



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **19TH DAY OF SEPTEMBER, 2018** AT 9:30 A.M.

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

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Robert Taylor, Chief Deputy City Attorney; Lauren King, Deputy City attorney 11:06-11:09 a.m.; and Christopher Alvarez, Cheryl Leon-Guerrero and John Paolazzi, Sergeants at Arms.

Item No. 985 was pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS		Disposition:
975	Request of David Mason to address Council regarding police reform and use of force (Communication)	PLACED ON FILE
976	Request of Jackson McKibben to address Council regarding problems for all around NE Portland metropolitan area (Communication)	PLACED ON FILE
977	Request of Star Stauffer to address Council regarding Portland Police targeting and assault of community members, #ACAB (Communication)	PLACED ON FILE
978	Request of Stan Herman to address Council to get an opinion to a question (Communication)	PLACED ON FILE
979	Request of Brian Smith to address Council regarding a member of the Police Bureau's attitude towards citizens counter protesting (Communication)	PLACED ON FILE
TIMES CERTAIN		
980	TIME CERTAIN: 9:45 AM – Appoint Daisy Quinonez to the Planning and Sustainability Commission Youth Position for a term to expire September 30, 2020 (Report introduced by Mayor Wheeler) 10 minutes requested Motion to accept the report: Moved by Fish and seconded by Fritz. (Y-4)	CONFIRMED

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<p>981</p>	<p>TIME CERTAIN: 10:00 AM – Office of Equity and Human Rights 2018 Report (Previous Agenda 956; Report introduced by Mayor Wheeler and Commissioner Fritz) 45 minutes requested Motion to accept the report: Moved by Fish and seconded by Eudaly. (Y-4)</p>	<p>ACCEPTED</p>
<p>982</p>	<p>TIME CERTAIN: 10:45 AM – Consider the proposal of Andrew Tull, 3J Consulting, Inc., and the recommendation from the Hearings Officer for approval of a Comprehensive Plan Map Amendment, Zoning Map Amendment, Conditional Use Master Plan, and Adjustment Review for Parkview Christian Retirement Community at 1825 NE 108th Ave and properties at NE 106th Ave (Previous Agenda 973; Adopt Hearings Officer’s Recommendation; introduced by Mayor Wheeler; LU 17-113086 CP ZC CU MS AD) 5 minutes requested for items 982 and 983 Motion to adopt Hearings Officer’s recommendation: Moved by Wheeler and seconded by Fish. (Y-4)</p>	<p>HEARINGS OFFICER RECOMMENDATION ADOPTED</p>
<p>983</p>	<p>Amend the Comprehensive Plan Map and Zoning Map and approve a Conditional Use Master Plan and Adjustment for Parkview Christian Retirement Community at 1825 NE 108th Ave and properties at NE 106th Ave, at the request of Andrew Tull, 3J Consulting Inc. (Previous Agenda 974; Ordinance introduced by Mayor Wheeler; LU 17-113086 CP ZC CU MS AD) Motion to amend the Comprehensive Plan Map and Zoning Map and approve a Conditional Use Master Plan and Adjustment for Parkview Christian Retirement Community: Moved by Wheeler and seconded by Fritz. (Y-4)</p>	<p>189170</p>
<p align="center">CONSENT AGENDA – NO DISCUSSION</p> <p align="center">Mayor Ted Wheeler</p> <p align="center">Office of Management and Finance</p>		
<p>*984</p>	<p>Authorize a two-year lease agreement for office space in the downtown core to accommodate program management and support services for Portland Water Bureau Bull Run Filtration project not to exceed budgeted lease cost of \$269,000 (Ordinance) (Y-4)</p>	<p>189168</p>
<p align="center">Commissioner Chloe Eudaly</p> <p align="center">Bureau of Transportation</p>		
<p>985</p>	<p>Amend grant agreement with Portland Business Alliance for \$30,000 to continue the Downtown Retail Strategy implementation (Second Reading Agenda 970; amend Contract No. 32000521) (Y-4)</p>	<p>189169</p>
<p align="center">REGULAR AGENDA</p>		

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<p>*986</p> <p>(Y-4)</p>	<p>Authorize a grant agreement with Catholic Charities in an amount not to exceed \$500,000 to support the Universal Representation Project through the Equity Corps of Oregon (Ordinance introduced by Mayor Wheeler and Commissioner Eudaly) 10 minutes requested</p>	<p>189171</p>
Portland Housing Bureau		
<p>987</p> <p>(Y-4)</p>	<p>Accept report Scaling Smart Resources, Doing What Works: A System-Level Path to Producing 2,000 Units of Supportive Housing in Portland and Multnomah County (Report introduced by Mayor Wheeler and Commissioners Eudaly and Fish) 15 minutes requested</p> <p>Motion to accept report: Moved by Fish and seconded by Fritz.</p>	<p>ACCEPTED</p>
Mayor Ted Wheeler		
Office of Management and Finance		
<p>988</p> <p>(Y-4)</p>	<p>Accept bid of James W. Fowler Co. for Structural Rehabilitation of Taggart Outfall for \$10,941,172 (Procurement Report - Bid No. 00000966)</p> <p>Motion to accept report: Moved by Fish and seconded by Eudaly.</p>	<p>ACCEPTED PREPARE CONTRACT</p>
Portland Housing Bureau		
<p>989</p> <p>(Y-4)</p>	<p>Revise homeownership financial assistance guidelines for the Portland Housing Bureau (Resolution) 15 minutes requested</p>	<p>37386</p>
<p>*990</p> <p>(Y-4)</p>	<p>Approve application under the Multiple-Unit Limited Tax Exemption Program under the Inclusionary Housing Program for Division Two located at 3249 SE Division St (Ordinance)</p>	<p>189172</p>
<p>*991</p> <p>(Y-4)</p>	<p>Approve application under the Multiple-Unit Limited Tax Exemption Program under the Inclusionary Housing Program for Ellis Apartments located at 5603 SE Milwaukie Ave (Ordinance)</p>	<p>189173</p>
<p>*992</p> <p>(Y-4)</p>	<p>Approve application under the Multiple-Unit Limited Tax Exemption Program under the Inclusionary Housing Program for Multnomah Station Apartments located at 7654 SW 32nd Ave (Ordinance)</p>	<p>189174</p>
Commissioner Chloe Eudaly		
Bureau of Transportation		
<p>993</p>	<p>Authorize the Bureau of Transportation to acquire certain permanent and temporary property rights necessary for construction of the NE 148th Avenue: NE Glisan Street to NE Halsey Street project, through the exercise of the City's Eminent Domain Authority (Ordinance) 15 minutes requested</p>	<p>PASSED TO SECOND READING SEPTEMBER 26, 2018 AT 9:30 AM</p>
Commissioner Nick Fish		

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Bureau of Environmental Services		
*994	Temporarily exclude overwater structures from stormwater management charges and provide for refunds (Ordinance) 15 minutes requested (Y-4)	189175
Parks & Recreation		
*995	Amend Management Agreement with Kemper Sports Management, Inc. to add \$2,500,000 for the reimbursement of operating expenses for the management of Heron Lakes Golf Course, for a not-to-exceed amount of \$2,823,400 (Ordinance; amend Contract No. 30006422) 10 minutes requested (Y-4)	189176

At 12:40 p.m. Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **19TH DAY OF SEPTEMBER, 2018** 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; Denis Vannier, Senior Deputy City Attorney; and Christopher Alvarez and John Paolazzi, Sergeants at Arms.

<p>996 TIME CERTAIN: 2:00 PM – Appeal of Ben Salzberg against the noise variance granted to Son Latino LLC to conduct amplified outdoor events on the roof of Yoga Union located at 2305 SE 50th Ave (Hearing introduced by Auditor Hull Caballero) 1 hour requested</p> <p>Motion to amend Noise/Variance Permit to delete condition B and amend condition D to change 10:00 p.m. to 9:00 p.m.: Moved by Fritz and seconded by Fish. (Y-3 Fish, Fritz, Wheeler; N-1 Eudaly; Saltzman absent)</p>	<p>Disposition:</p> <p>APPEAL DENIED; NOISE/VARIANCE PERMIT CONDITIONS AMENDED</p>
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At 3:20 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **20TH DAY OF SEPTEMBER, 2018** 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; Karen Moynahan, Chief Deputy City Attorney; Linly Rees, Chief Deputy City Attorney at 3:07 p.m.; and Ovie Griggs and John Paolazzi, Sergeants at Arms.

The meeting recessed at 3:02 p.m. and reconvened at 3:07 p.m.

		Disposition:
997	<p>TIME CERTAIN: 2:00 PM – Direct Procurement Services and the Bureau of Planning and Sustainability to develop a program framework and identify the necessary resources to require contractors working on City construction projects to use equipment that controls diesel exhaust to protect public health (Resolution introduced by Mayor Wheeler) 45 minutes requested</p> <p>Motion to amend to insert resolved clause to direct Procurement Services and BPS to also create opportunities for workforce equity and diversity: Moved by Wheeler and seconded by Fritz. (Y-5)</p> <p>Motion to change effective date of December 20, 2018 to December 13, 2018: Moved by Fritz and seconded by Eudaly. (Y-5) (Y-5)</p>	<p>37387 AS AMENDED</p>
998	<p>TIME CERTAIN: 2:45 PM – Consider the proposal of Tim Sotoodeh, Southwest Hills LLC and the recommendation from the Hearings Officer for removal of conditions of approval imposed by prior Comprehensive Plan Map and Zoning Map amendment ordinances for property at 2855 SW Patton Rd (Previous Agenda 954; Report introduced by Commissioner Eudaly; amend Ordinance Nos. 155609 and 160473; LU 18-112666 CP ZC) 1 hour requested for items 998 and 999</p> <p>Motion to accept the applicant's final proposal with modification to change the timeline to 12 months; no design review; and with a condition of approval that the neighborhood is consulted during the design phase with notice to nearby neighbors, the neighborhood association and those on the record of interest for this proceeding in order to allow for neighborhood input: Moved by Fritz and seconded by Fish. (Y-4; N-1 Saltzman)</p>	<p>TENTATIVELY APPROVE HEARINGS OFFICER RECOMMENDATION AND APPLICANT FINAL PROPOSAL WITH MODIFICATION AND CONDITION; PREPARE FINDINGS FOR OCTOBER 10, 2018 AT 10:40 AM TIME CERTAIN</p>
999	<p>Amend the Comprehensive Plan Map and Zoning Map amendment to remove conditions of approval imposed by prior ordinances for property at 2855 SW Patton Rd, at the request of Tim Sotoodeh, Southwest Hills LLC (Previous Agenda 955; Ordinance introduced by Commissioner Eudaly; amend Ordinance Nos. 155609 and 160473; LU 18-112666 CP ZC)</p>	<p>CONTINUED TO OCTOBER 10, 2018 AT 10:40 AM TIME CERTAIN</p>

At 4:00 p.m., Council adjourned.

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MARY HULL CABALLERO
Auditor of the City of Portland

A handwritten signature in blue ink, appearing to read 'K. Moore-Love', written in a cursive style.

By Karla Moore-Love
Clerk of the Council

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

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Closed Caption File of Portland City Council Meeting

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

Key: *** means unidentified speaker.**

September 19, 2018 9:30 a.m.

Wheeler: September 19, 2018 morning session of the Portland city council. Karla please call the roll.

Saltzman: Eudaly: Here. **Fritz:** Here. **Fish:** Here.

Wheeler: Here, good morning Robert.

Robert Taylor, Chief Deputy City Attorney: Good morning, welcome to the Portland city council. The city council represents all Portlanders and meets to do the city's business. The presiding officer preserves order and decorum during city council meetings so everyone can feel welcome, comfortable, respected and safe. To participate in council meetings you may sign up in advance with the council clerk's office for communications to briefly speak about any subject. You may also sign up for public testimony on resolutions or the first readings of ordinances. Your testimony should address the matter being considered at the time. When testifying, please state your name for the record. Your address is not necessary. Please disclose if you are a lobbyist. If you are representing an organization, please identify it. The presiding officer determines the length of testimony. Individuals generally have three minutes to testify unless otherwise stated. When you have 30 seconds left, a yellow light goes on. When your time is done, a red light goes on. If you are in the audience and would like to show your support for something that is said, please feel free to do a thumbs up. If you want to express that you do not support something, please feel free to do a thumb's down. Disruptive conduct. Such as shouting or interrupting testimony or council deliberations will not be allowed. If there are disruptions, a warning will be given that further disruption may result in the person being rejected for the remainder of the meeting. After being rejected a person who fails to leave the meeting is subject to arrest for trespass. Thank you for helping your fellow Portlanders feel welcome, comfortable, respected and safe.

Wheeler: Thank you. First up is communications.

Item 975.

Wheeler: Come on up, good morning.

David Mason: Hello, my name is David mason, I won't take up too much time but I wanted to discuss briefly some things from last month after the August 4th event in Portland and things that happened on that day and some thoughts from the community and your constituents regarding police actions taken and the response in the aftermath of that from various Portland police representatives.

Fish: Sir could you put your name in the record.

Mason: Oh, sorry. David mason. On August 4th there was a rally by patriot prayer, Joey Gibson, and the Proud Boys. If you are not familiar with them, you can look them up. There is tons of information all over it, but they are known for being agitators and sending out threats and have been known to drive around Portland and jump out of their cars beat people up for various reasons that I won't state because they are fairly offensive and inappropriate, but based on people's sexuality or perceived sexuality, etc., color of their skin. A number of people from Portland of all sorts of walks of life, all sorts of ages showed up to say that we did not want people coming down from Washington to share hate speech

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and potentially attack people, which they ended up doing that day. And in that response by Portland Police was heavily focused at the counter protesters, and a number of people were seriously injured and ended up in the hospital and could have died from the injuries they sustained. As a community, there is a number of us who would hope for some police reform in the aftermath of this, and that includes looking at the non-lethal weapons used in crowd control as the ones that are currently used are extremely dangerous and there are better options to use them, but our preference would be that the local police would be demilitarized. There is no need for police forces to have military weapons when responding to unarmed civilians even when there is a lot of them. We would hope there could be discussion about local policing meaning the police live in the cities they work in and third party accountability for use of force in the city. So some citizens can be aware of use of force when it happens and have a part of the discussion involving that. We would hope to meet with the mayor and council to discuss these things and also look into a review of the crowd control tactics used and riot response, etc. Last thing I want to say the chief of police going on Lars Larson in the aftermath of all of this and the things said on Lars Larson about it, comparing it to a schoolyard fight and saying the police showed up to fight counter protesters, and when we got our butts whipped we went home and cried about it, I find that to be distressing and unprofessional and unbecoming of an officer of the law, who is supposed to be here to protect and serve.

Wheeler: Thank you. If I could take a moment to respond to some of the comments you made because you raised cause you raised a number of, I think, important points, first of all the question about third party accountability. I want to let you know one of the reasons you don't hear me talking much about this is because there is not one but two separate investigations being conducted on the August 4th issue in particular and the use of force in particular. One of the investigations is being conducted by the independent police review commission and that is, actually, an entity separate from this body here. Technically it reports to the independent auditor, but it has its own staff and its own focus and they are able to conduct their own independent investigation and it's separate from the police bureau. There is also an internal police bureau review to determine whether or not policies were followed or not and you made the good point about public discussion of crowd control tactics. In fact, there are directives that the police bureau is required to adhere to. Those are the policies by which the police officers are judged, and many people don't so it's good to put it into the record so people know this and they will know that they do have a say. Those directives periodically go out for public review and people are encouraged to comment on those, and there is a number of organization locally that is reviewed them, the ACLU, Cop Watch and others, and individuals are also encouraged to view those directives. They come out on a regular basis, not only for crowd control and other types of issues, so thank you for being here, and I am sorry to go onto your comments to make those comments but I think it is helpful for the public to know that there are ways those issues are being addressed and I really appreciated you coming in.

Mason: I put in a request the Wednesday after August 4th to get a meeting with you at some point, and I have not heard anything back, but I would love to have a meeting to discuss the things further and I know a lot of people would like to be involved but are not sure how to.

Wheeler: There is a little awkwardness with regard to specific investigations but in general certainly happy to and Michelle over there, behind Karla can help you to do that. Thanks for coming in. Appreciate it. Next individual, please.

Item 976.

Wheeler: Good morning.

Jackson McKibben: Good morning. How are you?

Wheeler: Good, thank you.

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McKibben: I don't know why they said northeast Portland. I never put that, but my name is Jackson McKibben. Is that all I need to say?

Wheeler: That's it, and you are good to go.

McKibben: The main reason that I wanted to come here -- actually what made me come here is so I live in downtown Portland, and I am sure that everyone here can agree that just going grocery shopping or going into every day businesses, they are surrounded by homeless people, and these homeless people will be, I mean, waving around weapons or things made into weapons or just being a nuisance right outside of the door, and I have almost gotten hit with certain objects, and it has made me feel uncomfortable, and they are American citizens they have rights to the streets, too, but I think there should be limits set on how close they can be cause its uncomfortable when you spend \$150 on groceries and you come outside and people are asking about money, it's not okay. I think that what you guys did with the construction this year for the roads did not help at all. I think that painting lines and filling potholes, I mean, Whatever happens, nothing, nothing helps anything improve. It's like traffic just got worse than what it was and nothing has gotten fixed. As a driver I drive to work and I see people drive five to ten miles under the speed limit, which is unsafe and unreasonable and will be in the fast lane sometimes. These people need to be ticketed like a speedier would and also I just want to say that I feel as though government has turned into the plague of man and that our freedom as a citizen is directly proportioned to my ability to control my government and to not let my government control me. I feel uncomfortable that every day I see more and more that government officials overspend, they put the city in debt and then they try to further tax the American people, put tolls on the roads, and I think that it needs to be known that American citizens can throw out government officials. You guys are my servants under the constitution and I think that with what you say before you get into office and what you do when you're in office needs to line up. Truly and I think there is a lot of mind control going on in this country, I think that we don't have a true freedom of the press, I think we have a controlled owned press. The same money that owns the money own the press and in this country it is god, man, constitution, government, public servants and the statute of law. So I think that -- oh, yeah, and I believe that there is some elected officials in this country today that are absolutely opposed to the freedom, which means free enterprise, which means economic opportunity, which is everything that America stands for, and I believe that they are bent on giving this country away and wiping this country out and putting this country under so we have a one world government under communism and I believe that they have a mighty force rising up against them.

Wheeler: Thank you.

McKibbens: Thank you.

Wheeler: Next individual.

Item 977.

Moore-Love: She called and is not able to make it and rescheduled.

Wheeler: Very good. Next individual, please?

Item 978.

Wheeler: Good morning sir.

Stan Herman: Good morning. My name is stan Herman I think you have all met me before. I just wanted to tell you what my goal is going to be. My goal is to build a home for military veterans and a place for restored military ships to be moored at my property on the Willamette river. It would be a great tourist attraction for visitors to come to Portland. Also this property on the Willamette river will develop the community facility for kids. So we can increase more uses of the Willamette river for swimming and boating activities. The Osaka park has been designed for three well needed soccer fields for our community they will be installed on the old warehouse deck. The Osaka field is allowed use with in this owning

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with the conditions for this permit approval. As I stated before, I switched from a business communication to a political agenda. Mr. Mayor you and I met in the past 70 days ago we met and as of today no progress has been made from that meeting. You, all our city leaders, Eudaly, you paying attention? Are paid to voice your opinions and make decisions. I have seen and heard your remarks and votes on many issues in the council meetings. I've been asking my city leaders for an opinion starting from my first appearance November 16, 22 months ago. For the record, why are you not giving me a opinion to my question that I prepared for you back in November of 2016? Keep kicking the can down the road. I'll keep coming back until I receive an answer from every one of you or you simply say stan, I will not give you my opinion. Thank you.

Wheeler: Thank you. Commissioner Fritz.

Fritz: Mr. Herman I have sent you a written response.

Herman: Pardon?

Fritz: I sent you a written response did you nor receive it.

Herman: I met with a few people but no progress. Can we meet again?

Fritz: Saying no is not the same as not giving you an opinion.

Eudaly: You've also met with my chief of staff numerous times. You have met with my chief of staff numerous times, and the fact that we can't fix your problem doesn't mean that we are not paying attention or don't care. I don't have the power to fix your problem and it's not for me to express an opinion.

Herman: One of you do have the power to sit down and just take a look at this and we can make progress for the city of Portland or go down the road. It only takes one of you to take a look at it. We don't have the time to talk about the details but if I could get undivided attention with one of you for half an hour, we could have some fun and make some progress for the city of Portland and have a great facility. You have my number if anybody wants to give me a call, I appreciate it. Thank you.

Wheeler: Thank you Mr. Herman. For the record I met with Mr. Herman two weeks ago for half an hour. Next individual, please.

Item 979.

Wheeler: Is Mr. Smith here? Very good, have any items been pulled from the consent agenda Karla?

Moore-Love: A request for 985.

Wheeler: 985 has been pulled. Please call the roll on the remainder.

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

Wheeler: Aye, the consent agenda is adopted. First time certain please, item 980.

Item 980.

Wheeler: Colleagues today we have an appointment for the youth position on the planning and sustainability commission, which is a two-year term. This youth specific position is a regular voting member of the commission. We know that young people offer great advice and bring a different and very important perspective to our work and the previous youth who served on the psc provided great ideas and insight. Daisy Quinonez is my recommendation for this position. If confirmed, she will be the third youth commissioner to serve on the psc. I would like to welcome Julie Ocken here. Thank you very much.

Julie Ocken, Bureau of Planning and Sustainability: Thank you mayor and commissioners. I am Julie Ocken, I work for the bureau of planning and sustainability and manage the planning and sustainability commission. As I think that most of you know, the commission was formed almost exactly ago eight years ago shortly after the bureau formed itself, it is a diverse group of 11 volunteers who devote an amazing amount of time to work and provide you all with recommendations on projects coming your way, I feel like our commission really is different in the aspect of many other planning commissions around the country. We have architects, we have transportation, housing advocates, we

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have environmental advocates, so a really nice mix of people who provide input and share their thoughts and work with the staff on the projects, but again, come back to council for your approval and we really value the individual perspectives of each commissioner that we have had. So as the mayor mentioned, daisy quinonez is hopefully our next appointment as our next youth commissioner. The youth commissioner position is a two-year term as opposed to the four-year term that commissioners generally serve. We like to offer the opportunity for a younger person who we have to find is between the ages of 18-25 when they start. Give them the opportunity to share in the decision-making and the work that goes along with being a psc member and again, we are really excited that daisy will be joining us.

Kat Schultz: Good morning, I am Kat Schultz, I'm chair of the psc, and I am excited to welcome a new youth commissioner to our commission. About five years ago we designated one of our positions for youth member, so since the position is a two-year term we have now had two previous youth commissioners. That experience has shown the adjective youth is a misnomer. For the wisdom and the maturity that those youth commissioners have brought to our commission is well beyond their years. Their strength of knowledge around social equity has been vital to the psc. Daisy has a bachelor's degree in planning, public policy and management from the university of Oregon, go ducks. She will be starting her masters at the urban and regional planning studies at psu this fall. Daisy was a member of the Multnomah youth commission serving as co-chair in 2010 and 2011. She currently works at the tenant education coordinator from the community alliance of tenants which we know is doing great work to support the tenant grassroots organizing efforts including building-based organizing and advocating for increased tenant protections. She is currently the chair of the board of directors and momentum alliance, a youth led organization whose mission is to help young people realize their power and to mentor future social justice leaders. She also volunteers as a member of the metro committee on racial equity and fiest grantee, an initiative of the Oregon bank, Oregon food bank. Daisy you are going to be really busy in the months ahead of you. Daisy is committed to advocating equity, planning and understands how to work with diverse groups, I am pleased to introduce her today and look forward to having her as a member of the Portland planning sustainability commission as an advisory board to this council. Daisy, would you like to say a few words?

Daisy Quinonez: Thank you Julie and Kat, good morning commissioners, mayor Wheeler. Thank you all for having me today, I am honored to be your recommendation for the youth commissioner position on the psc. As a lifelong Portlander I am deeply invested in and committed to this community and I am excited to continue my service to Portland as a member of the psc. As a youth commissioner I hope to further strengthen the equity framework within which we operate on the psc, encourage cultural humanity in our practices and help elevate the voices of community members who historically haven't had a seat at the table. When I begin my course work at psu next week I plan to focus my studies on housing policy and disaster resiliency planning, and I really look forward to incorporating the knowledge I will be gaining in this program as part of my work on the psc, and I am really excited to be a part of this and to help push Portland into the future into more thriving, healthier and more equitable future. In terms of my workload, I will be finishing off my work on the Multnomah youth, on sorry, on momentum alliance and I am great at time management. So don't worry about that at all.

Schultz: We have no doubt.

Quinonez: Thank you.

Wheeler: I can probably take some pointers from you on that point so I will look forward to that.

Fish: Mayor I move the report.

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Fritz: Second.

Wheeler: A motion from commissioner Fish and second from commissioner Fritz. Karla please call the roll.

Eudaly: Well, always lovely to see you here and thank you for your service and continued service. Aye.

Fritz: I can certainly vouch for your time management having seen you since the Multnomah youth commission days, I am really impressed with all that you have done and you really checked a lot of boxes here with the momentum alliance, community alliance of tenants, the food bank, thank you for your public service. You certainly exemplify the best of Portland's youth becoming mature people as was noted already mature people helping to understand the youth perspective. Aye.

Fish: Listening to your background I think we need to take the youth commissioner adjustive and park it for a second and just say you are one of the most qualified candidates we have had for an appointed position across the board, and we are lucky to have you. Thank you for stepping up and serving your community. I am very pleased today to support your candidacy, aye.

Wheeler: I will chime in with my praise as well, thank you, we are glad to have your perspective on this. It's a very important position, and you are eminently qualified, and I know that you will bring the same level of commitment and enthusiasm to this position as you have others. So thank you for once again stepping forward. I vote aye. The report is accepted and the appointment is completed. Thank you. Thanks all three of you. So, colleagues we have a four-minute gap before the next time certain, and we do not have any second readings that we could fill that with.

Fish: Should we take up the consent item?

Wheeler: Why don't we do that because it's just a second reading and that was 985, is that correct Karla?

Moore-Love: Correct.

Wheeler: Could you read the item please?

Item 985.

Wheeler: Please call the roll.

Eudaly: Well, I just will share a little about what this \$30,000 for the downtown retail strategy implementation is for. Downtown retail strategy supports objectives of the Portland economic development strategy to enhance vitality and distinctiveness of the central city to showcase Portland's sustainability way of life and attract creative talent to downtown. The pbot contribution, which is what we are voting on today, helps to cover the cost of the downtown retail advocates. That cost is shared between pbot, the Portland business alliance and prosper Portland, and the \$30,000 award from pbot will cover two fiscal years. It contributes 15 to 20% on the cost, and the cost were included in the fiscal year 2018-2019 budget. Aye.

Fritz: I'll just add that ongoing this has been part of the discussions with the downtown business community regarding parking meter rates, and I think it was involved in an increase several years ago that they supported it, aye.

Fish: Aye.

Wheeler: The agreement is adopted. Excuse me. According to my clock it is 9:59. I am just waiting for it to roll over. 10:00. 981, please. Time certain.

Item 981.

Wheeler: Commissioner Fritz.

Fritz: Thank you very much, mayor. I know that we're both very excited about this report and welcoming staff to the dais. We are very pleased, both having worked on this, the mayor's staff and i, but this year it's a different report, in a video form and then a discussion. There has been an ongoing process over the last several months that the

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mayor has led with my input on the future of the office of equity and human rights and this is kind of the end, both the end of the previous year for the office, it's also the end of that planning process, and it's the council's opportunity to have a discussion. Obviously we cannot go through a focus group outside of a public hearing to give our input on what each commissioner would like to see happen in the office of equity and human rights. Rather unusually I have asked the mayor if we can take the public testimony at the end of this report. We need to be within the 45 minutes but I think that it's also the community's opportunity for anybody who hasn't been involved in the process over the last several months to come and give us a couple of minutes on their input. I am really excited to be back in charge of the office of equity and human rights. I helped mayor Sam Adams create it in 2011, and it's been operational since the first director was hired in march of 2012 and we have come a long way. I will let the video speak for itself and we will have more comments on the end. Then invite interim director Koffi Desou will introduce this item.

Koffi Dessou, Interim Director, Office of Equity and Human Rights: Thank you. My name is Koffi Desou, the interim director for the office of equity and human rights. Mayor wheeler, commissioner Fritz, commissioner Eudaly, commissioner Fish, thank you for the opportunity to present our report today. This report has two parts. The first part is the video, which will serve as a documentary for Portland with the communities that are interested in learning about what we have done. The second part will be an overview of a few changes that were not included in the video, that is a power point presentation. So without it further delay I will ask to watch the video, and then I will follow-up with the power point presentation.

[Video Played].

****: I think that I see a number of ways for the office of equity and human rights. One you are a driver of the racial equity standard, it doesn't mean that you have to do it by yourself, but you have the information, you inform elected their responsibility to govern racially economically. You also are a catalyst for people to actually be galvanized by the work of racial equity and how do we get as much leverage around being a racially equitable learning city where we listen, we learn and then we lead on it as we do on other things that matter. That's hopeful to me and that's something that I'm willing to be engaged in and supportive of in every way that I can.

****: So the history of the office actually begins with community as it should, there were a couple of very powerful reports that came out from the coalition of communities of color where folks got together and worked with psu to see how really our communities of color are fairing in Multnomah county and the results were pretty devastating.

****: And so after the coalitions publication I went upstairs to Sam Adams and said "we're just not going to put these on the shelf right" cause we had that presentation on the council and I was really concerned that we said oh this is terrible somebody should do something about this. So I went to talk to Sam and we decided we're going to do something about this and we're going to listen to the community to figure out what that's going to be, but it was I think it was 32 community leaders for the most part, some city staff, but many, many community leaders both communities of color and people from a lot of different leadership positions and they said city needs to put its house in order. So that's what we did, that's what the office of equity and human rights was set up with.

****: You now it was very controversial when it first came before council it was not a slam dunk, but I was persuaded it was time, commissioner Fritz made a very compelling argument and as did the community members who came before us.

****: So we were fortunate to have city council members who were on board of what the community was asking for, I believe the office of equity and human rights is standing on many shoulders and I believe that many initiatives have started like a vision pdx that was started under mayor Porter and all the community organizations and community leaders

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that worked hard to create a framework for equity in the city of Portland. In fact commissioner Fritz insisted that on top of centering racial equity we should also center disability equity and requested that the Portland commissioner on disability for example and the human rights commission be housed in the office of equity and human rights.

*****: I think one of the sort of maybe least understood part of our work is when we talk about do the inside first getting our own house in order some people have determines that means that somehow the outside work which means where community exists is not our concern, it couldn't be further from the truth. Everything we do in the city is about changing the outcomes in the community.

*****: Well the office of equity and human rights is charged with setting the equity policy for the city, its important to have language and common terminology when we're talking about those concept. One of the ways we establish that is through equity 101 training, equity 101 is required for all city staff, we've trained over 5,000 city employees at this point and that includes everyone working in the city. Some are working on the water crew or out in the maintenance yard or in a cubicle or city elected leaders and their staff members as well its required for everyone.

*****: We start off by looking at institutional racism and systemic racism and we look at the history in our country, but also here in Oregon. By understanding that history we realize that so many community members are still living with the ghost of that history and then not everybody gets to start at the same place. We're often asked why center on race, well race is still consistently a primary indicator of a persons success and wellness in out society. Its tough for some to realize that by prioritizing our efforts on the deepest disparities we build a system that is better for all Portlanders, you can take a look at gender pay gaps and see that women are making less than men, if you use a racial equity lens you'll see that women of color make less than white women, so by centering the conversation on women of color then you can really remove barriers for everyone in that situation. Another example is when the arts tax process was rolled out you could only pay with a credit card online when we approached to apply our racial equity lens we knew that many Portlanders of color didn't have credit cards or internet access. Our recommendations helped the revenue bureau revise its process to allow folks to pay in a variety of ways and also in person if they wanted too and that's just a quick example of how centering on race removed barriers for everyone.

*****: Civil rights title 1680 title two basically say that no person in the united states on the grounds of race, color, national origin or disability can be excluded from participation and denied the benefits of or subject to discrimination under any programs, service or activity of a government. Our precious civil rights is actually vastly different then a lot of other jurisdictions and this means we kind of look bed compliance, we've seen that when you look at the implementations of civil rights and you look at equity best practices that they're kind of one in the same. Are we engaging communities that are the most unrepresented? Are we looking at using data to make decisions? Are we making sure that we're focusing on the needs and priorities? Are we using targeted universalism in our approach and how does that follow through all the way from planning, policy into services delivery? And again really focusing on being accountability measures within our govern bureaus, so we're implementing those within the process, but we're also focused on the results for the community.

*****: Do the disability equity program is essentially a two fold program, one part of it is the commissioner of disability which is an advisory body to city council and its made up of individuals with lived experience with disability from the community that sit on the commission.

*****: It's a two way street, they bring issues to us, we bring issues to them and as time goes by we're trying more and more to bring them in on every conversation where they

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could have an impact. One of those conversations was about the rothco pavilion at the Portland arts museum, currently the art museum is pretty challenging to navigate on wheels or with someone on wheels and there were concerns in the community that the pavilion would actually make entering the museum less accessible. So were able to connect pcod with leadership at the museum and they engaged in conversations and I think that they've come up with a amicable agreement and I think we are, well I know we are going to have much more accessible museum beginning with the entrance and continuing throughout the facility.

*****: The other part of the job is the policy advisement which is what I do been with the city for 12 years now and have been a part of a lot of the big changes and innovations that the city has done to be more inclusive with people with disabilities.

*****: Some of the changes that have happened in Portland are things like a adaptive bike program we're one of the very few city's that are major cities that have a adaptive bike program. The other really big one the one I'm most proud of is our private for hire policy which says "anyone, any single company operating in the city of Portland has to provide wheelchair accessible transportation" there is no other city that is mandating that.

*****: The purpose of black male achievement is to improve life outcomes for black men and boys, black mail achievement was created with the intention of centering black men and boys in that improvement. So we have a steering committee of 25 black men and then we have our subcommittees that each focus on a specific target area, education, employments, justice system and family stability. So looking at these four different areas and as well looking at the intersectionality of them and centering black men and boys in that work as to where the issues are and what the potential solutions are we were able to start bringing about some change. When I think of the young man who we stayed in touch with after the summer program who presented very well in all the conversations that we had throughout the years at that point seemed like the type of young man that would achieve at a high level with very little support and come to find out at his university that he had some significant learning ability issues. He had some things that he needed to address if he was going to be successful in a college setting. What we were able to do was first of all provide that support network to remind him of who he is, to remind him of the success that he's already attained at that point and then also to make sure that we put that lens on him about accountability. You know you do have this thing going on and we're here with you and we expect big things from you and we're going to come to collect on those big things that we expect, right. So through our work with him, supporting him and it was many, many men in the network of being that continued to support him, he was able to get back into school and he was able to work with his professors, with his counselors and really get onto a track where if it became less of him presenting well and more of him being well at his core.

*****: Portland's human rights commission is an all volunteer advisory body, the commissioners are appointed by city council and they're roll is to advise and city leadership on applying a human rights lens to policy and procedures.

*****: They've been very active, very engaged, helping to provide both a forum for people to express concerns that they have around human rights, but also to give the council really solid advise on ways that we can strengthen human rights here in the Portland area.

*****: In 2017 mayor Wheeler came to the human rights commission meeting, during a conversation with the mayor the human rights commission talked about how the threat of undoing the daca, differed action for childhood arrivals program was really threatening Portlanders and Oregonians. Then commissioner Fish brought a resolution about daca and the importance of supporting daca and we were invited the hrc was invited to give testimony, Dana Franco-Munez our hrc commissioner who is a daca recipient himself was

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gave testimony really person testimony on this issue highlight the fact that there is 11,000 Oregonians who are daca recipients.

*****: One key institutional tool that the office of equity and human rights has kept to create and establish within the city of Portland is the budget equity assessment tool. City bureaus have to apply equity lens to their budget allocation thinking about the impact of the budget on communities that we serve.

*****: I wanted to make it very clear when I became mayor that equity was going to be one of the key determinants of our budget process, we were going to make sure that equity was front and center and so the equity engagement tool that we actually use during the budget process made sure that's the case and in fact the director of the office of equity and human rights sits at the table right along side the budgeting team who are making decisions about the budget.

*****: I think we've made and impact, we have a lot of things that have changed in terms of the institution, we have the budget equity tool, we have the racial equity goals and strategies, we have the five year racial equity plans, we have the transition plan for around disability, we have and there's just so much more to do.

*****: My hopes for the office of equity and human rights to strengthen our relationship with communities that has demanded have demanded the creation of the office to strengthen our partnership with the bureaus to provide additional tools and additional education and training so that they can implement their plans.

*****: So I think our city council has the ability and I hope that they have the will to literally lead on racial equity, racial justice like we lead on bikes and all these other amenities of Portland.

*****: Equity is a buzz word at city hall and I would like to see less lip service and more action. I would also like to see the office of equity and human rights given more authority to implement these policies and really influence every bureau.

*****: And I want to relentlessly hold peoples feet to the fire here in the city to achieve the goals that we've set for the city and if we do that everybody wins, everybody wins, we have a more diverse better equip more experienced work force, more connected to the community with greater opportunities for people in our communities. It's a win, win, win and I think we've made some important first steps and I look forward to the next chapter.

*****: This community is unsustainable if we don't have everybody succeed and so that's I think is essential work that I'm really proud of having helped start. Committed to continuing to support as long as I'm in office and as long as I'm alive.

[Video Ends]

Fish: Mr. interim director can ask you did you produced this film in-house?

Dessou: Yes.

Fish: Congratulations.

Dessou: Yeah, I was going to say thank you.

Fish: Jeff may have had something to do with this.

Dessou: Yeah, I was going to say Jeff Selby thank you for making this documentary. I have some experience in editing videos and its not easy. It's not easy, so thank you Jeff. I want to take this time to acknowledge the staff of the office of equity and human rights. We already called Jeff Selby, we have Tatiana. Okay I'm just going to say the names and if they are here they can show a hand or stand up so that people can see them. Judith Mowry, Danielle Brooks, CJ Robbins, Kapua Foster, Jeanette Ausinoni, Grace Hallet-Labrado. I also want to acknowledge Matt Lim from the bureau of technology services who helped us collect data and make them available for the city and the public.

Wheeler: Could we suspend the rules for a moment? Thank you. [applause]

Dessou: We also have the Portland commission on disability and many of them are here today. They have postponed one of the meetings to come here and be present with us, we

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also have the human rights commission and a bureau advisory committee. So to start with my power point presentation, I want to remind people of the vision of the office. The vision of the office of equity and human rights is a city that works for all Portlanders.

Fritz: Karla can you run the power point? Thank you.

Dessou: A city that works for all Portlanders, that's our vision. The mission of the office is to provide education and technical support to city staff and elected officials leading to recognition and removal of the systemic barriers to fair and just distribution of resources, access and opportunity starting with issues of race and disability. The office of equity and human rights continues to normalize equity within the city of Portland. In 2012 we had a student from Portland state university do some research on the city website to identify the bureaus that mentioned equity. We only found eight that mentioned equity without it any detail. Three years later we had another student conduct the same research and we found all the bureaus had equity in their significant documents including their vision statement, mission statement, budget tools, strategic plans and the important documents that guide their programs and practices. We are influencing change through education and training based on our mission and today we have trained more than 5,000 city employees. We have to often accommodate our trainees by going to trainings sometimes at 6:00 a.m. and sometimes at 9:00 p.m. We are also influencing change within the city by providing some tools. One of the tools is the citywide equity goals and strategies. We were fortunate to have the support from the city council that made the citywide equity goals and strategies a binding policy and that binding policies guiding each bureau in the implementation of their racial equity plans. We believe we have influenced change within the city of Portland through the demographic dashboards that is available on the website of the city and the office of equity and human rights. We could monitor the progress, and from 2013 to 2018 we have seen progress in the increase of the employees of color in the city of Portland. If we agree that our goal is to have a workforce that reflects the demographic of the population. We believe we are making progress but still have a lot of work to do. In 2013, 22.6% of the population of Portland is people of color and 12% work for the city. Today in 2018, it's pretty much the same, 22% of the people of color live in Portland. We have about 18% working for the city of Portland. So we can see from 12% to 18% we have made progress. Which we still have a lot of work to do from recruitment to retention and promotion. The earnings of people of color have also increased significantly. We saw the increase from overall earnings from \$35,000 to \$100,000 annually. In 2013, 0.68% of communities of color, employees of color were within that range. In 2018 we have 10% who are increased. The increase has been significant, but if we go beyond \$100,000 a year, there is still a gap. If we take, for example, 100 employees, making \$100,000 and over, we have 17% employees of color, and about 83% white employees, in 2013. In 2018 we have about 20% employees of color and 80% white employees. Again we have made progress here but we still have some work to do. The office of equity and human rights did all this work in collaboration with many other bureaus. The city council was our first partner in approving our report that also supporting the policies, recommendations that we have made so far. The bureau of human resources was very supportive in helping us integrating equity in the cultural competence and training for our managers and our supervisors. We did that from the beginning in 2012. The bureau of human resources also helped us in create the equity 101 training on the city learner system so that employees can register and also receive credits that establish some transparency and accountability in the training process. The office of community and civic life, formerly oni, worked with the office of human rights by, you know, borrowing our equity and communications officer to help in the welcoming and inclusive sanctuary city task force process. We worked in collaboration with the Portland housing bureau from the beginning, Portland housing bureau helped us provide training for the coalition to end homelessness and that has had some impact

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according to their testimony in the work that they do to end homelessness. We have also learned our public information officer to the housing bureau when they did not have any pio at that time. The city budget office worked closely with the office of equity and human rights to design the budget equity tool, but also use that to analyze the budget proposals from all the bureaus. We will continue doing that work in collaboration with all of the financial analysts to improve the tool and to also support the managers within the bureaus on how to apply the tool in their budget process from the beginning instead of waiting until the end. Data sharing the bureau of technology services and the bureau of human resources helped the office to collect data and create the dashboard that is available. I can tell you that were we go to the conferences outside of the city of Portland, many agencies across the nation congratulate the city of Portland for putting that dashboard and serving as a model for other cities. We have worked in partnership with many government agencies. I want to mention one, the west Multnomah soil and water conservation district. We were consulted to work with them through the development of their diversity and equity plan and we ended with a training for their elected officials, board members and staff and in 2017 our office received the 2017 government partners of the year. It is a nice certificate that I am proud of. We also partnered with many agencies I can mention, the governor's office, the Oregon department of energy, and the office of diversity and equity and inclusion. In the state of Oregon, and other agencies include the city of Tacoma and Washington, and the city of Oakland in California, and the city of new Orleans, and the city of Austin in Texas and in new York. We received many calls and some of them visit the city of Portland to learn how we have established the office and what are the programs that we are providing for the city of Portland. I want to end with a few challenges that we faced. We -- the progress reporting on the city bureaus racial equity plans have been a challenge for us and we are working with equity managers and other managers in the bureaus to find the best way to support the bureaus so that they can report on the implementation of the plans. Effectively setting citywide standards in a decentralized government moral, we have faced that challenge and we believe that the city council will help us address those challenges. We also face challenges in elevating the disability equity work with limited staff capacity. We are at this moment seeing some opportunities, the change in leadership, but also the increased authority for citywide accountability from city council. We also see an opportunity under increased data and researched opportunities for the city of Portland and also opportunities to partner with the communities on strategic plans. Thank you very much for your attention. Thank you.

Wheeler: Thank you.

Fritz: Thank you Koffi really appreciate it. Does anybody on the council have any questions? Fairly comprehensive report. So now we would like to take testimony. Could you raise your hand if you would like to testify? Looks like we can do that within 15 minutes? Can we do that? Thank you very much. We did not have sign-up sheet since it is a report and we don't usually take testimony on reports. This is an opportunity to start, to continue a conversation before the council comes back with the work session later in the fall and to look at both the opportunities and the challenges and decide how we want to move forward. Welcome and thank you for coming.

Wheeler: Three minutes name for the record.

Larry Cross: Good morning mayor wheeler and commissioner Eudaly and Fritz and commissioner Fish. I am Larry cross, and I'm a member of the Portland commission on disability for two years. I believe in the importance of the Portland commission on disability, the city bureaus, the city council, and their organizations and the people of Portland. I want to succinctly describe from my point of view three areas, the commission of the commission's importance and influence. First the city council and the city bureaus. I am a member of pcod abe committee that's the accessibility in a built environment. Each month

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at least one bureau comes and visits us for our advice. Last week, two staff members from the city bureau of transportation sought our advice relating to scooters and public roadways. In the past and the future pcod has and will provide input to bureaus related to improving the building codes, advancing the concept of accessibility as a component of affordable housing, encouraging the implementation of ideas relating to visibility and universal design and the new housing project and hopefully engaging with prosper Portland who seeks “collaborating with partners for an equitable city” unquote. Second working with other organizations now and in the future to improve life for everybody in Portland. Last December the Portland art museum reached out to the commission for advice on how to improve the museum's physical accessibility and to expand programs that increase ease of use for people with a wide range of disabilities. Pcod members, pcod's involvement also includes commission members currently and in the future assisting the museum on the design of the rothco pavilion. I personally believe the commission should be involved with the problem of the homelessness considered by many people to be Portland's biggest challenge. The homeless, houseless population is too often overlooked in terms of the disability. The 2017 Multnomah county point and time count noticed a 72% of homeless, houseless people had disabling conditions. Third the Portland commission on disability continues to emphasize inclusion as a guiding principle and this is from John Donne, 2:16:24. “No man is an island entire of itself, every man is a piece of the continent, a part of the main” and that remains true today, and I will modify John Donne to 2011. No one, no individual is an island entire himself. Every person is a piece of a community and as a personal goal of mine, as a member of the Portland commission on disability and as a private citizen I seek to continue to help create a Portland that increases inclusion for everyone. Thank you.

Fish: Mayor can I say Larry is a model member of pcod talking about a strategic planning process and voicing some concerns that he had about current issues in our community, and it's that direct access with city commissioners that helps us to make better policy, so we really appreciate it.

Cross: Thank you.

Wheeler: Anybody that comes here and quotes John Donne is good with me.

Cross: No person, you know everybody not no man.

Wheeler: That's right. It's good seeing you. Thanks for being here. Good morning.

Philip J Wolf [through interpreter]: Can we hear the interpreter? Hello my name is Philip J. Wolf. It's really nice to be able to speak in my native language of ASL. Hello Mayor Wheeler and hello city council members. Commissioners. Good morning. I've been a commissioner with pcod, I am on my fourth term for a number of years, and the reason that I am involved with Portland commission on disability is because as I lived in Portland I have noticed a lot of issues relating to accessibility especially when it comes to providing accommodations according to ADA law, and I am sure all of you are familiar with the struggles in the city of Portland with compliance with the ADA. I have a vision of ADA compliance meaning not just providing enough accommodation, which is what we've been doing so far is meeting the legal requirements, but we all know that that's not enough. We need to be providing a vast amount of accommodations to meet everyone's needs, and unfortunately, from my experience, providing ADA awareness and trying to teach and train other bureaus and other city employees, I've been informed, sometimes five minutes before a meeting that there is no accommodation or no interpreter and that breaks my opportunity to train and teach and be involved. I have a lot of experience where I have showed up to various events that will not have a point of contact for accommodations. I, myself, have to make a number of calls or visit these places to find someone and even some city officials have had events that I have struggled to find who is going to be providing accommodations for me. Oftentimes not providing an interpreter for me and

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that's information that I don't have access to and if one of us from the deaf community don't have access we all don't have access. I know that commissioner Fish made a public statement during his campaign that he would not go to any public forums if it not accessible but I saw you show up to a number of them inaccessible to me, so there is ways that I have seen this manifest in the city and I wanted to provide maybe two options for solutions, and I have actually talked with mayor wheeler, specifically, and I want to make sure that you are hearing this. Talking about the money because I do recognize that accommodations are often not provided because of budgeting issues. If we took 1% of the budget from each of the bureau, almost like a tax, the money collected would be able to provide accommodations for one year of sign language interpreters at those events and I think that that would lessen the strain on a lot of these bureaus and smaller organizations that are not able to provide the accommodations. I know that oehr and the city council are sort of a parent and a child relationship. We have that connection and relation and I believe a parent has an obligation to support their children, so I believe that you all as our parents should be involved with pcod and oehr directly and in person to guide us and give input on how to develop and be here so that we can all continue to serve the community and really hear each other and gain a rapport as we develop these policies for the community. So just to sort of wrap up I am continued in my commitment to improve the access and the involvement of the deaf community here in Portland and especially here just in city hall and city council, I have been here a number of times where I've have seen exposure to different cultures through dance and music, and Asian and African and native cultures. I love all of the different performances and events that I've seen here the exposure and diversity is beautiful. I would love one day to expose Portland to the deaf community in the same way. We have amazing painters and performers, designers and musicians who are a part of the deaf community and I just want to offer myself as the resource to make that happen. The Portland commission on disability is proud to be involved, and I am proud to be involved with all of this work. So thank you very much for your time today. If there is any more questions for me please feel free to let me know. You know I am always here and I always try to make myself available for all of you to provide the resources I have at the benefit of all of us. Thank you.

Mary Logalbo: Good morning. I am Mary Logalbo, thank you very much for allowing testimony on this report. I am here representing the west Multnomah soil and water conservation district that Koffi mentioned earlier. Our district is a public service district and its dedicated to the conserving of resources, specifically soil and water, for people, wildlife, and the environment as such our work benefits the city of Portland's overall health and its viability. Our work is conducted in very close partnership with the residents, and with a lot of the different bureaus that you all are working with. Our board of directors, which is elected, as well as associate directors that are volunteer have declared the strength and vibrancy of our district rests on the principles of diversity, equity and inclusion, without this commitment the district will be unable to succeed in its mission in adopting the racial equity statement, sorry, I am emotional just thinking about it. The board affirmed that gaining the perspective of many will increase the overall strength, and that by working pro actively and deliberately to be equitable and inclusive the district will be more successful in our work. We never would have gotten here without it the office of equity and human rights. Without it specifically the work of Koffi and Judith. They met with us, they tailored a very impactful training. The equity 101 training was what you just heard about was rooted in the history of our city, which is hard to take. Many folks that were unclear on why we were doing the equity work were no longer unclear. We had one board member who was one of the ones that was a little unclear about why we were doing equity work literally say oh, I get it, in the middle of the training. We had another board member talk about how transformative it was. For me that was the case and it empowered me to want to move forward regardless of

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how long the road ahead would be. One thing koffi spoke over and over again was about was about performance. Now that we declared there work we want to walk hand in hand with the office of equity and human rights and the city of Portland and all the bureaus we worked closely with to continue this work. We ask -- we commend you for your vision in creating the office and we ask you to continue to support and allow for the license for this important training to be allowed to -- outside partners as well as internal bureaus. Thank you again for this vision and we look forward to continuing this hard work.

Wheeler: We have one other individual.

Moore-Love: One more. Come on up.

Wheeler: Welcome.

Richard Hernandez: Hello Mr. Mayor, my name is Richard Hernandez and I would like to -- I would like to address, you know, as you all know there has been a visual going on of a people, you know, that want you to sign, you know, continue the contract with like ice and for me, you know, it's a matter of, of judgment and morality of what we are doing to the immigrants, you know, that are being, you know, locked up in cages. People find, you know, I am, you know, white, and I have the advantage, and overall people don't get you know, of course they cross the border illegal, illegally but one scenario that they don't understand, you know, these people that are being -- these immigrants are being contained -- detained at the detention facility, it boils down because they are not white. If there were white people like all these people around, people would be outraged, but we laugh and think okay, there are illegal immigrants, and we are, we are going to have them locked up, lock them up in cages. And I want you to stop harassing the you know, the people holding the vigil until you come and have a meeting, you know, with people, to make this a sanctuary city, and even though I have a place to live, you know, I come and I come down and spend a lot of my time with the people doing the vigil because I share the goals and the beliefs with what they are campaigning. I do not like the way the Portland police bureau is using them, you know, targeting them as a homeless camp. Let them have their encampment until you are willing to have -- to have this conversation, you know, with what they want, Mr. Mayor. Thank you.

Wheeler: Thank you Richard and I appreciate your testimony, and just so you know, it's something of a fragmented movement but I had a chance to meet with the folks who were protesting outside of the city hall yesterday and I think that there was confusion. Number one the city of Portland does not have a contract with ice. So there are people wondering why have we not canceled our contract with ice there is no such contract to be clear. Number two, there was confusion as to my role and the city's role with regard to ice. Ice is a federal agency. We do not control ice here and I think every member of this council has spoken up on the issue of ice and immigration. I most certainly have, but we do not control that agency. As federal agency, and as such, that is controlled by the administration in congress, commissioner Fritz, that concludes our public testimony. Commissioner Fish?

Fish: I want to give one piece of feedback on something cause we have hear I think eloquent Testimony today about the need to make our democracy more accessible and what we learned in the last election cycle either because of campaign websites that did not translate the material into multiple languages or because of sponsoring organizations for various campaigns, for various events that did not provide fully accessible proceedings for people either -- that had a disability, however broadly you want to define disability. We have leverage now to address that and I hope to work with commissioner Fritz to create code language under the open and accessible campaign funding system that requires candidates that receive money to take a pledge that they will run accessible campaigns, that they will not participate in events that are not fully accessible, and I think it's to that

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leverage that we can really make meaningful change in making sure that everyone is heard at election time.

Wheeler: I will entertain a motion.

Fish: So moved.

Fritz: Eudaly.

Wheeler: We have a motion from commissioner Fish, a second from commissioner Eudaly. Karla please call the roll.

Eudaly: Well I don't believe she is in the room but she's the first voice that we heard on the video. I want to wish Sharon Gary smith a happy birthday were she celebrated her 70th birthday on Monday. She is a true force for justice in our city and an inspiration to many of us in this room. Larry mentioned pcods work with rothco pavilion, I met with the director of the museum and he shared with me that those conversations are actually ongoing, and because pcods involvement, the museum is taking -- the museum is using the universal design approach to the whole remodel which is incredibly exciting, and it may be the first major arts institution to do so. Thank you for the thumbs up from Phillip. It struck me when jeff Selby was explaining the rationale for centering racial inequity, even though there is other inequities in our city certainly, that centering racial and equity is another form of universal design because when you are addressing and serving the needs of the extremes, the middle takes care of itself and that's true whether you are designing the entrance to the museum or a program designed to eliminate or decrease the inequities. So thank you for that, Jeff. Mr. Wolfe, it was beautiful to hear you speak in your native language and I am disheartened to hear you receive the message that we don't have the resources to provide accommodations if city program services and activities. No one should ever hear that message from the city of course we can't control what goes on across the whole community. We can certainly help to educate the community. I would love if we could provide resources, but I can't put us on the line for that right here and now, but looking at our website there is a request and an accommodation or contact a ada coordinator page that requires individuals to contact ada coordinators in numerous different offices, and I see that, in and of itself is not very accessible so I want to put it out there that I think that we need to do a much better job on making that request process as simple as possible and accessible as possible. Finally I just want to thank commissioner Fritz and former mayor Sam Adams and everyone who was so vital in establishing this office as still one of the newbys of city council, I guess that will be the case until January. It was really helpful for me to get all that background and I feel like through the process of participating in the video and the presentation I have a better understanding of the office. So thank you Koffi and Jeff and Nicolle and everyone in the room. I of course, vote aye.

Fritz: Thank you commissioner Eudaly, and I know from both your comments on the video and just now and what each of my colleagues say, people have wondered does the council care about the equity? Is this just a buzz word that we talk about without it any meaning at all or any heart and mind commitment. It's clear that there is a lot of commitment on this city council and so thank you mayor wheeler for the opportunity to again work directly with the bureau and with all of the bureaus and with you on this. I think what has been absent for the past five plus years is a commissioner with the capacity to be able to be the voice to the community and to the city about the office of equity and human rights. I supported mayor hales and wheeler in their desire to have the office of equity and human rights in their portfolios to emphasize its importance. Mayors get called in multiple different directions, which is an understatement of the year, right mayor wheeler? And I am finding that there is a lot of fewer public events in the water bureau than there was in the parks bureau.

Fish: Hopefully it will stay that way, its my wish for you.

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Fritz: I remember your pump station opening commissioner Fish, kind one of the highlights of your – of what one gets to do as the water commissioner because it's a lot of just very hard work on engineering things that not many people want to know the nitty gritty details about. People in Portland care about equity, and they care about racial equity and disability equity and many other forms of discrimination and inequity and as commissioner Eudaly just explained by focusing on the most severe we intend to do better on everything, so thank you interim director Koffi Dessou. You were part of the office of human relations under mayor potter, founding member of the office of equity, now doing a magnificent job as interim director and I appreciate your guidance and for the 11 staff in the office of equity. Let's emphasize 11 people did all this work you just heard about and it's been growing over time. I can't remember how we started with five, something like that? So we do -- I look forward to collaborating with you and to figuring out what are the next steps because this work has started, it has momentum, its going to need more resources in order to get the right direction forward. Thank you jeff Selby for your amazing creativity and for telling the story when elected officials can't, and if anybody wants to share the video, it is up on the office of equity and human rights' website, theirs is one of the outstanding websites on the city's portfolio. Thank you Andrea Valderrama on the mayors policy team, and Clair Adamsick and Tim Crail on my staff, and the city's equity managers. Colleagues I will be asking for your permission to meet with your equity manager staff and bring them together on a regular basis. That's something that hasn't happened as much as I think that it should and it needs both the staff in the office and experts in the bureau to dig deeply into the issues that are faced in the water bureau are different from the ones in the parks bureau and so we need the subject matter experts, and I can't finish this -- actually, I am close to finishing, but I am getting close. I wanted to tell the council that we're going to be coming shortly, with the administrative rules and standard operating procedures for accommodations. Heard with commissioner Fish and eudaly's interests in that, I think we all are committed we need to make it happen and a directive to make it happen, and that's what we are bringing forward. We also need more staffing for the Portland commission on disability. So I will be having some conversations with the commission. We had a consultant doing an analysis of what the commission needs to move forward, what the staff needs to move forward, and we have experts in the office who again cannot serve the entire bureau, or the city never mind the community with just three staff. So we need that. There will be a request coming to council for that. The power point showed that we made some progress in hiring people of color. It showed that we have not made very much progress at all in having people of color in the highest positions, including the director positions and those earning over \$100,000. We need to look at retention and promotion and how is the city handling that. It was a glaring absence of information on the dollars, the where does the money go? The city spends billions of taxpayer dollars every year. Who is getting those contracts? Have we made any progress in that? And I will be working with the budget office and procurement services and others to have more of that information because unless we are tracking how we're doing, we don't know whether What we are doing is working or not. We have the service reports from the east Portland action plan on what bureaus are doing in their particular area. We don't have that for the rest of the city. So equity is a word that maybe people don't necessarily understand. It's about jobs, services, and contracts. Those are the measurables by which we can see are we becoming a more equitable community and so those are things that we will be tracking. I'm again thrilled to be working with the community, the staff and my colleagues on the council. Aye.

Fish: I'll be very brief. I want to thank koffi and Jeff for outstanding presentation. I don't remember the last time we had a video and a power point, but they were both superb and the commentary you offered with both were I think very helpful. I'm really pleased

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commissioner Fritz addressed this issue about the office of equity leadership transitioning from the third floor to the second floor because there is this conventional wisdom that if a bureau or an assignment is placed on the third floor it is by definition elevated somehow in profile. I have been on this -- I have had the honor of being on this body for ten years. I have learned that often it's the marriage of someone of a colleague's passion and assignment that ensures the work gets the priority and attention. I'm pleased that commissioner Fritz will be leading the office of equity and human relations and I'm also pleased that the mayor made that assignment because I think it shows a confidence in the mayor's office that they could make an assignment on the second floor without in any way diminishing the significance of the issue, I think that's very important. Today we're accepting a report. I enthusiastically accept it. Thank you for your good work. Aye.

Wheeler: Well, first of all I just want to second what everybody said about the assignment of commissioner Fritz as the commissioner charge of the bureau of equity. In my mind there is no other choice. It was the right choice. She has approached this issue with tremendous passion, with tremendous experience. She was there at the creation of this office and it's true what she said about mayors getting pulled in different directions, whether it's housing issues, whether it's homeless issues, whether it's policing issues, whether it's infrastructure issues, whether it's economic prosperity issues, whether it's equity issues, whether it's development issues, there are always issues that are front and center. My honest concern was this I know that this council prioritizes equity but I didn't want it to be the second or the third or the fifth thing in line when I got in to work every day. I wanted it to be the first thing in line because it's critically important to the future of this community as my colleagues have just laid out. Commissioner Fritz and I had a number of conversations, and I was convinced that this is her priority and that she is passionate about it and that she has lots of good ideas about how to strengthen this bureau both in terms of its inward facing functions and the opportunities community-wide. So my feelings have only been validated today by the comments of commissioner Fritz and my colleagues. Koffi, you have outdone yourself. Stepping in as an interim bureau director is very, very challenging and particularly for a bureau that is in the process of strengthening its vision and identifying its goals and making sure it has the staffing and resources that it needs. I'm very proud of the work you have done. You have served us all extremely well, so thank you for that. Some great comments were made today during the testimony. Philip had raised the question about the cost of accommodations and I have been very clear, I don't think it's an add-on. I view it as a mandate, as a requirement of doing business that we provide accommodations. It's also the law and so I object when bureau directors say, well, we'll do it but you need to give us more money first in order for it to happen. No that's not the way it works. Prioritize it. That's my directive. So I'll look forward to working with commissioner Fritz and Eudaly and Fish as they figure out what sort of policies they want to implement, but I want to be really clear about where I am on that subject of accommodations. Good suggestion to make sure that every flyer or if we have something on the web and it's a city function let's not make people fish around to figure out who to call for accommodations. I don't go to the city website all that often nor should I expect other people to do that. Let's make it easy and that's a no-brainer, low-hanging fruit, easy solution. Thank you for that. I want to thank Andrea Valderrama in my office. I would be negligent if I didn't. Thanks to everyone here today, thanks, commissioner Fritz, for your grand leadership. I vote aye. Report is accepted, thank you everyone. Let's catch up a little bit, lets read items 982 and 983 together, please.

Item 982.

Item 983.

Wheeler: That was a mouthful, Karla. I have reviewed the record of last week's hearing colleagues. There's two items, 982 and 983. We'll take votes on these items separately.

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Fish: Mayor?

Wheeler: Commissioner Fish.

Fish: Just had a question. Is anyone here from the park view Christian retirement community? Okay, we had a full house last week. This is a formality, we're adopting findings. I just wanted to find out if we had any of our friends from the community.

Wheeler: I move to adopt, with regard to 982, I move to adopt the hearing officer's recommendation. Is there a second.

Fish: Second.

Wheeler: We have a motion from the mayor and second from commissioner Fritz. Karla please call the roll. I'm sorry that's commissioner Fish. Please call the roll.

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

Wheeler: Aye. Recommendation is adopted with regard to 983 I move to amend the comprehensive plan map and zoning map and approve the conditional use master plan and adjustment for park view Christian retirement community. Is there a second?

Fritz: Second.

Wheeler: We have a motion from the mayor, a second from commissioner Fritz. Karla please call the roll.

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

Wheeler: Aye. The motion carries. Thank you very much and item number 986 is next, please.

Item 986.

Wheeler: Commissioner Eudaly.

Eudaly: Thank you, mayor. Well, I'm thrilled to see this item come before council today and I would like to take a second to remind us of the path that led us here. In march of 2017 council passed the welcoming inclusive sanctuary city resolution to reaffirm the city's commitment to protecting and supporting our immigrant and refugee communities. In the fall of 2017, with the mayor's blessing, the office of community and civic life, then oni, took the lead on convening a task force that was authorized to provide council with concrete recommendations for actions we could take. This task force convened in January and by march 2018 made four recommendations to council. They prioritized the creation of a legal defense fund as the most urgent request that would bring relief to the most vulnerable immigrants in our community. Luckily our community partners were already working on a proposal for universal representation that would meet this need. I invited the equity corps of Oregon to a council work session so we could better understand and discuss the proposal. My office submitted a budget request for \$500,000 which was approved by council and has since been matched by the county. Today's action will release these funds to catholic charities, which is the fiscal sponsor of this initiative. I'll say more about the outstanding needs after our invited speakers have the chance to provide their testimony. I'm hoping they are here. For now I want to express my gratitude to community members for their advocacy in organizing and to my colleagues for continued and active support. We have eight invited speakers. I would like to invite the following to the table. Roberto Gutierrez. Its always easier to say when I'm not up here, Leland Baxter-Neal, Sorry Roberto is from causa, Leland Baxter-Neal from aclu, John Herrera, catholic charities and Chanpone Sinlapasai, from American immigrant lawyers association. You are here. Welcome please state your name for the record and it's all yours.

Roberto Guiterrez: Mayor wheeler, city council members, for the record my name is Roberto Gutierrez, policy director for causa. Universal representation is designed to ensure just and fair legal representation by providing effective representation for our Oregonian immigrant populations. Nearly a year ago a group of stakeholders convened together to design our equity model. So, basically I want to extend thanks to those folks here today. This effort would not necessarily have happened if soar, ics, catholic charities,

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mpd, irco, Latino network and the innovation law lab did not come together to craft this proposal. I especially want to recognize the commissioner Eudaly's sanctuary task force because those members who participated in that work group through a series of months helped educate and bring this recommendation forward and they were instrumental in this process. Special thanks goes to Steven Manning from Innovation Law Lab, Leland Baxter-Neal to my right, and Juliette Stump, professor at Lewis and Clark law school, Teresa Smith, Lindsay Johannsen, two students at Lewis and Clark law school for researching, designing and crafting this equity course model. Special thanks to Elena Jacob, she is one of the conveners Oregon ready for guiding and shepherding this through with me for the last 10 months and lastly I would be remiss if I did not thank commissioner Eudaly for her commitment and leadership on universal representation. We thank you. Mayor Wheeler, I'm not sure where commissioner Fish went, but commissioner Fritz, this city investment is unprecedented. It will reach so many Oregonians, it will be felt through a variety of individuals and families across the city here. I want to note that Portland led the way with this funding. They were the first jurisdiction in Oregon to support universal representation so I commend that effort here today and we hope moving forward you will support our broader statewide advocacy because it's a conversation we hope to pursue in 2019. So thank you.

Wheeler: Thank you.

Leland Baxter-Neal: Good morning, Mr. Mayor, commissioners. My name is Leland Baxter-Neal, I am the immigrant rights attorney for the ACLU of Oregon. Last time I appeared I was working with metropolitan public defenders office but have switched. Thank you for taking the time to consider the equity core proposal and for your decision to fund the universal representation project. It's a very impressive investment and shows a lot of leadership. It's a fundamental tenet of our democracy that every person regardless of immigration status has constitutional rights, but those rights mean nothing if individuals cannot meaningfully assert them and if they are not protected in our courts. We are living in an unprecedented time. The federal government is actively trying to keep immigrants from asserting their rights in court and we saw that in Oregon when on May 31st the Trump administration locked 123 asylum seekers in a federal prison in Sheridan and barred immigration attorneys from entering. In response the ACLU of Oregon and Innovation Law Lab brought a federal lawsuit demanding that the men in Sheridan be allowed access to attorneys. The day before we were in court in that case, President Trump tweeted the following "we cannot allow all of these people to invade our country when somebody comes in we must immediately with no judges or court cases bring them back from where they came". Our system is a mockery to good immigration policy and law and order. The judge in the Sheridan case, however, rightfully recognized immigrants have a constitutional right to counsel and ordered the government to allow the immigrants in Sheridan to have access to attorneys. Since then every detainee who is interviewed was found to have a credible fear of harm in his home country and has been cleared to bring his asylum case before an immigration judge. Nearly all have now been released from Sheridan in accordance about the law and thanks to their ability to access counsel. The Sheridan example highlights the need for universal representation and equity corps in two ways. First the Trump administration's project of mass detention and deportation of immigrants of color is premised not on the rule of law, but on absence of law. True rule of law necessarily guarantees individual rights, an inconvenience for the Trump administration and one guaranteed with the presence of counsel. Second, the example at Sheridan raises a critical question of what happens next for those for those men who have been and will be released from Sheridan. What I can tell you is that they now join more than half a million immigrants across the country facing deportation proceedings in which the government is always represented by an attorney and which the immigrant is not necessarily and where

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immigrants were not represented by counsel face dismal odds of successfully asserting their rights and remaining in communities they have built and with families this they are part of, but today with this vote you say, we say, not in Portland. Thank you.

Wheeler: Thank you. Good morning.

John Herrera: Good morning, Mr. Mayor, commissioners, my name is John Herrera, I'm the director of immigration legal services program at Catholic Charities. It's an honor and pleasure to be here today just doing testimony and more than testimony just words of thank you for all of you and all my colleagues and people who already mentioned that are part of this important project to defend immigrants in Oregon and we started here at home in Portland. This is the first step that the government started to do more than words and resolutions but a concrete step to keep families together, to prevent our immigrant and refugee community to torn apart. Together with the private attorneys, nonprofits, legal service providers and now the government, united to prevent the separation of families. Aiming to preserve the rule of law and also due process that this actual administration wants to ignore. We are united together to keep our families in Oregon safe of separation. This is just not only a matter of keeping immigrants here because we are seeking protection from the government, but this is a human being issue. We are separating families and that's not allowed according to the founders of this wonderful country. We came here seeking refuge and that's what the city of Portland is doing now with this amazing resolution, in keeping the first step to keep our families together. I really thank you and appreciate your effort and encourage you to continue this effort for the next year and keeps on the budget. Thank you so much.

Wheeler: Thank you.

Chanpone Sinlapassi Okamora: Thank you, mayor, commissioners. My name is Chanpone Sinlapassai Okamora, I'm here in capacity as immigrant advocate and immigration attorney but also representing IRCO's advisory board. I want to share with you a little bit about why this is great first step but why it needs to continue. First and foremost our history, our immigration history is riddled by immigrants and refugees from all over the world. We first started in 1607 through 1700 with first European immigrants coming to the United States. From 1619 to 1819, 645 million enslaved Africans were brought by force into the United States. From 1820 to 1870, 7 million immigrants predominantly from Ireland and Germany were brought to the U.S. In addition from 1880 to 1920, 24 million immigrants from Eastern Europe, Russian Jews and Catholics because of religious persecution was forced to relocate into the United States. The reason why these numbers are important and why numbers continue to be important because of diversity, equity and inclusion. Those concepts are embedded and those concepts are important and when we look at policy and are fighting for our immigrants and Oregonians. Oregon alone makes up 10% of immigrant families. 10% of our community are mixed race families. This is critical when we look at the impact on who can be deported. As this administration, this policy looks at denaturalizing 1800 specifically Burmese refugees are being evaluated for deportation this is critical. This has to be considered when we look at policy, legislation and how we care for one another as family and community. I thank you for your time and am humble to be part of this task force. Please vote yes. Thank you.

Eudaly: Thank you, everybody. Next I would like to invite the following individuals. Jenny Hernandez from Metropolitan Public Defender. Lisa Le Sage from Immigration Counseling Services. Jordan Cummings from Innovation Law Lab and Kat Kelly from Catholic Charities.

Wheeler: Good morning.

Eudaly: Please state your name for the record and take it away.

Lisa Le Sage: Good morning Mr. Mayor, commissioners, my name is Lisa Le Sage, I'm the executive director of Immigration Counseling Service. ICS which is Oregon's oldest and only independent nonprofit law firm serving immigrants since 1978 with offices in Hood River and

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Portland. We also have the only unaccompanied minors program in Oregon and the only full-time anti-trafficking program. As someone who has done civil rights and immigration legal work for over 30 years both here and abroad and in the middle east I can personally attest to the overwhelming needs and crisis that we have on our hands now and your vision for this funding goes beyond our immigrant community and is important for our entire Portland community. We currently have a huge number of families who are experiencing food and housing insecurity because the bread winners have been taken from their home. We have people who are afraid to access medical care, children whose educations are being interrupted, parents who are afraid to go to schools to be involved in their children's education, and people who are afraid to venture out and to participate in community life. The fear and the trauma have severe and long-lasting effects. Our advocates on the front lines and their successes are proof that access to legal services provides families and our entire community with stability. Thank you very much for this initiative.

Wheeler: Thank you.

Jenny Hernandez: Good morning, mayor, commissioners, my name is Jenny Hernandez. I come as an attorney metropolitan public defender with a new project that has been there a little over a year to address this issue, people in deportation. I have been doing this project for a little over a year literally consulting and representing cases that I could in my limited capacity for people that are in deportation and I have seen and I have met them and I've seen everyone coming from the community to see to I have seen people talk about this great need. I'm here to say thank you so much for everyone that I met this past year. I also have worked in the federal government and have worked in immigration courts and I have seen what it is to have to go to court every day and see hundreds of people come through without a lawyer not and not understanding their rights. I have seen children go to court being ordered removed because they didn't understand that they needed a lawyer. I have seen a child ordered removed because she didn't know she had a court date. I have seen people who are affected by their histories and their trauma not able to articulate their claims clearly because they don't have a lawyer to articulate their claims where they do have a right to stay in this country. It's a constant that is under this new registration that has been happening and it's a growing, growing amount of people getting ordered removed because there's pressure to rush these cases, there's pressure for ICE to prosecute every case which was not the case before. ICE did not have to prosecute every case, but now they are being told they have to go after every case. It is really a system that is completely being ramped up right now, but already had incredible due process issues and complications and now under the Trump administration it's amplifying and figuring out every week and is possible to be able to deport as many people as possible. As someone who has met with so many people trying to figure out how to navigate the system and only being able to offer a limited service now under this initiative with universal representation I'm so excited to meet with people and tell them that there is going to be a publicly funded resource that the city and hopefully the state will be behind them to be there to make sure that they can offer -- that they will assert their rights and have a lawyer. I thank you very much for this initiative and all that you've done.

Wheeler: Thank you.

Kat Kelly: Hello. I'm Kat Kelly, I'm the director of strategic initiatives with Catholic Charities and I would echo my colleagues had said and the commissioners and the mayor for your support around this initiative. I just returned from the Texas border where I was working in family reunification with families who have been separated when they are coming in for asylum. Whenever I speak with someone here in Oregon about that one of the first things they ask is, this is so horrible I can't believe this happened and something I emphasize is this happens every day in Oregon too. These resources that you folks have provided will in

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many cases provide lifesaving services to folks so they can stay with their families, so they can stay safe here in Oregon and remain the integral part of our community that they are. We want council to know we're ready, we are ready to hit the ground, we have lawyers starting in October and we have a very robust community based organization, relationships that have been around for years. Who have worked with folks at risk of deportation for many, many years and we never had the resources to provide universal representation. We're ready and with those resources we will be able to effectively increase the services and support we provide to people exponentially. Thank you very much.

Wheeler: Thank you.

Jordan Cummings: Hi, so my name is Jordan Cummings, I'm the newly hired strategy attorney at the innovation law lab and I'm here thanks to your commitment to this work, so thank you from me personally. I'm thrilled to be here to provide a quick update on the work the city's commitment has already put in motion starting immediately. Tomorrow members of 16 diverse community organizations are gathering to discuss coordinated outreach plan to the community members in Portland who are at the greatest risk of imminent deportation. Immigration attorneys funded by the city will begin take removal cases as early as October. In the backdrop some of the sharpest legal minds in immigration law are drafting blueprints that will enable the equity corp to achieve success in every winnable case, our goal is to stop the deportation of every Portlander that we are to represent. Thanks to the city's investment the equity corps will defend everyone, stop unlawful deportations and keep immigrant families together. We want to thank the city for acknowledging the urgency of this need and funding it directly and we look forward to reporting back the impact that your commitment will have on our city, thank you.

Fritz: I have a question when we approved the funding the hope was other jurisdictions would start chipping in as well. Is that happening?

Kelly: Currently we're working with Multnomah county around that and causa is in the process of working a lot with partners around the state.

Fritz: I think we had a particular discussion about Beaverton and Hillsboro and some communities that depend on immigrant refugee labor for farming and agriculture.

Kelly: Roberto could probably answer that better than any of us here.

Fritz: That's okay as long as I know those discussions are happening at a state level.

Kelly: Yes, at a state level too.

Fritz: This is the most we could do from the city of Portland, but the need is so much greater than even this money's going to cover isn't it?

Kelly: Absolutely and the leadership provided by the city of Portland I think will definitely influence our communities in other places around the state. So thank you.

Le Sage: I can say I was in New York this spring and they recognized Portland as one of the leading cities in the country that's taking this up and the vera institute of justice may be able to provide some matching funding for the city's efforts. So, we're following up on that very closely and we'll let you know.

Fritz: Thank you.

Wheeler: Very good. Thank you. Karla, do we have public testimony on this item?

Moore-Love: We have three people left on the list.

Wheeler: Thank you, three minutes, name for the record.

Shedrick Wilkins: I'm Shedrick Wilkins and I want to say things about catholic charities. They have a four-story building across from Cleveland high school in southeast Portland. In July I went to a no on measure 105 rally. No means we do accept Oregon as a sanctuary state, so vote no if you want to keep immigrants coming here. That rally was across from the football field near Cleveland high school near catholic charities, it's a hot bed for political activities. I do think about health care to me I wear this button and it actually is a Kate brown button because I'll tell you why. Last year in 2017 the legislature

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passed a thing called cover all, which means all children in Oregon. This corrects healthy kids only covered resident children but last year all children were covered by health care. Well what happened here was in January knute Bueler and Julie Parrish a preliminary initiative 101, which would overturn the whole system, but 60% of Oregon voters voted for measure 101, which is an insurance tax or something like that for people on the Oregon health plan to solicit Medicaid. Now as it presently stands, all children are covered or have availability for health care regardless of being poor and I think that as very bad if we ask immigrant families to come here but we don't cover their children because if you're a resident you get covered and you're poor but not if you're an immigrant. Kate brown is a team player because she passed both, she passed a cover all and she supported measure 101. That also there was a rally at a union hall right behind catholic charities near Cleveland high school in which no less than senator Ron Wyden -- I got there late. I'm getting old. Full of people. Ron wyden, senator Jeff Merkley and lew Frederick's he supported president Obama's reelection, were there giving a speech. It was full of people and one reason I have not been to city hall is I hurt my foot. I like to observe things and my last statement about this button is Kate brown's an Oregon team player for health care, for immigrant rights, and I'm not too sure about knute bueler.

Lightning: Good morning. My name is lightning I represent lightning super creativity attack dog. One of the biggest concerns I have on the issue, of course i'll make it very clear I definitely recommend funding the group their money and in fact if I had the choice I would double your money at this time and make sure you get every penny because you earn everything you're doing at this time. One of my biggest concerns is that when we're talking common sense immigration reform and we're talking the position president trump is taking, one of the things I think president trump is miscalculating is that when you stated you would be the greatest jobs president, I believe that you will be created, but where you miscalculated on the immigration situation is that you have to reverse back now and understand that the people currently in the united states are needed to stay in the united states. They are needed to be provided a pathway to citizenship, and understand that we have more jobs than people currently to fill these jobs, so you have done everything you wanted to do per your campaign, but you have to rethink and reverse back and understand that if you want to be known as one of the greatest humanitarians such as what I think is Laurene Powell Jobs is, you need to listen close to her and understand reverse back and understand the people are needed in the united states at this time. Focus on that, keep them here, offer them a pathway to citizenship which the democrats don't seem to want to talk about the 11 million, they don't seem to want to talk about that. Citizenship and focus on the jobs you've created and the benefits to all the people right now. You have done what you need to do as far as on creating more jobs. Revert back a little bit, just a little bit, and then get these obstructionist no good for nothing democrats to step forward and begin to come forward with the common sense plan for immigration reform and quit playing games with 11 million people that the democrats don't want to do anything to provide a pathway to citizenship because they don't want to do it, they don't want you to succeed. Revert back a little bit, call them out, and then get them out of office for the games they are playing with all the immigrants in the united states. Thank you very much.

Wheeler: Thank you. Good morning.

Jeanie Chieng: Good morning, mayor, fellow commissioners. I'm a little embarrassed I was walking with john Herrera and I thought that was a sign-in sheet. Here I am. Happy to still speak to you all and express my thanks. I'm Jeanie Chieng, I'm the immigration attorney with irco, which is the immigrant and refugee community organization. I'm here also on behalf of irco to thank all of you for your investment to truly creating change from the ground up, also it's a very personal issue for me. I identify ethnically as Hmong, my parents are from Laos, I also see myself and identify as southeast Asian and this

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administration with their policies have impacted many folks in my southeast Asia community who are facing deportation orders who have been here for decades upon decades as lawful permanent residents. I'm thrilled to see this city really walk the walk and making investments into this community, a community that's also really been giving back to each other to support each other. That's all I want to say. My partner did a wonderful job. They are excellent. Thank you all.

Wheeler: Thanks for being here. We appreciate it. Anything else colleagues? Very good. Karla, please call the roll.

Eudaly: Well, thank you, everyone, who came to testify today. The welcoming inclusive sanctuary city task force was comprised of impacted community members, immigration rights activist, school district leaders, the county, local law enforcement, youth, trimet, council staff, the new Portlanders policy commission and several of our bureau partners including office of government relations, office of equity and human rights and the city attorney's office. What we heard loud and clear from this diverse group was the urgency of needing to protect our immigrant and refugee communities. Since then we have witnessed continued and increasingly aggressive attacks from the federal administration. Many of us were horrified by the family separation policies enacted this summer and had visceral reactions to the images and stories of children being torn from their families and abused in ice detention. It's important to remember immigrants entering the country now are not the federal administration's only target for this type of cruel family separation. This funding will allow our legal service providers to prevent separation that we don't hear or see about but is occurring in our communities none the less. We know that as of march 2018, there were 600 residents in east Portland alone with pending removal cases. We also know that the majority of individuals facing removal have meritorious cases but without legal representation the majority of them will be deported. Providing access to legal services is about protecting everyone's constitutional right to due process. This is one of the most fundamental components of our democracy and every American regardless of immigration status should be proud to defend this value. I have watched this trauma unfold in my own community and circle of friends. I know a woman who is an American citizen, married to a refugee from sierra Leone. They have a young daughter and he was deported earlier this year after fighting long and hard with very limited resources to stay in this country. Now his family is left crowdfunding in order to keep a roof over their head and continue with their struggle or their fight to bring him back to this country. They are also considering moving to sierra Leone, which is one of the poorest nations on the planet, and a country that's been pretty devastated by a long running civil war and I don't think that's a story that any of us wants to hear or should accept. So with that I would like to again thank all who testified today for your work to develop this concept and also for the important work you have been doing at airports and courtrooms and Sheridan around our city and around our state. I would also like to thank all involved in the task force with a special shout out to the new Portlanders policy commission and to winta yohannas, who steadfastly continues to leave her name off my list of thank yous but I have gotten really good at catching that and I'm adding her back in. She's on my policy team in my office, she was really instrumental in forming and shepherding this task force. Finally I want to acknowledge our grass roots community advocates and service providers who have been in this fight for immigration rights for a long time. I want to thank them for laying the groundwork for projects such as this and for their work to raise awareness while diligently defending our immigrant and refugee communities. I vote aye.

Fritz: Thank you, commissioner Eudaly, for your leadership on this project on behalf of the entire council. None of us needed our arms twisted in fact you had to fend us off in terms of the process you set in motion and letting the community have their say. I appreciate your work on this and your continued advocacy as the only immigrant on the council, this is

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especially meaningful to me. I still have people who write to me saying go back where you came from. I have been here since 1979. I'm a naturalized citizen, but I'm well aware that in the eyes of this administration it makes me a second class citizen and even citizens are at risk for deportation. I'm also aware this administration is cutting allocation from 90,000 legal immigrants to 30,000 legal immigrants per year. So when people say she that go through the legal process, good luck with that. That too is a very arduous and difficult thing to have happen. Mayor I can't help but notice there are no people who yell at you on a daily basis in the chamber right now and when the people.

Wheeler: Good.

Fritz: The people who yell at us and harass other citizens or community members coming into council by yelling about demolish ice, they are conspicuously absent here. So the council is putting its money where its mouth is and doing things to help immigrants and refugees. I wish people who like to yell at us would start knocking on doors and recognize there's election coming up in 50 days or so that significant ballot measures that will also affect immigrant and refugees and that there are things they can do. Why leave it to the five of us to do everything? We can't do everything. That what's going to go make a difference in our community and if we think it's bad now wait and see what would happen if some of those ballot measures pass. Thank you to goldann Salazar previously on my staff who's now teaching in Ecuador. She was a part of and supportive of this project and I acknowledge your work. Aye.

Fish: We're authorizing a grant agreement, really the hard work that occurred during the budget process and the prioritization, so to commissioner Eudaly and to mayor wheeler thank you for making this a council priority and mayor, thank you for funding it and I'm obviously pleased to support the grant agreement. Just a quick personal story, my two children ages 14 and 25 are bilingual and they are bilingual because their grandmother carmen Gomez, who immigrated here from Spain, was mostly a Spanish speaker. She learned a little bit of English and somehow managed to win all the scrabble tournaments at our house over the holidays, but she is the reason why my children have had this great gift of language and this weekend we're burying Carmen, she lived a long and fruitful life and I will be in New York burying her and celebrating her life. She came here with very English and with very few prospects other than an dream and she is the classic immigrant success story in our country and I would not be here today if it wasn't for Carmen because it was Carmen's daughter who took a job in Portland and stayed and announced that we're moving the family west. So, I honor carmen today as we make a stand to support immigrant rights in our community. Aye.

Wheeler: I want to start by thanking everybody who shared their stories today and everybody who testified and really gave a clear narrative to why these resources are so important in the community. Portland has prioritized these resources so that undocumented individuals in our community can receive the representation that they deserve. I want to be clear, I know it's not enough, I know it's not enough and we have some serious battles coming up on the ballot in November. That's been alluded to today and I don't want to understate that reality. So now is not the time to be silent, now is not the time to have our voices silenced on these important issues. Hate and racism are unacceptable here or anywhere else for that matter and I do not walk in the shoes of immigrants in this community. I don't and I cannot imagine the struggles that you're currently facing in this often hostile environment, but I want you to know this. Those of you in the immigrant community, I see you and I stand with you and the people of this city see you and they stand with you too. That's what this ordinance is all about. It's about making sure that people have access to their existing constitutional rights which are currently under attack and therefore there's a role for the rest of us in this community to play. I want to give credit where credit is due. This would not have happened without commissioner

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Eudaly. This is an idea that commissioner Eudaly brought to me some time ago, she said there's some people I want you to meet, there are some people I want you to talk with and there are some ideas that we want to pitch you and here we are now, what, almost a year, year and a half even, later. This process has led to something I think very positive, very productive and I think ultimately it will have very solid outcomes. I am always pleased to hear people testifying saying we'll bring back and share the outcomes of those stories and those successes with you, that just makes me all the happier. I know behind every great leader there's great staffing and Winta Yohannas I know that you played a critical role in this, so I want to acknowledge you as well. Good work, Portland. I vote aye. The ordinance is adopted.

Fish: Mayor.

Wheeler: Commissioner Fish.

Fish: This just a housekeeping matter, we have got -- I just did the math. We have about an hour and a half of items and we have been greatly exceeding the estimated times. Perhaps we could encourage folks coming before us in the next few items to be as brief as possible so we can get through this agenda by 12:30.

Wheeler: Well let's see what we can do. 987.

Item 987.

Wheeler: Colleagues last week in a joint work session with Multnomah county commissioners we had the opportunity here an exciting report by the corporation for supportive housing on our community plan to create 2,000 units of supportive housing over the next ten years. This of course is integral to our strategy around addressing chronic homelessness in the city of Portland. This report lays out an aggressive and achievable path forward including quantifying total cost of meeting that goal and assessment of available resources and next steps for implementation. This report responds to council's request from the October 2017 supportive housing resolution to produce an actionable plan for meeting this goal. Today I'm bringing this report before the council for its acceptance with my co-sponsors commissioners Eudaly and Fish. At this time I would like to turn it over to commissioners Eudaly and Fish if they have any opening comments. Commissioner Eudaly? Commissioner Fish.

Fish: I'm going to just have a closing comment when we accept the report.

Wheeler: Commissioner Eudaly.

Eudaly: Same.

Wheeler: Without further ado I would like to introduce is Heather starting out, Heather Lyons who's the director of the corporation for supportive housing Pacific Northwest and Hawaii office, I haven't gotten to spend any time there I'm happy to visit on your behalf and Shannon Callahan, the housing bureau director. They will provide basic comments and we have Marc Jolin as well from the joint office of homeless services. Good morning.

Jennifer Change, Portland Housing Bureau: Good morning and thank you so much for having us here, mayor and commissioners. I have had the great pleasure of working with the joint office on homeless services and the Portland housing bureau and all the conveners to develop this report on creating 2,000 units of supportive housing and I want to thank you all for giving us the opportunity to do this work. It's not often I thank people for giving us this work to do, but this is really quite a pleasure and it would not have happened without the resolution you passed last fall, so thank you so much. Very quickly at CSH, we believe that deeply affordable housing is the solution to homelessness and that supportive housing is a solution for a subset of people who need both housing and coordinated services to succeed. In housing the report has detailed information about the characteristics of people who need this housing as well as the types of services that people need to be able to be stable in their housing. There are quite a few potential funding options. We know the city and county alone cannot fund these 2,000 units that are

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the goal over the next ten years. The resources are including things like the health system, philanthropy, Medicaid and Medicare, there's often greater opportunities to do braided funding amongst jurisdictions as well as other entities that provide funding for services for housing. There are some statewide efforts and metro wide efforts that will support these 2,000 units as well. The key is to all of this is that there's a ton of interest in supportive housing now as a solution to systemic problems and so it provides a great deal of opportunity for engagement across all entities and I just think a notable example is health systems. They are really engaged, they see this as a solution to problems of their frequent user and I think they will remain engaged in these continued discussions not only around policy work but also about resources. So again I just want to thank you for your leadership and support in this effort and it was a true pleasure to work with both Marc and Shannon and other conveners at that group to produce this report for you. So thank you.

Shannon Callahan, Interim Director, Portland Housing Bureau: Mayor, commissioners, Shannon Callahan of the housing bureau. I will echo Heather's thanks for the work of the conveners group. We look forward to having this plan adopted today so that we can continue with the implementation of the plan that we have already been undertaking since last October. Just to remind you, we have already been able to achieve or have planned 517 units of new supportive housing including the West Wind apartment complex which we announced at our meeting last week in the spirit of brevity, I would like to turn it over to Marc Jolin for a few final comments about what's next.

Marc Jolin: Mayor, commissioners, my name is Marc Jolin I'm the director of the office of homeless services I too thank you for giving us this task because it's such critical work in our shared efforts to end homelessness. There is a robust section of this report that is about implementation. It's the next steps and without going through them understand that we do that as our responsibility now to move forward with those implementation steps including completing the regional planning work that is happening and continue to participate with the state in their planning work pulling together the two governing bodies that are anticipated there, the supportive housing funders collaborative that will be looking at resources, that will be needed to carry out the vision of this plan and then also then supportive housing implementation committee which will be, those of us who have been doing this work to date continuing our work together in a collaborative fashion. And we will be working to put together that clear road map about how we get from here to the full 2,000. I appreciate your support for this work and look forward to continuing to do it with you.

Wheeler: Any questions? Commissioner Fish

Fish: Mayor I move to accept the report.

Fritz: Second.

Wheeler: We have a motion from commissioner Fish, second from commissioner Fritz.

Lightning: Public communication ted.

Wheeler: It's a report. Please call the roll.

Lightning: No ted it's your discretion.

Wheeler: You're interrupting. Excuse me. [shouting] you're in violation of council rules. [shouting]

Lightning: I'm glad to leave, you're going to be voted out. You're a disgrace.

Wheeler: Very good, thank you, it's still a violation of council rules. We're still calling the roll.

Eudaly: Well, I want to first thank the joint office on homelessness, the Portland housing bureau and all of the resource and housing providers who contribute on a daily basis to housing and supporting some of our most vulnerable residents. I especially want to thank commissioner Fish for setting us on this path and for challenging us to be bold involving one of the most intractable crises our city experiences. I was impressed by the data

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presented and by the plan and I'm excited that in the first year we're already a quarter of the way to our ten-year goal and I hope that we will exceed our own expectations as quickly as possible because we know we need more. I do want to point out to the council and the public an area of need that was identified in this report but not discussed much and that is that the report clearly identifies a lack of tenant protections especially around screening criteria continues to be an obstacle for renters of all walks of life. The private housing market is too often failing us by rejecting applicants for minor issues on their records. A lack of regulations has allowed private profit to become more important than the public good and the result is the housing crisis that we're in. This has direct disproportionate impacts on communities of color and other protected classes. If we intend to take seriously our commitment to equity and ending racial disparities in our city we must be brave enough to call it out for what it is and create tenant protections that further federal fair housing law and uplift the notion that housing is a human right. Thanks again for this report. I vote aye.

Fritz: Thank you for the work session. Thank you, heather, for your ongoing work on this and your leadership now nationally. Thanks, mayor Wheeler for being willing to share the responsibilities of the housing bureau and housing needs with former the commissioner Fish and commissioner eudaly's perspective and firm commitments also. Of course I have both I just haven't the expertise. What I can offer is the experience in the supportive part of it in terms of mental health care and as was discussed at the work session last week one of the challenges is not only housing it's providing the professionals who provide the services. So I will be proposing for the city's legislative agenda that we advocate for the legislature to improve conditions for the providers and that won't actually necessarily mean more providers, it will mean that the providers stay and don't do other things unrelated to the masters preparation that they may have because of appallingly poverty wages and being expected to work for the love of it, which doesn't pay the bills and doesn't keep people in jobs. So, that's the piece we need to work hard on. Also it is concerning that we're not on track to get to the goal in the ten years at this point. We're very close to it but the first units perhaps being the easiest to do, it is going to be harder and I'm saying that not as something derogatory but as a recognition to all of us that this may get easier as we go along when we get to know more about to do what we're doing and just keep replicating it may be more challenging after we put just the buildings that are available and we have used all the resources of personnel that are available, then what. It's going to take a lot of work over the next seven years to reach the goal that commissioner Fish set for us and I am committed to helping get there. Aye.

Fish: Well, colleagues, this is a proud and historic day and I want to thank marc and heather and Shannon for their leadership. I thought last week's work session was superb and the road map you gave us incredibly thoughtful and comprehensive. One data point really jumped out at me. You're asking us, we're challenging ourselves to make a bold commitment to invest in success but consider the alternative. It costs about \$500 a day to put someone in an emergency room bed. It costs about \$200 -- 210 a day to house someone in a city jail. A shelter bed, which is basically a dead end is \$60 and for about \$60 a day we can actually place someone in a deeply affordable home with the services they need to get their life back on track. I think the math speaks for itself. Last year we challenged ourselves and our partners to find a way to significantly increase supportive housing in our community because as we noted it's the only strategy that's proven to end chronic homelessness. We asked for a road map and today we're accepting your work product. I want to thank everyone who contributed along the way. Especially the joint office of homeless services and marc jolin and heather and the team at the corporation for supportive housing and our interim director and our friends at the Portland housing bureau for their extraordinary work. I want to highlight again something we heard last week, that

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this work didn't start then or today, it's already under way. We have made a substantial down payment. A lot of work lies ahead, big questions remain about how we fund this, but with this road map and with the collective will that we have demonstrated so far, I'm confident that we will get there. I'm proud of how far we have come and I'm excited to take the next step. Thank you. Aye.

Wheeler: Well, first of all I want to thank lightning I was getting nervous. It was almost noon and nobody yelled at me yet today so I feel balanced again. Second, I concur with my colleagues. I thought the report was exceptional. The work session was outstanding. It was both inspirational as well as frank. We all agree we have a lot of work to do, but I also just want to acknowledge the work that has been done by the joint office, by the housing bureau, Shannon, you mentioned that we actually now already have hundreds of these units in process so we're well on our way towards achieving at least the early benchmarks in this process and over the long term we will have our challenges but I'm confident that we can rise to the occasion. I vote aye. The report is accepted. Thank you for your good work. Next item, 988.

Item 988.

Wheeler: Here comes Larry. Our ratings are about to double.

Larry Pelatt, Procurement Services: Good morning I will do my best to be brief. I'm Larry Pelatt, procurement services. You have the report recommending contract award to j.w. Fowler company for the tagged outfall number 30 sewer rehab project in the amount of \$10,941,172. The engineer's estimate on the project was \$8 million and the bureau's confidence level was high. The project advertised through the city's electronic procurement system, bids were opened on July 31. Two were received. J.w. Fowler is lowest responsive and responsible bidder at \$10,941,172 which unfortunately is 27% over the engineer's estimate. Should be noted here that the city does very little of this type of very large sewer conduit work, pipe conduit area and some sections are at or near 100 years old so the capacity to effectively estimate the cost was hampered somewhat by their limited experience and somewhat by the very tight labor and materials market including potential trade war tariffs on the actual metal product. I'll also note that there was a protest concerning the award of this contract which was thoroughly and independently investigated by procurement services and resolved by the chief procurement officer. The bureau of environmental services along with procurement identified subcontractor equity program aspirational goal for disadvantage minority, women and emerging small business enterprises participation at 20%. James w. Fowler company acting as prime contractor identified the following areas as opportunities. Survey, flagging, tunnel cleaning, pest control, laser testing, fencing. There is unfortunately \$84,250, slightly less than 1% of dmwesb participation utilization identified toward the goal its dba at \$59,000. Wbe, \$15,250. Esb \$10,000. I would make two points at this point. A little bit out of typical report for me. One of the first point is one of the subcontractors for this project is a women owned business and is in the process of submitting their application to be state certified by the state of Oregon. The subcontract value for this is slightly over \$3.3 million and when they are approved and the actual dmwesb participation for this project could jump to as high as 35%. My second point regarding low participation rate for this project is that this particular vendor has an excellent record of participation demonstrates a true understanding and support for the city goals. The participation level for five of their last projects have been respectively 25.7%, 27.11%, 10.11%, 33.7% and 20.2% respectively for their projects. James w. Fowler is located in Dallas, Oregon, they are not a state certified dmwesb contractor. They do have a current city of Portland business tax registration number and are in compliance with all the city's contracting requirements. Bes has budgeted funds for the project if council has any questions relative to the procurement I can answer those. If

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they have technical questions we have Kurt Robinson from bes in chambers and we have John Fowler from j.w. Fowler company present if necessary. Questions?

Wheeler: You've answered all my questions earlier. Does anyone have further questions? I'll entertain a motion.

Fish: Move the report.

Eudaly: Second.

Wheeler: Motion from commissioner Fish, a second from Commissioner Eudaly, please call the roll.

Eudaly: Aye.

Fritz: Thank you for your work. Thank you for explaining without my having to ask about the low participation. John Fowler, thank you for being here and your company's commitment. I have been on council almost ten years and never heard a procurement officer defending a company the way we just heard and it's a good track record. I'm very grateful that this is now becoming the thing that we all care about and I'll be working with you on that ongoing. Thank you. Aye.

Fish: Aye.

Wheeler: Aye. The report is adopted. Thank you Larry. Next 989.

Item 989.

Wheeler: colleagues I'm excited to bring this unique opportunity to the council to promote equity and affordable homeownership opportunities for people in our community. The housing bureau is going to walk us through details of the revision and expansion of the homeownership financial assistance guidelines which will make this possible. Good morning, director Callahan.

Shannon Callahan, Interim Director, Portland Housing Bureau: Good morning mayor commissioners, Shannon Callahan. When the north and northeast neighborhood strategy oversight committee came to you this spring with their annual report, that report contained a recommendation that the housing bureau examine its down payment loan structure and particularly the requirement that the loans need to be repaid after 30 years. The loans are no interest no payment loans but as structured could have resulted or would result in a potential balloon payment to a family after 30 years of ownership. This is something that was very concerning to the oversight committee as one of our goals for homeownership is to create stable families that if they would like to retain, remain in their home or pass it generationally they are able to do that. So, after a extensive review of our loan portfolio, practice of other jurisdictions and the specific application of an equity lens we're recommending a modified structure to our down payment assistance loans with forgiveness beginning at year 15 and then complete forgiveness at year 30. With that I would like to introduce you to Ira and Leslie of the housing bureau who Ira has prepared this document and proposal before you. Ms. Goodlow is here to read a letter on behalf of the oversight committee chair who was unfortunately not able to attend. Are there specific questions you have before --

Fish: One question. I haven't looked at it closely but I believe we got a letter from Diane Lynne at proud ground. She raised a concern about the interplay between this proposal, which would in essence forgive the down payment loan, and their land trust model, which ensures intergenerational affordability. Have you been able to work out any concerns that she's raised?

Callahan: I did reach out to Diane this morning to check in on her letter and we have a meeting set up with Portland housing bureau coming up soon, but to be frank I'm a little perplexed by Diane's concerns for a few reasons. I'm happy to sit down and talk with her more directly.

Fish: Can you follow up with us on your feedback? Colleagues, there's a range of different programs that we fund. Some in order to ensure long term affordability like with proud

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ground and habitat for humanity limit the amount of equity someone can take forward. Others are more market based and therefore someone can build equity and intergenerational. She's raised the concern about interplay between this and the model at proud ground, which is a land trust model which the city has historically thought highly of. If we could just get feedback from you after you've had a chance to meet with her.

Callahan: Of course commissioner.

Fish: Thank you.

Wheeler: Any further questions? Is there any public testimony? I'm sorry, Leslie, I apologize. I thought that was the end of your presentation.

Leslie Goodlow: No. Good morning mayor and commissioner. I'm here, I staff the north northeast oversight committee and Dr. Holt was unable to be here this morning, so on behalf of the committee he has sent this letter. Mr. Mayor, city commissioners, I wish that I could be here personally to share my absolute and total support for the forgiveness of the down payment assistance loan. The north northeast housing strategies oversight committee has championed these efforts from the first mention of the concept, specifically Dr. Bethel raised the idea as a value that should be considered and we immediately fully supported it. The chance to support gentrified displaced and economically impacted families who have lost significant time and opportunity to build generational wealth is not only reasonable it's right. This is just the right thing to do by forgiving down payment assistance loans the city puts action behind its words. Each of us knows the significance of stable housing when the house is stable, children, families and communities all thrive. When the household is stable, neighborhoods are healthy, when the household is stable, economic opportunities expand. When the household is not stable, then the opposite is true. Children, families, communities and neighborhoods collapse and economic possibilities dissipate. To forgive the down payment assistance loan is to support individual, families and neighborhoods for the best possible scenarios now and in the future. It offers families the possibility of generational wealth and keeps them from the stress and duress of delayed and possibly unexpected economic burden. It's the right thing to do. I'm confident that each of you fully understand this moment and what this could create for our city. This is a decision for all of us. We each benefit from stable communities, healthy neighborhoods and thriving families. I know that you will do the right thing. Thanks for taking a moment to hear from someone who has committed their energy for the past three decades to serving the Portland community dedicated to excellence. Dr. Steven holt.

Wheeler: Thanks, Leslie.

Callahan: That concludes our presentation.

Wheeler: Thank you. All of you. Public testimony.

Moore-Love: No one else signed up.

Wheeler: Very good. In that case, then, this is a resolution. Call the roll.

Eudaly: Well, this is an issue that was raised by community members with me some time ago. I'm glad to see we're addressing it. Thank you to Shannon and Leslie and the housing bureau. I vote aye.

Fritz: This is a well crafted policy to make sure the homeowner gets the support they need and that city can be assured the homeowner is going to be there for 30 years and longer. Thank you. Aye.

Fish: Aye.

Wheeler: The action we take today will as you heard create homeownership opportunities for low income and minority homebuyers. By allowing people to access more the equity gained in their homes we provide greater opportunity for homeownership retention and wealth creation. This council has long been committed to promoting minority ownership and retention. This is one more way we can do that these have been recommend through

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community input and eliminate concern of significant financial burden on older or fixed income homeowners who would be responsible for paying back a large debt after 30 years. We are reducing the amount owed on the loan in 15 year -- excuse me, we're reducing the amount owed on the loan in year 15 incrementally per year. The property is owned until the loan balance is reduced and fully forgiven by year 30. I thank the north northeast housing strategies oversight committee, Portland housing bureau and cupid alexander in my office for putting this together. Thank you all. I vote aye. The resolution is adopted. Thanks for your hard work. Karla to make up time let's read 990, 991 and 992 together.

Item 990.

Item 991.

Item 992.

Wheeler: The three developments in front of us today create affordable housing through the multiple unit limited tax exemption or multe program. These developments join the other 36 private sector projects in the inclusionary housing permit approval pipeline make making a minimum of 319 units affordable in otherwise market rate developments. Here today to walk us through these developments is Portland housing bureau development incentives program manager dory van Bockel, and housing director Shannon Callahan is with us.

Dory Van Bockel, Portland Housing Bureau: Hello, thank you, mayor. Commissioners. As mentioned there are three projects in joining the pipeline for inclusionary housing. Of these two of them are using their reconfigure option in order to provide three bedroom units for the affordability. The third building is actually making all 30 units in the development affordable in order to benefit from the various incentives both through planning and zoning and the housing bureau with exemptions through taxes and system development charges, et cetera. In order to have those all affordable for 99 years. It's a total of altogether a great number of units that we'll see 123 total units and 33 of those being affordable for 99 years at 60% of area median income.

Wheeler: Nice.

Fish: Madame director I have three quick questions for you.

Shannon Callahan, Interim Director, Portland Housing Bureau: Sure commissioner.

Fish: Have we ever voted down a multiple unit limited tax exemption application?

Callahan: Not to my recollection. You have had some questions in past incarnations of the multe program.

Fish: But ever since we aligned the program with the inclusionary housing policy I don't recall us ever voting anyone down. I don't recall in fact in most of these hearings anyone testifying and so my question is in light of the mayor's desire to speed up the development pipeline, I ask this question innocently because I don't know the answer, is there any particular reason why these have to come to council?

Callahan: We have looked at this question as well based on the request of a development group. They do not necessarily have to come to council the code section could allow for the assigning authority by the director. However, the state statute requires us to have a public hearing and this council session are the best way for us to do that. Otherwise with our other public bodies that only meet once a month we doubt it would sped it up. The fact that you meet every week looks to be our best option for a public hearing cycle that's required under state statute to implement.

Fish: By my informal reckoning of taking a look at the underline documents I'm going to make the assumption that process that brings this to council for what is basically a pro forma approval process probably takes about three months, adds about three months between two and three months of additional time plus staff time. I'm not advocating that we change the current practice, but I'm framing this for the mayor to consider because now

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that the mayor has all the bureaus that relate to the development pipeline, the mayor and the fact that we have had outside groups say that this adds additional time to the development pipeline I think it's worth at least considering. I'm not specifically advocating it not come before us, but we have established rules around whether you're eligible for the multe program, we have established foregone revenue caps. These are the closest thing to a slam dunk that we have in our system and if we -- any part of the process that we can speed up I think we ought to be looking at but again I'm not advocating today that we take it off of the council agenda.

Callahan: Thank you, commissioner. Just to let you know its the same direction we have gotten from the mayor which is partially why I was able to answer with some specificity about public hearings because it is something that we're looking at seeing if there's a way we can speed it up.

Fritz: On the other hand we don't do a very good job of telling people what we do about affordable housing and I was about to interrupt and say well I already know what this is so just lets vote on it and then miss van Bockel gave us interesting information about the size of the units, the fact multiple different benefits were being combined and giving us 99-year affordability. I think that's important information both for the council, but particularly for the community to know. So as long as we know it's only five minutes, so certainly I'm open to some way of speeding it up.

Fish: Just to be clear I'm not concerned about the time. I'm not raising an issue about the time we spend on these. Of course commissioner Fritz this will be slathered over the front pages of four, five newspapers over the next three days that we have taken this action. I'm just concerned that it does add two to three months to the pipeline, and I'm not persuaded that we should dispense with a public hearing, but this is the least drama filled part of the work that you do because it's been cooked with the county and I want to make sure the mayor has a strong hand to speed up the development pipeline.

Eudaly: I have a couple question. These are three different properties. Are they three developers?

Van Bockel: Yes.

Eudaly: I would love to talk to them to learn how they made these deals pencil out since we have heard from developers for the last couple years that they can't make developments pencil out with our inclusionary housing policy as is. Just point out that it's exciting to see three i.z. projects in the pipeline because of what we saw with the changes on inclusionary zoning with the mad dash to get permits in before the deadline and then a real lag time before we saw applications coming in under i.z., so -- very exciting. I'm happy to hear about them but agree if we can decrease that time frame that would probably be preferable.

Wheeler: Very good. Does that complete your --

Callahan: That completes our presentation.

Wheeler: Very good, do we have any public testimony Karla?

Moore-Love: No one signed up on any of these.

Wheeler: On item 990, please call the roll.

Eudaly: Thank you and I vote aye.

Fritz: Great work. Aye.

Fish: Aye.

Wheeler: I enthusiastically vote aye. 991.

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

Wheeler: Aye. The ordinance is adopted. 992, please call the roll.

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

Wheeler: Aye. The ordinance is adopted. Next item, 993.

Item 993.

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Wheeler: Commissioner Eudaly.

Eudaly: Thank you, mayor. This is an exciting fix our streets project that I believe has full support from the property owners that it will impact and I would like to introduce dan laden to walk us through it. Or you're not dan.

Marty Maloney, Portland Bureau of Transportation: No. I'm Marty Maloney with right of way.

Eudaly: I would like to introduce Marty Maloney.

Wheeler: Welcome.

Maloney: Good morning mayor, commissioners. Agenda item 993 is to authorize eminent domain authority as well to offer just compensation for the needed permit temporary property rights associated with this project. The property rights are needed for sidewalk improvements along the east side of 148th. The project will upgrade 88 facilities and driveway connections. Would also like to add that all property owners were invited to the hearing of this agenda item and like commissioner Eudaly said there's full support for the project. I'd be happy to answer any questions.

Wheeler: I have none is there any public testimony?

Moore-Love: No one signed up.

Wheeler: Anything else? Very good. This is a first reading of a nonemergency ordinance it moves to second reading.

Wheeler: Next item. 994.

Item 944.

Fish: Mayor, Janice, why don't you join us at the dais and Karla, we have a letter if you could hand that out, it's a letter from Mr. Schmidt that we received. I want to make sure that's made officially part of the record and then my colleagues all have a copy.

Colleagues, this ordinance would apply to a small subset of environmental services customers. About 50 residential and commercial accounts. They have overwater impervious structures such as floating homes or commercial docks. This ordinance would temporarily halt a portion of the stormwater charges and provide reimbursement of prior charges for up to five years. This is an interim step that responds to feedback and conversations we had had with members of the community. The temporary step would be in place as environmental services undertakes a comprehensive rate study that the bureau has long planned and that will examine how other cities charge for stormwater services and proposes the best methodology for the city. We're joined by Jonas Biery, the business operations manager, Mike Jordan, bureau director, both on the bureau of environmental services, Janice Thompson from the Oregon citizen utility board and the letter you have from the waterfront organizations of Oregon is from Mr. Schmidt, who has been sort of the point person that we have been negotiating with and in his letter he says that he embraces and accepts and endorses the settlement and urges that appeals be withdrawn based on this proposed settlement. Thanks for submitting that letter. Mike, take it away.

Mike Jordan, Director, Bureau of Environmental Services: Thank you, commissioner, Mr. Mayor, members of council. For the record my name is Mike Jordan, director of bureau of environmental services and given the hour I'm going to cede my comments to Jonas Biery and let him give you the details. I'm here to answer any questions.

Wheeler: Thanks.

Jonas Biery, Bureau of Environmental Services: Thanks Mike for the record Jonas Biery, business services manager and I will also abbreviate as much as I can. Just to reiterate what the commissioner said in his introduction, just a brief reminder of how we got here, stormwater charges are based on impervious area. Administrative review committee meeting in 2017 identified city code inconsistency related to the definition of impervious area. We bes floated a code change idea in January 2018, received significant feedback

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on that proposed idea. So we paused that and undertook a number of community meetings and outreach with impacted property owners.

Fish: Jonas we to note for the record you say we floated an idea. No pun intended.

Biery: Correct. Good observation, commissioner Fish. We recognize there are certainly confusion, valid confusion about the history of the charges specifically among properties within drainage districts and those with overwater structures, so we used that community input to develop a better proposed solution. What's in front of you today is not a change to city code, it's an exemption to stormwater charges for properties that include overwater impervious areas as the commissioner stated it halts charges and provides reimbursement of prior charges. It's an interim solution until we complete a comprehensive rate study and I'll mention that again in a minute. Want to note impervious areas not over water will still continue to be charged that's not included in this exemption. What are the impacts? This is reflected in the impact statement, as the commissioner stated applies to a small subset of customers approximately 25 commercial industrial customers and 23 multifamily residential accounts and those represent about 600 individual residences. The total dollar impact is an reduction of approximately 260,000 in ongoing revenues to the bureau plus value of the reimbursement which is about \$600,000. I want to mention the rate study. You're going to hear more about this in coming months. We're in the early stages of scoping for a rfp, aiming to have that on street this fall and have recommendations in approximately 18 months. It will be comprehensive studying covering a lot of ground, but stormwater allocation and stormwater methodology will be a major component of that study. Want to flag there will be multiple opportunities for stakeholder input both during that study and after the study before council directs action for the bureau to implement any recommendations in that study and that's where I'll stop.

Fish: I'll recognize Janice Thompson, who is a representative of the citizens utility board of Oregon, one of our two regulatory bodies. Thank you for joining us.

Janice Thompson: Janice Thompson, Oregon cub. My focus today is on the comprehensive rate study angle. This is a topic I first started talking with the bureau about in 2015 I think my first written memo dates from the beginning of 2016 highlighting the need to figure out like a good timing, strategic timing to update the -- there's a handful of studies but encompass a comprehensive rate review. My starting point was not necessarily just because the previous studies were old, that they were problematic, but it seemed clear that as time went on the bureau took a look at them that updates were necessary, particularly since development patterns have shifted in the city and there's just -- in the 2015, 20 years since some studies date back to there have been significant shifts in technology and tools related to stormwater management. It was really important to me for the bureau to hit kind of the strategic sweet spot because parallel to this thinking what has been cub support of stormwater system planning and that is -- will be an ongoing process, but that work needed to get to a critical mass such that information that could really meaningfully inform interact with the rate study. So it had looked like the comprehensive rate study maybe was going to get launched in this current budget year. In my may memo before this group I said if it doesn't start -- it needs to start in the following year. So this issue I think has nudged this forward a little bit, so I wanted to be clear of that history and cub support and in terms of the specific topic that is nudging the rate study it's very appropriate to have that nudge come in this way. However, I want to be really clear that cub's position should not be construed as supporting a permanent exemption of the facilities that are also the topic of this resolution, particularly since there is scientific research that indicates that water quality off just roof runoff exceeds surface water quality standards. So it's a temporary exemption and I think I'm looking forward to the work that the bureau is launching with the comprehensive rate study. I think it will inform how to think

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about this particular issue and actually several other issues. So that's the context I wanted to provide.

Fish: Thank you for the nudge. That concludes our presentation mayor.

Wheeler: Karla is there any public testimony on this item?

Moore-Love: No one signed up.

Wheeler: Please call the roll.

Eudaly: Aye.

Fritz: Thank you for your work and for the input from both cub and from the homeowners associations. Aye.

Fish: I want to thank my team. The bureau leadership. Todd Lofgren, Jamie Dunphy and others. This is an example where a group of key stakeholders came forward, made an impassioned case around their view of how we should set our rates. The bureau listened, engaged, had some frank conversations over time. We have now reached this accommodation and I want to especially thank Mr. Schmidt for doing the follow-up letter. It's increasingly the case that sort of those courtesies are ignored in our process before this body but when a key stakeholder takes the time to write a letter saying I'm satisfied with the results, compliment the staff and the way they have engaged the community and then lays out a path forward it makes our job easier. So, Mr. Schmidt thank you for that and for your courtesies and we look forward to launching this more comprehensive analysis with the community and seeing where we land. I think this is a reasonable solution and compromise to an issue that has vexed us for a while and hopefully in the next round we'll get it right. Aye.

Wheeler: This was a very complicated issue and I thank you for your testimony and hard work on the resolution. I thank you, commissioner Fish, for sticking to this and pushing this through and bringing it here to the council. This is a great resolution I vote aye. The ordinance is adopted. Last item, 995.

Item 995.

Fish: Mayor, today we have an amendment to a contract that is before council which would authorize operating expenses that have already been budgeted to be distributed and I sort of feel like the caboose on this one. This has a longer history and I would welcome any comments that commissioner Fritz wants to make. Here's the essential context. Heron lakes golf course is owned by Portland parks and recreation and is under a management agreement with KemperSports management. Today we have Amy Archer-Masters finance manager and Todd Melton financial analyst for Portland parks and rec to give us a brief presentation on why this contract amendment is necessary.

Todd Melton, Portland Parks and Recreation: Thank you. Good morning mayor and commissioners. Good afternoon. Portland parks and rec has agreements with concession areas for each of our five courses. Each of our agreements are unique in ways but in general concessionaires perform all the clubhouse and customer service operations at our courses. That includes reserving golf rounds, taking care of pro shop sales and retail operations as well as any food and beverage operations that we have at a course. KemperSports as commissioner stated has been our concessionaire at heron lakes and they've been the concessionaire there since 2008.

Amy Archer-Masters, Portland Parks and Recreation: Good afternoon mayor and commissioners. My name is Amy Archer-Masters and I'm the finance property and technology manager of Portland parks and recreation. This contract was executed administratively in June and expires October 2019. The contract needs to be more clear about the total value of the contract as it consists of two different types of payment. One is for the operating expenses for day-to-day operations and the other for the management fee that kemper receives for the services. The total size of the contract which is the sum of those two payments requires council approval. In order to ensure the city can make timely

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payment on invoices as provided for in the agreement the emergency ordinance is needed. Current expenditures authority is expected to be exhausted by the last week in September. Parks and recreation intends to run an open and competitive solicitation for golf course operators next year to award new contracts by October of 2019 hence the expiration date of this amendment. This council action more clearly documents the total scope of the contract and as commissioner Fish mentioned is already included in the fiscal year 18-19 adopted budget. We're open to any questions you may have.

Fritz: Let me take a run at putting it into layman's language cause apparently the media didn't quite get this. This was always going to be the arrangement that the revenues from people who play golf pay for the maintenance of the golf course and the contract previously just didn't say that that's what is going to happen.

Archer-Masters: That's correct. The language in the agreement actually captures all of the scope of services that they are supposed to be provided and what the contract was going to cover. It's just not to exceed amount that missed the full language that was covered in the agreement.

Fritz: This doesn't change the contract in any way. It doesn't mean that the golf fund is completely devastated and needs \$2.5 million from the general fund. This is basically being open and transparent about this is exactly what each party does and we just missed a line in the contract.

Archer-Masters: That's correct.

Fritz: Thank you.

Fish: Very helpful. Thank you.

Wheeler: Very good, any public testimony on this item Karla?

Moore-Love: No one signed up.

Wheeler: Excellent, please call the roll.

Eudaly: Aye.

Fritz: I have to say when I saw the article I was like "oh" my life as a politician is over. Where on earth are we going to find \$2.5 million in the golf program? So I'm really glad to know actually looking at what it does and doesn't do that as I say it's just being open and transparent about what we're doing and by the way, commending the golf program for being financially solvent and not having to borrow, in fact the entire parks bureau didn't have to borrow again till the last year either. Thank you very much Amy Archer-Masters for your work in particular during three people's jobs and doing them all well. Thank you. Aye.

Fish: Thanks for a good presentation. Aye.

Wheeler: Thank you. I vote aye. The ordinance is adopted and we're adjourned until 2:00 p.m.

At 12:40 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.**

September 19, 2018 2pm

Wheeler: Good afternoon everyone this is the September 19, 2018 afternoon session of the Portland city council. Karla, please call the roll.

Saltzman: Eudaly: Here. **Fritz:** Here. **Fish:** Here.

Wheeler: Here, Karla could you please read the one item for this afternoon's agenda.

Moore-Love: Is that the rules? Want to read those?

Wheeler: Okay, great. Legal counsel, thank you.

Denis Vannier, Senior Deputy City Attorney: Welcome to the Portland city council. The city council represents all Portlanders and meets to do the city's business. The presiding officer preserves order and decorum during city council meetings so that everyone can feel welcome, comfortable, respected and safe. To participate in council meetings you may sign up in advance with the council clerks office for communications to speak briefly about any subject. You may sign up for public testimony on resolutions or the first readings of ordinances. Your testimony should address the matter considered at the time. When testifying please state your name for the record. Your address is not necessary. Please disclose if you're a lobbyist and if you are representing an organization please identify it. The presiding officer determines length of testimony. Individuals generally have three minutes unless otherwise stated. When you have 30 seconds left a yellow light goes on and when your time is done a red light goes on. If you're in the audience and would like to show your support for something that is said please feel free to do thumbs up. If you want to express you do not support something feel free to do thumbs down. Disruptive conduct such as shouting or interrupting testimony or council deliberations will not be allowed. If there are disruption a warning will be given that further disruption may result in the person being ejected for the remainder of the meeting. After being ejected a person who fails to leave the meeting is subject to arrest for trespass. Thank you for helping your fellow Portlanders feel welcome, comfortable, respected and safe.

Wheeler: Very good. So should Karla read the item?

Vannier: Yes.

Wheeler: Go ahead, Karla. Thank you.

Item 996.

Wheeler: Very good, so I have received the order of today's report. It's going to start with a staff report and that is ten minutes or as needed. It will be followed up by the appellant, ben Salzberg, for ten minutes. Supporters of the appellant will then speak for up to three minutes each and the clerk has signup sheets. Are they inside or outside? They're still outside. The principal opponent of the appeal will then have 15 minutes, will then other opponents of the appeal meaning supporters of the noise control officer will have three minutes each again from the clerk's signup sheet followed if so desired the appellant's rebuttal for up to five minutes and then council discussion as required. Very good. Welcome.

Paul Van Orden, Office of Civic Life and Community Engagement: Thank you, members of council, my name is officer Paul van Orden, I'm the city's noise control officer. Today we're going to discuss a noise variance for a particular event. We are also going to

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need to touch on the location because that's really the heart of what the issue is on the table today. I want to start off and mention that we are exploring a noise variance for salsa events on a rooftop and that is what our decision focuses on today, but this particular location came to our attention this summer and we issued a warning letter back on June 13th to the property owners that we had concerns about events at the location. We had conversations with the owner in early or I should say late July, early August that they need to stop leasing out the location regularly without having applicants understand the impacts on the community and without working with our office because we had apparently had events happening who were not pulling noise variances so we issued a permit to a separate entity, not the salsa operation, for a yoga benefit event on August 3 and then after that we issued a permit to the salsa event on August 15. The reason why I'm trying to paint a more broad picture is this is not just a question for the community about a salsa event, having events, I think these folks who have operated this event have done the notification we have wanted although the timing may have been off slightly, and they are garnering attention of the community for what I believe from research I have done are a series of events that were not the salsa variance applicant's events. So, before us today although there is an application that we're exploring, there is a question of what is occurring at the location. So what I want to start off with is a little background quickly for council. Warning letter went out to the entities on the 13th of June of this year as I mention. We had an event for a living yoga benefit it was called that had bands performing on August 3rd, from 7:00 to 9:30 p.m. Then we moved into the series of events that you see before you for Sunday salsa on the roof. So the community in their vocalizing problems at the location, have not necessarily focused on the salsa event they focused on concerns this particular property owner is not sensitive of the community. So our conversations with the property owner were that after these two events we will not be issuing any more permits until he can sit down with the community and iron out a reasonable approach to working with the community and to limit the impacts on the community. So the challenge is that by that point I think we had a series of members in the neighborhood who were not happy because we had not had a conversation with them that that was the scenario. So as the yoga event occurred and then the salsa event started we were letting community members know that after this permit is done we're not issuing more permits and so understandably for a member of the community you might wish to appeal without having a perfect knowledge that there will not be any more events in the future. So, for council I want to clarify next year if this applicant intends to use the rooftop again in the nice weather of Portland they will from our perspective need to first have some meetings with the community to discuss what they are looking to do, much better neighborhood notification and quite frankly it's a much quieter neighborhood than I anticipated based on my sound readings. I was taking readings this last Sunday as low as 45 decibels, which is quite a quiet situation that close to division. It's only a block or so off division and so my perspective is much like many other locations of this nature there are small commercial enclave or development right within a residential area that just a handful or less of events in a year is more than reasonable. Next year if they actually apply for a permit and also based on the guidance I get from council today, they are not likely to have this number of events approved by the city noise office, they could obviously appeal that to the council. So I feel that we're in a good position moving forward that the issues on the table today are already solved. I do understand from my conversations with the appellant that they probably want better assurance and we can hopefully attain that today. The other thing I want to mention is this is the nuance of the noise offense. The salsa event is absolutely and unequivocally very audible for neighbors out in the neighborhood. The challenge is the city code is one of the more restrictive for a city in the United States and it delaminates that the permitted level at the residential neighboring properties to this commercial property, I believe cm1, they

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are permitted without any noise permit 60 decibels at the neighbors' homes. That is quieter than you're hearing my voice at the dais. So that is as loud as they can be without a permit. When I went out and measured this Sunday, they were generally operating at the loudest locations at 62 to 63, occasionally as high as 65. For the noise office that's not a significant impact on the community. The challenge being in this case that it is such a quiet location for the city relatively speaking that that stands out. So although I would not argue by any means this is a loud event that has a big impact on the community that we feel there's a health concern the noise office is most definitely sensitive of how can we maintain balance in the community. So although it's only operating in especially now that we have been working with the applicant to make sure that they are being careful about monitoring their levels, at 65 decibels, we still feel that it would not be reasonable in future years to issue more than four or five events at most for an entire year at this location.

Fish: Mr. Van Orden can I ask you a question? On the information that I have there are only two other events coming up that would be subject to this appeal. One on September 30th and one on October 14th, but you've also said in terms of next year it's unlikely that you would grant the variance absent a community process and other things and the appeal doesn't appear to go to next year. If we're -- are we literally now talking about whether the September 30th and October 14th events go forward or if so with conditions?

Van Orden: Yes. That's correct.

Fish: Then what you've signaled that the larger question of when this will happen again in the future would be subject to a community consultation process that may or may not be acceptable to Mr. Salzberg and he would have the right to bring an appeal then if he objects to a variance issuing next year. What we're talking about today is just the remaining two events?

Van Orden: That is correct.

Fish: Thank you.

Fritz: What's the criteria that you use to decide? Is it one event, two, three, four, five, 20?

Van Orden: We try to look at the pattern of number of events we have historically issued in similar locations. So we have people in more commercially intense zones ask for a whole series of 15, 20 events throughout the summer. That's a more reasonable thing for me to argue we can consistently do in commercially intense zones. This location is really just a small little bit of commercial use, so if I were to issue five permits and an applicant wanted 30 then they might come to council and say we think Mr. Van Orden is being unreasonable, I think I can make a valid argument to why I'm consistently doing the same thing.

Fritz: There aren't any specific approval criteria for how you make that decision?

Van Orden: Most definitely. The zoning, the makeup of the neighborhood, the past history of the applicant which is a challenge in this location because the property owner has not been responsive. I would argue that if they ask for more than a handful of events that I would fall back on that particular condition or particular variance criteria that their past performance is not stellar.

Fritz: Is this in the code?

Van Orden: The conditions of approval are most definitely in the Portland city code.

Fritz: Where would somebody find those?

Van Orden: Title 18 under variances for the city of Portland.

Fritz: Thank you.

Fish: Are we focused on the entity that's providing the entertainment or is our focus on the property owner or both?

Van Orden: You know, this is an interesting question for us today and what we are really focusing on is the applicant, who is somebody leasing or renting the property is our applicant and that's why we try to be proactive and tell the owner do not tell people they

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can lease your rooftop and get noise variances. What we have done in similar situations to this in the past is we simply required the property owner to pull all permits so there's no miscommunication with third parties. So that's why we feel in the noise office that this applicant has been responsive to our concerns and that's why I have not taken steps to change their permit within their permit I have some guidelines that allow me to make internal changes to their permit. They have been responsive when neighbors have called, they have been responsive to concerns of the noise office and so I didn't feel that punishing this applicant was the concern. I felt like the better need for the community is a long-term solution with the property owners. So the unfortunate part is we're not here to make a decision against or related to I should say the property owners. We're specifically here today to talk about a person who has leased the rooftop for this series of events.

Fish: The applicant may have very well have claims that he or she can bring against the property owner. So, that's a separate matter.

Van Orden: Yes, that would not be.

Fish: But the entity that controls the variance is the applicant and the applicant is son Latino, llc.

Van Orden: Yes, that's correct.

Fish: That's the issue here, and the appeal is whether son Latino, llc, should get a variance for two concerts, one on September 30th, one October 14th.

Van Orden: Yes, that's correct.

Fish: Okay.

Fritz: So I have pulled up title 17 at this point and one of the criteria in the variance is whether compliance with the standard or provisions from which the variance is sought would produce hardship without equal or greater benefit to the public. So how did you make your decision on this criterion based on hardship and that benefit of the public? What were some of the things you considered?

Van Orden: I think one question is how do we encourage events of a cultural nature to occur, so one criteria is would it benefit the public to have this happen. So that the community can be involved in a salsa event and are there too many of these happening for the community. So, I have to balance out do we have opportunities of this nature throughout the city? Is this a logical location to have this happen? I would not expect the salsa event to be loud and based on my sound readings this is not a loud, its not a rock concert. There's a possibility they could crank it up real loud, but that's not what I've seen. So, when I look at the better benefit to the community is allowing a handful of these events or a little more than a handful of these events is a reasonable situation for a neighbor to expect in a neighborhood where you have commercial properties. Now if they had said we are going to have a def metal concert for this many dates that I would expect to be 85 or 90 decibels at the neighborhood. It may be a band I enjoy but I would not approve that.
[laughter]

Fritz: Once you get a complaint after the first one that it could be heard three blocks away and people couldn't sleep and it was 10:00 on a Sunday evening can you then say you have to stop at 9:00 or you can't do as many of these or you need to turn the sound down?

Van Orden: We could definitely do that and we had conversations with the property owner and in this case also with the applicant about our concerns for being sensitive above the levels that you're operating at, monitoring it more closely. Interestingly one of our complainants was quite some distance away, about two blocks away, on the son Latino event in particular and when I was out there that night what is fascinating from an acoustics perspective it is so quiet that if I wanted to I could walk for blocks and blocks and blocks and still audibly hear it. The challenge is when the neighborhood that is quiet there is some challenging expectations that there should be absolute inaudibility cause it's not from a physics perspective possible unless they turn it down to a level where they can't

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have a viable event. What was interesting is one block away in one direction it was four times as quiet as it was in the primary direction where the community is hearing the event. So this is not a loud event but it is a very quiet neighborhood, so finding that balance is not as easy as it might be someplace where the ambient levels of the community is so loud that as soon as you walk a block away you don't even hear it. In this case it's the opposite its a very quiet neighborhood and having events means the neighborhood will be very aware even several blocks away.

Fish: Mr. Van Orden the only map we have in the record is a sort of sketch and it says that the building to the immediate north, kitty-corner to the north -- excuse me, immediate east, and kitty-corner to the southeast and directly to the south are apartment complexes. Is there -- where is the commercial space that is contiguous with the rooftop?

Van Orden: We are talking about primarily a node that occupies the north -- I would say the southwest corner of 50th at that point.

Fish: Because 50h is a commercial strip?

Van Orden: To an extent, its actually as you're mentioning there's quite a bit of high density residential in that area and that's why its.

Fish: Is it fair to say it's largely residential in character with the area around it?

Van Orden: Yes and that's why I would be -- I would be hard pressed in the future to say that we're going to issue more than a small handful of permits because it's not a dense commercial district. It's mostly residential in fabric at that point until you get a little further south to division.

Eudaly: Couple questions. First of all it's particularly quiet over there because 50th is under construction and there's very little traffic. Is that the case?

Van Orden: That is definitely the case. So, right now there's significant construction going on where the traffic is -- there's one way traffic permitted but in the time that I was there on Sunday I would say on average I would have a car go by maybe every minute, maybe every couple minutes. So, definitely different than it would normally be. I would still say 50th and I'm obviously not pbot and don't have traffic counts, but from experience I wouldn't expect heavy impact on the community for a notably higher ambient, I would think we're talking about five, sixty be higher than normally with traffic occurring on 50th but it's extra quiet right now for the neighbors so this stands out and could be heard a much further distance than it will be once 50th is open.

Eudaly: Just so I don't run afoul of our rules if I had a party at my house Sunday night when would I have to stop having audible noise coming from my home?

Van Orden: Well, the code would delineate two things. Audibility in terms of a police officer writing a ticket based on audibility would be 10:00 p.m. You would still have to meet the decibel levels permitted in your particular zoning 24 hours a day. So, that would be more than likely where you're at if it's residential intensive that would be 55 to your neighborhood. So a little quieter than we're talking in this case.

Eudaly: Were there any complaints about people leaving the event and creating disruption in the neighborhood?

Van Orden: I haven't focused on that since that's out of our purview.

Eudaly: Okay.

Fish: Is the burden of proof here on the appellant to overturn your decision based on a review of your decision by this body, or do we look at this denovo?

Van Orden: You have a great amount of leeway. The appellant in bringing this forward, you actually could do something as simple as say for the last two event we think a good balance is just ending an hour earlier. So, you actually have enormous leeway as I understand it unless the city attorney tells me that I may be wrong on that, but in past cases you have quite a bit of ability to interpret what would be best for the community. I think that's all I have for staff. I don't know if you have any other additional questions.

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Wheeler: We might later. Thank you very much Paul. Next up is the appellant, ben salzberg. Ten minutes, sir.

Fritz: And just while you're coming up I just again pulled up a piece of the code and it says at the time of the hearing on appeal the city council may consider any such new matter as deems appropriate as well as the record developed before the noise officer or noise review board.

Wheeler: Good afternoon, welcome.

Ben Salzberg: Thank you. Good afternoon, council members. My name is ben salzberg and I'm bringing this appeal about the loud events that have been happening on the yoga union rooftop. These events have happened since May actually, I just took a note of the videos I recorded from my front porch of them and I have may 27th, June 17th, July 22nd, August 3rd, August 19th, September 2nd did not happen September 16th. So, it's not like it's one or twice. When I first approached the owner of the building I directly said, hey, that is a really loud event you're having. He said, oh, I'm sorry, would you like some free yoga classes or a meal at a restaurant or something, but no attempt to address it. In addition, I don't know if they had a variance for any of those, but the first one that we were informed of was the august 19th event. I received a flyer on the Friday before that, which is certainly not enough time to appeal any kind noise variance, much less talk to city council about it and of course that's going to be weeks out anyway. So, that's one thing, they have failed to notify the neighbors of these event at all until the last round of them I think after enough complaints came in from the neighbors that they finally felt like they were forced to comply. The building when they first built it had to get a variance to have a cm1 building there. It was zoned residential originally. There was light manufacturing place there which we never heard. I have lived there for 15 years and I didn't even know what was going on in that building, but when yoga union took it over and built their new building, there was no disclosure that they were going to have amplified outdoor events. So when they applied for their variance for their cm1 building they did not inform the neighbors or give us a chance to talk about their building permit that they were going to have loud outdoor events. They don't have a nightclub permit. They are supposed to be a yoga studio, which is terrible for parking in the neighborhood, by the way, but shouldn't be super loud. The other things they have rented the space to third parties and then had the third parties apply for the noise variances which I think is a shady practice. I am not mad at son Latino, I think they rented the place in good faith. I understand that they paid for an event space that they were rented by the building operator, and I think the building operator should not be allowed to have those events. I'm sorry that they paid for a space that they shouldn't be using in this nature but I'm not particularly mad at son Latino for this event. More for all the other events that they have had up there and for the previous salsa event that were not -- did not have noise variances. They are quite loud especially the first number were so loud that in my house with the doors and windows closed and window inserts and drapes closed it was as loud as I would listen to music on my stereo in my living room, so it was quite loud. In my insulated basement on Sunday the 19th, it was loud enough that my girlfriend, who has to work Monday morning, had to put in ear plugs and sleep with a pillow on her head and that's a new basement that has foam, concrete, foam, double pane windows, it's a very well insulated basement and you could still hear it inside. So it's definitely audible from there. On top of that it's on top of the building. So it's a concrete rooftop and any kind of amplification on a concrete rooftop is going to go for blocks around. As Paul indicated it's a very quiet neighborhood, very quiet. I could hear someone open a car door a block away normally. My decibel meter tells me on quiet nights it's as low as 39 decibels ambient noise, which is very quiet and 50th is a busy street during the day and commute times, but at night after 5:00 or 6:00 it's actually a very infrequent traffic street, its a quiet street. They are occurring not just on weekend nights but on Sunday nights, and

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many people have to go to bed before 10:00 p.m. on Sunday if they work on Monday morning, one of the neighbors at the apartment building was particularly mad about that. So before coming to this hearing I just walked up to the apartment building and asked anyone I saw if they would be willing to sign a thing that says that they would like to appeal and I immediately got five neighbors of the apartment building who I feel like they maybe don't feel like they have a voice to complain about this kind of thing, but I was like I'm going to talk to city council and I'll take your signed letters to them. Within five minutes I had five signed forms from people at the apartment building. I know that there are more people at the apartment building who didn't want to show up or sign anything, and on the apartment building across the street they were unwilling to answer the door to a guy with a clipboard, which is not too surprising, but one or two did answer and say I have the phone number I'll call but I don't want to sign anything.

Fish: Sir, let me ask you a question. We have these two event coming up one on September 30th and one on October 14th. The variance runs from 5:30 p.m. to 10:00 p.m. What's the relief that you're asking us to grant you?

Salzberg: Well, there are some things they could do to mitigate the noise. One thing they could do is have the event inside the building instead of on top of the roof. If they did that I'm sure there would be very few objections from the community. So the owner could allow them to use the indoor space, which would be fine. I realize that being on the roof is nice when it's nice outside, but having amplified music up there is just going to broadcast across the whole community. So indoors or much quieter or canceling events entirely for the next two and having them get their money back from the breathe building, any of those would be acceptable. There are ways to have an amplified event with many smaller speakers instead of larger ones that can make it loud enough for the people at the event to hear it but not broadcast the noise as far or as loud. So a different sound system could also accommodate them. I think most of my neighbors, especially at the apartment complex, would prefer this not happen again. I think all the rest you got my appeal of this. I think that's all I have for you right now.

Fritz: What about just ending it earlier?

Salzberg: Say that again?

Fritz: What would you think about ending the final events earlier?

Salzberg: If they ended earlier that would help also. Yes. Especially because they are on Sundays.

Wheeler: Thank you, sir. Next up, supporters of the appellant. If you have not signed up but would like to, please see Karla.

Moore-Love: We have one right now. Mary sipe.

Wheeler: Mary Sipe, welcome. Good to see you.

Vannier: If I may briefly interject to answer commissioner Fish's question from earlier. I looked at the code it is denovo on the record.

Fish: We get to make our own decision on this one.

Vannier: That's correct.

Fish: Mary we sent out the sergeant at arms this morning looking for you, but we couldn't find you.

Mary Sipe: I was here in spirit, I was live streaming. So good afternoon, my name is Mary sipe. I support Mr. Salzberg's appeal of this noise variance permit. Apparently Son Latino has been holding these events since May without a noise variance permit. Then when neighbors complained they applied for a permit for their august, September and October event. Then when they did get a permit they violated the conditions of that permit. They did not provide notification to the neighbors at least a week prior to the event, the sound was audible further than a blocks away and they did not reduce sound levels upon request initially. This appeal is a great example of why the current process needs to be revamped.

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Having appeals presented to city council is cumbersome and ineffective. This is a perfect example, the first event occurred August 19th, Mr. Salzberg filed his appeal August 27nd, the hearing was placed on city council agenda four weeks later. In the mean time two more events occurred. Often there's no point filing an appeal because the event or events often occur before the hearing can be scheduled for city council. Three years ago on July 9, 2015, Paul van Orden presented several proposals to city council to amend the noise code title 18. One of those proposals was to have appeals of noise variances be brought before the code hearings officer rather than city council. A noise task force was formed to explore the merits of these proposals. I was appointed to that noise task force by commissioner Fritz. Unfortunately the task force was unable to come to any consensus and did not make any further recommendations or act on that proposal. When Mr. Van Orden presented his update to city council last August the proposal to have the appeals heard by the code hearings officer was one of his five priorities yet it still has not been presented to city council for consideration. It's time to stop talking about the much needed revisions and updates to the noise code and start doing something. Why did Mr. Salzberg even need to file an appeal? The noise variance permit states and I quote "violation of conditions of this variance constitute grounds for revocation of the variance". Mr. Van Orden has authority to revoke and or modify the permit when conditions are violated. It's my understanding that a citation was issued. That's good but why wasn't the permit revoked or modified? This permit is also an example of concerns I expressed about the structure of the noise variance fee schedule. This permit is for events occurring on five Sundays. The fee that was charged was \$205 for an accelerated review. The noise office considers this one event but it's actually five. The way I see it they should have been charged 205 for the August 19th accelerated review plus \$105 for September 2nd, 16th, 30th and October 4th for a total of \$625. Not \$205. Why are we not charging for every event? Like I said in my testimony a couple of months ago the more days they make noise, the less they pay. Thank you.

Wheeler: Thank you and next up is the principal opponent of the appeal. That's the applicant, son Latino or representatives thereof. Welcome.

*****: Thank you.

Wheeler: You have up to 15 minutes.

Rosita Nikolaeva: Great. So my name is Rosita Nikolaeva and I'm one of the two main owners of son Latino dance and event company we're based right here in Portland and first of all, I want to point out I understand there are other, broader issues at hand here. So I feel that my task is to speak to everything that pertains to son Latino and our events, not necessarily two restructuring the process or other events that might be happening at yoga union which we clearly cannot be responsible for. A citation was mentioned, that citation was not against us. I believe it was against a different applicant or different event organizer, so I just want to make sure that the distinction is clear because I feel that a lot of information is being thrown that is not relevant to the case currently at hand. First of all I want to give you an overview of what our business is and what we do. So we are a small local business and we focus on connecting communities and in general building community through music and dance. We focus primarily on Latino music and dance and we have as one of our goals promoting diversity through social events in a low pressure, non-threatening social environment. Our customers include a lot of private citizens, local nonprofit organizations, as well as local government organizations. We have done a number of projects with organizations such as the Hispanic honors society at university of Portland, Portland parks and recreation, Portland public schools. We work with a lot of nonprofit organizations including Voz for migrant worker rights, community alliance of tenants (cat), among others. We participate regularly in fund-raisers that aim at furthering the work of many nonprofit organizations here in Portland, up coming under raiser for

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doernbecher children's hospital, et cetera. Our guests of honor include artists, trainers, and speakers of diverse backgrounds from all over the country and with national and international recognition. So, the work we do is not just a dance party where everybody just comes and is loud we actually do a lot of work in the community that helps strengthen the community and focus on equity, diversity and inclusion and I think that the work we do is actually very important to the Portland community. We cater to a wide variety of attendees and for the short duration of the Portland summer we have some outdoor events, the name salsa on the rooftop is a catchy name but they are a platform for people to interact and the purpose of that is not to have a loud concert or party. All of our events that we do throughout the city are social mingle events where you can have a conversation while the music is going. We do events at north hall, which is the oldest dance hall in Portland I believe as well as other events such as what used to be Enbridge, melody ballroom, et cetera and during those events people engage in social interaction as cultural activities as well as dancing, which is an activity that improves health and wellness as I'm sure you all know and our events have gained attention of many private, nonprofit and government organizations. One of our guests of honor was Kate brown and Mr. Dan little the first gentleman of Oregon for our cinco de mayo celebration. We have been in contact with Mr. Dan little in particular regarding this event in relation to the road map to the outdoors initiative that aims at diversifying Oregon's outdoors and the work that the office of outdoor recreation is doing as well. So the event is not just a loud salsa party that is wanting to create a nuisance for the community. It's a way for us to engage with people from the community and be able to also bring other important issues to the attendees of those event and involve nonprofits, et cetera, so its just our way of reaching the community in a sense. I strongly believe that the work that we do builds and strengthens the community, promotes diversity and inclusion of minorities and other marginalized community groups and fosters integration between diverse groups as evidenced by the diverse customer base at this event. I did not go and collect signatures from people that are for this event. I'm sure I could in an hour get over 200 people to say that they would like the event not to stop but I think that is again not pertinent to the case because Ben I think we actually know each other, I recognize you from reed college. To point out a couple of things I understand there are things that maybe are specific to this neighborhood that make it so that that event is maybe more audible than it would be in a different part of town. Being responsive to everything that has happened during those event. Just to back up a little bit, our original agreement with yoga union, that is more the interaction between us and them, we were told that as long as we are within a certain decibel level we do not need a noise variance permit which is why we originally didn't have one. As soon as there started being complaints and we talked to the building owner and found out that there is a different process that we could follow we chose to follow that because we do believe that that is the better way to conduct business and I'm the person who put in the application for the permit. We applied for an expedited permit issuance just because of the time frame and we submitted the notification to the neighbors once we got the noise variance. Now, I understand that that's a shorter time frame than it usually takes for those, that was right before the august 19th event. However, as soon as we got noise variance permit we submitted the application. Now, in addition to just submitting the noise variance we decided as a courtesy to the neighborhood to extend complementary admission offering to all of the neighbors within a block and a half radius. That would be considered affected by the noise as specified by the noise variance permit and we actually had a list of people that contacted me and asked to be put on the list. They were very excited about being able to participate in the event, I have screenshots that I have sent to Nicholas and Paul that show that and I have names of those people listed on my computer. Some of them did make it to the event and they said that it was a lot more pleasant on the rooftop and they really

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appreciated the invite and had a lot of fun at the event. So during the august 19th event we had a professional level decibel meter which we had at all other events and we measure from the property line and downstairs on the street. I understand that sound is a little weird in that area and maybe sound amplifies differently, so as ben had pointed out at some point it may have been 60 from his porch and I'm not sure if ben texted me that or someone else, but they said it's 60 from my front door porch. I can't measure from someone's front porch, I would be trespassed if I went with my decibel meter and did that from there but from the property line of yoga union we have been within the restrictions of our permit and I don't believe that we have violated them so I'm not sure if the reference earlier was regarding a different event. Also one of the dates mentioned was not a date we held an event. There's some confusion from the community about which ones are our events and which are somebody else's.

Fish: Let me ask you a question. This doesn't count against your time.

Nikolaeva: Of course.

Fish: What events are scheduled for September 30th and October 14th?

Nikolaeva: That's our event, the salsa on the rooftop event.

Fish: Is it a benefit?

Nikolaeva: It's not a benefit. It's a social event that we do. We're happy to -- obviously we don't want to create a nuisance for the neighbors. We're happy to work with the community on holding those and making them more pleasant for the community, however there are certain things I appreciate ben bringing up some of the options however moving the event indoors we already have indoor events elsewhere. Salsa on the rooftop, that is the name of the event, so having salsa on the rooftop on the ground floor of yoga union would defeat the purpose of having a salsa on the rooftop event. Ben, I know you're a biker, it would be like telling you to go bike indoors or to go one of those machines in the fitness center instead of enjoying a nice bike ride outside. As far as ending early I think that is something that we would be happy to do especially now that days are getting shorter, but for the august 19th event I had people message me at 8:00 at night saying I'm going to sleep. I feel like in Portland in order to support certain cultural events small businesses in general there are certain things that we need to do like a big city does, for example. To me, and I understand that different people handle noise differently, but at 8:00 complaint on a Sunday night to me seems a little bit unreasonable when the sound level is 55 decibels from the property line where we're measuring. This would be equivalent in my opinion to complaining at my neighbor who plays piano and I get to hear them pretty loud and clear in my living room however I would never consider filing a noise complaint against that because clearly that is the enjoyment of someone else and it's just not something I would do.

Fish: How many guests do you get at these events.

Nikolaeva: The attendance varies. No more than 80 at the same time but there are people that come and go. So over the course of a night it might be 130 people coming in and out, but they are not there at the same time.

Wheeler: We're talking about two specific events is that correct? Because Paul, you indicated you were going to do a total revamp subsequently and I'm hearing you mention some desire around flexibility. I get your analogy of wanting to be outside and enjoy the outside. Now that the fall is upon us, it will be cooler out, and it sounds like you're saying they have indoor space. What if you did it outdoors but for the last hour moved it inside?

Nikolaeva: We don't have access to the rest of the building.

Wheeler: I see. Okay.

Nikolaeva: Again, that would be very difficult to do from a setup standpoint because we have a floor, we have everything is set up outside and that takes many hours of

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preparation and set up time from myself and my staff. To have to do that twice or to have to interrupt the event and move it indoors is just not feasible.

Wheeler: I was thinking you have a dance and the music outside and then the last hour is something inside that's maybe different. I don't know, but conversations, coffee.

Nikolaeva: I don't think from a business perspective that makes sense. Yes.

Fish: You're open to potentially scaling it back by an hour?

Nikolaeva: It's not ideal and I think it would affect our attendance and our business, but I think that would be half an hour would probably be easier. At 8:00 -- on the 19th at 8:00 when I was having people text in me it was still light outside. Nowadays between 8:00 and 8:30 it starts getting darker, but I think a lot of people tend to enjoy the sunset when they're outside and I think that's a big draw for this event as well.

Fritz: Sunset right now is at 7:10.

Nikolaeva: Still we probably get half an hour of light.

Eudaly: I have a couple of questions. I just want to make sure I understand what you said about the notice to the neighbors that you issued because it was only issued two days in advance rather than seven, which is what we require. That was because you had not received the variance?

Nikolaeva: Right. We received the variance permit within that week leading up to the event. We had to do an expedited noise variance. The reason for that was we didn't get it then of course it's a lot of notices to distribute, so I need staff time to distribute that, but that noise variance included all the other events.

Eudaly: That was my next question. That notice included dates and times of the other events.

Nikolaeva: Correct.

Eudaly: I'm curious. Once you did issue that -- receive the variance you issued the notice, can you give me a sense of how many unique complaints you received during --

Nikolaeva: Three. One was from ben and two others.

Eudaly: Okay.

Nikolaeva: The one other one, that was just august 19th event, I did not get anything else except I believe the text message from ben on this past Sunday. I did not get any other complaints on that day and one of the prior complaints was against someone that seemed very disgruntled at the fact that there were other loud events that weekend, and one of the things that they said was we don't want to listen to salsa every Sunday. I was very surprised because we had had one event a month there and I said, I think you must have us confused with someone else because we do not have an event every Sunday. The response was, well, regardless of how often it happened they have loud events there all the time. So I think again there's a little bit of confusion as far as this what we do versus what someone else may be responsible for, but we have been responsive and respectful to the neighbors. I did offer complimentary admission to a lot of people who showed up and enjoyed the event, which I think is something other renters don't necessarily do.

Fish: Who is the owner of yoga union?

Nikolaeva: I don't know. The person I speak to is Todd Vogt who I believe is associated with the management of the building.

Fish: But you have not spoken with the actual owner?

Nikolaeva: I don't know who the actual owner is, I don't have access to that person. I have access to a number of other people that are related to the building.

Fritz: Sounds like you're getting blamed for that owner not taking responsibility for the proper management of the building. I appreciate giving your cell phone number giving it to the neighbors so they can text you.

Nikolaeva: Which backfired a little bit because I'm in the middle of organizing an event and ben is texting me back and forth when I have an event to tend to but I think I did my

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best to be responsive while at the same time have customers needing their needs addressed and so forth.

Fish: We heard from the appellant that he would like the last two event canceled or on the alternative moved inside. My understanding of your presentation is you have two events scheduled, it would be a great inconvenience to change them. Do you feel you've made an effort to be a good neighbor but you are open to the hours of operation. You're open to having a conversation with council about hours of operation.

Nikolaeva: I'm open to having that conversation. I don't believe that it would be beneficial to my business to do that, but if that's the only option we would be open to doing that. I believe that that hinders our operation as a small business that caters to that community and that is also a time frame that's been set for a while so people already kind of have that in mind, we're paying this cover, we're going to show up at this time, it's a break in the cadence of the event, but we would be open to consider it.

Fish: I used to live in a very big city called New York city and I'm sensitive to the -- I filter some of the concerns people make about noise generally because after all we live in a city. Its like sometimes we have hearings and people who live in the pearl district say they were shocked to learn there's a bar within walking distance from their home. Well that's how the pearl district is developed, restaurants and bars, so we need a certain amount. I will tell you, though, that as someone dealing with a health challenge who also has at least one kid at home under the age of 15, 9:00 is not unreasonable time for people to go to bed adults and children on a Sunday night. I don't want to keep it just in this room that's my bedtime on a Sunday night. [laughter] and so that hour may make a difference. I don't know. We are going to still hear from your supporters, but I appreciate you signal that you're open to having that conversation.

Nikolaeva: I have a quick question. If I were at my house and I was having guests over and it was Sunday night would I have the permission to play my music at that decibel level and have my guests be outside on my porch until 10:00 or would I have to be done by 9:00?

Fish: We got the expert we can have him back.

Fritz: He said not at that decibel level, no you wouldn't be able too.

Eudaly: 60 and below doesn't require a noise variance.

Nikolaeva: Right which I don't we would require a noise variance permit. The reason why we did that was to comply with the city. Our noise level stays below that and I have screen shots of my decibel meter that shows 54 and 55 and I'm sure it amplifies differently depending where you go, but I believe we actually don't even need a noise variance permit for this event. It's a social mingler, its not a concert or huge party. It's not a nightclub and none of our event are structured in that way.

Fritz: What are the demographics of the people who attend your events?

Nikolaeva: It is very mixed. We have some people from Latino background, we have American people who are from here in Portland, we have tourists that we come up in the searches of people who are visiting Portland and they come from all over the world and all over the u.s. and find us on the internet and they come out to the event. So, it's very mixed. Which is great because that's what we try to promote is diversity and integration and so and the age group is pretty wide open. We have 12-year-olds that come with their parents and we have 67-year-old people that come and like to enjoy the social environment. It's an all ages event, a lot of people come with their families and with their kids as well.

Fritz: Do you serve alcohol?

Nikolaeva: We do have a olcc permit, correct. However that is not the major focus on the event. The alcohol sales are just complementary.

Fish: Do you have supporters with you today?

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Nikolaeva: I don't have a way of bringing people that would be willing to leave their workplace at 2:00 in the afternoon.

Fish: You have made a very effective presentation, but perhaps is it your intention to reserve your balance and have us maybe bring back the hearing officer to answer some of our questions?

Nikolaeva: I was unsure what the process was going to be today, so --

Wheeler: You don't have to use the whole time. If that's your presentation that's fine.

Nikolaeva: I think that was mostly what I meant to present. If we need support from other people I'm happy to get signed statements, but if you also look at our -- a lot of our advertising and promotion is done through our Facebook page. We have about 3,000 followers. I'm sure that if I tried to solicit support it would not be difficult to do. I just was not prepared to do that.

Fritz: It's not a matter of how many people can the neighbors get to sign, how many can you get to sign.

Nikolaeva: I'm sure I can get hundreds of people to sign something if needed.

Wheeler: Thank you. Appreciate it. This would be the opportunity if there are other opponents of the appeal meaning supporters of the noise control officer from the clerks sign up sheet, did we have anyone signed up?

Moore-Love: No one else signed up.

Wheeler: So, the next would be Ben has the opportunity if he would like to a rebuttal, but if you would like staff to come up first I don't see any problem with that.

Fish: Might help shape the discussion.

Eudaly: I have a couple of questions for staff.

Wheeler: Why don't you cool your heels for a second let's hear from staff. Commissioner Eudaly then commissioner Fish.

Eudaly: Thank you. We heard from the event organizer that she received three unique complaints during one of her events. How many unique complaints did the noise office receive?

Van Orden: We have seven individuals and it looks like seven formal complainants, but one has the same name at two different addresses. We have not been able to confirmed if it was the same person.

Eudaly: So six to seven.

Van Orden: Six to seven.

Eudaly: I just need to make sure I'm understanding, if you're going to make noise that exceeds 60 decibels you need a noise variance and you need to comply with the existing rules, which is, is it 11:00 on Friday, Saturday, 10:00 on week nights?

Van Orden: If you do not have a permit you have to meet that decibel standard that we're talking about and it would be up to 10 p.m. then after 10:00 p.m the standard kicks in and its two fold because it delineates an audibility standard that's primarily used by the Portland Police, not audible within someone's residence is the simplified version of it. It then delineates reduction in the permitted decibel level in each zone by five decibels. So in this case if you were meeting 55 and I came out and took a noise reading you would be in compliance with the city code. To clarify one other matter that is on the table for that issue, the applicant had mentioned when she is measuring for compliance she's finding herself in compliance. I think she is but when you send myself or one of my staff out we know the nuances of finding the highest levels and that's why I'm finding slightly higher than she is, which is requiring the noise permit. It's over 60 but only three, occasionally five db.

Eudaly: That was my questions, which was where are you measuring? So across the street or down the block?

Van Orden: We wind up doing a 360 degree around the property because the unique elements of the acoustics of the topography, the houses and in this case there is a specific

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side of the building that tends to be much louder that's why I'm getting very low levels to the southwest and where Ben lives his neighbors live I'm getting 63, 65 in the area of their homes.

Eudaly: How loud can you be with the noise variance before 10:00 p.m.?

Van Orden: The standard that I was seeing when I was out there was on Sunday was we didn't set a decibel level because we're not requiring most applicants of this very basic nature to be taking noise readings because for this reason, their readings are not the same as ours, they don't have the experience. We're setting an audibility standard, in this case we said a block away. After that point we should have inaudibility. There are some challenges when its this quiet to have perfect inaudibility, but when I walked a block away from this location in each direction it was reduced to a level that on this Sunday, nit saying another Sunday that it would reasonably meet our criteria in the code.

Eudaly: There's no decibel limit.

Van Orden: Well, in this case the 65, 67, 68 would be the absolute loudest we would expect to meet the criteria of a block audibility.

Eudaly: That's it. Thank you.

Fish: Mr. Van Orden Mary testified earlier said that there were some proposals that we had kicked around and I vaguely recall that conversation. One of them would and just if you could help us understand because I think this hearing is illustrative of both a substantive issue and a process issue and I just want to explore the process issue for a second. Is one of the proposals that is on the table for our potential consideration having a hearing like this on a challenge to a variance first go to a hearings officer?

Van Orden: It is and in some cases would be more simple that if it's a one-time occasion, we can't realistically say so we would change the code to say other than noise review board variances which go on for many months often or much louder that they would either go to the code office or is there's no way to facilitate that, then there wouldn't be a way to appeal then because we would expect any future requests would not be entertained.

Fish: And the virtue of course of going to a hearings officer is you might get a more prompt review number one.

Van Orden: Absolutely.

Fish: And number two, under the proposal that Mary was talking about would the hearing officer's decision stand unless overturned by council?

Van Orden: That would be a question for the city attorney. I don't think we have gotten that far.

Fish: That would be something to consider.

Van Orden: Yes.

Fish: I mean I love this hearing. This is an interesting hearing. I just -- my guess is we're going to have a lot of these in the future and I'm not sure it's the best use of council's time versus a hearings officer that can go deeper and quicker.

Wheeler: I just want to see the attorney twitching. We're getting far afield of this particular hearing. I agree with commissioner Fish, these are very germane questions for future conversation but let's keep this hearing tight in case there's an appeal.

Fish: The options before us before we lose you are what?

Van Orden: The options before you are very broad and we have had very few variances, not even a handful in the 22 odd years that I have been here, of appeals to noise control officer decisions as opposed to noise review board and in those occasions council has an enormous amount of leeway of what you think would best serve the community. So for instance I have heard council bounce back and forth the concept of changing the hours. That is most definitely on the table. You could say one date is canceled, the other date isn't. Really the question becomes what do you think would be the best balance for the community. If staff were to recommend anything I think a change to taking an hour off the

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event in my experience would not overly negatively impact the event from what I have seen from event production over the last 22 years and would also send a clear tone to the community that the city council expects staff to more closely look at when we're approving these event, how often they are happening. I think it sends a message both ways to the community and also is respectful of an applicant that staff would report we feel has been respectful of the concerns when they have been addressed with this particular entity.

Wheeler: Paul that's good insight and that will be great for council discussion. I would like to get to ben. He has five minutes if he chooses to do an appellant rebuttal.

Salzberg: I just want to address a couple of things that Rosita brought up. The last event was markedly quieter than previous event by at least five decibels. It was considerably quieter and when I asked they did reduce it by three. Another point I want to address was that when you record at the property line this event is happening on a rooftop above the second floor of a concrete building. If you're recording from the property line you are not getting the noise from the rooftop. The rooftop noise is being broadcast at a higher level out into the neighborhood. It's not going down to the street level at the property line of the building. So that Mr. Van orden's recordings I think are much more accurate because he walked around the neighborhood. From my front porch which as Rosita said is not a place that she could come and record comfortably but she could come to the sidewalk in front of my house. I was recording 65 decibels at a max and then 62.7 when it was reduced earlier.

Fish: I have a motion.

Wheeler: Commissioner Fish.

Fish: So, we get to this denovo and this is the time the mayor usually invites council conversations. Can I just make a supposal for purposes of the council reaction? My supposal is we allow both events it seems to me that it's late in the game to cancel the event. That we get a commitment from the applicant to make best efforts to stay below the 60 decibel limit and that we put a restriction on both events that they end at 9:00.

Eudaly: Well, staying below the 60 decibel limit means she doesn't need a variance, that she can operate until 10:00. So I didn't hear a request that they stay under 60.

Fish: I was picking up on the fact that the appellant said that the last event after some community conversations was much lower. I think it's just a matter of what I'm trying to get at is that since in a sense the applicant is on probation because next year's schedule is up for grabs and there has to be communication, that we would ask them to make best event to stay on the low end of the range but that we address the appellant's concerns by ending it at 9:00 rather than 10:00.

Eudaly: I guess -- I'm struggling with this a bit as the commissioner in charge of civic life, which is where the noise office is, I'm as concerned with protecting residents from nuisance noise or I'm concerned with protecting people's right to make noise as much as I'm concerned with protecting residents from nuisance noise. I haven't heard that this applicant is actually violating any of our rules, and I have also heard a very low number of complaints given there are potentially hundreds of people that live within a block and a half radius of this event. I'm just not feeling persuaded.

Fritz: If we look at the variance that was issued by the office of community and civic life, approval condition b says amplification shall not be audible further than a block from the source of the noise. It doesn't say anything about decibel levels, it says it can't be audible within a block. So, they clearly have not met that condition of approval. They have met the others, that presumably the speakers are facing away from the residential locations. Sound levels were reduced on request and that they did -- I haven't heard anyone say it went on beyond 10:00. There wasn't the ability to notify everybody within a week and I don't know if we have a record of how they responded to concerns although we have heard the

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appellant say that they did reduce the sound. So it seems to me that commissioner Saltzman -- commissioner Fish's suggestion to --

Fish: Normally it's commissioner Fritz which I consider --

Fritz: There we are. Commissioner Fish's compromise to have it end for the last two events at 9:00, which I think is reasonable considering it's going to be September and October so it's going to be dark by 7:30. So an hour and a half afterwards when it's going to be getting colder in the evenings as well. That would give the applicant, thank you, the opportunity to show that they are going to continue to be good neighbors cause really what we're talking about is not so much this years two events, its are you going to stay in this location. Obviously the organization planning them will decide is this the best spot for you, it sounds like its worked out in other ways, but that would send a message to the noise officer that we want to take these things into consideration while still allowing the event to take place. I would suggest that we delete approval criterion b, which was the amplification shall not be audible further than a block and amend condition d to make it 9:00.

Wheeler: Is that a motion?

Fritz: Yes.

Wheeler: So moved and we have a second from commissioner Fish, any further discussion? Call the role.

Eudaly: No.

Fritz: I agree with you commissioner Eudaly it's a challenge to an allowable level of noise, 60 decibel is quite loud and at some point and I know Mary Sipe is anxious for it, we need to look at our noise regulations as a whole. We need to look at our appeals process and I know it's challenging because frankly, there's a lot of other things that are very, very concerning going on in our community that are requiring a lot of attention from all the council offices. That's not to say that this isn't important in the grand scheme of things, it's important to encourage community members to get together to get to know each other particularly when it's a diverse group of folks coming together. The reason I asked my question was because we know that from discussions on the fulton community center that yes there are lots of people in the majority culture who really like salsa dancing too and so I'm glad to hear it's a more mixed group coming to your events, they sound delightful. I just think that we should acknowledge that there was a fairly disruptive events earlier in the summer. I also want to send a message frankly to the building owner that just telling people you rent to "you ought to get a noise permit", that's really difficult because in some ways it works out well for you that you got the permit for five different events with one application but for someone coming in like the one time which was really noisy which is not the one people are most concerned about that was their first time. Then there's no recourse after you have one noisy event if Mr. Van orden, who can't be every place every time even though he tries very hard to do so, he happens to be not there to close down that event, then it's over and done with and that's not really what we want to see either. So I do think that we are going to need to pay attention to these issues and the other noise issues we were dealing with like garbage deliveries and various other issues, pile driving is the one still out there. We're going to have to figure out what is a vibrant city that has some noise but that also allows people that want to live there and thrive there. Aye.

Fish: This is a very close call for me and I appreciate the discussion among my colleagues. Mr. Salzberg makes a compelling case I think that he has been deprived of the quiet enjoyment of his property and has taken steps short of this appeal to try to seek relief. On the other hand, Ms. Nikolaeva-- sorry if I tortured that -- makes also a very compelling case that she has made a good faith effort to comply with the rules. I agree with commissioner Fritz, I think the message that we're sending here is to the landlord. I think the landlord has failed to properly communicate with the applicant and it's the landlord that will suffer the consequence if the noise officer next year decides based on community

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input that these events are not allowed and a variance will not be granted. So balancing the two and trying to do justice I think this is a fair result and I sincerely hope that the community and a small business that is trying to make it here in town and makes a compelling case for the niche that you serve, my hope that is you can find common ground. Frankly so that this can continue but continue on terms acceptable to both parties. Aye.

Wheeler: I appreciated this discussion very much. It seems like we have very reasonable people on both sides of this dispute. I appreciate the conversation as well as the idea here around trying to find a middle ground so that these two events can take place and then have a fuller and broader community discussion about the future. I think it's a really good compromise and I support it. I vote aye. The variance is granted with conditions and we are adjourned.

At 3:20 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.**

SEPTEMBER 20, 2018

2:00 PM

Wheeler: This is the afternoon session of the September 20, 2018, meeting of the Portland city council.

Saltzman: Here **Eudaly:** Here **Fritz:** Here **Fish:** Here **Wheeler:** Here

Karen Moynahan, Chief Deputy City Attorney: The city council meets to do the city's business. To participate in council meetings, you may sign up in advance with the council clerk's office for communications. You may also sign up for public testimony. Your testimony should address the matter considered at the time. When testifying state your name for the record. Your address is not necessary. Please disclose if you're a lobbyist. If you represent an organization, please identify it. The presiding officer determines length of testimony. Individuals generally have three minutes to testify. When you have 30 seconds left a yellow light goes on. If you're in the audience and want to show support, please feel free do thumbs up. If you want to express you do not support something, feel free to show thumbs down. Disruptions will not be allowed. If there are disruptions a warning will be given that a person may be ejected for the remainder of the meeting. After being ejected a person who fails to leave the meeting is subject to arrest for trespass. Thank you for helping your fellow Portlanders feel comfortable, welcome, respected and safe.

Wheeler: Karla, please read the first item.

Item 997.

Wheeler: This resolution directs procurement services and the bureau of planning and sustainability to develop contracting standards for city construction projects that will control diesel exhaust from construction equipment to protect public health. My colleagues and I have heard serious concerns about air quality raised by Portlanders, community organizations and environmental advocacy groups. Research has shown the Portland faces the highest public health risks from air toxics in the entire state of Oregon. In particular has the highest levels of diesel particulate pollution. Furthermore, communities of color and low-income populations experience a disproportionate burden of exposure to diesel pollution because they often live and work in areas with higher pollution levels. This resolution signals the city's commitment to addressing the serious air quality challenges that we face. This is an opportunity for us to improve public health while also advancing the city's climate action and equity goals. To that end my office would also like to offer the following amendment to be inserted after the first be it further resolved clause, and this is actually to clarify the role of equity. The amendment is be it further resolved that the city council and mayor direct procurement services and the bureau of planning and sustainability to ensure the city is achieving its climate action goals through a clean air construction standard that also creates opportunities for work force equity and diversity including through reducing barriers to economic opportunity for minority owned and women owned companies.

Fritz: Second.

Wheeler: We have a motion and second.

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Fish: Just it's our great tradition to welcome elected officials from around the country when they join us. Ralph Remington is here. Would you stand? Mr. Remington is here actually in the context of a national job search that has brought him as a finalist here but he's a former member of the Minneapolis city council.

Wheeler: Excellent.

Fish: As he described it was a weak mayor form of government, but it was a ward system. I believe there were 12 --

Ralph Remington: 13.

Fish: 13 and full-time jobs. He represented a ward with a weak mayor. He represented a district that was overwhelmingly white. Served one four-year term. He's here for a couple days. Want to welcome our honored guest.

Wheeler: Thanks for being here.

Remington: Thank you so much.

Wheeler: Our council sessions are always very subdued, quiet affairs. I hope you find it relaxing.

Eudlay: Count your blessings that there are not 13 of us, mayor.

Wheeler: I would like to introduce Susan Anderson. Good afternoon.

Susan Anderson, Director Planning and Sustainability: Good afternoon. As the mayor said, Susan Anderson, director of the bureau of planning and sustainability. Last week the mayor and I were in San Francisco at the global climate action summit. The focus of that summit was how cities around the world take control of environmental issues. Environmental issues and health issues, especially in the United States, we can't just rely on the federal government to make improvements. We also realize that we have this opportunity and really a responsibility to take action locally. So here in Portland we learned that a long time ago. Many of you have been involved in areas where we didn't wait for the federal government. We became leaders in our own right, whether it was energy conservation, renewable, green building, infrastructure environmental or conservation zoning, improving water quality, improving our wonderful bikeable, walkable neighborhoods. One issue we have not focused on much in the 20-plus years that I have been working here is the topic of local air quality. For decades we have relied on the federal clean air act and on the state with DEQ to regulate air quality and protect local health. In many ways the state and federal regulations have worked and they have been a success. Our air is much cleaner than when we were kids. For some of us in the '70s and '80s. But as clean as the air has gotten we still have a long way to go. Over the years we focused primarily on carbon monoxide, on ozone smog forming ozone, other pollutants. We continue to have a major issue and a major problem with high levels of diesel exhaust, wood smoke and other toxics. So diesel pollution in particular is a known carcinogen. It causes immense respiratory and heart impacts. This is especially true for those who live or work near construction sites or near freeways and highways and for lower income families, children, elderly and for communities of color. When Mayor Wheeler came into office and became my boss about a year and a half ago he agreed very strongly that there was a need to actively pursue improvements in air quality so he directed us to identify options to take local action. We worked jointly with the county on this effort and any other agency partners. We hired a third-party consultant. That study looked at a lot of areas. A primary recommendation from the study is to move forward with a regional contracting standard for diesel. So today we're here with procurement services to do just that. The resolution before you direct procurement and BPS to work together with the county, with all the infrastructure bureaus, to develop standards and to lead the way. Finally, we know that the health problems around diesel are huge. Like a lot of the environmental issues we can't always make the changes we want to take throughout the community. We know that the city has pretty limited authority to be able to impact diesel use on any private construction

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projects, but we do have authority over our own projects, and we can make decisions to reduce emissions on city funded projects. That's we're here to talk about. Kyle will begin the discussion. The proposal. He's a bps project manager, and Stacy foreman with procurement services. I thank dr. Christine Kendrick on our staff. She has been working with us on air quality and very much as one of the key people in the smart cities program. Also John with the county has been a great partner. You'll hear more from him in a bit. Thank you.

Wheeler: Thank you.

Kyle Diesner, Bureau of Planning and Sustainability: Okay. Mayor Wheeler, commissioners, thank you for considering this resolution. I'm Kyle Diesner with the Bureau of Planning and Sustainability. I'm going to provide background and talk about how we got to where we are today. Stacy will get into the details. We have been thoughtfully and strategically working on this issue for over a decade. It was in 2006 the first Portland air toxics study results were released bringing to our attention the fact that Portlanders faced elevated health risks as a result of exposure to diesel pollution. I would like to thank Commissioner Saltzman for your early leadership. It was at his direction that the office of planning and sustainability we were able to obtain 2.3 million in grants to support retrofit and upgrades of our equipment. It's time we turn our attention to the next step while that work continues. We piloted a similar contracting standard on a voluntary basis on a handful of city and county projects. At that time we heard loud and clear from the contracting community that we needed to slow down and take a regional approach. We have done just that. In 2016 we convened a regional workgroup to address this purpose. We come to you today with many of our regional partners in the room demonstrating a commitment to do this across the Portland metro area so we have representatives from the port of Portland, from Multnomah county, from metro, from Oregon department of environmental quality and also Washington county has been observing throughout this process. The problem before us is clear. The steps we need to take to address the problem is clear. We believe now is the right time and along with our regional partners in Multnomah county took decisive action this morning. I'm going to cover why this matters in the first place. Diesel exhaust is a complex mixture of gases and particles. The public health concern comes primarily from ultrafine particles emitted from diesel engines. These can be very small, less than a micrometer, just to put that in context that's 100 times smaller than the width of a human hair. Small size of these particles allows them to bypass the body's natural defenses penetrating deep into the lungs, passing directly through to the bloodstream thus transported throughout the body leading to a series of health effects, respiratory, cardiovascular and nervous system. It's a known carcinogen identified by the international agency of research on cancer expressed as lung and bladder cancers. They are also blamed for increased risk of heart attack and suspected in causing autism and ALS, Lou Gehrig's disease. Children and elderly are especially vulnerable. Asthma incidents is a concern for children and California determined diesel exhaust is one of the five most hazardous pollutants for children for its role in asthma. The elderly are especially vulnerable to heart disease from episodic and long term exposure to diesel pollution. Also we know through work at the Multnomah county health department there's a disproportionate impact on African American and Latino populations in our city. They face three times higher exposure rates than the average resident and that has to do with the neighborhoods in which those populations are living that are close to development and transportation hub activities. In 2006 deq first completed that study and has since done additional modeling on that. The study used local meteorology and topography information about neighborhood, car, truck, industrial, to predict air toxics. Particles were found above the benchmark concentrations recommended by the Oregon air toxic science advisory committee and recently adopted health-based benchmarks by the Oregon environmental

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quality commission. Diesel exhaust poses one of the highest health risks in the Portland metro area of any air toxic contaminant evaluated. Portland metro has the highest concentrations of diesel in the state. This graphic shows elevated levels across the Portland area, particularly in north and northeast Portland. Based on EPA's most recent national assessment of air toxin concentrations they found Multnomah county ranks in the top 3% of counties nationally for concentration of diesel particulates. This shows diesel particulate sources and why we are focusing on construction today. This data is also from the Portland air toxics study, the 2017 modeling and shows that 65% of diesel emissions in the Portland area are coming from nonroad sources. 10% from buildings and residential industrial commercial, 2% from marine, 7% from rail and 16% for on road. That sector is already regulated through manufacturing standards. These emission standards have more recently been applied to off road and construction equipment. New engines and because of the controls can reduce diesel particulate pollution up to 95% on all projects. In the absence of broader statewide regulation clean diesel contracting provides an opportunity to significantly reduce emissions on public projects. This action is an important leadership opportunity on a significant public health issue. As the key task for our regional work we studied existing contracting programs. We hired a contractor, emissions advantage, who evaluated programs around the country and made recommendations about the best way for us to proceed. We use that information to develop our own criteria for how we evaluate different alternatives. We knew that reducing diesel emissions was top but it was important to do it in a manner that addressed technical limitations and potential safety concerns of retrofits, did not create a large administrative burden on our contractors or our agencies, and critically does not adversely impact small disadvantaged businesses that work on the projects or work against our DBE participation goals. We have reported our findings and recommendations and solicited feedback. To be clear, what we're proposing isn't a new concept but has been done all over the country. A contractor evaluated 18 programs including states, cities, transportation departments, transit authorities, universities and port authority. Our recommendation is based on soundly on national practices and the best practices that we have seen around the country. With that I'll hand this off to Stacy for procurement services.

Stacey Foreman, Office of Management and Finance Procurement Services: Good afternoon. I'm Stacy Foreman. I work in procurement services, part of the bureau of revenue and financial services. So I'm going to spend a couple of minutes highlighting recommendations that this regional collaboration has developed. These are contained in exhibit a, attached to the resolution today. So first and foremost, what is the goal? At the end of program implementation our goal is to the diesel equipment on our construction sites will be much, much cleaner including nonroad equipment that they will meet tier 4 emission standards and on-road equipment dump trucks, cement mixers will meet emissions levels associated with models 2007 or newer. That doesn't mean all contractors have to buy new equipment. One of the compliance mechanisms is that they can retrofit older engines utilizing best available control technology emission retrofit devices. And of course, alternative fueled vehicles and equipment are another compliance option. Another recommendation I want to highlight is that we are proposing a phased in implementation approach. This phased-in approach was developed by the collaborative group based on feedback we heard directly from contractors during our August 22 external stakeholder work group. This allows contractors more time to plan for those new equipment purchases or retrofitting existing equipment, it also spreads that cost burden over multiple years rather than a compact time of one or two years. The other change we made to our recommendations based on feedback from contractors was that we reduce the scope of the on-road standard in that instead of having it apply to all on-road engines we would limit it to cement mixers and dump trucks. The third element I want to highlight from

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recommendations is we know the exemptions will be needed over the course of implementation, however we will be coming back to you with some concrete examples of what that exemption criteria will look like and the process that will be required for exemptions to be granted.

Fish: Can I ask a question off that last slide? The last bullet arguably might apply to some of the minority contractors that get the sub work and they have a single dump truck or couple of dump trucks. Demonstrate it's a hardship to invest in upgrades. Is part of the proposal some mechanism to help mwesb contractors make this transition.

Foreman: Right. We'll get to that in the next slide.

Fish: Thank you.

Foreman: As just mentioned we know from experiments over the past ten years that one of the great concerns is the impact that such a standard would have on our smaller firms and disadvantaged minority women owned businesses that we're actively seeking to do business with at the city. So one of the primary recommendations that this group has come up with is to find funding for those firms to help upgrade their equipment. We're strongly advocating for allocation of the vw settlement funds that the state will be distributing in determining allocation the next session that some of that money goes directly to this kind of program to help certified firms meet these types of requirements. Also I want to add that that was it. Sorry. I'm going to the next steps. We will be coming back with a more finalized proposal for the clean air construction standard and associated program. During that time we will continue to work with regional partners and stakeholders internal and external including dmwesb community, contracting community, and we will be developing funding estimates to help target and advocate for those funds at the state level for dmwesb funds as well as identifying cost estimates associated with any general fund resources we may need to help implement this program. So with that i'm going to turn it back over to kyle for closing remarks.

Diesner: You know, Portland's sustainability work is internationally renowned. We have been a leader in all areas that susan highlighted. I mention this because this resolution really is about that leadership. This effort truly hits the triple bottom line. Environmentally we're improving air quality and reducing climate forcing effects of black carbon. Socially, we're improving health of all Portlanders, but especially those who are most vulnerable. Economically because of this work, the environmental protection agency found that there was a \$10 return for every dollar that we invest in reducing diesel emissions. With that I would like to thank you for your consideration and we have some invited testimony.

Wheeler: Very good. Thank you for your testimony. I would like to introduce Multnomah county chair kafoury. I was panicking because I wasn't sure she was here. She was sitting perfectly behind susan so I could not see her. As you heard, during the preparation, this is actually a joint effort started with Multnomah county over a decade ago. Now it started with our own fleets and now of course the next step that's addressed with this particular resolution is to ensure that our own construction projects don't aggravate air quality in our area. This has been a very important partnership between a number of different entities, the most important partner in this from our perspective has been Multnomah county. We're pleased to have Multnomah county chair deborah kafoury here today. I had the honor of testifying in front of the board of county commissioners as they passed their sister resolution this morning. The city and the county staff have spent more than two years working with our regional partners, that includes clackamas county, Washington county, the port of Portland, metro and the Oregon department of environmental quality to build a regional approach on this issue. So we are very pleased to have chair kafoury from Multnomah county here today. Thanks for being here.

Deborah Kafoury, Chair Multnomah County Commission: Thank you for allowing me to chat with you today. As you heard earlier today my colleagues and I passed a similar

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resolution committing Multnomah county to making sure that our public construction projects are clean air construction projects. With your action today, we will send an important message, the era of dirty diesel engines is coming to an end. Over the past several years between smog studies and smoke from wildfires Portlanders are waking up to the fact that we have bad air quality in our region. One of the main culprits is from older diesel engines. Most of my life I thought Portland was a pristine, beautiful place, but the reality is no matter where you live in the Portland metro area you are exposed to diesel at levels well above the health benchmarks. If you happen to live near highways or railyards, you are 542 times the acceptable risk level from diesel emissions alone. As is so often the case with environmental problems, while the pollution affects all of us it's worse for some. Diesel exhaust pollution in has a disproportionate impact on african-americans and latinos. Individually we can't do much about this but collectively we can make a big difference. For those of you who wish that the state would take the lead, I'm with you. But the fact is the state legislature has not solved this problem. So here we are. But the good news is that local agencies are part of the collaboration and are committed to making things better here in our communities. This is something that mayor wheeler and I are committed to getting done. By adopting identical standards across jurisdictions, we are sending a signal to the marketplace. Clean equipment on public contracts is the new expectation. I'm confident that with the county and the city taking the lead that other jurisdictions and other organizations will join in this effort. People may say that our efforts are insufficient to solve this problem or that we should wait for someone else to come up with a better solution. But we have a responsibility to act because the health and well-being of our community is on the line. Just because we can't do everything doesn't mean that we shouldn't do something. While clean diesel contracting won't solve the whole problem, it's a big step in the right direction. The time to act is now. Thank you very much.

Wheeler: Thank you, chair kafoury. We appreciate your partnership on this. Next we have dr. Erica moseson, pulmonary and critical care medicine and president-elect of the Oregon thoracic society.

Dr. Ericka Mossesen: Thank you for this opportunity to address you. I'm a lung doctor and icu doctor. I take care of patients every day who suffer from diseases that are either caused by diesel particulate exhaust or made worse. Someone prior already touched on all the health effects, so I think one thing I can help with a little bit is sometimes it seems abstract about these multipliers about how \$1 invested can yield \$10 in benefits, but I see with my patients the economic burden of not being able to breathe. So, we know that when we clean up particulate exhaust all kids, not just with asthma, actually miss fewer sick days from school. Parents are not having to stay home with their kids. Inhaler costs for a family, especially without generics, two can run from six to \$10,000 a year whether you're paying that out of pocket or with copays it's a big drag on the family budget. There's a genetic component. Lots of times you'll have one family with both kids have asthma, parents have asthma, copd, so you have a multiplier of people missing sick days, workdays, losing their job because they are not quite fast enough or working hard enough because of their limitations from lung disease that people are frequently not willing to mention. I also think it's hard for people to understand how these particles we can't see really hurt us. So I kind of used the analogy of why does anyone inhale drugs, right? Why does anyone smoke cigarettes or whatever else they are smoking in Portland now. The reason is within a heartbeat it's in your brain, in the rest of your body, so smoking something and inhaling diesel particulate exhaust is like injecting it into your veins. Our lungs are designed to take the care and circulate it. It affects every organ. It causes cognitive changes in children, dementia in the brain, heart attack, strokes, ventricular failure. If you have copd, asthma, it lands people in the hospital, in clinics. People miss work. It's a carcinogen. Even though

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you can't see it devastates the health of communities. I strongly encourage cleaning up the air to help our families here.

Wheeler: Thank you. I appreciate your testimony. Next up, Mary peveto, from neighbors for clean air. Thank you for being here.

Mary Pebaton, Neighbors for Clean Air: Thank you very for the opportunity to testify in support, strong, strong support for this resolution. I'm Mary peveto, president for neighbors for clean air. Our organization that been working to address the pollution issue since basically I finished my tenure almost ten years ago on Portland air toxics st. Luke's advisory committee. They identified diesel pollution as one of the single biggest drivers in our region. I'm excited about this step forward. We have been waiting for the state legislature and state to take this up and we have been waiting for too long. I think it's really important to see that the city understands that we can't be a leader in sustainability with dirty air. We need clean air for healthy clean air and we won't get there without addressing diesel pollution. So I want to highlight just four points. I think they underscore the health impacts of this and the equity impacts in a an important way. I think the case has been made for us. You in the city, mayor, all the whereas did a good job setting this out but I want to talk about why this specific policy is really strong. There's four key points. Basically diesel pollution is everybody's problem. But it's nobody's responsibility. So the city's involvement in the clean contracting collaboration steps into this void. It does the hard work to identify feasible first steps and necessary building blocks for regional and hopefully statewide collaboration to leverage our money, public dollars, to deliver great public health benefit. I want to underscore there has been more recent uproar and outrage around air toxins, higher visibility. We have been meeting a lot of community workshops and working with community and I will tell you to a person people are addressing the problem of diesel pollution in their communities. People see this problem and they really are showing up and talking about it and they are frustrated that the whole organization of the cleaner air Oregon program, which is a really important and significant program for our state, will not address diesel emissions at all. So I think it's really important that the communities that are suffering from this and haven't seen any solutions to deal with it see this as very important steps forward. The other thing that was brought up earlier, the vw settlement money is an unprecedented opportunity for us to invest in solutions in this area and I don't think we can underscore that enough. I think we can really target that money to ensure that minority contractors, women owned businesses can be prioritized in getting that money, especially in the Portland metro air why emissions are highest. Those are all conditions of the state decree. The state guidelines that were set. But it's also should be put in perspective. That money represents almost eight times more than we have spent in Oregon in two decades on this problem. This is a significant amount of money that can really help move us forward and it's really important to see our public entities leverage that money to see real good in the community. So I just want to underscore how important this is for our communities and I really appreciate the leadership that you're taking to address this problem and to take the steps that we can take. I would like to bring attention to testimony that's going to come in from our partners at northwest environmental defense center and green energy institute that really looked at the policy options and seen the holes of where we have difficulty addressing construction type activities specifically from a state regulatory framework because of preemptions to the clean air act. Their testimony will be part of the public record but it's really important to understand that this is the leverage that you have with public funding to really get at this. Dr. Linda George from Portland state university had done some preliminary diesel emissions monitoring and should be underscored not only were those numbers total volume construction represents but when she took her diesel monitor around to the different types of sources it was the construction, the development sites that hit the highest levels of diesel emissions right there. Those are in our

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neighborhoods and our communities. We all see the cranes, the buildings that we're living among for months while they construct them. All that data continues to be supported by the actual monitoring that's happening. I want to thank you for addressing this, taking the steps and look forward to continuing to work with you to get this passed.

Wheeler: Thank you for your testimony.

Fritz: I want to thank you for ten years of leadership on this issue. Your expertise and the fact you have been suggesting this very thing for so long including the Volkswagen settlement is outstanding. Thank you.

Pebaton: Thank you, commissioner Fritz. Thanks to all the commissioners.

Wheeler: Thanks for coming in. Our second to last invited guest is emeril vogt from port of Portland. Thanks for being here.

Emeril Bogue, Port of Portland: Good afternoon, mayor, commissioners. I'm emerald vogt here to share the same thing I shared with the county board this morning, support and appreciation for your leadership here. We have been at the multi-jurisdictional table now for quite some time. Working to see if this is feasible to see if we can chart a path forward where we have a uniform standard. That work isn't done yet. But what's happening today is significant because what we see is two jurisdictions moving forward and deciding to be leaders here. That leadership isn't simple. Just as most leadership decisions are not simple, the stakes are high. They are high for minority contractors working to maintain a foothold in the market. The stakes are high for public agencies managing projects on a budget. The stakes are very highest for the communities breathing the air. So we thank you for moving forward with this. We will be watching closely and working collaboratively to figure out how to land this right and we appreciate the city's approach and we appreciate the county's approach. Happy to answer any questions that you have.

Wheeler: I just want to say thank you, emeril. The port of Portland has been very important to this partnership. We couldn't do it without you.

Pebaton: Right back at you.

Wheeler: Thank you. Our last invited guest, certainly not least, chris werner from pbot. Welcome. Thanks for being here.

Chris Warner, Interim Director Bureau of Transportation: Thank you. Mayor, members of city council, chris werner, pbot. We're committed to providing Portlanders with effective and safe transportation system and that includes fostering health within and around our construction sites. As we heard today the diesel particulate matter presents a serious threat both to health of our site workers and to our neighbors. Along with other city bureaus we have been starting to do this by reducing those diesel emissions to the upgrades of our fleet. We recognize value in taking these next steps to invest in cleaner air by addressing emissions from contractors' diesel construction equipment. We look forward to working with procurement services and bps to craft a clean air construction standard both effective and practical. While the investment in clean air will have some upfront costs we support the commitment that the resolution puts forward to estimate those costs and secure appropriate resources. Done thoughtfully we can improve air quality and keep our commitment to getting Portland moving. So I might take one moment of personal privilege to thank kevin downing from deq. We have worked many, many years together in salem, he recently retired from deq and has been moving this along. I appreciate his friendship over the years and all of his work on this.

Wheeler: Thank you. Thank you for acknowledging the work of deq in particular. Thanks for being here. Very good. That brings -- sorry, commissioner Fritz.

Fritz: I have a question for Susan Anderson.

Saltzman: I have a question or two also.

Wheeler: Come on up.

Fritz: Mine is an easy one.

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Wheeler: Dan's is going to be a grilling. [laughter]

Fritz: Would it be possible to bring it back by December 13 instead of the 20th?

Anderson: I would think so.

Fritz: The 20th is the very last meeting before the christmas holiday, and that might be a difficult time for getting a quorum and getting people to come to testify. So would you agree with a friendly amendment to change the date to December 13th? Is that all right?

Anderson: I'll be here testifying at that time instead of on this side of the table.

Wheeler: Without objection --

Fritz: Do I need a second?

Eudaly: Second.

Wheeler: Motion and second. Very good. Thank you. Dan?

Saltzman: This may be a question for procurement although I'm sure susan or kyle can answer it. How big of a definition of public works contracts are we employing here? Are we getting with anyone that truly has public money in it, affordable housing projects, corridor, urban renewal project?

Diesner: Yes, anything we directly contract and there's public dollars going into. We are discussing if there's a certain dollar threshold that should trigger the requirement and so that will be one of the details that we're flushing out over the next couple of months.

Anderson: We're very interested in your opinion on that, and of all the commissioners on how far and how deep we go. Instead of just coming with the ordinances we want to have a little bit of time to walk through all of the proposal in depth so you can give us a little more direction.

Saltzman: I think it should be as all-encompassing as possible. That's why I -- concerned if we drop too many lines about what constitutes public investment we start talking about if it's only direct as opposed to secondary or tertiary public investment that we're not getting at all the things we should be getting at given the enormity of this public health problem.

Anderson: One of the things we could look at depending on your interest is the same for everyone or when we did the green building policy we had a city-wide, a pdc, and a housing project policy. They varied a little because the projects were just a little bit different. Seeing if we need to tweak them just a bit.

Saltzman: That's a good reminder and refresher to me. Clearly when we talk about public works projects we're talking about pdc-funded projects.

Anderson: Prosper.

Saltzman: No gray area there anymore.

Anderson: Yes.

Saltzman: Good. My final thought and concern is just that while I know this is extremely important in terms of potential impact on minority contractors, I think the gravity of this problem is clearly a public health, paramount public health problem. The policy shouldn't be driven necessarily by concerns about impacts on minority contractors. That shouldn't be the horse driving the show. Whatever the saying is. That shouldn't be driving our final deliberations on this policy. It's an important concern. We want to mitigate the impact but this is an enormous public health problem. Outstanding. Stunning, revealing testimony to me. This needs to be acted on, not -- our voices, our actions should not be drowned out by the voices of those who will be loudest in this chamber. I hope we will come up with a good public policy and I hope you'll give us as strong a starting point as possible.

Anderson: Thank you.

Eudaly: I have a quick question. Isn't that what the vw settlement funds are being considered for, though, assisting minority and disadvantaged --

Diesner: That's correct.

Eudaly: I agree we need to do it, period, but I do think we have an obligation to come up with a solution for the very people who have really borne the brunt of the pollution and

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already have barriers and challenge to economic opportunities. So I'm really thankful that that is coming alongside this resolution.

Anderson: The vw settlement using those funds has been a priority in the legislative process so far, getting ready for next year. It doesn't mean we have it in pocket. So we'll look at other options too in terms of -- what we want to do is have the playing field be level. So if the subs, which are often women and minority owned firms, often the prime could cover the cost. If all of the primes had to cover the cost, then we're on an even playing field. We don't want to go there. We would much rather have funding resources to do it but the most important part is making sure no one is at a disadvantage compared to anyone else.

Fish: Can I piggyback off what commissioner Eudaly said? You have asked for our feedback. We're going to be implementing this under a different council. I will insist on a robust plan to offset the impacts on mwesb contractors for two reasons. One, what commissioner Eudaly has eloquently stated, that by and large these are communities that have borne the brunt of the pollution. The second is one of the areas that we have failed consistently is creating prime contracting opportunities for minority contracting community. So what we get when we have procurement reports in this council on a regular basis is things like flagging and trucking. Now, in a fairer system people would actually be competing for the prime contract. But what we have done is we have allocated these other services where an industry has -- a group of entrepreneurs have created a market, but they have been effectively shut out of another market for a whole host of reasons including access to capital. We understand that you cannot prevent the implementation of these rules, solely on the basis of equity lens, but I would say that I think what you're going to get is strong guidance from this council going forward that we are interested in looking at aggressive measures to help people make that transition so they can still compete. It would be adding insult to indignity to be told for historically that you can't compete for the prime contracts and then put people out of business because we set a new regulatory standard. I can't support that.

Wheeler: Very good. Karla, this is a resolution. Is there any public testimony?

Karla: We have four people signed up.

Wheeler: Very good.

Karla: The first three please come on up.

Wheeler: Welcome. Three minutes each. Name for the record, please.

Raphaella Hsu-Flanders: wheeler, commissioners, i'm rafael lasu flanders. We have submitted written testimony as well outlining our support for the clean diesel procurement policy. I'm going to echo some of what has already been said today. Underscoring the fact in Multnomah county most residents are exposed to diesel pollution at levels higher than the state's health benchmark and in some areas many times more. It's an environmental justice issue as communities of color often have two to three times more exposure to diesel particulate matter than majority white communities. I want to thank you for pursuing local solutions since the legislature has not yet taken action. By affirming your support for this policy you'll accelerate cleanup of dirty diesel engines resulting in benefits to our climate and to public health.

Wheeler: Thank you. Appreciate your testimony. Good afternoon.

Linda Nettekoven: Good afternoon. Linda neticoven speaking as an individual. I can assure you my neighborhood has long been very concerned about these issues. We were blessed with a freeway, a state highway, apartments going up on division, and of course a busy railroad. We realize that you don't have a way to directly impact these other things that are resulting in abernathy school consistently being reported in usa today having some of the worst air quality in the nation. So we are very grateful that you're taking a lead in an area that you do have say over. We're hopeful that the details that emerge as this

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goes forward will plug as many loopholes as possible. We're very -- i'm very committed to the equity lens that you're applying to the situation. Thank you for that. I'm also here just to say thank you and urge you to keep looking for ways that you can collaborate and find other leverage points for adjusting this issue until we can get some statewide action happening. Thank you.

Wheeler: Thanks for your continued advocacy. Good afternoon.

Cynthia Yee: Good afternoon. My name is Cynthia Yee. For almost ten years I have lived on the south park blocks. During that period of time I have noticed a steady degradation of air quality in that area, especially as we have many construction projects in our area. To alleviate some of my respiratory symptoms I have a hepa filter which I have going 24 hours a day. I also consult, there are many smart phone apps that I consult to see what the air quality is before I venture out. Currently I have family members who are encouraging me to move to different parts of the United States where the air quality is not as big of an issue. I hate to leave Portland because I participated in the concerts, plays, ballets. So I would hate to leave the area, but simply for health reasons I may need to do that. I certainly support your efforts today. Thank you for this opportunity.

Wheeler: Thank you for coming in. We appreciate it. We want you to stay.

Yee: Oh, thank you.

Wheeler: Was there one more?

Karla: The last person is Bill Failing.

Fish: Bill signed up for the next item, Karla. He's here for the --

Wheeler: He signed up for this now we have to hear what he has to say. We'll see you in a few minutes. With that, any further discussion before we take up the amendments? First of all the amendment that I put on the table can we call the roll on that, please, regarding equity?

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

Wheeler: Aye. The amendment is adopted. Next was put forth by Commissioner Fritz regarding the December 13 hearing date.

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

Wheeler: Aye. The amendment is adopted. To the main motion, please call the roll.

Saltzman: I want to thank everybody, all the governments who are partners to these new clean air standards. I really appreciate the work and I realize it's like weaving. You have to go where you have the jurisdiction to go. I think you have done that very well. I do want to also recognize Kevin Downing for his long-standing work on this area. He's been at every turn of the way he's been there with ideas and opportunities for us to do more in this area, so I want to thank him while he's here as well. This is great work. As I just said a few minutes ago I hope we stay strong on this because this is really one of the most important -- underscored in all of us with the forest fires impacts that we have suffered and we probably will be enduring on a more frequent basis from everything all the certified smart people say on OPB, other places, that this is a characteristic of our air quality we will probably have to live with for a long time. It underscores the need. This can do so much damage to young and old people alike. Pleased to vote aye.

Eudaly: Also, very pleased to support this resolution. Heavy duty diesel vehicles and nonroad vehicles are among the top contributors to airborne toxins. I might be slightly biased because I live in one of those hot spots in the city in Woodlawn, which is close to the railroad and industrial area. I thought that I was doing good being a mile or two from the freeway and come to find out I am just as bad off in that neighborhood. Environmental justice is racial justice when it's done right. So, I want to reiterate my concern and support for efforts around ensuring that we're not creating hardship for already disadvantaged contractors. The ten lowest income and ten highest minority census block groups in Portland experience higher than average exposure to all air toxins. I want to say that out

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loud for everyone in the room and everyone watching. Pleased to see the coordinated approach between government agencies and regional partners because as I hope everyone knows air toxins don't recognize municipal boundaries and the Portland air shed includes the entirety of Multnomah, Clackamas, Washington county as well as sections of Yamhill, Clark counties. Be great if we could get them in there too. Just a suggestion. It's been at least ten years, so thank you, Mary, thank you, Oregon environmental council and Portland city club and all the citizen activists and advocates who have not relented in bringing attention to this issue. We have known it's a problem for a long time. We have only seen small incremental change. I feel like this is a big step forward. Of course, we need the state to make some aggressive changes as well. This was a topic at the north Portland traffic kickoff and mingle that speaker kotek and I attended. I hope it will be a priority for city council and we really need all of our partners and our community members to bring pressure to bear on them this session. It would be a shame to have to wait two more years for any progress on this issue. I'm to the end of my post it notes. Pleased to vote aye.

Fritz: First everything she said. [laughter] thank you for summarizing. Thank you for your leadership from the community on this. You have been working on it for a very long time. Thanks, Kevin Downing and the department of environmental quality. Often that's reviled as why don't they do something, it's really challenging and I know you have had few staff and not enough political support. I do know speaker kotek has been trying to work on this for a very long time also. Representing north Portland she's particularly involved in it. Thank you for the presentation and particularly the information that when we think about diesel many of us think about cars. Or leaf blowers. It turns out those are not the things that are actually causing most of the impact so by getting to the heart of it in a way that is perhaps manageable especially with the Volkswagen settlement money this is a really thoughtful approach. Thank you, Susan Anderson, for bringing this in advance of becoming private citizen. Looking forward to hearing you testify and really telling us what you feel in December although I haven't noticed you being shy in that regard over the past ten years either. [laughter] thank you for your leadership on this issue and many more at the bureau of planning and sustainability. Thank you, Mayor, for your commitment, your leadership of the bureau of planning and sustainability, particularly for not having 60 people testifying on something which is really a good idea and all of us get it and you didn't need to have 60 people testifying. I appreciate it very much. [laughter] aye.

Fish: But when you're fourth in the queue and the Mayor is the author of the resolution to follow you should be brief. I concur with everything my colleagues have said. I have the honor of leading the bureau of environmental services and parks bureau. It seems to me that if you look at the Columbia wastewater treatment plant upgrade as well as replacing aging pipe and a number of other projects then building new parks building on Commissioner Fritz's legacy we're going to have a substantial amount of public works projects that are covered by this so we look forward to getting it right. I will join with my colleague Commissioner Eudaly in making sure that we find the right balance with MWESB contractors. I want to say that as wonderful as this is, really in fairness, size an, this is one of the sweeter things you have had a hand in including waning us of these in our city fleets and using all kinds of innovative ways to get natural gas and other renewable natural gas and other kinds of energy sources. So this is good work. I'm pleased to vote aye.

Wheeler: I'm going to be brief, believe it or not. Thank you for Commissioner Fritz for mentioning brevity as being a high value. I agree. I just want to thank our partners, number one I want to thank the bureau of planning and sustainability and Susan and everybody who worked so hard on this. Number two, we could not have done this without our regional partners, in particular Multnomah county, also Clackamas county, Washington county, the port of Portland, metro, and the Oregon department of environmental quality. This is a

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partnership that's been engaged for the better part of two years to bring this forward today. I want to thank amy wrathfelder from my office and amanda watson from my office for their diligent work as well. Now a sober note. This is leading by example and it's tremendously important that city of Portland lead by example with our regional partners. But this in and of itself will not solve the problem. It is a serious problem. As commissioner Saltzman indicated it's a high priority public health issue. We have prioritized clean diesel in our legislative agenda every one of the last years and we have not made the progress we need to make at the state level. I hope by bringing this coalition together and having all of us on the same page and working hard on this and leading and demonstrating that it can be done successfully that this will help break loose whatever log jams exist at the state level to address, which is of significant public health consequences for the people in this community. So let's celebrate this way point but let's also just acknowledge it's a way point towards a more significant and more comprehensive strategy that encompasses all dirty diesel pollution in the state of Oregon. I vote aye. The resolution is adopted as amended. Thank you, everybody. I would like to take a two-minute recess. Please read items 998 and 999 together.

Item 998 and 999.

Wheeler: Does anyone have any ex parte contacts they wish to declare?

Saltzman: I think we all received a letter from jamie strohecker.

Fritz: I opened it without reading it.

Saltzman: I read it. I want to declare that.

Wheeler: Very good. My staff apparently Fished it out. I do not recall having received that. Does anyone in council chamber wish to ask commissioner Saltzman about his declared ex parte contact.

Fritz: I'm fascinated to find out what's in it. I'll wait until later.

Wheeler: We'll have to wait for the sequel. Other than commissioner Saltzman there have been no

Fish: I would like to disclose. I received an email from bill failing offering his condolences on the passing of my mother-in-law. In the I believe in the text beyond the condolence he made some reference to progress and community conversations. I did not read that section of the email carefully and it has no impact on my decision making.

Wheeler: Does anyone in the chamber have any question to ask commissioner Fish about his declared ex parte contact? Seeing none, very well. Colleagues, we have heard testimony and received final submissions from both the applicant and the neighborhood. We have a couple of options at this particular juncture. We could either immediately commence with council discussion, we could reopen the record to hear briefly from the applicant and the neighborhood in terms of their various proposals and progress.

Fish: I would like to hear the applicant and the neighborhood about progress they may have made in their discussions.

Wheeler: Could I propose that we limit that progress to five minutes each?

Fish: That's fine.

Wheeler: Very good. Why don't we go ahead and do that. We have my understanding is we have a representative from the applicant and we have the co-chairs, I believe, were designated to represent the neighborhood. Is that correct? Very good. Why don't we hear - - does it matter which order? Shall we hear from the applicant first? [audio not understandable]

Linly Rees, City Attorney: Unless there's a preference I don't think it matters.

Wheeler: Let's just hear from the applicant first unless you'd like to reverse the order. Is five minutes sufficient to be able to summarize?

Rees: Yes.

Wheeler: Thank you. Appreciate it. If you could just state your names for the record.

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Christe White, Attorney Radler White Parks & Alexander: Sure. I'm christi white, an attorney with white parks and alexander here representing the applicant and was involved in the discussions with the neighborhood. I'll just -- I put together thoughts just in the event we had this testimony. A few things. Back to the legal standard that will be judged by in this case whether removal of the previous conditions on balance is equally or more supportive of the comprehensive plan as a whole than leaving the conditions in place. Seems to be no disagreement on what that legal standard is. Just a reminder that staff and hearings officers identified 199 policies and found that this proposal met 198 of them, so even if you took the one policy that seems to be the center of attention on access to food it's one of the 199. Even if you gave it significant weight it wouldn't change the balance. Despite that, last time we were here you asked us what we could do to move the needle. We suggested at the hearing that we thought we could take the risk and agree to 1500 square feet of retail but you said there's beginnings of a conversation here. What more can you do? We took you seriously and we gathered some experts in the field earnestly ask them how much more can we do here without making this site nonviable for both the neighborhood and the applicant. That research is in your packet. It was done by johnson economics then three mixed use developers with experience in Portland, and they told us that we could potentially get to 3,000 square feet of retail. That was based on a site-specific evaluation to answer your question as to what use and what size would be viable on the site. We went back and watched the videos and were presented with a piece of paper when we started mediation. The two questions were what kind of commercial and how much. The collective conclusion was 3,000 square feet. We still understand from that data that that's a stretch but we're willing to do it and it's not that we're just willing to tell you that 3,000 square feet is a condition we can live with. We're actually willing to build it, to take on the extra costs of putting retail on the ground floor, building that retail with the hope that the design of that and the build of that will encourage retailers to come to the property. Two conditions. One, there must be 7500 square feet of retail and a second mandates that 5,000 of that is a neighborhood market with an emphasis on healthy fresh foods. That food market condition unfortunately for us is an impossible condition that sets the site up for failure in the exact same way the existing conditions have done. Of course it's vague and creates a significant enforcement issue and we don't believe it's the job of the council to hand pick a particular use and require that that particular use be built on the property. There's of course a third party in that equation and that is a retailer. We don't have that retailer and we don't have that tenant after 2.5 years. More importantly there was no evidence presented that 5,000 square foot market or 7500 square foot of retail would be viable. Instead the approved list of grocers who have similar footprints and the stroecker site owner will need to find someone looking to open a one-off store. We have been looking for two and a half years and have not found them. That acknowledges there's not a current food market tenant available. This is really important. A market is not viable. Too much retail is not viable. There's no market study or demographic data that would suggest this condition would be viable. What are you left with? With a battle of opinions. Those opinions have different win and loss scenarios. If your condition is imposed there will be a mum of 3,000 feet of retail space. Under our proposed condition we may get more. If SWHRL is right and we have 3,000 square feet and it attracts more retail everybody wins. If their condition is imposed and our experts are right at best we have a high risk of dark storefront and potentially too prescriptive of a condition to develop the site at all. Finally, this is not a type of decision where a number between two final offers can be selected arbitrarily and hope it works out. It's got to be selected based on site specific data and viability of the site. I'm just going to jump quick to design review. In terms of the requested design review condition first that wasn't part of the scope of our mediation. We were sent away with really clear directions. Type of use and quantity of that use. Under

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pcc33420021 the application of the design overlay must also include the adoption of design guidelines. Under pcc33855, to place a new design overlay on the site you have a different application, different standards and different notice. We're too late in the process for that. I'll end with this. You just adopted 30 pages of design and development standards for the cm1 zone and the purpose statement written into the code basically speaks to this site. A disbursed mixed use site surrounded by rural residential. Height limits, setbacks, building length and articulation, they speak to all of the criteria that we have heard is a concern about the design of this particular site. If we don't have faith in the design standards we just adopted and if we don't think they work here then why would they work anywhere in the city? We're asking you to have faith in what you just adopted. We'll comply with these. We'll be sure there's a development here that is in compliance with all these design standards and that at least establishes viability and if we're wrong and the site can handle more then everybody wins. Thank you.

Wheeler: For those of you watching the clock we'll make sure the neighborhood representatives have six minutes six seconds.

Fritz: A question. You referenced the johnson economics -- I don't have that.

White: It's in the packet that was submitted. There's two letters. One letter is the initial letter from johnson economics and the second letter is the supplemental. There should be two, three to four, five-page memos and three letters that follow those from three Portland mixed use developers.

Wheeler: Could I ask a couple of follow-up questions? To make sure I understand what's being proposed we're still talking about the cm1 designation. The trip cap is still --

White: Yes.

Wheeler: In place.

White: Yes.

Wheeler: The trip cap would require -- has a neighborhood contact requirement associated with it. That would remain in place.

White: Yes.

Wheeler: You are proposing as a new condition 3,000 square feet of retail.

White: Yes.

Wheeler: Here's a question I have. My understanding was that that had a time limit on it. Am I correct or incorrect?

White: This is what we suggested in our condition. That we're actually going to make the investment and build the retail. So we will from six months of the point of -- it's already constructed, the money is invested in the site, we can encourage retailers based on the design of the site and excitement of the site. If six months after that's complete we still have absolutely no retail interest in the site we would like the opportunity to not have that space be dark but actually convert it to whatever other allowed use there is. An example would be it could turn into ground floor residential or it could turn into a neighborhood kind of serving office use or anything that was allowed in that cm1 zone, not anything that would be prohibited. We just don't want it to be dark.

Wheeler: How do you define interest? What constitutes interest?

White: It wouldn't just be an interest. We would actually invest -- when you build ground floor retail with residential over the construction costs are greater. We're trying to communicate we're very serious and committed to taking this risk. If after six months we have marketed the site like crazy and we have no interest at regular market conditions, then we have to be able to come back to you and say here's what we did and we have nobody. So now our choice is, it's dark or we go with another permitted use in the zone for that ground floor.

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Wheeler: One more follow-up. I'm sorry, maybe this is self-evident. I'm not in the commercial leasing business. I have no reason to doubt your veracity whatsoever. I want to be crystal clear about that.

White: Sure.

Wheeler: What would prevent you from creating this space then asking a rate that is way above what the market would bear?

******:** Because that's just insane. That's why because the cost of construction -- this is not insignificant commitment. The cost of construction to build retail in this space without having identified a retail tenant and with the Johnson economics studies making us worried about that, nobody in their right mind would do that. I think what's more likely to happen is that as we're designing and building this we are out there trying to mitigate our risk by finding anybody who would fit our condition, then what happens honestly is if you can't find anybody you start compromising and bargaining on rents or whatever it is to get the person in there. That's a much more sane approach than leaving it dark and hoping that you convert what was a much higher ceiling ground floor to ceiling height to another use where you're wasting that space you already invested in.

Wheeler: Thank you.

Fritz: You could build to suit. You mentioned in the study --

White: We could.

Fritz: Cafe?

White: Yes.

Fritz: A little bit less. You would need a kitchen, set it up like that. Would this six months be before the building even opens or --

White: No. [speaking simultaneously] as soon as this condition is adopted we're hitting the ground running and talking to everybody we can. That mitigates our risk. Then after we have actually made the investment and the space is actually at core and shell, then the timeline starts ticking. We're trying to provide the longest timeline and biggest investment so people have certainty that we're serious about the condition.

Fritz: I think that needs to be specified if this is the way we go, when does that six months start. Otherwise you would have time to change it and not build it that way.

******:** We said it was -- we're open to that but what we said is substantial completion of core and shell because at that point, maybe this is a way better question for maybe a planner in the room, but at that point you're absolutely committed to having built the retail space. It's there. People can see it, can feel it. It's still amenable to a specific user who could come in and make different tenant improvement choices based on the particular use.

Fritz: Thank you.

Saltzman: I had a question. Maybe this might be a bds question. What does it mean exactly to build to retail? Higher ceilings?

White: Well, generally higher ceiling. There's different building code requirements depending on construction type. It may be wood over steel. So you're putting steel or concrete in at the ground floor, and usually it's anywhere from I know it's 18 foot floor to floor in some situations but it's usually retail requires a higher floor to floor ratio than regular residential. There are distinctions under the building code for the occupancy classification. There's distinctions for the type of construction, and then the distinctions for separation of residential and retail which create cost issues when you're building.

Wheeler: Very good. Thank you.

White: You're welcome.

John Neumann, Co-President SWHRL: I'm John Neuman, co-president of SWHRL. Could I invite up Miss Richter, an attorney for a local resident who has been helping us out?

Wheeler: It's your six minutes and six seconds to use however you want.

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Neumann: Brief introduction. I want to thank you for the opportunity. This is obviously a big responsibility for the neighborhood. I'm really proud of the neighborhood coming together in a single voice and putting together what we feel are very reasonable set of conditions for the property. We believe our proposal addresses concerns that the land owner has about creating a viable -- about viability while also creating this small commercial that meets the needs of the neighborhood and reflects the history of the property. We did have very productive negotiation. I want to thank commissioner Fish for proposing that because it was good to come together. Ultimately, we could not come to agreement. There are issues that are very important to the neighborhood. Having access to fresh food, also the design review having a voice going forward. To touch on a few things, we believe that the economic report actually shows an opportunity within a one-mile range of the site. That there is a significant opportunity there. We also feel that in the application's proposal the statements from the developer make it clear that there's no interest in creating a retail space. So we share your goal of the 20-minute neighborhood. We share the goal and comprehensive plan of having as sec to fresh food. It's clear from this application that that's not going to happen unless some small conditions are put on the property. With that I would like to hand it over to Carrie.

Carrie Richter, Attorney Bateman Seidel: Thank you. I'm Carrie Richter, an attorney at Bateman Seidel. I represent Blake Olson. I was also a participant in the negotiations. The negotiations included a couple hour meeting sit down at BDC's offices and a follow-up conference call. I think everybody is working hard to identify the right use for this site. I think it's unfortunate that the applicant was unwilling to come forward with an actual proposal because if they had done that we would have had a design and we would have had a use and we could have evaluated it against the criteria at that point. Just like Strohecker's did when it was originally -- when the zone was changed to a commercial use. So we are at a disadvantage all of us because we don't have a use to evaluate. So a lot of this I think I agree with Ms. White that all of this is the best we can do not knowing much and we do have to rely on experts from our analysis, from our sit-downs we too provided experts that talked about the need for a critical mass of retail. That the success of this site is going to depend on having enough there. I appreciate Ms. White's point that if our experts are -- if her experts are right and -- if our experts are right, excuse me, there will be a lot of retail because the applicant will do more than is required. But if their experts are right the site sits vacant. I strongly disagree with that idea. First the site won't sit vacant. They will come back and seek to rezone the site again. That's what they have done here and they will do it again in the event this effort proves -- in the event that they cannot site 7500 square feet. We are giving up conditions that severely restrict the property. They haven't even tried to market it without those conditions or with limited set of conditions that we talked about in our testimony how they are going it represents 10% of the far that can be built on the site. That gives the developer a whole bunch of opportunity. It's 25% of what the conditions require now in terms of square footage that Strohecker's had before. That's significant. We provided testimony about the ability to make a market. This site has served as successful grocery store for 100 years. It's proven difficult for 2.5. That would suggest provide substantial evidence to suggest that a market and retail can work here. I'll reiterate what Mr. Neuman said, that it is true that there are no -- we know of no zones that have no specific use restrictions on them but there are almost no plan policies that are as specific as access to healthy food and the 20 minute neighborhood concept. In that respect that would be a basis to find those comprehensive plan policies dictated a plan for this site. I want to talk about design review and point out two reasons why the existing CM1 standards are inappropriate for this site. First of all the current standards do not take into account the proximity of the park. We have provided evidence of situations where property is adjacent to public resources like parks, like the Jewish community centers where design

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overlay is imposed in order to get at the synergy between these public resources. The second and as important a reason why the council ought to take up this design review issue is because the general cm1 standards, the 30 pages that the city just adopted, do not provide for any public hearing or review. They do not provide for notice. They do not provide an opportunity for the neighborhood to come in and talk to staff about their concerns about the design. 11 of the 25 conditions that are on the property now relate to design. Some of them deal with the park. The only way that we'll get a chance to look at those issues is if we are given an opportunity to have what's called a type 2 review at the design phase. That's why design review is critical.

Wheeler: Thank you. Commissioner Fish has a question then i'm going to give applicant an additional 34 seconds. This is a legal hearing so we have to do that.

Fish: In your exchange with the mayor I want to make sure ms. White that I didn't miss something. Under your proposal from the point at which the six-month is triggered and commissioner Fritz has raised a concern about being clear about when does that six months run, but from the point at which that six-month period or whatever we agree upon if at all is triggered, if you are unsuccessful would that have to come back to planning?

White: I think it would at least have to come back to the bureau of development services for us to demonstrate that we weren't successful and are allowed to develop with --

Fish: Could that be appealed to this body?

White: Decisions like that are not normally appealed to this body.

Fish: You have to make some kind of showing before you converted the space to other use.

White: Yes. We would come in for example the way the mechanics would work we would come in for hopefully we won't do this but come in with a tenant improvement permit for something that wasn't retail, bds would read the condition of approval and it would say this has to be retail, unless we demonstrated that in this six months period which is much longer because it's all through the core and shell we weren't able to identify any market reasonable retail developer.

Fish: Could you help me understand, if that contingency occurred, what role would the neighborhood have in evaluating whether they think you had met your burden?

White: So I agree with Carrie that I don't think there's any formal notice requirement if we were to come in and say --

Fish: Condition of approval.

White: You could add a condition of approval that we had notice requirement to the neighborhood. Yes. Exactly. We could do that.

Fish: Thank you.

Fritz: Would you be willing to add a condition of approval that you would meet with the neighborhood association during the design phase to get input? The consent about having input was what I heard.

White: Absolutely. Most people do that. Some do it better than others.

Fritz: I agree with both your statements. I don't think I can put approval of -- condition of approval you have to do it and do it well. There's some movement since last time.

White: Yes.

Fritz: Thank you.

Wheeler: If you want you can take 34 more seconds. What was it 34?

Karla: Yes. 34.

Richter: Only 34. [laughter] don't take more.

White: I would just mention the two design review examples provided design review for sites in a design overlay or sites that are in a plan district and are surrounded by other properties that are in design overlays. This is a very isolated property. If you read the

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purpose statement those design standards in the code are specifically tailored for this kind of property exactly.

Richter: I'm going to stop. Ten seconds under.

Fritz: If we do move forward with a condition about meeting during the design phase I would like you all to please consider having connection from the property to the park. We're not going to -- it's not recommended to put in a condition of approval on that. Obviously again that would seem like an amenity that the occupants would want.

White: I think that's a natural discussion during the design development phase.

Fritz: Yes. The existing easement or not easement, the property access to the park could easily be obscured by the building and make it seem like a private park. I want it to be clear on that.

Richter: Can I just respond to your comment about that? About the type 2 notice, about the meeting? There could be a meeting in advance but unless you require opportunity for notice and opportunity for hearing, there's nothing more than a meeting that would occur. So the neighbors wouldn't have an opportunity under commissioner Fish's example other than just to have a meeting. There would need to be a type 2 review.

Fish: Can I just say this then we're finished with this colloquy. If you got notice under this approach and you determined, you believe, the community believes, this has been undertaken in bad faith you still have recourse to come to the council and express that concern and the council has other authority and oversight of a development project where it can make its displeasure known. Let me leave it at that.

Wheeler: Could I ask a question of legal council? Thank you very much. You can go ahead back to your seat.

White: Thank you.

Wheeler: I want to make sure i'm following exactly the right process. I know commissioner Saltzman is prepared to make a motion. What if there are multiple motions?

Rees: Procedural once you have one on the table unless it's a friendly amendment you need to dispose of that motion first then move to another motion.

Wheeler: I appreciate that.

Fritz: Could I please have staff come back? I would like to hear from staff.

Wheeler: Very good.

Eudaly: Are we not discussing this before the motion? I wasn't here last time.

Saltzman: Any commissioner can make a months any time. Saturday saturday I would like to move that we approve the neighborhood's proposal in part, a minimum of 7500 square feet of retail sales and service areas, minimum 5,000 square feet of that dedicated to a neighborhood market with one or more tenants offering healthy fresh foods. I do not support the design review type 2 design review. I believe i'm making that motion because I am swayed by the fact that our comprehensive plan does speak to 20-minute neighborhoods and access to food. I think that has been -- there's been good arguments in support of that put forward. This is the site for many people in that neighborhood to have that 20-minute access, access to local food. I believe and the market of in addition food markets we're seeing today where you have green zebra, one on 50th and sandy. I think it's called -- I forgot the name of it. They are cropping up left and right. I believe this has to be an attractive location despite the fact it sat dark for the last two and a half years or whatever. I was skeptical in the beginning but I think there's a lot of willing customers that live in this neighborhood would want to bend over backwards to see a local vendor is successful and I believe this is the way to go. That's my motion.

Wheeler: We have a motion. Is there a second? No second? Commissioner eudaly, you wanted to bring staff back up?

Eudaly: Commissioner Fritz wanted to and I believe I will have some questions for staff as well. I would like her to begin.

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Fritz: I would like your opinion of what you've heard so far and what the best options might be.

Mark Moffett, Bureau of Development Services: This is bureau of development services. I'm reluctant to offer a personal opinion here. I think the neighbors and the applicant would speak better to those. I would mention with regards to the evidence in the applicant's case with the six months thing there's no real good tool when you're building a shell space. I don't even think you get a temporary certificate of occupancy from the city until later. So my idea and I just a nod from my supervisor we would have photographic evidence required that the shell is complete, in other words the floor is there, walls are there, ceiling is there, services are plumbed then written evidence of marketing starting that day with some interval of evidence until the six-month period then they have shown us it was built on day x, then for the following six months they marketed it in some way. Then just basically would be an administrative review of that. They would show up at the counter permit center and they would say it was done on this day, now it can be something else.

Fritz: Development services wouldn't have a trigger to know when that photographic evidence starts. There isn't a process to turn in that photograph, is there?

Moffett: Just at the moment as christi white mentioned if they came in for a permit for tenant improvement to do something else we would insist on that evidence and probably scan and attach it to that building permit.

Fritz: So technically you could do it in other words.

Moffett: Yes.

Fritz: That was my concern.

Moffett: It would have to be a photo. The neighbors would be able to see when the space was constructed. I would assume that would all be on the up and up. Like a date stamped photo.

Fritz: If you could help us with that language that would be helpful to me if we go this route.

Moffett: I would suggest the applicant's language works and that's just what I just mentioned would be the logistics of how we worked it out during permitting. You could do language. That would be clunky. It would be hard to put that in there. If you want it in there, by all means.

Eudaly: So I think that my questions would be more appropriate for bps but there may be overlapping -- do we have staff from bps in the room? All right. I understand with cm1 there's extra far about no bonus height. The possibility was raised at the last hearing as to whether or not this development could have an additional height allowance which would let them have ground floor commercial and two stories of residential. That's just not an option for whatever reason.

Moffett: It's 35 feet. That's it.

Eudaly: We're talking about putting all sorts of conditions and requirements on this so why wouldn't we be able to allow something when we're restricting other things?

Moffett: You mean like taller height?

Eudaly: Yeah.

Moffett: You would have to do a condition. Extra height is allowed, you know. Instruct us to do that. Condition of approval.

Eudaly: Okay.

Rees: I'm not certain that without modification review or an adjustment -- I haven't really thought it through. I think we would probably need another land use review that wasn't noticed.

Moffett: For that matter they could do a land use review regardless of what happens here, come in and ask for adjustments to standards when they develop it. That would go to the neighborhood and have notice and there would be opportunities.

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Eudaly: I'm just -- these hearings are few and far between. Sometimes we're learning as we go along. Remembering a conversation about an amendment I brought. It was not an appeal, where the neighborhood was not accepting a zoning change because they didn't want commercial but that developer needed the commercial zoning in order to get the height for the housing, so it was kind of the reverse. I was just wondering if there was any way we could give them more height for residential allowing them to commit more ground floor to retail. It sounds like no.

Rees: I think mark is correct that if they wanted the additional height it would come through a later application.

Eudaly: My other question was pretty general. It might be for the city attorney. I'm just not clear on what kind of conditions or requirements council can place on this property. There are a lot of really important, valid desires in the neighborhood that I don't know that we can -- that we can dictate what this property owner does with their property despite all the evidence that the market just may not support significant commercial property or full service grocery store.

Rees: Conditions must be based on findings that particular -- in this case for these criteria. You're trying to determine whether the condition is necessary to make the findings that on balance the comprehensive plan policies are satisfied or service criteria. You have the trip cap to make sure the transportation service criteria are met. In looking at the criteria, you have a broad range of conditions. You can apply. There are, however, other limitations you also have to think about such as constitutional limitations. For example you couldn't say and we would like you to make this a public park because that's a taking. We would have to buy the property to make it a public park. We can't do that kind of condition. What you're doing is considering our policies then also considering the backdrop of what limitations there are in government and -- private property.

Eudaly: You've hit on the topic that I am struggling with, which is taking. This property owner bought this property with existing restrictions full knowledge of the restrictions and conditions. I don't think if we impose the very same restrictions that it could be seen as a taking, but i'm just --

Fish: Can I offer an observation? One of the reasons I think these are among the most interesting things that we take up as a council that is uniquely, we get to balance competing values that are written in a very general term. And we can have sharp disagreements among the five of us about the relative weight to give to various things. You know, for example, as I listened to the testimony, I am likely to be persuaded by the applicant's proposal at the minimum of 3,000 feet, but I think that the community has made an argument, a valid argument that the six months may not be long enough to mark it, and we cannot -- I don't want to be in a situation where we are setting a condition that's going to fail because there is a downturn in the economy or because there is not adequate time. I might be inclined to bump that up to a year. I think that there will be pressure from the developer, from the residents, from the people in the neighborhood to fill that space, and I think an extra six months would focus the attention on getting the job done, which we want. So, but uniquely, and I have learned this from commissioner Fritz, she often, you noticed the ear -- other day, she asked what are the conditions of approval. What's the code. What are the ground rules and how -- what we balance them against what? And then we often -- we disagree fundamentally, even though we are all playing within the same sandbox, so I would just say that this is uniquely an area where you get to follow what your head and your heart guide you. You get to balance.

Eudaly: My final question is I know we put requirements or conditions on land use but how common is it to say that you can only have one type of retail enterprise?

Fritz: It's not, I will tell you that right now, but it's also uncommon to have its own change and 26 different provisions of approval. This is a deal made way back when, and at the

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time those were the -- they were actually intended to be side boards, not demands, don't do anything other than this. But this is a very unusual situation to be coming back for conditions to be taken off. Usually we just make the change, we had the discussion at various other places in the comprehensive plan. You are putting an asterisk on a zoning map that does not really work very well and that is essentially what we are working with here.

Eudaly: Thank you everyone for bearing with me. I am recognizing very slammed concerns on both sides and I want to make sure that I have got a full grasp of what we -- the parameters that we can work within. Thank you.

Fritz: I think commissioner Fish is ready to make a motion.

Fish: Since I previewed a bit and you are better at making it, would you mind making it? This is for purposes of having a test vote in the conversation?

Fritz: Here's why I am at. I wanted to really go with the neighborhood because I have been to that stroheckers, and it has been a valuable place for the neighborhood for many years. I am persuaded by the evidence in the record that it does not seem like that's going to continue to be that, and I really think that we should have some commercial in this space. And so that's where -- what I am interested in. I was dismayed to find out over the course of this proceeding that none of our commercial zones require commercial, and that, mayor, I did not notice that. We were moving through, I think that we might want to revisit that because certainly there is some places that we really, really want commercial. This is one of them. Because we are trading 26 different conditions for one condition, I think that -- I was looking at mine for the various places that I know of, the size of the barber foods and in my neighborhood, which is 12,000 square feet. That's a small grocery store, but it has a niche market. The pub in my neighborhood is less than 3,000 square foot, and the deli market is about 3,000, so I think that 3,000 could be a place which would have some retail, some potentially -- a cafe or something like that, and potentially sell some fresh food. Particularly if they can make it work. And so I am interested, Commissioner, in your concept of extending it to a year?

Fish: I would take the applicant's proposal, but extend the requirements from six months to a year.

Fritz: So I move that we take the applicant's proposal, changing the time line to 12 months at no design review, condition of approval, that the neighborhood is consulted during design phase, and with notice to nearby neighbors as well as the neighborhood association and anybody on the record of interest for this proceeding to let them know of the meeting so there can be some neighborhood input.

Fish: I will second that.

Wheeler: We have a motion from commissioner Fritz. We have a second from commissioner Fish. Any further discussion?

Fish: Are we taking a tentative vote?

Wheeler: This is a tentative vote. Call the roll.

Saltzman: Well, I believe that the motion in front of as represented by the applicant's proposal will really result in a very tortured course that this issue is going to come back to this council because we're going to be asked to debate -- it's really going to be a shell game. We will be asked to debate when the shell was built, whether it's a shell, how long it was marketed, and all these little micro-issues are going to make their way back, and we will be in the same place that we are right now. So again I believe that the neighborhood has made a case That access to healthy food and 20-minute neighborhoods is strong. I think this site is perfect. I think it can work. And everybody can live with it and move on. Make their plans accordingly. I respectfully vote no.

Eudaly: I want to thank everyone who participated and came last month to give testimony. This was a fascinating hearing to view. And to think about. Portland heights is a really

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unique neighborhood in our city, unique demographics. Unique terrain. Probably the most affluent food desert in the city. I am going to take a wild guess at. And I really appreciate how important some kind of commercial space is in the neighborhood, and especially grocery. My hope is while it does not seem likely you are going to go a full service grocery store in a neighborhood with such low density and with so many options within two miles of the site, that you do get fresh food access. So I vote aye.

Fritz: Yeah. As I said, I really wanted to go with the neighborhood's proposal, but the evidence in the record wasn't persuasive. The most compelling testimony for the neighbors, and that, again, I tried to get to a yes on that, but unfortunately I couldn't. I think that then if it can't be a grocery store, the Neighborhood gathering space, and as commissioner eudaly alluded to, this is a neighborhood where most people are able to get to other places, relatively close by. I think at that the neighborhood gathering space is also important, so I appreciate the applicant offering to put their best effort into this, and I think that this is not, probably not satisfactory to anybody, but maybe the best compromise that certainly I can think of. Aye.

Fish: Aye.

Wheeler: So this has been an extraordinarily complex issue. I have done everything in my power to make sure that I am sticking to the record and that I am focusing on the facts -- and leaving to the side emotion. I would be remiss if I did not say that there is a certain degree of emotion that I have wrapped up in this particular issue. I grew up in this neighborhood. I spent a lot of years going to and from stroheckers. I went to school with members of the family, and I found them to really be extraordinary people and community-minded individuals. And there is a piece of me that mourns the loss of stroheckers and what it meant not only to the neighborhood but to the community at large. That being said looking at the record I have a concern, and commissioner eudaly actually went right to it with the question of taking. That is if we prescribe that This location is unique to any other location in the city of Portland, and it must have a certain amount of retail and that amount of -- some percentage of that amount of retail must also be for the use of the sale of a certain category of production, my concern would be what happens then if they are unable to market under those very restrictive conditions. And I believe that personally based on the fact that I gleaned from the record that would also constitute a taking. And that would also put us back in a -- the position of trying to find the right answers, commissioner Saltzman said, under a different scenario. So I am persuaded as commissioner Fritz was that the offer put on the table by the applicant is a good midway point. It's not what the neighborhood wants. And I want to acknowledge that. But I think that it's a -- it's a good step forward. I think that it has a lot of potential and it could be very positive for the community to have that gathering space again. Separate from the record but maybe related to that use of community gathering is the location. It's right in the middle of a neighborhood that's next to a public park. There is a lot of great opportunity there. So with the conditions that commissioner Fritz put on the table about community engagement in the design process notification, with the extension That commissioner Fish had proposed to a year, while I know that, that will create undoubtedly some issues and trials for the applicant. I think it's a reasonable compromise along with the rest of the package. Let's see what we can do here as a community and let's make this special. I vote aye. [gavel pounded] the motion has carried the application is approved with conditions. The matter will return to the council for the adoption of findings. We will take a tentative vote.

Rees: Do we have a type certain on the 10th?

Wheeler: Could I go the time certain and the date, please?

Karla: We are looking at the second week of october would be october 10 at 10:40:00 a.m.

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Wheeler: And so the time vote will be october 10 at 10:40:00 a.m. Time certain here in the city hall council chambers. Is that good? Very good. This issue is disposed. And we are adjourned.

Eudaly: Don't we have one more?

At 4:00 pm Council adjourned.