will spark other creative ideas that would benefit the entire community. Our land development company did not ask what our community can do for us. What can we do for our community? Here's something I believe this project would do for our community. I believe it would be the first net zero energy plus building for multi-housing. It's an opportunity to create jobs in an area that's forward thinking and so needed at this time. It is important to be able to other young people of color to grow up who grew up in northeast Portland with a dream that actually came to fruition. Our land development have an opportunity to dream of things that have never been done before. We say, why not? It's a message so needed in our communities. It's within our reach. You can help make it happen. You will be the city council members that approve the first net zero energy plus building and no one can take that from you. You can steal a dream and help others make their dreams come true. You will be instrumental in share ago message that present and future generations can look to. Let it be a message that inspires all people to dream again because dreams really do come true. Thank you.

Wheeler: Good afternoon.

Zac Padgett: Hi. Thank you for taking public testimony. I'm Zac Padgett. Last September this body voted to extend the city-wide declaration of a housing emergency, 260,000 new residents are projected over 20 years. There are immense economic pressures put on housing in the city now causing a lot of problems as you all are well aware, homelessness is on the rise, landlords feel it's appropriate or economically sensible to commit mass no-cause evictions to raise the rental rates to match the market rates. Families are being forced to leave the city because they can't find a place to raise their family with a reasonable rental rate. It's a city-wide emergency and the neighborhood of buckman where this is being constructed is right on the front lines, 2015 shows 34% of residents of the buckman neighborhood devote more than half their monthly income to paying for their rent. Now, this body has done a lot to deal with some of the worst consequences of this problem. Most recently your actions to limit no-cause evictions and of course the zoning regulations that you changed to mandate a certain number of affordable houses for large developments, new developments. That's all welcome and we as the citizens appreciate all of the above approach but all those things address the symptoms of the core issue which is supply. That's the disease that needs to be solved. I think everyone agrees that the most broad based solution to all the problems we're facing is to increase supply. Mayor wheeler, I would like to quote you directly. We need to be creating a maximum number of

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new doors, getting more supply on the market as quickly as possible. This development is part of that solution. This development upgrades a vacant lot and single residents that has not been occupied in over 40 years to 18 new units, new doors. It's a perfect example of how the zoning in place in this area can be used to alleviate the housing crisis. Now, I'm not discounting the decisions that were made by the zoning commission. I think that they probably used the right standards to come to the decision that they did. That's their charter to focus on fuzzy issues of coherency and architectural context. It's a difficult job but the reason why I'm here is to ask you to look at the broader context of the issues that are facing our city and understand that this development is part of the solution that we're all asking you to make. One final thing I would like to mention. If you go through this area of town and drive down sandy you will see that this is not a nonconforming use, that the houses themselves are standing out in this otherwise very dense neighborhood. Thanks.

Steven Holt: Good afternoon. I'm dr. Holt. Usually I'm here talking about affordable housing. Since I chair the oversight committee for the north northeast strategies. I won't go through many of the things that have been articulated. I would merely be parroting what's been said. I will say this. Part of my concern is from an equity lens. As we look at what's transpiring, what concerns me is that here we have a minority builder, minority developer, who is running into significant red tape to get something established. Across the city we have seen this repeatedly. It doesn't matter what area it is but oftentimes it's the term capacity or it's the term experience, whatever term we want to use, that consistently happens around ethnic developers. So that's a concern as I consider what's been going on and once approved and not approved. I would like to see this being obviously this building built for all of the things that have been said and things we're considering or want to consider as we move forward around how to do affordable housing well. Just an equity question that is raised in my mind how things are done, how decisions are made. I think that would be worth looking into also. I'm in favor.

Wheeler: Thank you, sir. Appreciate it.

Moore-Love: That's all who signed up in support.

Wheeler: Next on the list we have the principal opponent. I'm not sure who qualifies. You. Very good. Welcome. You have 15 minutes.

*****: Thank you.

Wheeler: Just so people understand the time limits are actually proscribed in code. I'm not just making this up on the fly as I go.

K.C. Safley: Good afternoon, commissioners. I'm K.C. Safley of schwabby Williamson and Wyatt. I represent Mary Roberts who will be testifying after me. Please note that I'm filling in for my colleague garret Stevenson, who is out of town. With me is my colleague Terri Houck, sitting behind me. You should have our written testimony explaining our arguments and we encourage you to read in detail before making your decision. As an initial matter we expect you will see a large amount of testimony today on this topic therefore pursuant to ors197-763, we request that you hold open the record for two weeks so we can provide responsive testimony to your questions and to the evidence presented today. I would like to start off by explaining why the design commission's decision to deny this project is proper. The first and most obvious reason for denying the application is it doesn't meet design guidelines. The central city design guidelines and guidelines for the central east side district constitute the applicable criteria for this application. These guidelines state they are not advisory and failure to meet any one of them results in denial. The design review process is a dialogue between the commission and the applicant. The applicant has the luxury to several times address these issues over the course of meetings, issues that the commission identifies. Here the commission did not deny the application casually. It was careful. Gave the applicant five different meetings and provided increasingly specific

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advice. The commission repeatedly explained the proposed bulk and massing was excessive but gave no ultimatum for reducing it. The commission suggested design steps in each of the staff reports to minimize appearance of the bulk and massing. The applicant continually declined to substantively address these and a denial was issued and it was determined that the applicant fail to meet seven total design guidelines. As you previously heard the first of those are a4, a5 and c31 of the central city guide lined and central east side guidelines having to do with integrating and unifying elements and developing new features. On these guidelines the commission found that the massing in bulk and scale of the side walls, open stairwells, the metal paneling are not compatible with the local character of the site. The next guideline is c2 of the central city guidelines and this guideline helps ensure that the buildings are built with quality and permanence. On this guideline the commission found the metal used as a cladding material was too imposing especially on a 70-foot sheer side wall that abuts the neighboring property lines and there were concerns about long term maintenance. These questions have been raised and commissioner Fritz you raised this one, I think it's important to note that I don't think that the neighboring property owners are going to be too eager to give construction or maintenance easements to the builders. It's going to be very difficult to maintain and construct the building. The last guideline applicant failed to meet, last guidelines were c32, c4 and c5, intended to promote respect for the architectural and character patterns of the adjacent residential neighborhoods. On these guidelines the commission found the project has substantial excess of side walls leading mostly blank walls up to 70 feet high. The commission went further stating the modest size and unusual shape of the lot combined with building constructed against internal property line walls will have an unacceptable impact on surrounding projects. Without providing any setbacks. The only setbacks are the homes currently there. It will cast a shadow encompassing the entirety of the house directly next door and it does nothing to stylistically conform to the row of historic queen Anne homes on 12th avenue. In total the project -- single story and commercial warehouse buildings across the street. The commission noted that other existing and new developments don't have this problem. They are located on larger, more rectangular shaped sites with substantial street frontage and don't require the same architectural gymnastics taking place here. All that being said the central city design guidelines are clear. Each is a mandatory approval criterion and failure to meet any one of them requires denial of the application. Each of the guidelines in one way or the other requires building to accommodate surrounding development. The reason why this building was denied is it's too large for the site and would have substantial adverse impacts on homes along southeast 12th avenue three of which are listed on the city's historic resource inventory. If council would reverse the decision it would need to find it meets all guidelines and explain how it does so. I think that would be an uphill battle. The second reason why this should affirm the design commission denial is that the design is a very -- decision is a very well thought out decision consistent with the code. As a reminder the applicant doesn't argue the building fails to meet design guidelines but argues anything requiring him to reduce the size cannot be enforced. But application of the guidelines is an inherently qualitative exercise which is why the city created this commission that can work with an applicant over several meetings and ensure that a proposal meets guidelines. The design commission is entrusted because of their expertise to collaboratively and fairly implement the design guidelines which are the city's primary control over the qualitative elements of a building. No doubt it's process is rigorous but in virtually every case it results in a better building. Applicant argues that the process applied to him was improper because he's entitled to maximum height but this is incorrect. Maximum height and far regulations are just that, maximums. Maximums are not guarantees. There's nothing in the code that

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suggests they are guarantees that a developer can built to a height or far max if doing so would violate design guidelines. To support his argument that he's entitled to maximum height and far bonus applicant claims far height and maximums supersede design review guidelines. This is also incorrect. The Portland city code states that regulations in a planned district like far bonuses and height maximums supersede regulations in other zones, base zones and regulations in the 600 series of chapters. But the design guidelines exist independently, they are not found in any of those regulations or zones. The city's position is guidelines serve as a final gut check on the buildings. That we as a community and particularly those living next to those buildings like my client have to live with. For the sake of argument, we'll just entertain that council believes the district code theoretically supersedes the design review guidelines. The ruling kicks in when there's a conflict we don't think there's a conflict here. A conflict doesn't arise when two land use regulations have an impact on the same building element. Such as size of the building. The commission did not require the building to be reduced in height, it asked for the applicant to reduce the appearance of the height of the building and use things like exterior finishes, window glazing and articulation and setbacks to minimize the height. These requirements can easily be read with the Portland city code. The third reason why this council should affirm the denial is that the appeal mounts an attack on the design review process is no secret that the applicant wasn't satisfied with the design review process. Applicant was unwilling to respond to a majority of the commissions comments regarding height, mass and bulk instead choosing to defend the project as a net zero development. There's nothing in the applicable criteria that says these sorts of projects get a pass when they fail to satisfy the design review process. If council agrees the issues of height, bulk, massing and neighborhood capacity, the guidelines would become advisory. Applicants arguments require this council to require the design review guidelines are essentially obsolete when dealing with height, massing or bulk. The applicants is trying to convince you that he should be able to take advantage of mass and bulk. I don't think that's a precedent we want to set for future developments. To sum things up, the council should affirm the design commission's denial of the project because it fails to meet guidelines, the decision is well-considered and doesn't conflict with the rest of the code. A reversal would deprive the design commission with the ability of how to evaluate how it interacts with the environment and prevent crafting the guidelines. In addition to these reasons, it would have an adverse impact. When Mary Roberts look to her north, she would see a 70-foot wall. It could completely block the light. Open staircase between two of the towers would allow people to see into the backyards next door. This is not just an academic exercise, approving this building will create impacts to my client's life.

Wheeler: Thank you. Appreciate it.

Fritz: Do you know if all of the five houses are owned by different people? The single-family residents?

Safley: I do not know that. You'll hear from the homeowners next door.

Fritz: Do you know what's happening to the south of this project?

Safley: I'm trying to orient myself.

Fritz: I'm interesting in figuring out if this is 75 feet and if it goes up to 125 feet, is that going to then preclude the top of the proposed building? Or are we going to be back or whoever is sitting in these seats in five 10 years are going to be hearing from this development that somebody else is taking their sunlight. Just a thought.

Wheeler: Perhaps it's something the appellant could mention. Very good. Sorry, commissioner Fish.

Fish: What's our burden of proof?

Safley: The appellant has the burden of proving each element of the design review.

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Fish: How much discretion do we have as a body?

Safley: That's probably a question for Mr. Stevenson which is why I asked the record to be left open.

Fish: We've had testimony that there was a staff report that -- that had a conclusion that was different than the design commission. What weight should we give that?

Safley: That was -- there were five meetings held at the end of the third meeting, that was the decision that came to. That wasn't the ultimate decision. The ultimate decision was a denial of the project and that should be the most careful consideration to. It's the decision that's had the most amount of information.

Fish: If there's a conflict between the staff report and the commission decision, doesn't that suggest that reasonable people could disagree on many of the points?

Safley: Sure.

Fish: In that light, I want to go to one of the three arguments you made. We don't get a lot of appeals, but we get a lot of land use proceedings. Speaking for myself, this is one of my favorite roles, as a city commissioner. These hearings where you have these kinds of forums and we get a lot of talent that shows up and we have big discussions and we're talking about the future of our city and it's an honor to sit here. Whether you agree or disagree with our decision this is one of the best parts of our job. But it's also one of the hardest because we're trying to reconcile things. I don't ever remember someone saying that reversing a decision of a body that is being appealed to us would permanently undermine a process. I mean, we've had people say that -- strongly disagree with our decisions. No one has ever said, during my eight years -- nine years -- that a decision we make would permanently undermine for the integrity of the process. I want to give you a chance to flush that out a little bit. It sounds pretty ominous. Since we have the final say, I want to know why you think if we disagreed with you, we'd be doing such violence to the land use process.

Safley: I think violence is a strong word.

Fish: Your language is permanently undermine. I take that seriously. I don't want to permanently undermine something in code. That's the strongest language I've ever seen around a question that council has to decide.

Safley: I think the appellant is charged with showing how they would meet and every one of the design guidelines and I haven't heard and I haven't seen where they've said they've met them. They're just saying that because they -- the maximum height and f.a.r. Allotments are there; they should be entitled to them despite the review process. So my only point was if you agree with them, that in a way that the design review process is being undermined because it's saying you can take advantage of maximum height and f.a.r. Despite what these design guidelines say.

Fish: Okay. Thank you.

Wheeler: Any further questions? Commissioner Eudaly, do you have a question?

Eudaly: I haven't had a chance to read all of this yet. I just want to be clear on the most fundamental issues that your client has and I guess, I could wait for her to come up. From your testimony, I understand that there's concerns around the size and the view. Access and easement. And the -- I guess -- adverse impact on livability for the single-family residents. Anything else you want to add to that list, just --

Safley: Those are the ones that come to mind. I'm sure she'll elaborate on some of them.

Fritz: Could I just ask the city attorney I heard the request to keep the record open as commissioner Eudaly noted none of us has had to read anything we were given today. Are we required to keep the record open? Can we continue the hearing? What's the process given the amount of information given today?

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Wheeler: My understanding is we are left with three options. We can deny the appeal. We can accept the appeal. We can continue the hearing.

Rees: And directly to commissioner Fritz's question, this is not the evidentiary hearing. State law requires if there's a request for a continuance to hold the record open, then we are required to do so. But you only hear appeals so it's at your discretion whether you wish to hold the record open or grant a continuance.

Fish: So, for example, council, if we have a number of questions, we can keep the record open and give people the opportunity to address those questions?

Rees: If it is your intent to receive additional evidence, you wouldn't want to close the record. You could close the record to evidence, leave it open for argument. You would need to set out a structure by which people would know when they would need to submit additional argument or evidence, depending on what you feel like you need.

Wheeler: Did your client want to come up and speak? How many more minutes are available of the 15?

Moore-Love: There's 4.31.

Wheeler: She's not required to.

Moore-Love: I believe she signed up on the support list.

Wheeler: She probably qualifies as the primary -- as the principle opponent so I think she's entitled to the remainder of your time. It doesn't include q&a. Q&a, we don't include that in the time. Is that consistent, given that legal represents her interest?

Rees: If they want, they can use their 15 minutes how they choose.

Wheeler: Very good. Thank you. Good afternoon.

Mary Roberts: Good afternoon. My name is Mary Roberts and I live at 121 SE 12th Avenue. I am in one of -- I own the queen Anne Victorian directly to the south to the proposal. To answer your question, all of the houses on 12th avenue are owned by different people and different owners and those three are on the historic inventory because they were built in the 1890s by stokes. So, the following central city guidelines have not been met, c3-1, enhanced teams. C3-2 Respect residential neighborhoods. The following guidelines have not been met. A4, using unifying elements, A5 enhance and embellish, C4 compliment the context of existing buildings and C5 design for coherency and permanence. In the existing records, there are multiple references to the guidelines and explanations showing that the project has not met them, starting with the first one on October 5. Two more facts to consider. There has been a lack of communication and collaboration from the onset of this process in April 2016. There have been no communication and no collaboration between the developer and the surrounding neighbors or the buckman neighborhood association. This is unacceptable, both to closely-affected neighbor citizens and businesses on 12th avenue, as well as the collaborative process. A letter existing in the record from Jeff burns, dated September 18. The developer bypassed the d.a.r. Process and unresponsive to the city planner. Lack of respect, the proposal does not integrate with the existing structures on 12th avenue. These houses are residential most homes are converted to multiple units that are affordable. They are not targets for the wrecking ball. They have a neighborhood. Most are over 80 years old and some are over 110 years old and they deserve preservation. They are well maintained and usable and habitable, respect is shown by building a project that suites and fits with the existing structures. They need to provide setbacks and less bulk and mass and design vocabulary that fits with the residences. And -- so the impact on my life and house in general livability is the proposed 70-foot high shear walls will be placed four feet from my windows. With no setback. No lot line setback, obliterated natural light. Please see e x code regarding setbacks, 33.140.215, proposed neon l.e.d. Lights. It will create 24-hour unnatural light glare. Visitors and neighbors will see only the 70-foot wall as the

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frontages are only seen obliquely. They are quite jarring. I'm sorry. As recommended by the design commission, there are several ways to develop this very narrow and odd-shaped site. This is too large, too industrial and bulky for the small side. It is like sitting a hippopotamus on a parlor cushion. I would like to thank the Portland design commission members grace jeffreys and Tim heron for their always honest and forthright communications and intentions. They have been both consistent and thorough in their feedback. Thank you.

Wheeler: Thank you.

Fish: I have a question. Thank you very much for testifying and the clarity of your testimony. The issues here are height, bulk massing and neighborhood compatibility. I want to focus on height, bulk and massing. I appreciate looking at this -- this mock-up at your home and to the south of this --

Roberts: I'm directly to the south.

Fish: Yeah. I appreciate that there's going to be a significant impact to your home under virtually any version of the design that is ultimately approved, if there is approval. I want to take -- separate neighborhood compatibility because some of the questions about components and materials and light and things, that, I think, is separate. But, the thing I'm grappling with here is, I'm not entirely clear how an extra foot or two of setback a slightly lower height, a slightly modified bulk changes the concerns that you have. And I understand your concerns, but I'm not sure how the kind of modifications that could come out of a further process fundamentally addresses your concerns. Could you address that? Short of there that being a development.

Roberts: Well, a mid-size development, which had some lot line setbacks and which, you know, was allowing some light and air and privacy and space and maybe some landscaping between the residential houses would certainly make it much more livable and much more, you know, usable and friendly and I would be in favor of that, of something that is --

Fish: When you say mid-size, what do you mean by that? What kind of height are we talking about?

Roberts: So, my structure is 42 feet.

******:** 45 feet.

Roberts: 45 feet. So something in that neighborhood, it's going to fit along that series of roof lines and it's going to fit with the character of the other houses on both that side of the street and the other side of the street, with the exception of the new development. There are three more, you know, turn of the century houses on the opposite side of the street. They consider themselves -- we consider ourselves part of the buckman neighborhood. Those houses are, again, very much usable. Very much occupied. Very much rent-affordable. So, I guess, you know, providing those lot line setbacks and making it mid-level, I think mid-level is a developer term. I picked that up from talking to some developers. I don't know the exact terminology.

Fish: You're very clear in your testimony. I appreciate it.

Eudaly: Mrs. Roberts, you sparked my curiosity when you said a number of the five houses have been subdivided. Do you roughly know how many residents live in those five houses?

Roberts: Okay. So, the one to the -- the middle one, just to the south of me, there's probably eight or nine people in there. That's been converted into a five-plex. On the opposite side of the street, directly across from me, that is a three-plex and then the other one on the opposite side of the street is a duplex.

Eudaly: I'm referring to the five houses on your lot?

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Roberts: Yes. Mine is a duplex. It has two units. One to the south of me, I believe is a five-plex or a four-plex, I couldn't absolutely say whether it's four or five. The one on the end is divided by two. My neighbors to the north is a single-family. The house on the corner is being used as an office space.

Eudaly: Thank you.

Roberts: Sorry.

Safley: I'd like to point out, I don't believe her homes are illegal. There is some suggestion that these homes that are illegal. They're legal nonconforming. There's a substantive difference there.

Wheeler: Thank you. Appreciate it. Next up, opponents of the appeal. Three minutes each.

Moore-Love: We have nine people signed up. Design commission wants to come up together.

Wheeler: Good afternoon.

*******:** So, is David Wark first?

Wheeler: It doesn't matter.

David Wark: Good afternoon, mayor and commissioners. My name is David Wark I'm the current chair of the design commission and I just want to start out by saying we support the aspects of every project we see and try to get to yes. As evidence to me by my nine years on commission, and the hundreds of hundreds of cases I've reviewed, that this was the first case that was not approved by design commission. It was very difficult for us. But it should be noted --

Wheeler: Could you clarify type three?

Wark: That's where it comes before design commission. You receive appeals from a type two case. We've had some of those cases come through that we haven't supported. It was unanimous, which is also unusual. And so, this case was not about limiting the height and area on the site. It was about shaping the height and area on the site. And the applicant -- at times -- felt they just could not do that to demonstrate substantively what we were after, relative to C4 compliment context of the existing building and C3-2 respect adjacent residential neighborhoods. In terms of the context, the architect stated at some point in one of the hearings that the three houses to the south seemed more historic and stable to the ones in the north, which is reflected in their design and commissioner Fritz stole my thunder on this point. The angled wall and solar panels are an integral part of their aspirations, which is a net zero building. If those houses do remain, then the net zero works very well. If they are demolished and a new building that could be between 90 and 125 feet tall, is constructed, then the solar panels, including new ones on the roof, would most likely remain in shadow and the net zero goal. In my mind in particular, if the houses are to remain, their design is predicated upon, they should take that into account and according to the design guidelines. In closing, in part, this project is really about how context is defined and what value that it is given. Is it about existing or future or a combination of the two? Should they be able to build however it chooses or infill development needs to respond to existing context as outlined in the design guidelines. We look very forward to your comments and guidance on this because this is on the front lines of the growing pains Portland is experiencing.

Andrew Clark: Good afternoon. Thank you for hearing Portland design commission on this case today. My name is Andrew Clark and I've been a member of the commission for 13 months. During that time, the Ankeny apartments has been the only proposal to not be approved by the commission. Not only was the proposal denied, it was denied unanimously. As currently designed, the building does not comply with many central city fundamental design guidelines. A few more salient central city fundamentals that produce

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the most discussions are a4, use unifying elements. The scale of the project dwarfs the adjacent building more needs to be done to provide a human scale to the building. Revisions to materials and details were some of the options to mitigate scale that were suggested by design review staff and commission. C4, compliment the context of existing buildings. Due to the large shear blank walls at the property lines, the massing configuration and the material selection, this proposal does not compliment its context. Balconies and bay windows do work toward relating neighborhood houses but on balance they are insufficient compared to the ways the building alienates the surrounding building. C2 create quality permanence in a building this building is a vertical extrusion of the property lines that entirely fills the site. Large portions of walls at lot lines use materials which require regular maintenance. How this maintenance will occur without the cooperation of neighbors? The developer needs an easement to both construct and maintain the building. Without an eye toward constructability and long-term maintenance, this will not be a long-term asset in our community. From the central east side guidelines, c32, respect adjacent residential neighborhoods. While the ex-zone allows residential uses, it is an industrial zone. Development should respect the architectural styles of the adjacent residential neighborhoods. Consideration should be given to building height and bulk, building orientation, pedestrian accessibility, amount a location of parking, architectural detailing and architectural style. In conclusion, it's been our experience that small projects that respond well to guidelines are approved after a single hearing. The fact this development received denial after five hears is a failure to meet guidelines not a failure of the guidelines themselves.

Wheeler: Good afternoon.

Julie Livingston: Good afternoon. My name is Julie living ton and Jessica is not going to testify this afternoon. I have prepared testimony and shared a hard copy with you. The hard copy you have addresses a couple of guidelines specifically. Instead, I'd like to address a few issues that have been raised during the testimony. First, just for the record, the existing houses on this block are not non-conforming. They are -- they are allowed by right and if they were brought into the bureau of development services as single-family development today, they would be allowed by right. So, they're fine. Nobody's at risk there. With respect to the third hearing and the staff report that was generated for the third hearing, there was a great hope going into that hearing that revisions that would be made by the design team would get us to an approval. Staff report -- staff and staff reports often aim high, with the assumption that the discussion that will happen will get us to a place where we can vote yes and get the applicant out of the hearing room without a return trip for the vote. So the hope was that the revisions that would be proposed would be strong enough to get them out of the room with a yes vote and not have them come back in with the vote at the fourth hearing. The revisions that were proposed were not substantive and then there was ensuing discussion on how we would proceed and at that point, it was obvious, there was not going to be a yes vote on the proposal in front of us. Development standards, that describe the maximum allowances, height, floor-area ratio, those are not entitlements, they are allowances. The entitlement is a building permit. The standards aren't site-specific and they must be adapted to fit a great variety of site conditions. The design guidelines are the tool we use to help us do this. Follow-up thought to that, all of the guidelines matter and as of today, net zero is not a guideline. Although this has been discussed, it may be a guideline but it is not a criteria we have used in our deliberations around this building. So, while the proposal succeeds very well at the innovative use, its bulk and massing fail for context with respect to building conform and rhythm. These are all necessary elements of a coherent response. The site is at the perimeter of the central

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city d overlay. It is not critical to maintaining the personality of the central city, but the personality of a close-knit residential neighborhood. They project 35,000 households --

Wheeler: I'm going to have to ask you to wrap it up. I apologize.

Fish: I have a question for you. Does the staff report, that you eluded to, in your judgment, still lay out a path to getting design commission approval?

Livingston: My sense of where we are today is that the no vote is justified. The modifications that were made from hearing to hearing were very modest. The -- the reorientation of the massing and the bulk on the site, the sheerness of the walls and the lack of the mitigation for the sheerness of the walls were issues that were never addressed to the commission's satisfaction, the commission never felt that they fully-addressed the guidelines. Modifications that were proposed were very modest because it's difficult to scale back the building and accomplish the other goals.

Wheeler: Can I ask you a question? In laymen's terms, you addressed the shear walls. Are those objectives that actually can be accomplished? Can you give me examples of how that might happen? How would you address the shear walls, for example?

Livingston: So -- from my perspective, the real issue with the sheerness of the walls that are on the internal property lines are that they have no windows. They have no windows because they're on the property line. There is no landscaping to mitigate the presence of those walls immediately adjacent to people's backyards. Again, there is no landscaping because those walls are on the property line so there is no area on the site to provide any level of mitigation. Same can be said for the stairwells.

Wark: I think they did carve back a couple of areas where they did add some windows. Those are some of the minor tweaking that got it on the path, a good path. But it never went quite far enough.

Wheeler: It was your hope they would do more in terms of windows and pulling back and landscaping. Would that have addressed the bulk and mass issues that you eluded to earlier?

Wark: A common building height along that corridor, I think farther south on 11th, is 45 feet for new development and I think many of us were looking for that kind of height, relevant to existing houses along 12th and putting the rest of the bulk and the mass to the west of the site, that abutted an industrial building. And also, by reducing that, it would let more sunlight with that southern exposure on to the northern lots, the lots to the north of the project. So that would have been a start. They did take off one floor, I believe, on 12th. But it still was, in our opinion, out of context. We did encourage them to study actually moving the bulk of the mass to the west, but that was never presented as an option per se. Structural systems aren't part of our design guideline criteria, either. So the idea of making it taller, which is allowed on the site, could have been a path to approval. But they have a structural system in mind already so they weren't real willing to -- or couldn't, under their proforma, look at another or adopt another type of structural higher and outline some of those fire systems previously.

Fish: Forgive me if this is a really dumb question. I just want to give you a hypothetical. Let's assume that the developer purchased all the single-family residences and demolished them, how would they change your view of that portion of the guidelines, which you apply, that relate to complimenting existing buildings and sort of complimenting the character of the house --

Wark: Can I modify your question a little? It's a better question this way. So, what if the entire half-block had been purchased and those three houses to the south were still intact, what that means is -- what's happened on every project before this is that they have enough real estate to now pull back from those houses to the south and give it a little bit of breathing room and kind of shape their mass, they have a lot more room to shape more

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mass. So, one of the challenges behind this project is it's about a 30-foot-wide site. And so, the ability to shave off square footage is much more challenging.

Fish: Let me just, then, continue the discussion. So, if ultimately, through whatever process, the developer built something here, but with less height, less bulk, it is conceivable that someone will come and acquire the two single-family homes, demolish them and put a bigger building?

Wark: Yes.

Fish: It would change the equation of how you would then evaluate that building because the context is --

Wark: We would be doing it in reverse here. Seeing how that new project is impacting the context of this building, if it ever got built. So it's not necessary looking at the silos of projects. We're looking at them, the context as I mentioned, is an existing context, future context. A project in the future would have to take this project into account.

Fish: Let me continue this --

Wark: Did I not answer your question?

Fish: No, you did. Very effectively. The question the appellant? Applicant? Appellant has raised, are we designing for today or for the future? Could you offer your perspective of that?

Wark: That was a question I asked. Basically, is the context about the existing or the future or a combination of the two? So how do we transition our city in a transitional neighborhood from what it is now into the future? This is -- this is it. This is the case. And irony of it, it's probably the smallest case we've seen in the nine years I've been on commission. The impact, not only on this site and future development and how we look at context, I think, is something that we need some clarity on and this -- this case is it. It's a start.

Fish: But at the end of the day, we're just debating how to resolve one case?

Wark: Right.

Fish: And when mayor Adams sat in this chair, he would usually, at this stage in the proceeding, he would press council or someone about what is the extent of precedent and what kind of precedent are we setting? We're addressing one application and one judgment about how rules apply. We're not revising your rules or setting the template for the future.

Wark: My closing remark is, we're interested in hearing your point of view, which I assume --

Wheeler: So we'll get to that, we have that --

Wark: Not right now.

Wheeler: You will hear that pretty quickly here. Any further questions for this panel?

Eudaly: So this is my first hearing of this nature and I just need to ask a clarifying question. If the decision of the design review committee is upheld, does the appellant have an opportunity to come back for additional meetings?

Wark: My understanding is they would have to start a new case.

Eudaly: Okay.

Wark: Just an editorial comment. We understand that and that's why -- one of the reasons we try to get to yes is so the efforts to that point, which are substantive in terms of time and cost, aren't wasted and so that's why we're kind of -- don't want to be sitting here, either, actually.

Wheeler: Very good. Next three, please. Good afternoon.

Michael Beglan: Good afternoon. My name is Michael Beglan. 121 southeast 12th, the property immediately to the south. My partner is Mary Roberts. 121 southeast 12th is an 1895 Victorian house, two and a half stories tall. A lot of the points I was going to make; I

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apologize that you've probably already heard. There are a few points we haven't covered yet. In terms of the big picture, I feel that there's two items. The first item would involve -- I moved to Portland in 1979 so I have some perspective of the development of the city. The farsightedness of the city planners is pretty ah-inspiring, given the Portland that existed in 1980. We live with the benefits of their decisions then, just as the people in 2050 will live with the results of your decisions now. The design commission enables this process and should be supported in their work. I attended every design commission meeting on this matter. The commission voted unanimously to turn down the proposal, which was the correct decision and I ask you to uphold it. Second big-picture item, the ex-zone allows development to the lot line, which is fine for warehouse to warehouse, but not in this case of residential to residential, which needs setbacks to provide light, air, et cetera. This conflict needs to be resolved and not at the expense of existing residential. Any dwelling settlement that has existed for ever 100 years is a neighborhood. This clearly does not meet guidelines c3-2 and c4. A pedestrian will see massive blank side walls and two and a half story buildings not seen. The -- we would welcome mid-level duplex or triplex development. We have been totally ignored by the developer. We never had a single communication from the owner, architect or builder. We will not grant construction or maintenance easements under any circumstances and will strongly defend our property rights. The development commission requested that a sunshine shadow study be submitted by the developer, that was not done. A 70-foot blank wall will reduce air, light and privacy. On the other side of the coin, the reduction in daylight will be taken away by l.e.d. lighting. This is too much building for this site, does not meet design guidelines.

Wheeler: Thank you.

Jeff Burns: My name is Jeff burns. I sit on the buckman community association and this project came to us by way of the neighbors. We did receive a notice in the mail and through the discussion of just the neighbors, it came to light that we probably needed to act on -- in some form or another -- the way that community works, we meet once a month and so that action was taken in the formal letter that I wrote personally, as far as summarizing what our concerns were. I'm going to highlight a couple of things out of it. It's a beautiful design in and of itself. It's a good comment at what's allowed in the zoning code. It would be healthy for the development team to have the opportunity to come present the project to the bca and the neighbors to have the opportunity to weigh in on the project in a community forum. After that, the architect did come and present to us and we talked about it quite a bit and our feeling was after design commission, the project wasn't going to move forward and we didn't concentrate our efforts on it as a community association group. And then along came this hearing and unfortunately, the way the notification has worked on this project, the bca board does not have an opportunity to meet and discussion prior to the appeal hearing. We meet tomorrow, so the chance for us to have a conversation about it and come to a good conclusion as a community board and have a vetted letter back to this appeals forum just wouldn't be able to happen the way that the notification is done to neighborhood associations. It does leave us pretty powerless. There's the letter that goes back that voices the concerns of the neighbors and I'd hope that you guys would read that. And then one other note. Due to improper notification by bds, the neighborhood association was not able to formalize an objection to the project. Numerous concerns were raised by the community members were noted. That's all I have to say.

Wheeler: Thank you.

Fritz: If we were to hold the record open for a couple of weeks, would the community association be able to get us something?

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Burns: That would be great. There's an opportunity for this project to come back around and for good discussions to happen because this is really where the direction that we're seeing, as the bca, of where the neighborhood's headed and having that dialogue is how the neighborhood is going to develop. We're hearing stuff from neighbors that are concerned about, where are we headed?

Fritz: I have a comment to my colleagues. I'm sure commissioner Fish will remember we have asked both sides to come together and see if they can come to some type of agreement between the council hearing and the decision making.

Wheeler: Good afternoon.

William Phillips: Good afternoon. My name's William Phillips, I live at 113 southeast 12th avenue, which is right there in the armpit of this monstrosity. It will not only destroy our way of life and take away our family dwelling, basically, in this home, which is also a stokes historic building, but we won't be able to grow our plants. We have birds. We take them out in the backyard during in summer so they can get outside and have light and air and stuff. The developer has never talked nice to us about discussing things for this building. And, I've been to most of the meetings for the planning commission. They gave him many, many opportunities to make changes that would have taken care of the bulk and these walls that I'm sorry if we lived there, it would be like living in a jail cell because that's all you'd see is walls. Also, they would be looking from their -- the small windows that they were proposing to put into these blank walls would just open up to where they could view down into our existing homes and invade our privacy and our way of life is -- would be gone. We -- they also talked about having the view to the river and stuff because of the height of this building. Well, you know what? We have a view to the river and we watch, from our back porch and stuff, we watch the fireworks and such that go on during many holidays down here. We'll lose all that if that building goes in. Why should we pay that cost for him and this project to go in, just because it's a net zero? I like the idea of net zero. Putting it in this spot is wrong. It's like to trying to hammer a square peg into a round hole. It does not fit. Thank you. That's all I have to say.

Wheeler: Thank you, I appreciate your testimony. The last three?

Moore-Love: The last two are signed up to speak.

Wheeler: Good afternoon.

Joy Lewis: Good afternoon. My name is joy Lewis. I live at 113 southeast 12th avenue, Portland, Oregon. This proposed building is a bad fit. If built it will destroy our way of life. The death of our livability. Our house, which is a duplex, not a single-family dwelling, would be strangled by the apartments. We would be living next to walls, depriving us of our light, heat, air, sunshine and rain. It will destroy our privacy. We need these things for ourselves and our gardens and parrots. Nobody willingly would submit to live like this. Parking is terrible in this neighborhood already. This building would offer only bicycle spaces. This won't force people not to drive cars. More people, less parking, bad fit. Building is too large for the lot, does not architecturally comply. The destruction of our beautiful historic neighborhood is a tragedy. I hope the city council will use all their intelligence and compassion when deciding on this proposal, for the neighborhood, for the neighboring historical housing, neighbors. This is the oldest, most historic southeast neighborhood in Portland. We deserve better. Our houses deserve better. We, as taxpaying citizens, deserve better. I'm requesting that you please consider this proposal wisely, is Portland the city of beautiful historic pride or city of demolition and architectural punishment. Please vote for denial. Thank you for your time.

Wheeler: Thank you. Good afternoon.

Priscilla Sturges: Good afternoon. I'm joy's mother. And, no, we won't be here forever to watch these houses, but it will go straight to her and she will last longer. We bought our

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two-story, which is actually two stories and an attic and a basement house. And we were told by the -- by people that research it that it was actually built in 1886, as many of them were. We bought it over 40 years ago, worked, paid taxes, volunteered in our community and are given three minutes to tell you why you should not surround us with a prison wall, which will shut out our air, water, sunshine, privacy and community. You have already allowed the historic 1857 buckman farmhouse to be demolished with no notice to the neighbors. Now we are faced with a huge apartment complex with high-income renters. The zinc cladding will rust in several years. So, we will -- it won't be an elegant building. It will be a rusty eyesore. Affordable homes should not be displaced for luxury apartments for wealthy short-termers. It is already having an effect on our health.

Wheeler: Thank you for your testimony.

*****: Thank you.

Wheeler: All right. We now have the opportunity for rebuttal by the appellant, if they so choose, for five minutes.

Ramis: Thank you, Mr. Mayor, we're all here in case you have questions, to be addressed to each of us. First, I'm going to respond to the record issue that was raised. We have no objection to leaving the record open. We think that would be a good idea to allow everyone the opportunity to address some of the issues and questions the council's raised and make sure you have the most complete record possible. Second, with respect to commissioner Fish's question about the scope of the council's authority in the case, I believe that in lawyer technical term, this is a de novo hearing, you're not constrained by any decision below. You make a new decision based upon the record and the rules allow new evidence for the record so this is essentially a clean slate in terms of the authority you have. We ask what weight should be afforded the January 5 staff analysis, which was for approval. I make two comments there. One is, I think the weight depends on your evaluation of the analysis in that report. That report is the staff's best professional judgment, exercised in evaluating the evidence in the case. And as you read it, you will find that they take the position that each and every one of the criteria are satisfied because of the changes that are made throughout the process in the case and that, I think, is a persuasive argument. We encourage the use of this document as a basis for your decision because it is a practical path to getting this project approved. It's a way to approve the project without getting into some of the more global legal questions in the case. It focuses on the criteria. So, we encourage the use of it. Finally, contrary to the characterization that he's asking for a pass, that's not the case. He wants to build housing and add it to the housing stock. His goal is to do that in an innovative way that respects what we're trying to accomplish in terms of energy efficiency. This will be the first building built, the first new building built in almost 50 years on this block. It will also be the last building built under the current zoning so everything will be built under more intense zoning. The risk here is if you make the building too small, it will be essentially a wasted opportunity when you look back 10 or 15 years from now so that's why we're seeking approval and that's his goal, not getting a pass. Thank you.

Waters: I'd like to comment a little bit again on that staff recommendation of approval and the process that was used. We developed and worked with bds in order to get that. We would have many work sessions in our office with grace from bds going over the previous discussions and hearings with design commission and making changes, taking more than 2,000-square-feet out taking all the parking out and then grace would go back and has a cohort of other bds people that know the design guidelines and know the code and they discuss, we would give our designs and renderings to her ahead of time and they would discuss the development in relation to the commission hearings and I think that the fact that we got to a staff recommendation of approval after the third hearing shows that it

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wasn't an interpretation that is different than the design commission's. There's a body of bds people reviewing this that interpreted it one way and commission interpreted it another. There's a lot of ground for interpretation and bias and anesthetics. There is a very -- sort of gray area that a decision has to be made on.

Fish: I have a question for you. I need you to give us a quick primer on the procedural posture of this case, just so we're all clear. I'll give you some hypotheticals. The council denies your appeal, you have the option of going to Luba, correct?

Ramis: We do.

Fish: You have identified potential questions. Could they be raised at Luba or another forum?

Ramis: They could be raised in another form, but I think for efficiency sake it would be best if we raised them now.

Fish: The Luba process takes about how long?

Ramis: It will be -- take eight to nine months.

Fish: And, one option -- Luba -- these are all hypotheticals. Luba could end up sending it back for further action, correct?

Ramis: They could do a reman and send it back to you.

Fish: And, what's the -- what does it practically mean to your client if he had to start all over again? We've had five hearings; this has been going on for a long time. Practical terms, cost and timeline, what would it mean to go back to zero?

Ramis: It's very expensive. I want to make the point that getting a building built is better done through a process here at the city than through Luba so it's certainly not our objective to litigate these questions. Having to start over is an expensive proposition.

Fish: To what extent does the comprehensive plan we adopted, but doesn't kick in until it's approved down the road, to what extent does that fundamentally change what can or cannot be done at that site?

Ramis: If a new application's filed after 2018, it changes it completely because a different building envelope is permitted on the site. For now, it seems to me it's one factor in trying to analyze, what's the context for evaluating the project as against the zone and what's out there? It changes the analysis of the situation because what's coming is more intense. It's a policy statement by the city, that the city wants more intense development there. That's a factor.

Fritz: I have a question and that is, the application says 17 units. Several times today, 18 units have been mentioned. Could you clarify what has been proposed, please?

Crowell: Yes. Because we've had to take out the ground floor parking, we actually put in a live/work unit, in place of where the parking was. And altered the units the way that they were configured to accommodate and basically, appease a design review.

Fritz: So for right now, you're asking for 18 units?

Crowell: It is 18 units, 12 two-bedrooms and six one-bedrooms.

Fritz: I'd like to hear your thoughts on something I've been thinking about, from commissioner Fish's points. It seems to me that it's in the neighbor's best interests to -- the commission chair said keeping the single-family homes is kind of necessary to your design because if those were to go and 125-foot building was to be placed there, that would shade your access. Similarly, for the neighbors, coming to some agreement this time around would be better because the next one coming in will be yours being 125 feet. Is there a way to bring parties together, sense we're here? Not today, but before we come back.

Crowell: You mean find mutual ground?

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Fritz: Yeah, something that would want the families to stay in their single family home there and find a design that will work for you, we'll want to keep the neighbors there. That's just something to be thinking about.

Eudaly: That is a really interesting challenge, looking at that new building, how new development on any of those lots would impact. Could we see the most current renderings of the building, as proposed? I feel like this image is not the best one.

Waters: That's 12th street.

Eudaly: And then, do you have an image of this back tower that's behind the two buildings? I guess that's what I'm having the hardest time conceiving. That's Ankeny. Okay. Got it. Thank you.

Wheeler: Any further questions for the panel? Very good. Thank you, gentlemen. That brings us to council discussion. We have a number of questions before us. There are questions about whether we'd like to continue the hearing, whether we'd like to file a motion now, whether we'd like to keep the record open, whether we'd like to close the record. All of these are at our disposal. Before we jump into that, while you're thinking -- I want to make a few comments, as I've been sitting here listening. This is almost the perfect storm and as somebody who, I guess, qualifies as an old Portland having been born here, but somebody who's elected to take us into the future, I'm seeing this as almost two worlds colliding. This is an established neighborhood. This is a set of historic residential structures in the neighborhood, people in Portland have always loved and appreciated the historic nature of this architecture. But we're also a city, as somebody had mentioned earlier, that's in high-transition. And a couple of the people who had spoken in support of this project, had made note of the fact that this is the kind of development that the city has been trying to encourage, particularly close in into the city center. It meets all of our carbon objectives. In many regards, it represents the future of what we're going to see, close in, in our city, where the Portland plan will acknowledge the need for density and for smart architecture. So, in many regards, I love this project because it has a nod to the future and I hate it because it represents rapid change and I think those of us who've been here for a long time, while we embrace the need to change and we embrace the future, we're wistful about what we leaving behind. This represents the perfect storm of these colliding issues. I'm interested in the conundrum commissioner Fish raised. It's important that this is the first new project on this block because it raises the question, if we established a Portland plan and we've changed our zoning and are in the process of changing our codes to reflect our desires for more density, how do we get there? Do we go from here to there all at once or, is there going to be a tit for tat on each one of these sites as we start out being consistent with what's already there and start building sequentially or do we go full-bore towards the future? And that is the decision we're left with here today. That was completely not helpful. It's what I've been toying with.

Fish: Can I have a colloquy? The notion of -- I went to the fights and a hockey game broke out. I actually came into this hearing thinking, with one set of issues and concerns and I now find myself conflicted. But ready to roll, if forced to. But commissioner Fritz, you eluded to something we've done in the past, which I think actually provides a third way, which I want to tease out with you. You came here after a long career in the planning commission and for me, you've been the lead person in trying to think through creative solution to problems. I am interested in at least exploring a concept, if you could help us shape it, that has some combination of keeping the record open, a constrained next step, but with the opportunity for at least two meetings to occur. I think there's two meetings that have to occur. One is with the neighborhood and one is with the property owners. With a proceeding where we come back, give everyone a very limited amount of time to report to us and then the understanding of we're going to deliberate I think I might support it.

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Fritz: Thank you. I think that is possibly a way forward. I would like to read through everything we've been given today and everything else in the records before coming to a conclusion. If we were to continue the hearing, let me restate my thought again. It's really in the neighbor's interest to get something approved in this process because otherwise, if they go back and wait for the next comprehensive plan to go into effect, it will be 125 feet, not 70 feet that's why I believe it's in the neighbor's best interest to try to get to yes. Similarly, if the neighbors are literally pick up their houses and move them somewhere else and allow development to go in adjacent to this proposal, as 125 feet, then that completely destroys the ability of the net zero to get enough sunlight to be able to continue to be a good place to live so I think it's clearly, to me, in everybody's best interest to allow the neighborhood association to weigh in encourage a meeting possibly with a facilitator, possibly with a facilitator to get to yes before the council says, yes, we agree with the design commission and we start over no we don't agree with the design commission and see how it goes.

Fish: I took notes. Can I see if I can put a concept on the table for people to react?

Eudaly: Well, I think, much like the rest of my colleagues, I'm really sympathizing with everyone involved. This is a rare, unanimous decision for the design commission and I agree with commissioner Fritz, I would prefer to read through all the testimony that was provided to us today, which is possibly a quarter ream of paper, before making a ruling. I also want to acknowledge how frustrating and expensive this process is for the developers and what an interesting and innovative project it is and I think you've really honed in on the -- something really essential as if something isn't in place, the neighbors are going to get something more egregious to them. And, if the neighbor -- if the livability of this neighborhood is diminished by your development, you may have development that then lessens the livability of your -- your building. So, I'm very curious to hear what commissioner Fish is about to lay out. I guess -- I mean, I also want to acknowledge, the city's made some terrible historic decisions over the last 50 years of urban development, that's have destroyed neighborhoods and decimated communities of color and more recently, we've allowed unchecked development with little to no mitigation of displacement and the impact of livability for existing neighborhoods and community members and we have an opportunity to stop and consider the impact of this decision. I don't want to see us overcorrect for past wrongs and ultimately, come up with a plan that is not desirable and I don't want to see us shut down a really innovative project so I'm for continuing the conversation.

Wheeler: So just to give clarity, it sounds like we want to keep the record open and commissioner Fish, if I understand you specifically, there are two meetings you are requesting. One being with the neighborhood association, one being with the immediate neighbors. I assume you're asking the developer party to participate in those meetings, that's obviously at their discretion and voluntary. We cannot direct them to do so. You'd like to see the record kept open and then I presume you'd like to schedule a future hearing and we need to select a date.

Fish: Are we on the clock?

Fritz: Come to the microphones, please. This is a technical, legal question land use cases are supposed to be decided one way or the other within 120 days. We need to find out whether the applicant is willing to waive or if they've already waived that.

Fish: Why don't we have the two lawyers come up, too, because sometimes we have questions. Are we on the clock?

Ramis: I wasn't aware of a waiver, in this case.

Rees: If we're going to have an evidentiary hearing, it's because it was granted. I don't know if there's an ending time on that.

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Fish: Do any of you raise an object to if council decides to continue the hearing to a time certain, do you have objection?

Ramis: We do not if there is a clock running we would extend it from enough time to accommodate the process you're talking about.

Fish: That solves that question, mayor.

Rees: May I interject really quickly? The 120 days runs on August 5 so I'm hopeful that gives us enough time.

Fish: Mayor, this is just a concept for discussion and it's the elements that all three of you have put on the table. Continue the hearing. Keep the record open for 30 days. Any submissions that the attorneys wish to put in, by way of summary arguments, limited to no more than four pages, we just don't need another phonebook here, just your best arguments, not ones that have been raised before, but whatever you think is absolutely essential. We are requesting that the developer, the applicant hold two meetings. One with the neighborhood association. One with the property owners. And then mayor, what I would suggest is that we schedule a time for the final hearing, the record closes in 30 days, we schedule a time for the final hearing for a decision and that at your discretion, you give each side 10 or 15 minutes to update us and we'll deliberate and issue a ruling. Commissioner Fritz, I think that's a hybrid of what we've done before.

Wheeler: So that would bring us to Wednesday afternoon, May 10?

Rees: I know we have another land use hearing that day.

Moore-Love: They're asking for an hour. They're starting at 3:00. There's already 2:00. So, if you want to do 4:00 for this?

Wheeler: Do we have a Thursday afternoon session scheduled that week?

Moore-Love: No but a public budget hearing committee from 6:00 to 8:00

Wheeler: Let's do this Thursday, May 11, 2 p.m. Time certain.

Fish: When would the record close, then, if we went 30 days?

Wheeler: Just to be clear, the record is going to be open until Thursday, May 11.

Rees: Because you're going to allow the parties to come up and testify again, you could either close the record or reopen it or leave the record open until such time--

Fish: Can I just admonish or just request of the parties, if they're going to submit something, don't submit it on the day of the hearing. I won't read anything I get the day of the hearing. I want a few days to read it and potentially talk my staff.

Wheeler: Anybody can submit. If we close the record today, with the motion that commissioner Fish is in the process of making, they would still be able to have their meetings. They would still be able to submit their documents and we would still hear what the results of the two meetings commissioner Fish has requested are?

Rees: If you close the record today, you would have to reopen it to take their testimony to get information for the meetings they had or accept written argument.

Fish: I would keep it open. I think it's cleaner.

Wheeler: Sounds good. We're getting a second opinion here.

Tim Heron, Bureau of Development Services: I don't want to come up without being invited.

Wheeler: Come on up.

Heron: Thank you, Tim Heron bureau of development services. Having been through five public hearings on this project and how much movement our not is up for debate, would we be able to have a facilitator?

Fritz: I was just about to say that. The city contracts with resolutions northwest who helped us with our public budget hearing yesterday and commissioner Eudaly can put you in touch with them through the office of neighborhood involvement. I would suggest if you and grace could participate as well, that would be helpful, potentially with a small number

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of design commissioners. We're trying to get a yes here and something that will benefit everybody, given the alternatives don't seem to benefit everybody.

Heron: You stole thunder twice.

Fish: I appreciate what commissioner Fritz just said because this is a tough case, the design commission has said to us, this is a tough case and they're looking for guidance. Tough cases generally mean that when we decide them, one side is disappointed. And so, sometimes that uncertainty leading up to a final decision, creates a little extra space the creativity where the parties give a little bit and see if they can come to an agreement because in almost every instance, the council would prefer the parties to reach an agreement they're comfortable with against the backdrop that there's typically a winner and a loser. Everyone needs to assess their own risk in that regard and hopefully participates in a community process.

Wheeler: Can I restate your motion? We're going to continue the hearing until Thursday, May 11, 2 p.m. Time certain. We're going to keep the records open for 30 days. We are asked for best-case submissions of no more than four pages, from representatives of each side. And, we are requesting the appellant to conduct two meetings, one with the neighborhood association and one with -- we'll call them the immediate homes on that block. Is there anything I've neglected to add to that, commissioner?

Fish: I would add that when we reconvene on the 11th, you'll be affording no more than 15 minutes to both sides.

Wheeler: So done, is there a second?

Fritz: Second.

Wheeler: Commissioner Fish moves, commissioner Fritz seconds.

Rees: 30 days ends the day before. What will happen at the reopened hearing on the 11th is you will reopen it solely for the purpose of receiving testimony about what has happened?

Wheeler: No problem. You'll give me a script in just about 30 days.

Fish: Gentlemen, is that a path forward you're willing to assent to? Do you have any strong objection?

Ramis: No, we appreciate very much the council's effort to try to find a path that everyone can live with, appreciate that very much and we'll participate in that.

Safley: Echo that, no objection.

Wheeler: Thank you, both. Appreciate it.

Fish: Thank you for an excellent hearing, for superb testimony. Superb testimony from the lay participants, the non-professionals who testified who were very helpful. And thank to my colleagues for a fruitful discussion and a creative outcome which gives us space to see if the parties can reach agreement. I'm speaking for myself, if the parties cannot reach agreement, the council will have to decide this question and I'm prepared to decide the question. Thank you. Aye.

Eudaly: Thanks for everyone's participation, it's a fascinating discussion and I'm really excited to get to witness this conversation moving forward. Aye.

Fritz: So, commissioner Eudaly, thank you for volunteering for your staff and development services to lead this process, getting resolution northwest and inviting people from resolutions northwest and thanks for everybody to be able to do that. I do hope we can get a yes. Like commissioner Fish, I would be ready to start over -- that's not what commissioner Fish said. But currently, it is no because it can't meet the approval criteria so I'm hoping you can make modifications on both sides. Aye.

Wheeler: Aye. The motion passes. This hearing closes. Colleagues, if you have a few minutes, we can get to some of the business we missed this morning? Should we start with the consent agenda? Can you remind me?

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Moore-Love: 348 and 439 are the last two items on consent.

Wheeler: Folks, folks. I'm sorry, we still have business to conduct so if people could take -- take it out into the hallway, we'd really appreciate it. So, colleagues, we have two items left on the consent agenda, items 348 and 349 are left on the consent agenda. And it looks like --

Fish: And then we have 355

Wheeler: And then 355.

Moore-Love: And I have 356. 355 and 356.

Wheeler: That's correct. They were emergency. We didn't have the full quorum.

Moore-Love: This is consent agenda.

Fish: Aye. **Eudaly:** Aye. **Fritz:** Aye.

Wheeler: Aye. The consent agenda is adopted.

Item 355.

Wheeler: Good afternoon.

Randy Selleck, Office of Management and Finance: Is it still Wednesday? [laughter]

Wheeler: It's still Wednesday.

*****: [audio not understandable].

Selleck: I am randy, construction project manager with omf. Just to run a brief of the 1900 restroom project for a little background, the restrooms in the 1900 building are in need of renovation and have been scheduled in the maintenance program. It is an ada compliance project. Convergence architecture was selected to design the construction. Their contract was awarded on September 12. As required by city council administrative rule, city-controlled facilities with hard construction cost estimates at or above \$500,000 are required to consider the feasibility of including all-user restrooms, either through creation of new restrooms or conversion of restrooms into all-user restrooms. The originally contract with convergence included the feasibility analysis. All user restrooms can be accommodated within the building, as individual, single user restrooms added to each floor. Floor number two has a single-user restroom. The plaza level, we are still exploring two options, both will be single-user restrooms. We have a project stakeholder committee and includes facilities maintenance technician and two facility coordinators, one from bureau of planning and sustainability and development services and a senior inspector and a planner.

Wheeler: Thank you, any questions.

Fritz: Do you have a stakeholder group from the trans community that's advising on this?

Selleck: No, we do not.

Fish: We have a community advisory group made up of folks from about six different civil rights organizations, plus flush, as recently as yesterday, met with omf to review guidelines for the two proposed all-user restrooms, which we blended in with the single-stall restrooms and they are providing advice to the city on design and other aspects.

Fritz: Can you tell me which groups are representing the trans community?

Fish: Cascade aids project, smyrc, flush -- there's other groups I can't recall from memory. They have convened -- they were the citizen group that helped us develop the all-user restroom policy, the citizen group that has been evaluating along with flush, the pilot and they've also been advising omf on taking the pilot forward so that this building would have two all-user restrooms to the highest specifications.

Fritz: Thank you. Can this group work with convergence architecture with this project to make sure we do have community members participating?

Fish: I'd ask you to offer that as an amendment because that would insure that they are playing the same role under this contract as they are advising omf.

Fritz: I could ask you if that would be allowed?

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Selleck: We could include another member on the committee.

Fritz: Does that require an amendment to the contract?

Selleck: That is a volunteer basis, people are volunteering their time to our project, to comment, as building users.

Fish: We have this -- there's a separate committee advising omf and the city. Under your suggestion, a member of that committee would formally serve on this committee?

Fritz: Either that or once your committee has done it's recommendations, it could be looked over by your committee so there are people from the communities since these bathrooms will be used by everybody.

Selleck: We're moving into design development. We have a plan for the location of each of those restrooms, as I have stated. So now would be a perfect time to get their buy-in.

Fish: Let me just be clear. This may be a case of the left hand and the right hand just being coordinated. I don't want to speak for rcao or some other folks involved in the Portland plan renovation. Currently, we've made a commitment to when the building is renovated, to have two all-user restrooms, one on the first floor and one on the second floor, built to the highest specifications of safety and code, along with gender-specific restrooms and all-user restrooms, consistent with the value system of giving people maximum choice. That's currently on the table, yesterday, the other group that is advising, that I eluded to, was asked to meet with omf to give some feedback and we'll make sure that all of this is coordinated.

Selleck: Great.

Wheeler: Very good. Any public testimony on this matter?

Moore-Love: No one's signed up.

Fish: Thank you very much, aye.

Eudaly: Aye.

Fritz: Thank you for your answers and work on this project. Aye.

Wheeler: Aye. Contract's approved.

Item 356.

Wheeler: good afternoon and thank you for your patience, as well.

Ron Umali, Facility Services: Good afternoon, I'm the project manager with facility services. Besides managing projects, one of my responsibilities is managing the maintenance contracts for the city. As you all know, our elevators are aging and it's really getting harder and harder and more expensive to maintain and so this ordinance, in front of you, is basically to authorize a contract for the modernization of two smart car garages. Those two parking garages are the 1st and Jefferson parking garage, which were installed in 1968 and modernized in 1977. Our estimate for those elevators are \$882,000. The 3rd and alder parking garage that were installed in 1977 and last modernized in 1994. We'll only be modernizing two of the five elevators and those elevator's, our estimate is \$794,325. And, I'm here to answer any questions, if you have any.

Wheeler: Any further questions? Any public testimony on this item?

Moore-Love: I don't have a sign-up sheet.

Fish: Aye. **Eudaly:** Aye.

Fritz: Again, most patient person here. Thank you. Aye.

Wheeler: Aye. Thank you. That's it, we've completed all of our business so we're adjourned until tomorrow, April 13, at 2 p.m. This meeting's adjourned.

At 5:02 p.m. council recessed.

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Closed Caption File of Portland City Council Meeting

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Key: ***** means unidentified speaker.

APRIL 13, 2017 2:00 PM

Wheeler: You'll see a yellow light in the middle of the panel light up when your time is done. The red light will blink and there will be a beeping. Conduct that disrupts the meeting, for example shouting or interrupting other people's testimony or council deliberations is not allowed. People who disrupt the meeting face ejection from the meeting if there's a disruption I'll issue a warning that if further disruption occurs anyone disrupting the meeting will be subject to ejection for the remainder of the meeting. Anyone who fails to leave the meeting after being ejected will be subject to arrest for trespass. If you would like to show support do a thumbs up. If you don't like what you're hearing thumbs down is fine. With that we will get about the business. Please read the first and only item for this afternoon.

Item 364.

Wheeler: Auditor caballero.

Mary Hull-Caballero, City Auditor: Good afternoon. I'm city auditor Mary hull-caballero. With me is Constantine severe, director of independent police review. We're asking council to adopt changes to city code chapter 3.21 covering the independent police review function in my office. Before we discuss the proposal by way of background I would like to start with an overview of the police accountability system to provide some context for today's discussion. The police accountability system is shared between the auditor and the mayor in his capacity as police commissioner. The auditor is responsible for the independent police review and police commissioner is responsible for the police bureau. The citizens review committee which is made up of 11 community volunteers is an advisory body to the auditor and police commissioner and hears appeals of complaint related disputes. The take-away from this slide is that our system is hard to explain and harder to navigate. The U.S. Department of justice has called it byzantine. Rather than go through the options here and the exceptions I'm going to focus on the chief roles and responsibilities of the various entity's involved in the complaint review process. I provided hard copies of this slide because it's hard to read on the screen. But I'm going to walk you through the rows and columns. Across the top of the table are the entities involved in this misconduct complaint review process and the tasks they are responsible for are listed down the left-hand column. You can see independent police review's role is primarily at the beginning but it also has a monitoring role throughout it. It receives complaints assigns or dismisses complaints and conducts investigations. The second column shows that the police bureau's internal affairs plays a similar role. The chief responsibility for both independent police review and internal affairs is fact gathering. Moving to the next column you'll see the high ranking supervisor shown here as commanders decide whether the officer who is the subject of the complaint violated police bureau policy. Commanders also recommend what kind of discipline the officers should receive if it's warranted. The next column is the police review board. This body is often confused with the citizen review committee but is internal to the police bureau. In addition to bureau members the independent police review sits on the board as does at least one community member volunteer. The board reviews the commander's decisions primarily in cases in which discipline could be days off without pay.

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Like commanders, the police review board is a factfinder as opposed to fact gatherers in police review and internal affairs. In most cases the final decision makers of the ply chief and the police commissioner who are not obligated to follow any of the recommendations on violations or discipline by those who have come before them in the process. In cases that go to arbitration shown in the far right column all prior decisions can be reversed or upheld by the arbitrator. It's important to understand each entity's role and authority to make sense of the code changes that we are and are not proposing today. We are not proposing changes that would fundamentally alter the oversight system or reassign responsibility between fact gatherers and fact finders as recommended by the department of justice in May of 2015. I anticipate that such changes may be considered in the future. What we are proposing is to make more effective use of our investigative resources, shorten the time it takes cases to be investigated and protect the integrity of the appeal process. I'm going to turn it over now to director severe to walk you through the details of the proposal.

Constantine Severe, Director, Independent Police Review: Good afternoon, Mr. Mayor, members of city council.

Wheeler: Good afternoon.

Severe: I'm Constantine severe, director of the auditor's independent police review. There are several core values that we're trying to incorporate within the city code provisions that we're changing. One importantly that complaints are important and direct feedback mechanism that we need to move towards a real accountability system as opposed to one that's significantly focused on misconduct. Solely. That complaints and investigations need to be done in a timely manner for there to be legitimacy both in the community and within the police bureau. The officer accountability system that has to be fair and reflective of our values as a community, and it needs to be a system that can withstand outside scrutiny, whether that is arbitrators or interested members of the public. So in incorporating the recommended changes we have gotten information from a variety of resources, the national association of civilian oversight of law enforcement which is iacp, which is international association of chiefs of police and looked at comparable civilian oversight agencies there are a lot of them around the country. Comparables for us would be Seattle, Denver, Austin, cities roughly between 500,000 to 1 million folks. So we developed the code change through community feedback process as well as a feedback from the department of justice as the auditor mentioned. Some of the primary critiques over a number of years from the doj, is there needs to be reduction of redundancy between what ipr does and the bureau of internal affairs does particularly at the intake stage. Ipr should reduce its dismissal rate. At one point it was in the high 70s. For 2016 we brought that down to about 54%.

Wheeler: Could you help me understand what specifically is a dismissal? Does that mean the complaint is looked at and then no investigation? What is a dismissal?

Severe: A dismissal is someone files a complaint with ipr. We assign it to an investigator. The investigator does an initial investigation or intake investigation, roughly a two-week period. At the end of that there's an allegation that is formed. The officer was rude or discourteous to me. We talked to at least several witnesses or we have talked to the complainant, possibly several other witnesses, then made a decision on which way the case should go. Should it be dismissed, should it be a service improvement opportunity or an investigation done by ipr or internal affairs. One of the critiques the department of justice had for the way Portland has done its accountability process is there's been huge emphasis on making sure we take all complaints. If somebody walks through the door, has an issue with a police officer, we try our level best to accommodate that person and to take their complaint and open a case. We don't have a category for complaints that we take or

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don't take like some other cities. So in taking that complaint in, once we made the determination that this is something that we probably -- so we have several dismissal categories. If the complainant is saying I got stopped by this officer. I was on a max. I felt that he was rude. When we do our due diligence we find out officers worked for another jurisdiction. That would be a reason we would dismiss it. Or say it's a policy issue. That would be a dismissal reason as well.

Wheeler: Thank you.

Severe: Sure. So there are several key categories -- department of justice settlement agreement paragraphs that under gird this particular code change. First is paragraph 121, which is the city had when it does administrative investigation on report of a police officer the investigation should take 180 days from intake to the chief's recommended finding, which is the parenthetical for how long the investigation should take. If the city has an issue in complying with that first paragraph, paragraph 121, the city under paragraph 123 should identify sources in delays and accountability system and implement an action plan. The auditor has made reference to May 2015 meeting with doj, informed the city that it had significant concerns about, one, the city's ability to comply with several provisions within the department of justice settlement agreement, and requested that the city have some sort of action plan moving forward. The city internally ipr, police bureau, mayor's office particularly during mayor hales' term, all got together and we worked on coming together with a plan to move forward that was something that was also brought out into the public at several points last summer. There was a previous code change hearing in September of 2016. The final paragraph that's really important is that ipr has to have the ability to conduct meaningful, independent investigation into officer misconduct. Ipr was created in 2001 until 2013 ipr had never conducted an independent investigation which was criticized in the community and picked up in the department of justice settlement agreement. As a result of the agreement ipr got additional staffing resources, we went from 2.5 investigators to seven investigators now. So for the last year we opened 30 investigations into officer misconduct. So with that going forward, it's also made this code change even more important. Both internal affairs and ipr are conducting significantly more investigations than we have traditionally. So we have to come up with a way to simplify and rationalize our process. And not treat cases on a case-by-case manner, which has been traditionally the way we have done. Do a really heavy intake then we vet those complaints then the cases that we send out for investigation, because of how long sometimes the intakes would take ia would have to revise gait some of the cases which would bring up the redundancy issue the department of justice noted. So there's several things that are not within this code change which the auditor discussed that the community has brought to our attention over the years. A lot of them end up being bargaining issues. The city has a relatively new collective bargaining agreement with the Portland police association as approved by council October 12th. So the ability for the independent police review to investigate officer involved shootings is something in the police association contract so ipr, the citizen review committee, our advisory body both in collective bargaining says both do not have the ability to conduct investigations in those cases. Ipr acts as a monitor of officer involved shootings and in-custody deaths. The second is ipr being able to compel officer testimony in the long term and medium term viability of civilian oversight in the city, but that is a bargaining issue. The current practice is internal affairs through the authority of the police chief and police commissioner who are the employers of the involved officer, internal affairs compels the member to speak in both in their own investigations and ipr investigations. When ipr does an independent investigation we have internal affairs usually supervisor act as liaison. Ipr providing recommended findings, this is an issue that the union has stated that they believe is a bargaining issue. Again, just speaking from an ipr

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perspective it's important for us if we go out to the community and say we have about five or six categories of cases that ipr will do investigations. Crowd control, retaliation, disparate treatment, cases involving vulnerable populations, those are cases we feel we have a skill set that we want to do those investigations. I think it's important for us to keep faith with the community to say okay, when we do the investigation we'll provide a recommended finding to the ultimate factfinder, which is the chief and yourself, the mayor. But that is a bargaining issue, something that one I don't think would be fair for us to include that in the code provision given that that would have to be -- the union would try to grieve that, I believe, and we would not be able to implement that right away anyway. With the citizen review committee, they have a number of issues over the years that they are brought up. Standard review, increasing the size of the citizen review committee, removing the conference hearing when the crc disagrees with a police bureau finding. And the crc being able to hear officer involved shootings and in-custody deaths. There's also in the prior iteration of this code or development of it there was talk of possibly consolidating the police review board with the citizen review committee. There were a number of issues around that particularly the ability of the public to be, one, present, and participate at any level. That is something that would require significant changes to Oregon law. There's also a lack of consensus of what that would actually look like in the community and within city stakeholders.

Wheeler: Is that, help me understand why that process at the police review board is not -- is that because it's an h.r. related matter? What's the general body of law that precludes that?

Severe: I'm an attorney, but not a labor attorney.

Wheeler: I'm not either. Whatever answer you give I'll accept.

Severe: Briefly, so particularly at the police review board it acts as a fact finder in employee-employer misconduct context. There are a lot of confidential information that is disseminated at a police review board. For particularly the police review board providing recommended findings and discipline to the ultimate fact finder there needs to be a frank discussion which doesn't happen at the citizen review committee where there is we use euphemisms, officer a, officer b, there are things we don't get into at the citizen review committee, so for there to be a full discussion and hearing of the facts at a board where a member could face possible findings detrimental to them and possible discipline, one would need to be a fair process to all involved and from the discussion that was had during the time period that the consolidated review board came up there wasn't an ability for us to have a real board that would be able to do its due diligence and fact finding work and have the public involved.

Wheeler: That board is basically considered an internal board although I believe there's one citizen involved in that process.

Severe: Yes. So there are -- depending on the context there can be up to two community members and one ipr staff person. Basically, our shared values here in the city of Portland, community involvement as well as making sure that employee to be disciplined that it's a fair process that can withstand arbitration. Those two values one were we had a difficulty in reconciling that. That's where that particular proposal ended.

Wheeler: That's helpful. I appreciate that. Thank you.

Severe: Sure. Getting to the actual guts of the proposal, the first part is 3.21.110, which broadens -- a lot of this is implicit within the current code but we make it explicit that if somebody wants to make a complaint or accommodation about a Portland police officer, the different entities that have a responsibility, ia, police bureau, precinct ipr, we will take those complaints. Irregardless of the source, ipr and ia will be kept in the loop so we can document the community member's concern. All police bureau facilities will have public

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access will have complaint accommodations forms which is a requirement now. There are some facilities that do have that but it's important that any bureau facility that actually has some sort of public access has those forms. That's something that a lot of jurisdictions that have had some department of justice intervention have incorporated those policies and it's become an emerging best practice. Then police bureau business cards will have ipr phone number and email address. The second proposal --

Wheeler: Can you go back to that slide? I notice the mayor's office is on that list. The first question is why is the mayor's office on that list, and the second question I would have is you say may file complaints. There's a must in here somewhere, isn't there? If somebody files a complaint there's an obligation, is there not, to report that to certain parties? Could you tell me why is the mayor's office on the list and what does that mean in terms of obligation?

Severe: In this slide is really euphemistic. The code says police commissioner. The mayor serves as police commissioner and the mayor's office and I think several council members receive complaints from community members. One of the things that the department of justice has talked to us about and also when you talk to peers within the oversight community, is if a community member has a concern, they may not go to police bureau or precinct and they may not know where ipr is but they know their mayor and elected officials. If someone says I want to file a complaint about this misconduct, we have a city employee saying you can't do that here. We can kind of under gird this by having policies that both the police bureau and ipr, we're not expecting commissioners or the mayor's office to do intakes with people but it's simple as what's your concern, what's your phone number. We'll give it to ipr.

Fish: Can I jump in here? I'm familiar in the area of title 7 complaints trying to figure out if the person that you're complaining about is your supervisor then you have the option of other people including h.r. and so and so. I understand the mayor's office conceptually but we do have history of the mayor delegating the police bureau to a commissioner.

Severe: Right.

Fish: So I assume in that instance the commissioner's office would be the place where a complaint would be --

Severe: Right. In code it's actually -- it's written as whoever the police commissioner is.

Fish: That covers that circumstance. You wouldn't want the mayor delegating to a commissioner then receiving the complaint and somehow making this more complicated.

Wheeler: My question is slightly different. That is what is a complaint. This is a formal process, and people are required to -- there are steps here, different stage gates, due process. I get lots and lots of emails every day, most of them angry. [laughter] a good many of them geared towards what constitutes a formal complaint versus somebody just saying I don't like this, that, or the other. Do I forward them all to you? What's the obligation?

Severe: So the complaint, in our process a complaint is an allegation, however stated, of individual officer misconduct. So that's a really good point to bring up because in some cities there's four, five categories that people complain about. Portland has made the decision that we will take all complaints. So anything from I don't like the way this officer looked at me when I was on the street corner, which we receive that complaint, to this officer beat my son.

Wheeler: It's specific to an officer.

Severe: Yes.

Wheeler: Somebody says on such and such a date I was here and this officer did x that is a formal complaint.

Severe: That's a complaint.

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Wheeler: Our obligation is to do what with that complaint?

Severe: The city or a commission center.

Wheeler: If it comes into our office.

Severe: The obligation would be for you to forward it to internal affairs or ipr.

Wheeler: That's good to know. I'll make sure my team knows that as well.

Fritz: I appreciate the line of questioning because sometimes people just go to one commissioner sometimes they copy all of us and it doesn't make sense for any of our constituent service specialists or whoever is looking at the email for five people to respond to that person. I would suggest that because what we have been doing is saying you need to talk to ipr. If it comes to me and I see it first I could then forward it to you and copy everybody else saying I have forwarded that complaint to you even if it's fairly vague. You will look into a fairly vague it was a horrible time --

Severe: Exactly. The city's value has been that we want to take everybody's complaint. So we take them. We don't need the date or even the time. We have been able to attach an officer to a complaint based on very minimal information before. The only expectation I would have for a commissioner's office is if you receive something from a constituent saying that there's an issue with Portland police officer that you forward it to our office.

Fritz: May I suggest you add to in the city's information and referral number and staff. Often we're trying to train people if you don't know who to send your comment or complaint to send it to information referral and they will find the right person. If they get the email they don't necessarily have to forward it to the mayor's office. They should forward it right to you. Perhaps copying the mayor's office. A significant number of concerns come in through city. Is that something that needs to be added in the code?

Severe: The reason why the particular entities were included in the code they had some sort of responsibility either as an oversight function or as the commissioner charge. I think the point that you're bringing up is something that we could do through either administrative rules or just education process to those entities. 3.21 is auditor, ipr part of the code. This is law to us and this is something that we're required to do while as police commissioner. Other agencies within the city I think it's more an education piece and I don't know if we need to require them --

Fritz: For office of information referral and neighborhood involvement **[No Audio]** they will do whatever they are asked to do. Maybe as you say that could be an administrative rule rather than in the code but I know we're wanting to get the consent to you as quickly as possible. We wouldn't want to forward it to the mayor's office. Both those information referral and nonemergency lines should be sent directly to you.

Fish: My suggestion is whatever the internal to city hall communication issues we do that separately administratively from the code because my fear is what you're going to do is create confusion with the public by giving them so many choices they are not sure where it goes. We have gotten that feedback in sending out notices to the public from the water bureau where we list six different places where you can have contact and the feedback from elders in action is have a single point of contact, don't confuse the situation. I agree some administrative rule that clarifies how we handle communication within the system should be hammered out. I would keep the code as simple as possible so people are not confused about where to file.

Fritz: As soon as we have 311 this will take care of itself hopefully. It will be instructed into that system.

Fish: Is that a subliminal message directed to the--

Fritz: Every time you are going to continue to hear me say that over the next six months. [laughter]

Eudaly: I have a question just for clarity.

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Wheeler: Yes, commissioner.

Eudaly: About the dismissal rate. It's my understanding that the rate is maybe artificially high because there's absolutely no screening of the complaints and we are considering complaints that are -- I didn't like the interaction I had or attitude or the tone, but I'm assuming there are standards for actual misconduct or is it just everything called misconduct in this instance?

Severe: So there's the kind of allegation of misconduct, which is relatively broad, just like we want to take in whatever the community has to offer. So I'll answer it, the kind of current way of doing it is really case by case based on our determination. One thing we want to do moving forward is to really have it much more structured.

Eudaly: But you're not going to get to that today.

Severe: So this is the -- it's not the first step but it's an early step. After this, there will be administrative rulemaking in our office and in the police bureau. When you talk about let's say the supervisory investigations we don't want an allegation of use of force that just goes to the officer's supervisor.

Eudaly: Agreed.

Severe: There's going to have to be definition provided to that. Yeah.

Eudaly: Okay. I just -- I'm trying to assimilate all the information that's been piled on us right now so I apologize if I got us off course.

Severe: You didn't. It's a lot of information. What this provision does is, 3.21.110 a2, it formalizes. One would be the informal investigate of track for the medium to serious cases, use of force, bias based policing, allegations of truthfulness, allegations of officers missing work without any excuse, then separating that out from supervisory investigations which are the customer service type skills. So I don't like the way this officer came off to me. That's one that's a complaint that we take now. If you would have talked to us ten years ago that somebody would have called the office and said, hey, I didn't really like what this officer had to say to me. Did he use profanity? No. Was he rude to you? No, it just made me feel bad. Unfortunately, ten years ago we would have said that's not really misconduct. Thank you, that's it. As a result of a lot of feedback from community members we took the posture of we want to take all the feedback. So at ipr we have been at this place of we get a complaint like that and we're trying to figure out, well, based on a preponderance of the evidence, which is the standard, would this lead to discipline. An incident like that wouldn't lead to discipline. But from a community member's perspective that can have a significant effect of whether they would want to contact a police officer in the future, about a crime that's occurring to them or a family member, somebody they care about, and so one of the things that we're trying to do is this system is something other jurisdictions do, moving our system from a misconduct system of, okay, would this lead to discipline of the officer, to an accountability system of hey, this community member went out of their way to let us know about this at the city. We should let that officer's supervisor know about this behavior. One in a timely manner so if ipr does all this intake investigation and three weeks later it's like officer smith, you remember when you were on 145th and division and had this interaction with this person and they didn't like -- I don't remember that. If we can turn that around inside of a week and -- we know you were there. We know who this person is. As a supervisor I talked to this individual, I'll talk to you as the officer what my expectation is. I will put a disposition on this whether this met my expectations as your supervisor or not. It will be reviewed by ipr and ia, so we will track this and quantify this to see if this is an issue with this particular officer or precinct and move us towards a process and a system of I think greater accountability. Because the majority of the cases that we see are about relatively minor concerns. Not that minor is like a diminished concern to the city but minor in the sense that it will not lead to a day off of work. 3.21.110 is a section that requires

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improved notification, so with this section this is based on some recent history when there is a significant situation that occurs that either someone, assistant chief of investigations, captain of internal affairs or someone on the police commissioner staff becomes aware of officer behavior that should be subject to criminal administrative investigation, ipr will be informed of it. This is something that is not required in code currently. This is the practice. The practice works really well until it doesn't. So as part of structuralizing accountability it's important that we have this in our code. Also, ipr has no role in investigating officer involved shootings and in-custody deaths. We act as monitors. Over the years we have been able to develop a skill set. There's an occasion where we notice the situation and we felt that should have been a deadly force case. Eventually the police bureau did the right thing but initially there was a lot of conversation about whether ipr had authority to make the request. Want to clarify that for everybody, that we do have the authority to make the request. Just honesty. This would not require the police bureau to do anything. This is a request. Because again we have that contract provision. Ipr is not to have a role in investigating officer involved shootings and in-custody deaths. For us this is the ability to say in our position as monitors we're making the request that the police bureau open up an administrative investigation and treat it as if it was deadly force and so ipr will own its decisions and the police bureau would own its decision whether to open up that case or not. 3.21.150 and 160 is involving citizen review committee appeals. So this version of code change really is an attempt for us to kind of incorporate some feedback from community members about the earlier version of appeals there would be no public comment or case file reviews. Community members spoke passionately about their desire to be able to speak directly to a decision maker. The citizen review committee. The issue with public comment at appeals and case file reviews is that the crc acts as an appeals body for the chief and the police commissioner in these cases. They make recommended findings. I'm sorry they can challenge findings and it's part of the package that ultimately might go to the chief or city council. If you have members of the public who are not parties to the case, who do not have access to the file because in Oregon public employee disciplinary investigation records are considered confidential and are not released absent significant good cause, there's a concern of the current practice jeopardizing the ability for the city to hold officers accountable if there's misconduct.

Fish: Let me ask you a question about that because I'm going to want to listen to the testimony very carefully. It seems to me we have had some experience with this our land use proceedings which is heavily proscribed where there are rules about what you can and can't talk about and we serve as appellant body we have an attorney reminding people we're not making a record. You have to speak to what's in the record. You're flagging the issue that some of the issues and records are not available to the public so there's a limitation. Would you draw a distinction between something a member of the public wanted to address which was strictly procedural and something substantive? If a member of the public wanted to testify and say you're applying the wrong directive or by the way, you're out of compliance with a certain rule or by the way you don't have a quorum or something procedural, would you draw a distinction between that and something substantive and might raise due process concern?

Severe: Right. The language in this is broad enough that I think the crc chair would have the ability as the kind of head of this particular public body to take notice of that particular concern so like if somebody says, you're using the wrong section of the code, or obsolete directive, I think that's different than hi, this is john smith and I'm here to testify as to the case in front of crc, you should sustain or this officer has this bad record going back however long. I think those are two very different things. Most of the public comment we receive almost overwhelming majority is about the facts of the case, or things that people

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have heard either during the case file review or during the appeal hearing. If somebody needs to -- have a point of order or whatever the chair can recognize that person and say what is that particular issue that you have on that particular point? As to current practice is we have public comment. Community members talk about basically anything about that particular case. As someone who sits through a lot of these hearings and wanted to think about the whole life cycle of misconduct case from beginning to it ends up in discipline and ends up in arbitration of the city actually being successful at arbitration. I'm not a labor attorney so I'm not going to say if we keep the current practice it will -- the city's chances but I think it's a significant risk. The city keeps the current process we face the significant risk of there will be cases that the citizen review committee has said we challenge the police bureau finding. It goes to council. Council says we actually agree with the crc. There's a case recently where it was a use of force case. That came one vote away from council saying that member should be sustained. If that member had been sustained based on a presumptive discipline guide that officer would have faced discipline. That officer through his union would have filed a grievance. The city would have had a very difficult time maintaining that discipline. There's another case that is set up to go to council where the crc has disagreed with the police bureau finding and we haven't had the conference hearing yet. It might end up in front of council. There is the increased likelihood of council seeing more of these cases. If council through its infinite wisdom makes the decision that at least for appeals, five or six cases a year, those are cases that were not going to get disciplined because there's enough of a value to hear community members discuss about these matters and we don't care about the discipline piece. Speaking selfishly as ipr director the importance of having an accountability system is that if somebody violates city policies, they are held accountable for their action and every part of the process, intake process, investigation process, the appeals process has to be able to withstand outside scrutiny. This particular part of the misconduct process, the accountability process, I think is a significant vulnerability to the city. So one of the things about our very unique public comment in the middle of an appeal or case file review, I tried to find a city that had a process like ours and I could not. Eugene to the south has public comment. But not during cases where when they are reviewed. Their versions of appeals. Austin, their civilian board actually hears officer involved shootings and in-custody deaths. They take public comment at the end of the meeting. Albuquerque similar, they act as a fact finder. They take public comment at the ends of the meeting.

Wheeler: When you say at the end of the meeting is that before or after a decision?

Severe: After a decision is made. In Los Angeles it's representative of the California approach. California any time a case is discussed, an individual case is discussed, the meeting is closed to the public. It's completely a closed system. They will have public comment at general meetings but if it's a disciplinary hearing it's close to the public and there's a decision --

Wheeler: Is the record available for review after the fact?

Severe: No.

Wheeler: So their public process is closed to the public. I want to make sure I understood that.

Severe: There was a relatively recent California supreme court case that defined that for California. They have always had very strong labor protections for public employees. But there had been an expansion of public participation at accountability meetings. I think it's a few years old case kind of closed that at we've seen kind of a scaling back in public participation at these meetings.

Fritz: So hows that going for them is the community trusting the police more now?

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Severe: I can't speak to California. I can say for us our process in Oregon is too restrictive frankly because there's a lot of stuff we see here at ipr when we complete the investigations I frankly think the public should have access to but that's not a city decision the Oregon state legislature has made that decision for us. Until that is changed and it has consequences because I think you're absolutely right, commissioner, so like say the board which we discussed earlier, that would improve on the current process. But because of concerns about meeting state law, we can't go there. One of the criticisms that I hear about process is that no one knows what's going on. I think from a public perspective that's absolutely true. Members of the public do not have access to the file. I'm from Florida. You can look it up. Any misconduct case, you get to see there's nothing hidden and a lot of these cases there's no mystery to them. I wish we could open it up.

Fritz: I don't recall seeing this as a proposal on the legislative agenda. Seems this may be of concern to other jurisdictions too and I'm wondering why hasn't that blockage in state law been on our legislative agenda or is it something to be discussed.

Severe: That I don't know. I would support that. That is basically the end of my presentation. There's a couple of other housekeeping things. Ma'am?

Eudaly: So I am particularly struggling with this piece around public comment during hearing appeals. I am for police accountability and transparency. I'm for public involved. I'm for getting into better compliance with the doj settlement, but I understand in an appeal hearing you're not taking new information. In an actual hearing you don't invite members of the public who were not witnesses and aren't privy to the whole of the information as you're explaining. And the crc members are not to take anything they say into account when making their decision. However, a lot of people that I admire and respect and look to for guidance are opposed to this change. I'm really trying to understand the bone of contention. What is the purpose and benefit of keeping comment where it is, and what is the benefit of removing it in your opinion I guess?

Severe: So trying to be fair and balanced, so to speak, I guess the benefit of keeping it the way it is, is people get to vent at crc meetings so there is a value to that. I'm not going to minimize that. It can be an incredibly powerful thing. I'm not from Portland but I do love the city and I think it's one of the reasons I chose to live here. Oh, sorry. I'm a bit of a low talker. So I love being here and one of the things people being able to participate in their democracy, seeing how their government works. That's the benefit. The cost, and so this is really a cost benefit analysis, but there is a cost to this. Is that one -- generally for public bodies, public has to have the ability to observe in Oregon. There's no requirement that there is public comment. Municipalities set that up on their own. The city owns that process particularly the public comment process. The crc and the chair has tried really hard to set strictures around that but even with those strictures we end up in a place where we're setting up a process and saying, okay, people talk, we're not going to -- we by law can't consider what you're actually having to say but this makes you feel good. So that's -- it's important for us to be honest with people. At crc meetings the chair will remind committee members that they are not supposed to consider public comment. So this is something that's not supposed to be considered. We're creating -- particularly from a standpoint of if a member is getting disciplined and they grieve it and it goes to an arbitrator the arbitrator listens to the whole record and there have been many crc meetings where members of the public during the public comment make statements that crc, we want you to sustain this officer. The city in its discipline process has an obligation that it's a fair process. The decision makers, all the decision -- the crc in the context of appeal is acting on the city's behalf. It has to be a fair process and unbiased. So we create a process where we're injecting uncertainty into whether we can maintain or sustain discipline of officers. That's the choice. If we want to have a process where members of the community can vent and

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discuss how they feel about police accountability, which is an important value in the city, or we have an accountability process that every part of it independently and as a whole can withstand outside scrutiny, those are really the two choices.

Eudaly: When I met with a representative from your office earlier this week my question to her is where does the public get to make meaningful input in this process or around our policy? I know that the amendment is unpopular with most people in the room. I want to make sure you guys have a forum where your input is meaningful, and it doesn't seem meaningful. But you're not going to love everything I say. Hold on. It doesn't seem meaningful at this appeals hearing. When and where does that get to happen?

Hull Caballero: I would suggest that we have at a crc meeting there are other things on the agenda. I think that it is meaningful input to the crc when they are talking about policy issues or what they are finding in their work groups, what they might recommend to the police commissioner or auditor. I think those are important moments where they can have influence and their voice is very important. All we're suggesting here is the appeal where it involves one officer and one complainant is not the appropriate place for that kind of public comment because you could come up to the microphone and have your public comment but then the crc volunteers are not supposed take it into account so it seems to me like it's misleading to say come to the microphone and tell what you think about this. So I think that what we're trying to do is establish the correct, appropriate place for people to be providing public comment and also protecting the integrity of that appeal process. That's what I'm trying to do. And that's what Constantine was saying before. We look at it from start to finish. We want them to be decided correctly and to withstand a final review should there be one. It's a small change. I appreciate that it's an unpopular change but I think it's an important change.

Fritz: If I might suggest a potential compromise, and as a compromise tends to go possibly nobody will like it, but it seems to me that asking community members to stay until the very end of the meeting when maybe they only came to talk about that particular case or there might be lots of things on the agenda they may or may not be interested in that doesn't seem reasonable. My amendment which I'm moving is to move public comment to immediately after the vote. In which case the public could say -- in the earlier discussion we had the public could say you used the wrong method of review, wrong policy. At that point a crc member in the majority on the vote could move to reconsider the vote and there could be more discussion and perhaps an alternate outcome based on the facts of you used the wrong policy. That's my amendment. 3.21.150 case file review delete at the end of the meeting and add through a vote and then for the definition of that to be the appeal hearing shall be conducted after majority vote of the committee to hold such a hearing in the case file review or other meeting of the full committee, public comment will be reserved for after the committee has made its recommendation to the bureau -- I'm putting it on the table so you can discuss that. [booing].

Fritz: I would like to know why you think that's the wrong proposal. [booing]

Fish: Excuse me. To ensure this is on the table for discussion, I'll extend the courtesy of a second.

Wheeler: Fritz moves we'll call that Fritz number 1. Commissioner Fish seconds. And it's on the table for discussion.

Fritz: I have a second proposed amendment which came by email from Benjamin Carenza he's not able to be here today. Section 3.21.120 c3 currently states before the amendment has been proposed if ipr declines to take action on the complaint ipr will send a dismissal letter to complainant ipr will also notify the involved officers and involved commanding officer within 30 calendar days of the dismissal. The director may dismiss the complaint for following reasons and it goes into those. Suggestion is to add a section 3.21.120 h, which

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states upon dismissal of a complaint by the director the complainant may appeal the dismissal to the crc for review of the reason for dismissal and to review appeal. If the crc finds the directors dismissal was in error the crc may refer the complaint back to the director for reconsideration.

Eudaly: I'll second for purposes of discussion. I'm interested in hearing what you think of it.

Wheeler: That we will there's a motion by commissioner Fritz, second by commissioner Eudaly. We'll call that Fritz number 2.

Hull Caballero: Do we want to take the first -- this one first?

Fritz: Public testimony.

Wheeler: Why don't you finish your presentation and at the ends if you have questions we can have public comment and take it up again.

Hull Caballero: We have finished our presentation.

Severe: We're done.

Wheeler: Good. If you had comments on these, now, sure.

Hull Caballero: I would say that to say on the first part of that instead of at the end of meeting that after the crc has voted is fine. I would not support taking out the final sentence put in for clarification purposes and that is the same philosophy that we're protecting the integrity of that process.

Fritz: Which part?

Hull Caballero: Taking out the last sentence of 3.21.150. The clarification.

Fritz: I agree.

Hull Caballero: I would like to keep that last sentence in there.

Fritz: Yes. So that's just clarifying if it's a case file review and appeal hearing on the same day. It's right after the vote on that.

Severe: I think it's a good proposal. It's a good proposal.

Fritz: Thank you. Struggled to hear that.

Severe: It is a good proposal.

Fritz: I'll amend my proposal. I assume, you commissioner Fish, you agree with that?

Fish: Second.

Wheeler: Commissioner Fritz has withdrawn Fritz number 1. We have a this a new amendment that has been moved by commissioner Fritz seconded by commissioner Fish. It's the same amendment except it keeps the last sentence intact. Is that correct? That is the new Fritz number 1.

Fritz: I'm hearing you would be okay with that.

Hull Caballero: Yes.

Fish: If I could just be clear, madam auditor, no matter what we do today, we would not be limiting the authority of the chair of the crc to entertain a comment from the public if he or she felt it was procedural in nature and helpful to the process. Is that correct?

Hull Caballero: I think that's correct. I think also someone if they thought something was done in error we always have a city attorney representative and a representative from ipr at every meeting. They could approach them or hand them a note or pull them aside and say I think something is going wrong here.

Fish: The most heavily proscribed thing we do is land use. From time to time the city attorney jumps in and says you need four votes to do this, that's calling balls and strikes not going to the substance of the matter.

Hull Caballero: On the second amendment that was handed out I have not considered this. My first reaction to it is that what I hear from the volunteers who sit on the citizen review committee is they have too much work already. So I am loathe to do anything that adds to their workload other than what they already have on player plate. I would also add

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that the decision on a dismissal is being made by people who have years of experience in ipr, and they have reviewed hundreds and hundreds and hundreds of complaints and have a strong sense of what the bureau policies are and the directives. They also appreciate what's needed to reach the preponderance of an evidence standard. I think my preference would be to keep that expertise making these decisions rather than having to develop some training for the crc to be able to hear these kinds of appeals when they already have all full plates with work groups and appeals and the other work that they do for the city. You may have a more specific reaction.

Severe: No, I agree. Ipr receives about 400 complaints a year. My goal for ipr is for us to get our dismissal rate below 50%. So we're talking about at least 100 something maybe 200 cases a year that potentially would be crc eligible. The crc-- let's see. In 2016 with seven appeals like barely was able to make it. I think that was through just the quality of the members that we have on board and the training. This would take them under.

Fritz: Except they are not backed up now. They are caught up. So currently there's not an appeal of a dismissal.

Severe: Correct.

Fritz: Obviously this came at the last minute, crc hasn't had a chance to weigh in either so I would be interested in that. I'm wondering why the stakeholder committee report isn't attached to this and why there isn't an ongoing stakeholder group as they recommended to perhaps go through some of these additional suggestions.

Hull Caballero: The stakeholder committee was something you and mayor hales put together. We had proposals that we had on the table that we had been talking about for two years and as I said in the September hearing that I felt that two years of talking was enough. I listened to lots and lots of input. We considered it. And we were also being advised by the department of justice about what their expectations were. Balancing all of that with the resources that we have and how we best could manage the changes that we were proposing and we came down with what we thought was the best proposal and I was not moved by reading the stakeholder report to make any changes from there. The two key findings were whether there should be public comment at appeals hearings there was not consensus on that and they also wanted to expand the size of the citizen review committee and we do not have the capacity, the staff capacity at this time to do that. If we're going to expand the size of the committee, then we must at the same time have a conversation about resources to come to enable us to do that and to be frank I have other, higher priorities for the auditor's office if I'm going to be getting staff resources.

Fritz: I appreciate that. You yourself have said your office is not responsible for setting policy. It seems to me that the recommendations that are made in the stakeholder group particularly those where there wasn't consensus on do represent policy questions. I agree with you that if then policy is that we're going to expand to 15 that should come with the appropriate resources. I'm just concerned and I would like the community about how continued policy improvements are judged and more particularly how are we to know, the council and community, how well independent police review service is going? So that's something I would like to hear from the community on and something for us to discuss ongoing which I'm sure we will as we did during the ballot measure referral. What is the appropriate policy making body and how then are policy decisions reflected in the resources given to those implementing no matter where they are.

Hull Caballero: I would suggest that the size of the volunteer body is less policy question than it is a management question. So I think that management decisions in the auditor's office rest with me. If I had heard an argument about the benefits that would come with increasing the size of that body, then I would have been open to that and to try to manage the resources that would have been necessary to do that. What I would suggest is that to

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recruit, train, retain, and manage the crc is no small task and we are over capacity with the resources that we have for that. So it's hard for me to be convinced that increasing the size of that body brings some sort of benefit that I'm not seeing now with 11 people. I just don't see it.

Severe: I participated in a few of the stakeholder committee meetings. When I read the report I tried to reach out to some of my peers in the oversight community and I could not find an oversight body that was civilian or citizen or community members that was the size of that. Most of them are from seven to 11. The crc recently expanded to 11 members. I think one of the hallmarks of the citizen review committee it was created in 2001 and there have been ups and downs but the amount of training that they receive and support that they receive has increased with their increased size and increased responsibilities. Given the importance of police accountability I don't think we could guarantee that with 15 persons even within the city when you look at human rights commission, pcod, there's not a board that I can think of that is 15. The only one I can think of --

Fritz: Pcod is more than that. I can't remember the human rights commission. It was 30 when it was established.

Severe: The one I can think of in our area that has gotten to in like the police realm was coab. Coab one of the significant failures I think that happened with coab was when it was created there wasn't a significant amount of training of the individuals and providing them support because when you have a board that is seven or 11, and when you go to 15, or even larger, there's intended responsibilities that fall upon whoever is managing that. Given where we are right now as a city in our financial straits I just don't see us being able to adequately support it.

Wheeler: Unless there's other questions why don't we move towards public testimony. How many people do we have signed up?

Moore-Love: About 22.

Wheeler: We'll do three minutes each. As a courtesy I would invite the crc chair up first. If there are people with disabilities or small children who would like to come up early we can certainly accommodate you. Otherwise if you're interested in testimony please sign up with Karla. Hello. Again, name for the record, please.

Kristine Malone: Sure. Kristin Malone, chair of the crc. I think you guys are aware the crc voted 9-0 to oppose changes to the public comment protocol in the changes that ipr submitted. I can't and won't claim to speak for the reasoning of the rest of the committee but for myself I believe public comment to be at the core of what we do as a crc. We should do as the crc. I think that at its best the crc injects citizen perspective into the insular world of police practice and accountability and provides a window for citizens to see and understand a process that often excludes them and to see a system that recognizes their perspective and their worth in return. Change in the public comment process would erode both strengths. I hope that council will recognize there's much of value in what we hear during public comment. Public comment can encourage us to reframe issues that may initially reach us through warped lens that the bureau has applied. They can redirect us to the appropriate areas of consideration and the right rules we should be considering. Encourage us to be mindful of the aspects of things that are of mortgage importance to the community. I don't think it contaminates the record in a way that could be weaponized in arbitration. I want to stress that the crc is well trained in our scope of review we understand we have far more information about a given case than the public does. We understand the case files, sole source of factual information on which we may rely in reach our decision. We receive clear instructions from the attorney and are required to explain our reasoning for every vote. To address the concerns, I have heard head on we do on occasion hear comment that might contain substantive information that we can't consider or may be

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highly emotional. It's important that we do. In these cases, the crc has an opportunity to promote public trust by addressing and acknowledging concerns when citizens raise them dealing with misconceptions or misinformation and explaining our finding based on the facts that we have. Producing crc's opportunity to understand the community's perspective on appeals would undermine our ability to function as a body that informs those inside city government of the perspectives and concerns of those outside of it I do not see a reason for city council to disturb the the existing public comment protocol. I was following along at home. I did hear a lot of these concerns about what would happen in arbitration and I see that that's a fear but I think it's a bit of a boogie man. It's never happened. It's never been raised. Nobody has ever challenged it on this basis and I think to roll back our robust citizen participation process out of a fear of a hypothetical possibility is a bad idea.

Wheeler: Thank you. [cheers and applause]

Wheeler: No. Folks. No. Folks, that is a disturbance. I said very clearly at the beginning thumbs up or thumbs down and if you continue you can be removed. Please do not do that again. Thank you.

Fritz: We are giving three minutes. We have time to hear everybody. I want to say first of all that was very convincing. I might rethink my amendment. Secondly, you have put an enormous amount of time as the rest of the crc. Were there other points you wanted to make that you didn't have time in three minutes?

Malone: Sure. I guess -- I don't know. Constantine raised comments about privacy and state law and why everything has to be done in secret. I do have a lot to say about that but it's not part of this package. If any of you want to reach out to me to talk about it I'm available to do that. But another thing I wrote down with it, auditor hull-caballero mentioned there was no benefit to expanding the number of crc members. That was being discussed in conjunction with the concept that we may hear cases in panels, hear cases more frequently but in smaller groups. That proposal to expand the crc was geared towards helping that. I think there are a number of ways to approach that problem if the auditor's office doesn't have the budget or see the necessary reason at this point to expand the number of crc members, there are actually a lot of people in the community who have been trained to do what we do. Prb police review board members receive much the same training we do. The crc usually has a group of alternates able to fill in if somebody resigns but I think if we are trying to meet more often and meet quorum it might be a good change to create a way for those people to sub in as alternates hearing the hearing and not wait for somebody to fully get off the committee.

Eudaly: What is quorum?

Malone: Five.

Fritz: I appreciate both you and Judy Ramos served on the stakeholder committee. Sounds like both of you would be interested in continuing those conversations on policy issues.

Malone: Yes.

Fritz: Thank you.

Eudaly: I want to thank you for your testimony. It was really enlightening. I think I want to as I mentioned earlier -- I don't know if you were here or not. I support public input and the public process I just want to make sure it's happening at the right time and place so that the public has meaningful input and impact. I also want to respect and support the crc, and if you feel that this is valuable and that is unanimous I don't see a compelling reason to change it.

Malone: Thank you.

Wheeler: Thank you.

Malone: Thank you.

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Wheeler: Mr. Walsh, would you like to go first?

Joe Walsh: No.

Charles Stubbs: I'm Charles Stubbs. Thank you, mayor, and city council. There is one thing that I am concerned about and that's the police misconduct part of it. I have been -- explain about myself really quick. I have been an activist since desert storm and Iraqi freedom and all that. And throughout the years through my protests I have never been manhandled like the way I have been manhandled on February 20th. I would just like to know if what would this police misconduct thing change or will it just still be the same? It's just hard when I play by the rules. I usually never get out of line unless provoked. The reason why I'm an activist is because I believe that certain issues need to be addressed in the way that everybody can understand just a one-sided view. I shouldn't have to look over my shoulder, you know, especially during these protests if I hadn't done anything wrong. The reason why I do most of these protests are to make sure my comrades are safe, okay, if not injured, if they are what can I do. I just won't sit idly by on the sideline and watch the Portland police bureau use unlawful use of force more than necessary. You know, I do understand that the job is very stressful and very time-consuming, so I do understand a bit that, you know, it's a split reaction decision, but there are two sides of the protests there are people that don't destroy property, there are people like me that like to voice my opinion without being labeled as whatever. My question is about this police misconduct how would it be handled differently. Because I'm willing to, you know, do what it takes to make sure that we are safe during our protests. How can I address my grievances, especially like to let's say the police chief or whoever to where I need to file a complaint or something like that? I'm confused and hopefully I hope that this misconduct thing will get in order and hopefully no more unlawful use of force. Thank you.

Wheeler: Thank you, sir.

Dan Handelman: I got two colleagues coming up. I was hoping you could call them up when Mr. Walsh issue is done.

Wheeler: Mr. Walsh.

Walsh: My name is Joe Walsh. I represent individuals for justice. I'm an activist for over 40 years. The biggest problem that I see with you is that you believe communication by the citizens of Portland are annoying. We see them as the most important part of your job. We see them as the most important part of this council. Communications from the citizens. They tell you what their beliefs are and even though they come here and you may think that they are ill prepared to talk to you, that's a little bit of arrogance. I have heard that. Somebody said that. They don't know what they are talking about. Well, let me tell you something. Yes, they do. Collectively they know more than you do. That's called democracy. We tell you what we think and you vote. You should represent us. If you don't we throw you out of office. We're doing that. One by one. I think maybe you're getting a little nervous. Let me say this to you. Your amendment stinks. The communication from the public should be the earliest possible time because the opinions are being formed. So when we talk to you in communications, it should be a sign-up every week. You should have the current people talking to you. You say we don't know what we're talking about, but it takes six weeks to get to you in communication, which makes whatever we were going to talk about null and void. It's six weeks old. The county, which you all know, has really easy thing and we talked about this. Have you done anything about it? No. You don't want us here. You don't want people here, and when we come and when we monitor you and when we criticize you, you call us thugs. I call you arrogant. I call you elitist.

Wheeler: So I assume you are opposed to the proposal. Is that correct?

Walsh: Don't assume anything. [shouting]

Wheeler: I'm trying to get you on topic, Mr. Walsh.

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Walsh: The topic this amendment. You want to put it at the end. If I understood it correctly, I'm going to go out on a limb on this, this is the first time I heard this, you want to do it after the decision? Then the public can speak? Is that what the amendment says?

Wheeler: That's correct.

Walsh: That's outrageous. What the heck is that?

Fritz: If I could just clarify --

Walsh: Please clarify.

Fritz: The proposal is to move it right to the end of the meeting. If you don't like my amendment unless there's another one, it's going to move to the end of the meeting.

Walsh: That didn't clarify anything. Would you like to try again?

Wheeler: Mr. Handelman?

Handelman: Is it possible for my colleagues to come to the table?

Moore-Love: They are next.

Wheeler: Certainly. Come on up. They will be followed by

Handelman: I'm hoping we can each make our presentation and if you are questions we can answer them collectively. Thank you. Good afternoon, mayor, commissioners. I'm Dan Handelman with Portland cop watch. I have misplaced my notes. We continue to believe the proposed changes to the independent police review are inadequate and need further discussion. After we participate in six hours of stakeholder meeting last fall the final request is to hold off on changes to the ipr system beyond a few recommendations that were made however what you have before you barely reflects any of the three recommendations that were made. It seems the auditor and ipr director thought of very little import. They didn't even refer to its existence in the paperwork today. We have a number of concerns about the proposed ordinance number one concern has to do with prohibition on public input. We vehemently oppose that and the amendment. You heard from the crc they voted unanimously 9-0 to keep public input where it is, before they vote. This is a strong statement in their confidence that the public is helpful and will not cause them to veer from the ordinance's directive to consider only evidence in the official record. We have other concerns about the size of crc, aspects of case handling and other issues since at least 2010 when the last stakeholder group met but they've never been implemented. We ask you not to have the ordinance as-is so you can fix the public testimony and all these other aspects as well. Other arguments against removing public input even though the city attorney continues to insist in being overly cautious is far-fetched to say an offer can be overturned just by public input. The city attorney admits this has never happened city council's vote is final. Their votes advisory and shouldn't be treated as damages to the officer's case. Crc is limited to making its decision based on what in the case file a process monitor could be created by code to remind the members to stay within that directive and state a reason for their votes. The draft ordinance says public comments happened at the end of the meeting commissioner Fritz tried to adjust that, there's still an hour or more of the meeting after the hearing so it's not reasonable to make us wait until the end regardless, but we should be doing it before the vote. The idea of having crc reconsider the vote is a waste of everyone's time because everyone has to go through two rounds of voting and the appellant and other interested parties may be gone by the time that happens. The goal of changing this ordinance was supposed to speed up the time it takes to get through the system. The goal should be looking at days, weeks, months not the 15-20 minutes it takes to hear from the public. Do not vote for this ordinance as it is written. I do want to add a few things that the San Diego county board publishes their comments. They have a board of more than 15 people. Appellants have said worst things at hearings and police officers who show up, almost never -- there's only been one officer who's had a sustained finding so the police officers sway the crc's

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testimony. These are not run of the mill employees, these are people who can touch, wound or kill us.

Regina Hannon: Regina Hannon, Portland cop watch, mayor wheeler and members of the council, in addition to being 100% opposed to cutting out public comment before crc votes, Portland cop watch also wants to address the other main issues, the stakeholder group discussed, which is how to relieve crc volunteers from being overburdened while the stakeholder group was split between the city employees and community members on the public input issue, there was no strong opposition to the idea of expanding the crc membership from 11 to 15. From June 2015 to December 2016, crc heard eight appeals over the course of 21 meetings. Frequently having to meet more than once a month to catch up on the workload. This year, they've only addressed two cases in five meetings they have held and there was just one extra meeting in January. The ipr says there is no longer a backlog of appeals. Since the caseload is unpredictable, we asked the city council to consider the proposal we brought to the stakeholder group, to relieve the members if appeals pile up again. Council should allow a 16-person civilian pool of the police review board members to rotate on to crc, to hear cases, one or two at a time. The training is essentially the same and even professional standards captain has admitted that. As the council learned when hearing the taser case, it is possible to learn the difference between the reasonable person and the preponderance of evidence standard of review. Crc members have to do so when they're sitting on the prb board. Such a code change would accomplish at least three things. It would relieve crc of finding people. Two, it would bring members of the prb out into the public so the community can learn their perspectives. They currently only sit one at a time, in closed-door hearings in a room full of police officers. Three, it would give the prb members an opportunity to hear public input into concerns and that they should consider when evaluating police officer misconduct and deadly force cases. Another way to end the confusion created by crc, using the deferential reasonable persons standard, is to allow them to use the preponderance of evidence standard when proposing findings. As we've noted, crc's recommendations are advisory. They are not truly appeals since most of the time, the police review board has not heard the case. So only the judgment was made by a commanding officer, not a lower court or jury so it's really not a true appeal situation. Thank you.

Wheeler: Thank you. Good afternoon.

Carol Landsman: I'm carol landsman and I'm the third of three of Portland cop watch. As I am bringing up the rear so to speak I get to identify the 12 or 13 issues we have with different parts of the ordinance. And I'm going to start with -- complainants should be allowed to address the police review board. Now I've started with that because I had real problems with the police review board. The crc handles the much-less serious issues, but the police still handle internally when something horrendous has happened or something very bad. I had also thought it was a human resources issue, like executive session, that's why they had to do it. I hear from director severe that that's not that issue, that there are laws. I would be very interested to see what the laws are and talk what we can do to do away with the police review board and have a citizen review board take all issues. Now, there are other cities -- and I can't remember, san Diego or Los Angeles? Where their board, their citizen review board reviews everything. And, I mean, they're having a drought, but that's over so things are going just fine with this system. So here are all the individual items. The low-level supervisory investigation should be called non-disciplinary complaints. It won't make civilians that only officer or supervisor is looking into their concerns. Ipr will be doing intake and improving the supervisors finding. The new ordinance provides for the supervisor to make a finding, which wasn't the case for the previous service improvement opportunity, complainants should be able to appeal the

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outcome. The draft ordinance prohibits appeals and I don't know why. When the ipr asks the bureau to open a deadly force investigation, if the force used was potentially lethal, the bureau should be required to open such an investigation. The draft ordinance would allow the bureau to reject ipr's request. Why are we leaving everything in the police officer's hands? A basic tenant of Oregon is when one organizes around self-interest. I'm sure we've all heard that and know that. Oh, my goodness, never mind.

Eudaly: I'd like to extend her testimony -- carol's testimony, as a courtesy.

Landsman: Why, thank you. So, anyhow, I don't understand why the police has all this authority over their internal operations. A citizen review board should be the final arbiter before it comes to city council. I'm just mystified by this. Okay. The section allows ipr to dismiss a complaint if it is trivial, frivolous or not in good faith. What does that mean and who determines that? It should be deleted. Allowing dismissals where there's clear or convincing evidence that the officer did not engage in misconduct should be deleted, the only way to know if that's true is to do an investigation. To truly speed up the process, council should drop the provision for a council hearing if they do not agree on a finding. The bureau and crc can make arguments in front of city council and city council can decide. Oh, it would be a really good idea if people coming to the crc or to the -- well, they can't come to the police review board -- provide true advocates to assist complainants from the time they file a complaint, to and during, their appeals hearing. They need advocates. They need support. This is a scary process for a lot of people. Allow crc to send cases back to add or refine allegations, the ordinance is silent on whether they can do it and so ipr and the bureau do not have to respond when crc makes such a request. I mean, we're hamstringing them. Allow ipr to compel officer testimony. Okay. Thank you so much for the extra time.

Wheeler: Thank you. [applause]

Eudaly: Thank you for your hard work and your testimony.

Wheeler: Next three, please. Good afternoon.

Debbie Iona: Excuse me as I'm trying to climb over the chair, here. Is it ready? I'm Debbie Iona, representing the league of women voters of Portland. As an organization that promotes active and informed participation in government, we believe transparency and public involvement are of the utmost importance we are extremely troubled by the proposed elimination of public comment during crc appeal hearings and case file reviews and strongly oppose the amendments that would cut the public out of the process. Over the years, our members have attended nearly all the crc meetings and have found that, in the vast majority of cases, public comment has been constructed and respectful. Some audience members have a longer history with, and knowledge of the system, than the crc or city staff, and it is wise to acknowledge the perspective gained from that experience. In particular, we are concerned that the city attorney cites the fear that the involved bureau member might file a grievance as a result of something said during public comment. However, this has never happened in the crc's 15-year history. The league recently participated in the stakeholder committee, facilitator, john Campbell's observations in the final report summarized well our concern that the city is placing a priority on avoiding the remote possibility that a disciplined finding will be overturned in arbitration, rather than looking out for the interest of the public it serves. Here is an excerpt, prevent the values of good, public service and public trust from being treated as a lower priority than liability avoidance, competing legal mandates or any number of other issues unrelated to the public service point of the job. Efficiency and ease of legal compliance concerns can motivate a desire to keeping the public away from the process, stakeholders are understandably suspicious of changes in that direction made in that direction without their input. Mr. Campbell provides suggestions that would eliminate the perceived need to

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exclude the public from the process. For example, crc members should always explain, for the record, the reasoning behind their vote. That would dispel any concerns that they were swayed by irrelevant or emotional public comment. The league urges you to reject the code amendments that would remove the public from crc appeals and instead, work with us to explore options that would strengthen the process and promote trust. I would like to respond to a couple of things that came up. I know the public doesn't have a copy of the full case file, but we do get a pretty detailed narrative of what -- what the -- you know, what the misconduct allegation was about and what they did during the investigation so it's not like we're operating with no information. Second thing is, remember even if new information does come up during public comment period, the crc can never make a decision based on that new information. They're only allowed to say, oh, that information makes us believe we need more investigation to take place and they have the right to request one-time investigation. Thanks.

Wheeler: Thank you. Good afternoon.

Carol Cushman: Good afternoon, I'm carol Cushman, speaking for the women league of voters in Portland. You have just heard us speak to our concern about public involvement in the crc process, including appeals. I'd like to address conversation earlier today about the amendment where it was said that if it was procedural, we could refer to the city attorney. My experience has been in sitting through crc meetings, that any attempt to speak to the city attorney during the meeting has been basically been rebuffed. They are not open to speaking on the cuff on anything or speaking to people that are at the meeting. They are just -- they are focusing to answer questions for the crc. There are a number of issues that are not addressed in the proposed changes, but do warrant consideration. The league wholeheartedly agrees with the short term stakeholder's groups broad support for a longer, more comprehensive process that would look at a number of unresolved issues facing our oversight system. They could include the following, the problematic reasonable persons standard of review, the authority for crc to hear appeals of deadly force incidents, the authority for ipr and internal affairs to attach proposed findings to their investigations, the elimination of the conference hearings in cases where crc and the police chief disagree on findings and allowing a complainant to attend the police review hearing on their case, as well as an opportunity to review their own case file in preparation for crc appeal hearing. As participants in the short-term stakeholder group, we were disappointed that it appears the recommendations had no impact on the proposed code amendments. Again, I would like to quote from another section of his report, while this narrow scope committee did help address some concerns, it didn't address the suspicion, frustration and anger felt by long-time involved community members about the efforts to change the aspects of the oversight process without developing proposed changes through publicly-held meetings involving a broad range of stakeholders. We'd like to address two other points in the proposed changes. The league supports the requirement that ipr will be notified when a Portland police bureau member has engaged in conduct that may be subject to criminal and/or administrative investigation. And, we support the section under supervisory investigations which requires all investigations be reviewed by ipr and internal affairs, however, we do feel there should be more discussion about whether they're subject to appeal.

Fish: Carol, thank you for your testimony. So I've been thinking about what Mr. Handelman said and your comment about procedural, the role of a city attorney. And, something -- which I'll discuss with my colleagues once we've heard the testimony -- maybe there's a middle ground. Since Dan has proposed as a concept, a process monitor and since there seems to be a lot of sentiment to maintain the opportunity for people to testify, the way we resolve that in our hearings is the mayor reads a statement about the purpose of testimony. Both his colleagues and public understand what the ground rules

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are. I'm not sure that isn't just a satisfactory way of addressing it so people know what the ground rules are and we have a very able crc chair right now who could craft such a statement that puts everyone on notice about public testimony and the limitations about what could be received by the committee. That will be part of our discussion at the end.

Cushman: Thank you.

Wheeler: Good afternoon.

Shannon Cogen: My name is Shannon Cogen and I'm here for sisters of the road. Sisters has been involved in stakeholder meetings for a long, many years and also the most recent ones this winter. And, the current complaints process is well-beyond being accessible to the community. The idea that anyone would walk into a bureau to make a complaint is far-fetched for many of our community members. We want those cards that have phone numbers on them for where people can call in. Having those available at places other than bureaus would be essential to giving people the information they need in order to make their complaints instead of having to know to go to a bureau and then being able to get there. And, as far as the proposed changes, I think what the crc chair spoke to and the idea that an out of touch system further neglecting the public and people is ridiculous and this shared value of community involvement needs to be spoken to throughout the process of complaints, if that is true. And, the proposal of advocates being a part of the process is a great way to make it more accessible and it's also an incredibly emotional process. It's scary, it's intimidating, it's a lot of work and time that people are putting into, just having their voices be heard and holding their government and the people that are supposed to be protecting them being held accountable so having someone there with you through that would be a real boon for people. Yeah, I don't feel like I need to say the rest of my things because they've been said. Thank you.

Wheeler: Thank you. [calling up the next three speakers]

Wheeler: Good afternoon.

James Kahan: My name is James Kahan, and I'm known by four of you and I'm happy to meet Chloe. I've been waiting for a long time to talk about police accountability to you guys. You've had delays of this meeting and I find out what this is about, talking about what we're talking about right now, important is it is, is mistaken a discussion on sustainable resources for sewage treatment plants. We're going to talk about police accountability, it starts way up there and what we're talking about with the crc and ipr is way down at the bottom and I think you guys should really talk about that. I've had an attempt to get an appoint with you, mayor, for more than three months and nobody in your office has bothered to say hi, or no or anything else. I'll turn my attention to today's discussion. Like everybody else so far, I'm opposed to 3.21.150 paragraph B and 3.21.160 paragraph a for the reasons everybody else has rehearsed here. I believe commissioner Fritz, that your amendment, although well-intentioned, is subject to all the flaws of why people wanted to have this in the first place and just adds a lot of time because if at the end, somebody says, if I'd known that, I might have wanted to hear it. I'd rather allow -- I'd rather allow the treatment to take place and have people do it. My -- I was a member of John Campbell's committee; I support everything everybody else said here. It was the right reason. I wish to take a procedural difference with you, mayor, when you said the city attorney calls balls and strikes. That's as if the pitching coach --

Wheeler: I'm sure I never used a sports analogy. [laughter]

Kahan: I'm not sure what the city attorney is an advocate for? The people of Portland or the corporate that is the city of Portland? I'd like to have more of the former and less of the latter. That was manifesting in the committee stakeholder the city attorney's representative kept arguing about corporate things rather than what people really want and that's just plain wrong. That really is just plain wrong. What we need is we need responsiveness to

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what the people think and understanding what people need in the legitimate stakeholders and interpreting complex events. It's not a simple story once it gets to an appeal. Points of view are important and we must listen.

Fritz: I want to say that already, I'm convinced I'm going to be withdrawing my amendment and having another one. If folks want to add their support for that and talk to us about other issues, I want -- there's a lot in this beyond that. I do want to make it clear.

Wheeler: I'd also like to apologize. We have a standard in our office that if anyone calls or emails, they get a response. I'm not sure what happened and I apologize.

Kahan: Sarafi has been in communication with me and there's still no resolution.

Wheeler: Okay. So, somebody is communicating with you?

Kahan: Nobody's communicating with me. I reached out --

Wheeler: Sarafi

Kahan: I reached out through the office of representatives and that's how I got some contact with sarafi. It was not through your office, through in intervention of my state assembly person.

Wheeler: Sarafi works for me.

Kahan: My assembly person reached out to your office I did not get direct access and that's how I got --

Wheeler: Again, I apologize. Our standard is everyone who calls or emails will get a response, so I apologize for that.

Juan Chavez: Hello, good afternoon. I'm Juan Chavez. I'm here on behalf of the national lawyers guild. I believe we submitted a letter to your --

Wheeler: Yes, we actually got a hard copy.

Chavez: Oh, great. I'm here to mostly summarize because a lot of the points we cover in our letter have been spoken to, particularly commissioner Fritz, we were confused as to why the stakeholder report was not included or referenced in this proposal. We also second everything that Ms. Malone from crc chair spoke about regarding public comment and that importance that it brings to the process and the concerns regarding that are unfounded. So I'd like to focus on I think a topic that hasn't been covered as of yet. They are troubled by a supervisory investigation on a separate track. It appearing that investigations are synonymous with what exists in directive 331, which talks about service improvement opportunities, yet they have different criteria. They use similar language, but they're confusing. Supervisory investigation is a misnomer because it could be read that a supervisor has read the complaint and a supervisor is investigating the complaint. Basically, in substance, we are concerned about the proposed supervised investigation being an opportunity to lose data and information regarding officer misconduct. Those investigations are not put into the officer's personal files. The proposal states that supervisor's decisions are not subject to appeal and it only gives the ipr authority to review supervisor investigations and not provide final case approval as it is in the directive already in place. So one minor violation in the eyes of the bureau may not be a big concern, a pattern of practice of repeated similar violations can become a serious problem and that needs intervention from ipr and all the other processes. The ipr division should have the power to compel officer testimony without the attendance of representative from the police bureau, the crc should have the power to compel officer testimony. The definition of supported by the evidence should be changed from the reasonable person standard to a preponderance of the evidence standard. Crc should be allowed to review the allegations before an investigation. The crc should be allowed to send cases back to add or refine allegations. Community-led system of review should be applied to all systems and complaints rather than separate police review system. All complaints involving the community should be investigated by ipr. Complainants should have access to an

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advocate though the complaint process and staff support should be available for anybody with any kind of disability or inability to advocate for themselves.

Wheeler: Thank you. We appreciate your testimony. Good afternoon.

Star Stauffer: Good afternoon. Star staffer, representing myself. I have concerns about the idea of removing public comment before the vote occurs. You guys saw what happened with the collective bargaining agreement. This community does not have any trust in this police department and quite frankly, neither does the rest of the country. They are the laughing stock of the entire country because of their overuse of excessive force. When you talk about removing public comment, when you talk about the complainant, I want to remind everybody that uses the word, complainant, Quanice Hayes is a complainant and he's dead. When you remove his family to speak for him. The idea of removing public comment is extremely vague and can have far-reaching effects in the elimination of victim impact statements before decisions are made. Even judges hear before they make their decisions, in sentencing cases. I mean, this is what democracy is about, that the public has a say in what is going to be done, that affects them. The police have far-reaching protections in place already. This only adds to the inability to hold officers accountable. Why do officers get to have a representative there from their union or the police bureau? But these complaints, which again, Quanice Hayes is one and he is dead. They're unallowed to have the same thing? The same access to support? That's not okay. Especially when the officer is the one being complained about. I also want to make sure that it is understood that from my definition of a complaint is anybody that has an issue to take up with a member of this police bureau. And even if that is an inappropriate glance, those things need to be heard because they point to a culture, with this police department, that is destructive, damaging and destroying this community's trust and not only them, and your ability to keep us safe, especially our marginalized community members, specifically our black community members. Let's not forget where the police started in this country and why they were brought in. The black community's voices are more relevant than anybody else sitting in this room that is not black.

Wheeler: Thank you. Appreciate it.

Wheeler: Good afternoon.

Steven Entwisle: Good afternoon. If anybody would like to -- good afternoon, council, my name is Steven Entwisle, I'm speaking for myself today. Yeah. On the 26th of March, just a few weeks ago, a friend of mine were walking through the park and we were discussing things. I do a lot of counseling with people, we walk through the parks. Apparently, somebody in the park saw us and didn't like the way we looked and they called dispatch, police dispatch. And I don't know exactly what they said, but you got to be careful when you call dispatch. If I went into a park and I see somebody maybe I don't like or maybe some kind of heat in a park, okay, I have to say, he's doing something or -- call the police and say, well, you know, this guy looks really weird, I think he might be on something and he might even have a gun. If that dispatcher isn't screening well, okay, and can take any little complaint from any person that might be afraid, might be out of the area, might be scared, you know, it's kind of like the trip tracker. Okay. You heard of trip tracker? Yeah, it's one of those bus things. You get on the bus, it's for people out of town, tourists. Well, if you look at the trip tracker, you'll see down at the lower box, there's a box that says, we need help, basically, I'm paraphrasing. We need help in the parks because the parks are dangerous, can you please donate us some money? Where's that money coming from? How much is it? What kind of police forces are we building up around our park systems, as a result of this? I had two officers come down and try to beat us out of the park. They tried to cut us off out of the park. The problem was is we were 10 feet ahead of them before they came out of the bushes. They didn't say anything. They just looked at us. They tried

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to cut us out of the park. I tried to buy my friend some ice cream. We were leaving the park and trying to buy some ice cream. Four van loads of riot cops came down out of the park, okay. You've turned this park -- you turn our park systems from Portland parks and recreation to Portland narcs and gentrification.

Wheeler: Thank you, sir. Good afternoon.

Lightning: Good afternoon. My name is lightning, I represent lightning super watch dog. On the doj settlement agreement, I agree with 121, 123, 128. I want 180 days to be followed through. Again, I want a close monitor on the dismissal of cases. I'd like to have the public have access to that data. I want to look closer to what's going on in Austin and their crc. Another issue on this agenda item being pushed through today, I think it's too soon. I think it needs to have a lot of things reviewed and changed. From the crc chair Kristine Malone, I couldn't agree with you more. In fact, I really like the expression of you, mayor wheeler, when she was saying what she was saying and the way you looked at her, I don't want to listen to you either, I don't want to listen to the public. When you look at the public as something you want to remove out of this process, they will end up removing you. They voted to have you sit right there and when you keep looking at them and saying, I don't think you're necessary and then you have a respected individual, like Kristin Malone, who is the chair of crc and says I absolutely disagree with all of you. In fact, in my opinion, you're the boogeyman against the public out here wanting to do communication. You're the boogeyman and every time you talk against a public and want to refuse the public's right to testify on these important issues, it only goes against you and I look right at you and I say, the mayor should never been the police commissioner. The mayor should never been the police commissioner. You are the boogeyman when you're the police commissioners and the mayor and we know who you are going to protect at the end of the day and that's the Portland police, as the police commissioners. Step aside as the police commissioner and then they'll we'll fire them the next day. Why would a mayor ever want to be the police commissioner? You're not going to protect the public's interest. Kristin Malone should become the next mayor; she protects the public's interest. The day the mayor doesn't want to do that, you're not going to get the votes. Next time around, you're not going to get the votes and you're looking at becoming the next governor. Guess what? These people out will be stopping from that happening unless you listen to them, support them and make the changes they want to have made.

Wheeler: Thank you. You're reading quite a lot into my expressions. [laughter] afternoon.

Red Hamilton: Oh, my god. So, I got a question, ted. How does the police commissioner, the chief of police, effectively create a non-bias system of reporting negligence without using your privilege and power? How do you do that? You're not going to answer me. I don't see how that can be done. When is accountability going to be a factor in this police review process? What does that look like? Well, accountability, tactics be adopted and enforced? Will they? You're not going to answer? Ted, why would you hire back the chief marshman, if you have already fired him? Why didn't you look for a better fit for a police chief? Help me understand. Help the community understand that. Ted, you have unique opportunity here to make things right. As our mayor and police commissioner. Create an independent prosecutor in the case that in police officer kills a child, discipline your police force. This is as simple as if your child were to keep disobeying you, ted, what would you do? You know that if you don't get discipline, if you don't discipline your child, guess what they'll do? They'll keep disobeying you. [applause] this is the same with the Portland police. No discipline, no consequences, no accountability. Why don't you fire cops that have a history of killing black kids, like Andrew hearst? Who shot quanice hayes with a ak-47 while crawling on his fucking knees. How is it protocol to have an ak-47 on the streets?

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Is that safe? Would you feel safe in your neighborhood if an ak-47 was used, ted? If a police officer came in your neighborhood?

*****: He's white, that would never happen.

Hamilton: Shit. I don't think so, that wouldn't happen at all. But riot cops show up. But it was okay in quanice hayes neighborhood. You have to do better, ted. You have to do better. You have a real chance. Do what's right.

Wheeler: Thank you. I well answer your questions [applause] first of all, how do you have accountability in a system where I have privilege and I acknowledge that privilege. It's through checks and balances and transparency --

Hamilton: Let the public comment.

Wheeler: I'm answering your questions. You may not like my answers. That is why the auditor and the director of ipr have brought this and we'll have a discussion and debate taking into account what we've heard here today. The -- to be clear, I did not fire the chief, nor did I hire the chief. The chief was suspended. The chief was out due to the fact that he was being investigated by the independent police review commission and I put him on paid administrative leave because that was consistent with what had happened in other cases. As the chief had said himself, whether you're the chief or the new person in the bureau, you should be held to the same standard of accountability so that's exactly what I did. You asked the question about an independent prosecutor. In other states, there is actually -- in the event of an officer-involved shooting, it gets kicked up to the state's attorney general. I want to be clear, I would support that kind of separation because it does give the public the impression of a greater standard of accountability. To do that would require the state legislature to take some action. Why not fire bad cops, you asked? The answer to that question has to do with collective bargaining. I'm not in final say, even as the police commissioner, nor is the police chief is the final say on whether a police officer stays or goes. A police officer under the collective bargaining contract has the ability to go to arbitration and an arbitrator's elected by nobody. The arbitrator gets to decide whether or not the individual was actually in violation of the rules. So the chief and I could be in full agreement, fire this individual. That individual, through their collective bargaining process can go to a independent arbitrator and overrule the mayor of the city and the police chief. That is an authority that the mayor and city council need to get back because as you can tell, we are held accountable for that. It's got to be done through collective bargaining. Great questions, thank you for your testimony.

Wheeler: Good afternoon.

Tuna Poanessa: Good afternoon. I'm tuna Poanessa. I'm here -- this might shock you -- I'm opposed to these changes and I don't think you'll be shocked to hear that a lot of people in this room don't trust their police department at all. We've all been met with force and we've recently made national news at to how corrupt our police department is and incidents of racism and excessive force and now you're asking us to approve something that would say that we have no say in this review between the police. What they should be held accountable for. If we don't trust our police, how can we be sure that this is something that's in our best interest? It's not. It obviously is not. We have to be able to be there and understand what's going on because we can pretend like it's not an old boys club, but it is. This is a group of people that looks out for each other. But when you're in a position of power, you should not have the ability to bringing your friends to come defend you and I think that this is extremely important now. We are all terrified of our police, to an extent. I was tear gassed. I would like to thank you, Mr. Wheeler, for approving such things. My hands were in the air chanting hands up don't shoot. When I was tear gassed I was also in an area where there were people, innocent bystanders who were waiting for the max who were hit, who were hit by tear gas. These were innocent bystanders. Now we're allowing

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our police to attack innocent bystanders and then there's no recourse for us to come forward and say this is wrong. They're going to defend each other and we have people of color here who are not happy with the police department. We have people who are scared of their own police. They work for us. We know that. You know that. They are supposed to work for us and we all know that. It's time for you to make sure that happens because we are so done trying to push our way forward when we're met with riot police at every corner. Thank you.

Wheeler: Thank you.

Cameron Stark: I'm Cameron stark and I'm a victim of police brutality by the Portland police. I've been assaulted by police officer's multiple times here in Portland, Oregon and that be at protest and my personal life.

Wheeler: Guys, could I ask you to take the conversation outside, please? Appreciate it.

******:** Stop tear gassing me.

Stark: Yes, no tear gas, please. I don't file my complaints with the independent police review because I have sat through multiple meetings of the process and I found that it didn't do accountability and it was a waste to communicate with the ipr. I felt that it wasn't going anywhere. I want to ask, really quick, how many officers have been -- how many complaints against officers have been found sustained when a police-involved shooting here in Portland, Oregon. To my understanding, that number was one. A long time ago, back in the 90s or something like that, that an officer -- they found -- claims against him sustained and he killed himself on the railroad tracks. I'm just not seeing accountability being provided to our community in the process of the independent police review and the crc just hasn't worked. There's terms within the crc, or maybe it's the ipr, excessive force is not excessive force unless the person resists. That language doesn't allow us to have accountability. If I resist, I'm subject to more force and more injury. That's kind of like a deadlock and that's why our whole system is in a deadlock. There's almost no argument because they find everything to be in favor of the police. I don't see that the system works and that's just what I want to say. I don't feel that it works and I don't feel that this amendment is going to really help out the situation at all.

Wheeler: Thank you. Appreciate it. Good afternoon.

Danny Robbins: I'm Danny robins. Dear council members, we are a long way from being a shining example of police accountability and robust police training here in Portland. An article by the LA times described our police bureau as scandal-ridden and in disarray this is how the city citizens have viewed their own police bureau for a long time. We are tired of being a national disgrace. As the crc chair just illustrated quite eloquently -- and thank you for taking note, commissioner Fritz, public commentary is very important and needs to be heard. Though it is also supplementary to your commitment to police accountability, Mr. Mayor. You campaigned on a platform of reforming the police bureau. I understand that you planned on appointing a permanent police chief in the next four months. This is a crucial opportunity to show the community that you are serious about this police reform process. There are a large number of options to choose from and any number of strategies for reform could lead to a safer and more accountable police bureau. We are trusting you to use your best judgment in this process and the fact that you stated, chief marshman is still in the running after his recent scandals and misjudgments, is hugely disappointing to every citizen I've spoken to, including many who voted for you. Can you promise us to take this search seriously and find us a new police chief that specializes in police reform? Please follow through on your promise to the public, to create change in our police bureau, particularly as we are not yet in full compliance with our doj settlement. Council members, please do not vote today without regard for the unanimous recommendations of the crc members and the collective wisdom of the community members here. Just as the mayor

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has a responsibility to reform his own police bureau, we rely on your judgment to uphold the integrity of our police accountability systems. Thank you.

Wheeler: Thank you. [applause]

Wheeler: Good afternoon.

****: You want to go?

****: Sure.

****: Okay.

Calvin Walton: Get that fixed. Good afternoon, mayor, members of the council. I'm Calvin Walton, by trade, I'm a documentary filmmaker. I recently relocated here to Portland within the last couple of years. In my time here, I've seen a lot in the ways of how the public feels about everything from police accountability, all the way up to, you know, issues here at city hall. Myself, I mean, I know there's a lot of people that have testified up here already and a lot of the points that I was going to make, they've already made it in a way better fashion than I would have. So what I would like to say, my grandfather, growing up in Oklahoma, he was the first black state senator in the 1970s, passed Oklahoma's version of the civil rights act. My uncle, narcotics officer. I've talked to him at length about his job. I grew up in the same streets that both my uncle patrolled and my grandfather legislated over. I saw plenty of friends of mine killed by police officers, by other community members. I've saw community members take those concerns to city hall and effectively nothing was ever done. But in Oklahoma, we never got to the point where we took the streets. I don't know why. I don't know what's different about Portland. What I do know is looking at this -- with all due respect to everybody, with the -- the review council and everything, it's like it's leading it from the rear almost. They say accountability. We've heard that word thrown around a lot today. Accountability, accountability, accountability, but accountability is only necessary in the absence of responsibility and if we start putting -- just a suggestion, start looking at ways to be more responsible, we don't have to find so many ways to be accountable. When you start looking at putting people on the citizen review board, I heard somewhere earlier that they were chosen at random or by volunteer. Maybe expand the seats for citizens on that board and pull them like you do jury duty in the districts where those officers are being accused of wrong-doing patrol. Those are the most honest people that you will get. They encounter those police officers every single day. You know. Put police officers that are from those areas to patrol in those areas. Because if john down the street, who we all know in this community has had mental disability since a child, well, you know, officer shows up from across down and has never met john and doesn't know his disability, he may read that situation wrong and it may turn out fatal. We've seen that happen, we all have. Thank you for your time.

Wheeler: Thank you. Excellent testimony. Appreciate it. Good afternoon.

Tara Perish: Hold on. I'm Tara Perish. First of all, I just want to recognize the name of Quance Hayes, who's not able to use the IIPR process at all. Excuse me. I'm testifying today, as a constituent who has extensive experience with IIPR and the objective of this meeting seems to be to make things easier for the administration instead of the complainants and as someone who's had extensive experience with the IIPR process, I'm not going to go off on you, I know you think I'm going to go off on you. Many members of the community have sat here and told you this system is broken so I don't think I need to emphasize anymore in all the ways it's broken. But I have a specific item I want to testify about. And, other speakers have touched on this already, a traumatized person who finally finds out that they can go to IIPR and actually makes their way there, which a lot of people don't even make it there because they have no faith in it. It's a daunting, exhausting, uphill climb for someone who's traumatized already. There's no assistance, no direction. We really, really need advocates and I'm just going to -- okay. So, I'll get to my point. I am

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someone who makes way too many frequent trips to ers, not just myself, but with other people who have had encounters with the Portland police. I was at the -- I will tell you the name of the hospital later, I will not say in public testimony which hospital this was, for -- to keep the -- you know. Sorry, I'm -- it upsets me to have to talk about this. I was at the er very recently as an advocate for someone who was brutalized by someone from the Portland police and they told me the only option was to call the police. I would like to propose that -- this should be added to the amendment, complaint forms and business cards should be placed in all emergency rooms in the area and all community health and mental health agencies and any kind of place where people who are at-risk congregate. They don't even know about this process and then to have to go into the first floor of city hall, it's full of cops. I mean, it's enough to send someone into panic attacks and I've had panic attacks in the bathroom doing that and I've known other people have been in there with their children having panic attacks. I'm not making that up. That's my specific issue that I wanted to share with you about iipr. I would also like to reiterate that the Portland police bureau should have no tolerance for misconduct, racism, murder, reports that differ from witnesses or forensic. You wouldn't need the iipr so badly if you could.

Wheeler: Thank you.

Parrish: Wait, I'm not done

Wheeler: I'm going to have to ask you to wrap it up.

Parrish: Marshman was appointed by charley hales, disregarding that a woman was in line for the job because he wanted unquestioned leadership. I wanted to remind you of that before you appoint.

Wheeler: Appreciate it. Good afternoon.

Charles Bridge crane Johnson: Good afternoon commissioners, I'm Charles bridge crane Johnson. Very glad we're having an open conversation so we don't have to use the bridge crane strategies. Yesterday that might have been necessary we know that Kif davis cannot attend because of some issues. I might have been precluded yesterday fir item number 346 James Young. I think that people don't know what item 346 is yesterday need the broader context. We want open, diverse, inclusive police oversight in Portland, which we get by failing to vacate a seat and keeping it filled with a 70-year-old white man with a law degree who used to be a former prosecutor. Are you heads up -- did he say bleeding from the rear earlier? Let's just reiterate that. You could have grown the vibrancy of the crc, but you know it's such a byzantine, I don't know if we can say circle jerk here. You kept a 70-plus-year-old man who has been harassed hydraulically by myself, you kept him instead of making space for a woman, a non-lawyer, a person of color. So I hope that those communities that are excluded by that will take heart and think about what we really need to do with the crc, not these problematic, flawed proposals. I was heard to hear the comments from commissioner Fritz, after chairperson Malone testified that the public comment is hunky-dory and makes her days, no changes. So I look forward to commissioners Eudaly and Fritz rewording an amendment that the public comment process shall remain unchanged out of deep respect of the citizens and the volunteers, except James young, who staff the crc. I'd like to thank the league of women voters and the cop watch for putting forth critical ideas. The worst part about this is, this is a waste of time. We don't have anything on the table that's going to make the crc process better. As other people have mentioned, we possibly are going to make it more administratively smooth for people who have moved for this council to match their pay. So finds some resources and maybe the ipr is so significant, it can come out of the auditor's office. Maybe that's a problem. Maybe there's too much workload for the auditor's office. I don't know how else you can maintain the independence. Is it really considered that the citizen board at bps isn't accountable to the bureau at all, it's kind of independent. Maybe we don't need

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to have police review under the auditor. Maybe there should be a new bureau that's more engaged with citizens. Thank you very much.

Wheeler: Thank you. Appreciate it.

Parrish: Can you provide me with 200 complaint forms and 200 cards?

Wheeler: The director of ipr is sitting there and can help you out.

Parrish: That is the director?

Wheeler: That is the director. Good afternoon.

Antiginus Jarrett: My name is Antiginus Jarret I'm here as a minister. And I just want to say that morally, I do not agree with anything I see in my community regarding the current police force. I see them harassing people. To the point that a year ago, I had to file a complaint on behalf of someone else, when I saw a Portland police officer in Irvington yelling at a driver inside of a car, with his hand on his -- the police officer has his hand on his gun and he yelled at him, quite driving like an ass hole over and over. I was absolutely terrified that I was going to be witness to a shooting of a person inside of a car. And I filmed it. I pulled out my phone and I took pictures and almost immediately, the officer dropped his voice, stopped saying, quit driving like an ass hole. He stopped completely. Walked of to the car, whispered to the man a couple of times and walked away. I submitted this video to ipr, I vaguely got a couple of voicemails. I'm not interested in going back a year in time, figuring out who it was I saw and fixing that. What I'm interested in is making sure we have the kind of responsibility and accountability that that doesn't happen anymore. That police officer never faced any kind of accountability at all. Not once did someone talk to him and say, don't put your hand on your gun. Don't shout at people and certainly, don't cuss at the people that you're supposed to serve. As it turned out, the man had been pulled over for not signaling with his turn signal, if I recall correctly, though I could be wrong. Anything that can be construed as driving like an ass hole really ought to have an ordinance against it. I'm going to say one thing, though. As a minister, one of my strongest truths is that we should not compromise our witness. We have to listen and preserve the truth. Does Amanda Fritz's amendment seek to find the truth? I don't think so it makes it easier for this council and the crc. This compromising is not just compromising for the community members and the crc and the council, it's compromising the witness of our police and their actions by not requiring them to tell the truth. It compromises community trust with the police department. And from what I've heard, it's only the icing on the cake, which takes away all of the trust that might have stuck to the bottom of the barrel so I ask this entire council to consider how this amendment might silence the community and take them further from the justice by obstructing their truth we take them further from the community.

Wheeler: Thank you. [applause] so, now, maybe we could have the auditor and Constantine come up? Commissioner Fish?

Fish: When we're finished with the colloquy with the auditor, I'm going to offer an amendment. By the way, just because there was some confusion. This is an ordinance, today's a first reading so its not an emergency so my understanding is we'll vote on amendments today but the matter comes back next week.

Wheeler: Yes, I want to be clear that the public testimony is closed.

Fish: We had testimony about the vote today. The only vote today is on the amendments and then it goes to a second reading. May I offer an amendment, mayor?

Wheeler: Yes, sir.

Fish: I would like to propose that 3.21.160, that we delete the sentence beginning with, public comment will be reserved for the meeting after the committee has made its recommendation to the bureau delete that sentence in its entirety.

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Fritz: If I might speak to it, I'll second it for discussion, as I had said after six people testifying, that I believed my amendment is not the direction we should be going so the question is, do we want to completely remove that sentence about public comment being allowed or do we want to amend it to say -- because that's not currently in the code. The code is currently silent as to whether the public can speak. We could delete the sentence and leave it as the current version or we could say, public comment will be allowed before the committee makes its recommendation to the bureau.

Wheeler: Commissioner Fish has the --

Fish: The first amendment I want to offer is delete the proposal that's been presented by the auditor. That's the first order of business. And then if you're proposing an amendment to that, to replace it, what's the language you'd like to replace it with?

Fritz: There's three places that were somewhat addressed by amendment number one in 3.21.150b, the new sentence says, public comment will be reserved for the end of the meeting after the committee has made a decision. It could be changed to the end of the meeting into allowed before the committee has made a decision or we could take out the whole sentence. It's currently -- the code is currently silent on whether or not public comment is allowed so our choice is withdrawing my previous amendment saying it should be after the vote. The question is, do we want it in at all? Or do we want to delete it, as you suggested commissioner Fish?

Fish: I think your suggestion is a good one. In each amendment where it prescribes that public comment can only be reserved for after a decision has been made, we delete those references and then that reverts to what is the current practice where people are allowed to testify. Now the question is, should we affirmatively provide there is testimony? If we do that in my sense from Mr. Handelsmans testimony, either formally or informally, we provide some guidance for the chair to read that explains the purpose of public comment. Because we want to make sure people understand.

Hull-Caballero: They already do that. They do a statement much like the mayor.

Fish: So that's not necessarily.

Hull-Caballero: They already do that.

Fish: So, my amendment is to delete. And the question now is to as to commissioner Fritz amendment to my amendment, which is to affirmatively provide for an opportunity for testimony. That would need a second, mayor.

Wheeler: Let me suggest an easier strategy here. I believe by making a change to Fritz number one, it does exactly what you are proposing.

Fritz: No, it doesn't. What I was proposing was have the sentence in, but after the vote. What I'm now proposing, having the sentence in and specify that it's before the vote cause that's clearly what we've heard.

Wheeler: So let's break this into two parts.

Fish: My amendment is to delete the amendment that has been presented us to in all the cases it appears in the proposal that limits testimony to after a decision.

Fritz: Second.

Wheeler: Good. And then that's fish one and Fritz one is being pulled and you are offering a new Fritz one?

Fritz: Right, 3.21.150b. We changed the added sentence to say public comment will be allowed before the committee has made a decision and then the rest is the same.

Fish: I'll second that.

Wheeler: We have a motion and a second. Now it's consistent with Fish number one. Very good.

Fritz: We're reaching consensus. It shows that sometimes it's work with showing up to testify. So that's -- it's actually twice in 150b, where we would be saying allowed before

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because it's -- it's that's in the bottom of page 18 and the top of page 19, it says public comment will be reserved for after and I would say allowed before and then that's in 3.21.160a, the new sentence that was on the table is that the public comment will be reserved to the end of the meeting and we would say, allowed before the committee has made its recommendation.

Fish: So we have a Fritz one, Fish one and Fritz two on the table.

Wheeler: Any further questions for the auditor or the director of ipr? I have a couple. Maybe I'll start. So, there was a couple of comments about the numbers of people on the panel. There's currently 11 members, is that correct? And there was a proposal to increase that to 13, that seems like a minor --

*****: 15.

Wheeler: Oh, it was to 15. What is the objection to that?

Hull-Caballero: My objection to that, that I stated earlier, is that the staff responsible for supporting the citizen review committee now is over capacity with 11 members. It is easy to think of that responsibility as just people showing up for the meeting, they have to be recruited. They have to be interviewed. The criteria for selection is they can be impartial, unbiased to decision-makers, to the crc. We are having an increasingly-difficult time finding people willing to apply for that position and then there's also the training and the administrative support that needs to be done for that body.

Wheeler: Very good.

Hull-Caballero: And they are over capacity.

Wheeler: This is something we could add later since this is by code? So its capacity increases as the budget stabilizes, we'll have that opportunity.

Fish: Mayor, just to close the loop, I don't believe you had an opportunity to respond to something that came in, in testimony, which is to -- by legislation, allow civilian members of the police review board pool to rotate in as an as-needed basis. Do you have a review on that?

Hull-Caballero: The people who apply for those positions apply for one or the other. They are making the choice if they want to serve on the police review board as opposed to the citizen review committee. I think that they have made the choice, at the front end. They are given the either/or and they've made their choice.

Fish: So my sense on that is before we decide to place one group of citizens who have signed up for one assignment into a pool that could increase their burden and responsibilities, we ought to think that through with those citizens.

Hull-Caballero: Right. I think that has not been pursued.

Wheeler: Very good. And then the second -- I'm not sure I understood this correctly. The current configuration does not allow ipr to ask them to open a deadly force investigation if they think the force used was potentially lethal?

Severe: Currently, code is silent about that. So there was a context where ipr made that recommendation and there was -- there was -- literally, weeks of debate between ipr and the police bureau on whether we had the authority.

Wheeler: Does this give you the authority?

Severe: Yes.

Wheeler: My recollection was whether or not an automobile was deadly force. I thought that was a tiresome debate so I'm appreciative that there's clarification through this code. And I think that's -- those are my questions for the time-being. Commissioner Eudaly?

Eudaly: I'm sure if you would know this or maybe Ms. Malone could come back. Do you know how many people we have already trained who are in that standby mode?

Hull-Caballero: I don't think that we have any --

Severe: We have -- we have one alternative right now.

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Fritz: I'm glad that commissioner Fish pointed out that this is a first reading and we'll be coming back next week because it seems like there are a lot of other issues raised today that were not addressed. There were things in this proposal which the women league of voters and Portland cop watch supported and other things that were not the way they would want it. In the coming week, I'd like to discuss -- actually with my staff -- whether we could help support an ongoing stakeholder committee in my office, since I do recognize that that's an administrative burden and also because that is -- these rules -- some of them are very technical on how things happen. There's also in this policy, some actual policy questions and so that's something that I think -- I want some time to go through all of the suggestions to see which of those might need some more work.

Hull-Caballero: If I can make a suggestion, I would also advise that you go and reread the settlement agreement and make sure that we're moving toward resolution of the settlement agreement and not moving away from it or going off in other directions when our resources and our attention need to be focused on that agreement. We have been having these conversations for years now. I think that we should start there, go back to that place.

Wheeler: So, colleagues, there's a couple of ways we could approach this. Traditionally what we would do is vote on the amendments today and send it to second reading as-amended. Is that your preference?

Eudaly: My preference would be to have an opportunity to consider the amendments brought up. I will possibly be bringing forth my own amendments in the next week. I would not support this, as-is. I support commissioner Fritz's amendment.

Wheeler: You're in a position today, you could vote on the amendments, we wouldn't --

Eudaly: Sure.

Wheeler: We wouldn't be -- since it's a non-emergency, it would be a second reading any way.

Eudaly: Forgive me, if I'm introducing amendments that are substantial and we don't have an opportunity to hear public testimony on those amendments, I --

Fritz: If there's an amendment, we do take public testimony on those amendments.

There's times that happen if there's a second reading, sometimes enough things come up and we say there are amendments that we'll take testimony on.

Fish: Can I respond to my colleague for a second? I want to make sure there's another option on the table. I support voting on the amendments and having this go to a second reading. It doesn't require us to take it up on a second reading. If a majority of the council wants to broaden the scope of our discussion and come back for another hearing, that is still an option. The one thing I would encourage us to do is to confer over the next few days about any additional issues colleagues have. Take them up with the auditor because I want to make sure that we're not getting ahead of a second round of proposals the auditor brings in her cycle. Each time we do these piecemeal, it's a full hearing. That's one thing I hope we can discuss as colleagues between now and next week.

Fritz: Are you planning to do another round of amendments?

Hull-Caballero: I have had conversations with mayor wheeler about his desire to work on police accountability issues and what we have brought here today is a very narrowly-scoped proposal because ipr and internal affairs need especially need to have those case-handling procedures in place so they can start using that authority. I appreciate -- and I am not unsympathetic to all the things that people brought up today. And I think that caution is wise because are bargaining issues, there are legal issues and this is a system and so sometimes when you change one part of the system, it has an effect on the other and those conversations do need to be more comprehensive. Commissioner Eudaly, if you want to bring substantive things, I'm ready to have it.

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Wheeler: Let me suggest another possibility here, which is we could continue this.

Fish: Let me offer a third suggestion. We've had a long hearing, there's a lot of people who are interested in the issues that are on the table. I would urge us to vote on the amendments and have the regular course, have this go to a second hearing, we can have further conversations. If there are substantive issues and the mayor and the auditor are contemplating bringing further reforms, my reference would be to have those brought in a package, where we would have a set of reforms that have been proposed by the mayor and the auditor, rather than doing the piecemeal and we have a bigger chunk to discuss with the public rather than having piecemeal hearings.

Wheeler: Just to be clear, we can vote on the amendments today and then if others have additional amendments they would like to bring next week, we could bring those amendments and then there could be public testimony on those amendments if the majority of the council chooses to do that.

Fish: Which would kick us over another week.

Wheeler: That is correct. Is that a head nod? Okay. Very good. So, are there any further questions for the auditor or director Constantine?

Fritz: Just a clarification of what you just said, would you want to reconvene the stakeholder committee so the public is part of coming up with the next set of recommendations?

Wheeler: I'm not proposing that. What I'm proposing is that we take a vote on the amendments today, moving it to second reading and that gives people several days if they want to propose tweaks, changes or amendments, to bring those forth next week. So why don't we go ahead and just to make sure that we've done this correctly, let's vote on them independently. First one is Fish number one. Please call the roll.

Fish: Madam auditor, thank you for bringing your package forward and facilitating this conversation. The conversation has been helpful and clarifying and I'm going to support my amendment but I'm also going to acknowledge the concerns that buttress your proposal, which is a desire not to compromise a finding in arbitration which could undue a recommendation of discipline. I appreciate that the lawyers act out of an abundance of caution. My conclusion is since this hasn't come up as a problem it sort of falls into if it ain't broke, we may not have to fix it until it becomes a documented problem. I have confidence of the chair of the crc can establish the ground rules for those statements. Aye.

Saltzman: Aye.

Eudaly: Thank you for your work on this and thank you, everyone, for your testimony and to the crc for their hard work. This has been a really helpful and illuminating discussion and this is -- this is how it should work. I came in to this meeting, feeling one way and I can't say I -- well, I definitely changed my mind on some issues and realized there are a lot more factors I need to consider. I'm voting aye on the amendment, but there's a lot more to talk about.

Fritz: So just to clarify for everybody that this amendment just removes the sentence two in 150b and one in 160a it removes that sentence all together so that if this is the only amendment that passes, reference to public comment would be removed. Aye.

Wheeler: Aye. The amendment is adopted. Next up is Fritz number one.

Fish: As I understand Fritz number one it codifies the existing practice that allows for comments and I think comments play a valuable role in this process and we've heard why. Aye.

Saltzman: Aye. **Eudaly:** Aye.

Fritz: And again to summarize this puts back that sentence that specifies that the public comment is before so twice in b and once and 160a. Thank you, madam auditor, and Constantine Severe director of the impendent police review. This is my ninth year on the

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council and every year, we've been having this conversation so I respect your concern that all we do is talk about things. I am not confident -- I know that we don't have the confidence of the community at this point so we have to do more, I believe and I'm glad we will be thinking about that for a week and talking with you and hearing what that way forward might be. We have to do things different. Aye.

Wheeler: We heard from the chair of the crc, that they understand the potential challenges and risks associated with this amendment. They understand that there is a possibility that, in limited cases, it could jeopardize the ability to hold some people accountable, but they also made it very clear that that was a trade-off that they were willing to take in exchange for more public access and transparency to the process. We had universal testimony in support of that notion. That being said, the auditor told us something that was ominous, she said that we should go back and reread what the department of justice has asked us to do and I believe what she's referring to, specifically, is speeding up the process of accountability and that is explicitly in the doj settlement and I'm supporting that doj settlement. Regardless of what happens with the trump administration, I will continue to support the principles of that settlement. I heard loudly and clearly that the crc understands those trade-offs and so this is one of those cases where I will trust the public process and the people who have stepped forward to volunteer in that process and volunteered to lead that process, so I will support this amendment. Aye. Fritz number one is adopted. That brings us to Fritz number two.

Fritz: What's number two?

Fish: You offered an amendment from a community member.

Fritz: I'd like to withdraw that. I would hope that there will be some kind of ongoing discussion of what else is needed and I'd like to withdraw the amendment.

Wheeler: Very good. Fritz number two has been withdrawn without any objection so this being a non-emergency first reading, it moves to second reading. We are adjourned.

At 5:00 p.m. council adjourned.