



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **6TH DAY OF JANUARY, 2010** AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Adams, Presiding; Commissioners Fish, Fritz, Leonard and Saltzman, 5.

Motion to elect Commissioner Fish as President of the Council: Moved by Commissioner Fritz and seconded by Commissioner Saltzman. (Y-5)

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Ben Walters, Chief Deputy City Attorney; and Ron Willis, Sergeant at Arms.

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

COMMUNICATIONS	Disposition:
1 Request of Randy Toole to address Council regarding tenant rights and housing (Communication)	PLACED ON FILE
2 Request of John Blair to address Council regarding tenant rights and housing (Communication)	PLACED ON FILE
3 Request of Greg Harrison to address Council regarding tenants rights and housing (Communication)	PLACED ON FILE
4 Request of Anthony Daniel Anderson to address Council regarding tenant rights and housing (Communication)	PLACED ON FILE
5 Request of Lew Church to address Council regarding tenant rights and housing (Communication)	PLACED ON FILE
TIMES CERTAIN	
6 TIME CERTAIN: 9:30 AM – Amend the Zoning Code to allow a limited amount of office use at PGE Park (Previous Agenda 1638; Ordinance introduced by Mayor Adams; amend Code Chapter 33.510) 30 minutes requested.	PASSED TO SECOND READING JANUARY 27, 2010 AT 9:30 AM
CONSENT AGENDA – NO DISCUSSION	

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Mayor Sam Adams

7	Appoint Janis Adler to the Public Utilities Review Board for term to expire January 6, 2012 (Report) (Y-5)	CONFIRMED
8	Reappoint Lai-Lani Ovalles, Jill Sherman and Chris Smith to the Portland Planning Commission for terms to expire June 30, 2010 (Report) (Y-5)	CONFIRMED
*9	Authorize an Intergovernmental Agreement with Portland State University for \$12,000 for the support of the First Stop Portland program (Ordinance) (Y-5)	183420
*10	Authorize a grant to Portland Farmers Market for \$15,000 to implement a waste reduction and diversion program at the Saturday PSU Market (Ordinance) (Y-5)	183421
Bureau of Planning & Sustainability		
*11	Authorize an Intergovernmental Agreement with Portland State University to evaluate the effectiveness of the Five Easy Steps to Recycling at Work in reducing the amount of recyclables sent to the landfill (Ordinance) (Y-5)	183422
12	Apply for a grant from the State of Oregon Department of Environmental Quality for \$20,728 to allow Tabor Consulting Group to produce videos on waste prevention in home remodeling (Ordinance)	PASSED TO SECOND READING JANUARY 13, 2010 AT 9:30 AM
13	Apply for a grant from the State of Oregon Department of Environmental Quality for \$25,422 to support the recycling systems at Portland State University (Ordinance)	PASSED TO SECOND READING JANUARY 13, 2010 AT 9:30 AM
14	Apply for a grant from the State of Oregon Department of Environmental Quality for \$30,250 to support Oregon Health and Sciences University Recycling Outreach (Ordinance)	PASSED TO SECOND READING JANUARY 13, 2010 AT 9:30 AM
15	Apply for a grant from the State of Oregon Department of Environmental Quality for \$38,170 to allow School and Community Reuse Action Project to initiate a pilot project (Ordinance)	PASSED TO SECOND READING JANUARY 13, 2010 AT 9:30 AM
16	Apply for a grant from the State of Oregon Department of Environmental Quality for \$41,372 to allow Community Warehouse to run the Furniture Recovery Project (Ordinance)	PASSED TO SECOND READING JANUARY 13, 2010 AT 9:30 AM

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17	<p>Authorize a grant agreement with the Portland Sustainability Institute to support work on the Oregon Sustainability Center, EcoDistricts and the Climate Prosperity Project (Second Reading Agenda 1728)</p> <p>(Y-5)</p>	183423
Bureau of Transportation		
*18	<p>Extend contract with the Alliance for Community Traffic Safety for one year and increase by \$14,000 for child safety seat fitting station services (Ordinance; amend Contract No. 30000065)</p> <p>(Y-5)</p>	183424
*19	<p>Extend contract with the Alliance for Community Traffic Safety for one year and increase by \$8,000 for child safety seat assembly services (Ordinance; amend Contract No. 30000066)</p> <p>(Y-5)</p>	183425
*20	<p>Accept a grant in the amount of \$300,000 from Metro for the SmartTrips Green Line project (Ordinance)</p> <p>(Y-5)</p>	183426
*21	<p>Authorize First Extension of Lease with Oregon Department of Transportation for property used for the maintenance and storage facility for the Portland Streetcar system (Ordinance; amend Contract No. 51236)</p> <p>(Y-5)</p>	183427
*22	<p>Designate seven parcels of City-owned property located along N Interstate Ave in the Rose Quarter area as public street right-of-way and assign to the Bureau of Transportation (Ordinance)</p> <p>(Y-5)</p>	183428
*23	<p>Amend template to authorize the Director of the Bureau of Transportation to enter into Intergovernmental Agreements with the Portland Development Commission to provide professional, technical and construction services for transportation improvements (Ordinance; amend Ordinance No. 181631)</p> <p>(Y-5)</p>	183429
Office of Management and Finance – Business Operations		
*24	<p>Authorize purchase order with Karen Wolf as the winner of the PortlandOnline Banner Challenge and waive professional, technical and expert contracting rules (Ordinance)</p> <p>(Y-5)</p>	183430
Office of Management and Finance – Internal Business Services		
*25	<p>Pay claim of Laura J. Jacobs (Ordinance)</p> <p>(Y-5)</p>	183431
*26	<p>Authorize an Intergovernmental Agreement with the Portland Development Commission for the funding and administration of the 2009 Disparity Study (Ordinance)</p> <p>(Y-5)</p>	183432

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<p>*27 Authorize an Intergovernmental Agreement with the Portland Development Commission for the Workforce Training & Hiring Program and Technical Assistance Program (Ordinance) (Y-5)</p>	<p align="center">183433</p>
<p align="center">Commissioner Nick Fish Position No. 2</p>	
<p align="center">Portland Housing Bureau</p>	
<p>*28 Amend subrecipient contract with Cascade AIDS Project in the amount of \$21,500 for Project-Based Rent Assistance for People with HIV/AIDS (Ordinance; amend Contract No. 30000589) (Y-5)</p>	<p align="center">183434</p>
<p align="center">Portland Parks & Recreation</p>	
<p>29 Authorize agreement with New Cingular Wireless PCS, LLC to locate underground utilities at Munger Park (Ordinance)</p>	<p align="center">PASSED TO SECOND READING JANUARY 13, 2010 AT 9:30 AM</p>
<p>30 Authorize the renewal of an Individual Site License Agreement with LCW Wireless, LLC for use of a portion of the Children's Museum in Washington Park for wireless communication purposes (Ordinance)</p>	<p align="center">PASSED TO SECOND READING JANUARY 13, 2010 AT 9:30 AM</p>
<p>*31 Amend the Intergovernmental Agreement template used between Portland Parks & Recreation and the Portland Development Commission for professional, technical and construction services (Ordinance; amend Ordinance No. 181232) (Y-5)</p>	<p align="center">183435</p>
<p align="center">Commissioner Dan Saltzman Position No. 3</p>	
<p align="center">Bureau of Environmental Services</p>	
<p>*32 Amend contract with Moore Excavation, Inc. to increase compensation for the Annual Pipe Cleaning and Investigative Service (Ordinance; amend Contract No. 41098) (Y-5)</p>	<p align="center">183436</p>
<p>33 Amend contract with Brown and Caldwell for additional work and compensation for the Fanno Basin pump station pressure main – Multnomah Section Project No. E08294 (Ordinance; amend Contract No. 37106)</p>	<p align="center">PASSED TO SECOND READING JANUARY 13, 2010 AT 9:30 AM</p>
<p>34 Authorize Intergovernmental Agreements for implementation of Grey to Green ecoroof projects (Second Reading Agenda 1742) (Y-5)</p>	<p align="center">183437</p>
<p align="center">Bureau of Police</p>	

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<p>*35 Amend contract with Technical Assistance for Community Services, Inc. for implementation of a One-Stop Domestic Violence Service Center (Ordinance; amend Contract No. 37428) (Y-5)</p>	<p>183438</p>
<p>*36 Amend an Intergovernmental Agreement with the Multnomah County District Attorney to reimburse the Police Bureau for overtime costs of officers assigned to the District Attorney's Office as investigators (Ordinance; amend Contract No. 52562) (Y-5)</p>	<p>183439</p>
<p style="text-align: center;">Commissioner Randy Leonard Position No. 4 Bureau of Water</p>	
<p>37 Authorize a contract and provide payment for the Carolina Pump Main Extension Project (Ordinance)</p>	<p style="text-align: center;">PASSED TO SECOND READING JANUARY 13, 2010 AT 9:30 AM</p>
<p>38 Authorize a contract and provide payment for construction of the Linnton Pump Station Improvements Project (Ordinance)</p>	<p style="text-align: center;">PASSED TO SECOND READING JANUARY 13, 2010 AT 9:30 AM</p>
<p>39 Authorize a contract and provide payment for construction of the S-10 Road Repair Phase 2 Project (Ordinance)</p>	<p style="text-align: center;">PASSED TO SECOND READING JANUARY 13, 2010 AT 9:30 AM</p>
<p>40 Authorize the Portland Water Bureau to execute grants to fund the installation of high-efficiency toilets in low-income multi-family buildings (Second Reading Agenda 1736) (Y-5)</p>	<p>183440</p>
<p style="text-align: center;">REGULAR AGENDA</p>	
<p style="text-align: center;">Mayor Sam Adams</p>	
<p>41 Authorize Chief Administrative Officer or designee to execute a Revocable Permit of Entry to allow Peregrine Sports, LLC access to PGE Park to conduct non-construction evaluation and preparation activities (Resolution) 20 minutes requested. (Y-3; N-2, Fritz, Fish)</p>	<p>36758</p>
<p style="text-align: center;">Bureau of Planning & Sustainability</p>	
<p>*42 Accept formula allocation of \$5,626,100 from the Energy Efficiency and Conservation Block Grant program administered by the U.S. Department of Energy as part of the American Recovery and Reinvestment Act (Ordinance) 15 minutes requested. (Y-5)</p>	<p>183441</p>
<p style="text-align: center;">Bureau of Transportation</p>	

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<p>*43 Authorize an Air-Rights Lease Agreement with 409 Project LLC to construct, use and maintain a mixed-use building over the sidewalk portion of SW 13th Street (Ordinance) 10 minutes requested.</p> <p>Motion to amend to change SW Stark to SW 13th: Moved by Mayor Adams and seconded by Commissioner Fritz (Y-4; Fish absent)</p> <p>(Y-5)</p>	<p align="center">183442 AS AMENDED</p>
<p>*44 Amend contract with Tri-State Construction for Change Order No. 11 for fabrication and erection of a bicycle and pedestrian bridge east of NE 92nd Dr over the Columbia Slough (Ordinance; amend Contract No. 30000806; C-10020)</p> <p>(Y-5)</p>	<p align="center">183443</p>
<p align="center">Office of Emergency Management</p>	
<p>*45 Authorize Urban Area Security Initiative grant funded contract with Consortium of Business Continuity Professionals, Inc. for \$105,000 to complete a business impact analysis for Washington County Department of Support Services and Department of Land Use and Transportation (Ordinance)</p> <p>(Y-5)</p>	<p align="center">183444</p>
<p align="center">Office of Management and Finance – Financial Services</p>	
<p>46 Authorize sewer revenue bonds to finance additions and improvements to the sewer system (Ordinance)</p> <p>Motion to amend Section 1.6 to correct the stated amount of the authorization amount to \$450 million: Moved by Commissioner Saltzman and seconded by Commissioner Fritz. (Y-5)</p>	<p align="center">PASSED TO SECOND READING AS AMENDED JANUARY 13, 2010 AT 9:30 AM</p>
<p align="center">Office of Management and Finance – Internal Business Services</p>	
<p>*47 Pay claim of Marlin Anderson, Mary Bailey, Matthew Chase and Jack Golden (Ordinance) 15 minutes requested.</p>	<p align="center">REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION</p>
<p>*48 Update Purchasing Code to conform to new state law and make technical corrections (Ordinance; amend Code Chapters 5.33 and 5.34)</p> <p>(Y-5)</p>	<p align="center">183445</p>
<p>49 Accept bid of Stettler Supply and Construction for the Columbia South Shore Wellfield Improvements Project for \$843,500 (Purchasing Report – Bid No. 111067)</p> <p>Motion to accept the report: Moved by Commissioner Fish and seconded by Commissioner Fritz.</p> <p>(Y-5)</p>	<p align="center">ACCEPTED PREPARE CONTRACT</p>
<p>50 Accept bid of Moore Excavation, Inc. for the Fanno Basin Pump Station FM, Multnomah Section Project for \$5,050,951 (Purchasing Report - Bid No. 111174)</p> <p>Motion to accept the report: Moved by Commissioner Fish and seconded by Commissioner Fritz.</p> <p>(Y-5)</p>	<p align="center">ACCEPTED PREPARE CONTRACT</p>

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Commissioner Dan Saltzman Position No. 3		
Bureau of Environmental Services		
51	Amend contract with CH2M Hill for additional work and compensation for the Fanno Basin pump station pressure main - Garden Home Section, Project No. E08293 (Second Reading Agenda 1751; amend Contract No. 37100) (Y-5)	183446
Commissioner Randy Leonard Position No. 4		
Bureau of Development Services		
52	Adopt uniform policies for deferred and installment payment of system development charges (Second Reading Agenda 1755; amend Code Chapters 17.13, 17.14, 17.15, 17.36 and 21.16) (Y-5)	183447
53	Adopt uniform policies for partial and full exemptions of system development charges for qualified affordable housing developments (Second Reading Agenda 1756; amend Code Chapters 17.13, 17.15, 17.36, 21.16 and 30.01, and Ordinance No. 182843) (Y-5)	183448 AS AMENDED

At 11:22 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **6TH DAY OF DECEMBER, 2010** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Adams, Presiding; Commissioners Fish, Fritz, Leonard and Saltzman, 5.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Shane Abma, Senior Deputy City Attorney; and Ron Willis, Sergeant at Arms. At 3:20 p.m., Kathryn Beaumont, Senior Deputy City Attorney, replaced Abma.

<p>54 TIME CERTAIN: 2:00 PM – Improve land use regulations through the Regulatory Improvement Code Amendment Package 5 (Ordinance introduced by Mayor Adams; amend Title 33 and Official Zoning Map) 90 minutes requested.</p>	<p>Disposition:</p> <p>CONTINUED TO FEBRUARY 3, 2010 AT 3:30 PM TIME CERTAIN</p>
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At 3:37 p.m., Council adjourned.

LAVONNE GRIFFIN-VALADE
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

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

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Closed Caption File of Portland City Council Meeting

This file was produced through the closed captioning process for the televised City Council broadcast.

Key: ***** means unidentified speaker.

JANUARY 6, 2010 9:30 AM

Adams: It's wednesday, january 6th, 2010. This is the first session of the Portland city council of the new year. Karla, would you please call the roll.

[roll call]

Adams: Our first offered business is a -- to entertain a motion on a new president of the council.

Fritz: I move that commissioner Fish be president of the council for the next six months.

Leonard: Second.

Adams: It's been moved and seconded that commissioner Fish be the president of the council for the next six months. Feeling confident. Is there any discussion of this motion? Does anyone wish to testify on this matter? Karla, would you please call the roll.

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

Adams: Aye. [gavel pounded] Congratulations, you're the president. We have five folks signed up under communications. Karla, could you please read the title for communications item no. 1.

Item 1.

Adams: Mr. Toole.

Moore-Love: He may not have been able to make it today.

Adams: All right. Please read the title for council communications item no. 2.

Item 2.

Adams: Mr. Blair. Mr. Blair. All right. Can you please --

*****: [inaudible]

Adams: We still have to go through it. Thank you. Can you please read the title for council communications item no. 3.

Item 3.

Adams: I assume that mr. Blair is not here. Mr. Harrison is not here. All right. Please read the title for council communications item no. 4.

Item 4.

Adams: Mr. Anderson, welcome back to the city council, glad you're here. Please sit down and you give your first and last name and that clock in front of you will help you have count down your three minutes.

Anthony Daniel Anderson: My name is anthony daniel anderson, and i'm here first of all to ask you to imagine that part of your daily routine, at a bus stop and a man comes up to you and says that he's an overwhelming -- has overwhelming thoughts of oral sex with you and then requests or actually demands that you orient your body perpendicular away from facing him, because the sight of your crotch is too much for him to bear.

Adams: Is this going somewhere?

Anderson: Please indulge me. This happened to me, because an employee of central city concern, greg green, while I was at the phone, would come up to the drinking fountain and say exactly that. He said when he bent down to take a drink, that he thought of fellatio, and that he wanted me to orient my crotch away from him. First of all, I was, of course, surprised at the complicitness of his comment. I was on the phone talking to my mother, so I complied. I just rotated my body and --

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but the thing is he kept on coming back. This is a regular thing for me, to call my mother. Every so often, I would be down there and sometimes facing away, so there would be no problem. He'd take his drink and go on. But other times, he would, again, repeat the same procedure. He'd say, your crotch is bothering me. Anyway, finally, I refused and he got upset and said he was going to report it. I said, well, hey, report it. I thought he was crazy. Loony. Anyway, he did report it. Rachel, his immediate superior, took the -- took his statement and she was shocked, of course, of what he wrote. Anyway, she asked me to file a report. I did file a report. Eventually, it went to a meeting with the head of human resources. And they did -- they found out that exactly what I said was true. That greg was doing those things. Anyway, about two months later, I hear that ed blackburn says that nothing happened. So I go back to rachel and I say, "what's happening? I thought you -- you said that this happened." and she said, yeah, it did happen. I don't know what ed blackburn was thinking. So I was told that -- that I made it up -- I was told that I made it up. I'm losing my composure because my time is up. Guess that's it.

Adams: Thank you, sir, for your testimony. Karla, please read the item no. 5.

Item 5.

Adams: Welcome back, lew.

Lew Church: I'm lew with tenants' rights problem and I would like to thank anthony for coming for the second time to city council. In terms of mismanagement by central city concern of low-income housing in downtown Portland. I want it talk about a couple of organizers, bill pierce and jason barbour and try to address the bureaucracy and budget in terms of landlord, the so-called nonprofit, central city unconcerned. In terms of joe pierce, he's one of our best tenant rights organizers. Joe died in december, 2009. He had a history of poor health and used a walker. joe attended about 50, 5-0, meetings in 2009 of tenant rights projects and joe and I were able to talk with andy miller, the deputy housing bureau manager about tenant rights issues and joe was a life-long republican who voted in 2008 for the first time for a democratic president, barack obama. But he wasn't able to attend a meeting with nick Fish, despite requests to meet with nick. Likewise, he was never able to attend central city board meetings because those meetings are closed to tenants. There's a community service tomorrow morning at 10:00 a.m., january 7th, in the biltmore lobby for joe. And we wanted to invite ed blackburn and nick Fish to that since they weren't able to meet in life, to at least meet him in death. In terms of jason barbour, he's an organizer who filed to run against nick Fish in the may 2011 election. And we urge people interested in accountability and transparency to vote for jason barbour for city council in the election in may. In terms of budgets and bureaucracy within the three-minute time constraint, central city has \$33 million in their budget. And administer a number of other projects and in terms of categories, approximately, has \$80 million available. Roughly. We received a 10-page packet from nick Fish and ed blackburn, basically stonewalling. Not agreeing to an in-person meeting with nick or allowing tenants to attend board meetings. The board meetings are not open to tenants. Therefore, they're not allowed to speak. And the board minutes are secrete. These -- secret. These things need to change.

Adams: Thank you. Does anyone want to pull an item from the consent agenda? Karla, can you please call the roll on the consent agenda.

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

Adams: Aye. [gavel pounded] Consent agenda is approved. Can you please read the title for non-emergency ordinance time certain item no. 6.

Item 6.

Adams: All righty. Walk us through the -- what we're looking at here.

Karl Lisle, Bureau of Planning and Sustainability: Yes, I think I can do it in about four or five minutes. I'm carl, with the bureau of planning and sustainability, city planner and have backup in case we need them, and city attorney in case we need her and hopefully, dave from the office of management and finance if you have questions for him. With that said, there are a whole lot of

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different pieces about the major league soccer for pge park. The reason we brought these others in is they have other small pieces to this pretty complicated large deal. This is the piece that the bureau of sustainability is involved in. Allowing up to 15,000 square feet of non-accessory office use at the pge park site. Which is currently not allowed under zoning. The intent of the proposed amendment is to allow a medical sports medicine training clinic to be built within that facility and to have that be both open to the users of the facility, but also have the option of making it available to the public. And that's what makes it a non-accessory use. The background is that the current zoning of pge park is an open space. Os, open space done. That is predominantly intended for parks and natural areas so as you can imagine, it's a fairly difficult base zone in which to operate a large commercial stadium. The other major event facilities we have in the central city like that that might be similar, the rose garden at memorial coliseum are in commercial zones. And because it's in the base zone of open space, its primary use is setting aside the office use for a second, of commercial outdoor entertainment are also not allowed there and because of this, there's a special section in the zoning, set up about 10 years ago with the last remodel of pge park, to speak to the unique conditions at that site and allow its primary functions to continue to happen there. So that's zoning code 33.510.115, which allows those primary uses of event entertainment and commercial outdoor recreation to happen at pge park site. There's a map which calls out that site and this section only applies to pge park. And allows those uses to happen there. So the proposal that we've come up with and taken through a standard legislative process, meetings, hearings and notifications and recommendations from the planning commission, is to add a clause to that specific section that speaks only to pge park to allow up to 15,000 square feet of non-accessory office use at the site. Provided a series of conditions are met, and those include a council adopted good neighborhood agreement, council adopted comprehensive transportation management plan and other things. And so if I didn't say it before, the office use, the medical clinic facility is deemed an office use. That's why we're pursuing this office designation. Concerns we've heard throughout the process, there haven't been a whole lot. It's not been a very controversial proposal. The size of the facility is fairly small. The fact it could actually be built within the park and only serve the teams within the park today. And this would allow it to be also open to other users when there aren't games happening. The neighborhood -- we did have a neighborhood meeting and the response was predominantly positive. There were some concerns we didn't erode the open space zone generally but because we're being specific about only this site, I think that's covered. There were some concerns that the neighborhood have an opportunity to comment and know about future possible changes to the use of that facility. Supposed down the road, it's not a medical facility and somebody proposed something else, the neighborhood would like to know about that.

the good neighborhood agreement that's required and will be coming to city council, I believe later this month for adoption, is a perfect tool to speak to that process and what kind of notification would be required and public input would be required in the -- if future use changes to that.

Adams: And that requirement will be in the operating agreement.

Lisle: And it will also be in the operating agreement. There you go. So I wanted to mention the public record of the project is here. I also wanted to note again it's just one very small piece. There's a design review process. There are conditional use reviews relating to building on Multnomah athletic club property and the good neighborhood agreement and other pieces that will be coming to council as well. Planning commission didn't raise concerns and the neighborhood didn't either. There are letters in your packets of support. A transmittal from the planning commission and a letter from the goose hollow neighborhood association saying they're ok with this proposal. Also --

Adams: I'd like to point out that the notion of for-profit enterprises and even if you described this strictly as a park is not unique to this endeavor either. Director park has a restaurant in it. There's a

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kiosk down in -- what do we call that? The turn-around down in the john's landing area. So those are two of others. This is not entirely unique.

Lisle: Another example would be the commercial parking that occurs at o'brien square at below grade. Those are the other kinds of exceptions included in this zoning, section that speak to the characteristics of central city open spaces, some of them. So --

Adams: Arbor drive. The park at arbor drive.

Lisle: Ok, and finally back to the good neighborhood agreement, before we take questions and clear up questions, the good neighborhood agreement is more than just a standard good neighbor agreement. It's required by the zoning code. It's an extension of the regulations in the zoning code, because it's not just an optional good neighbor agreement, it's a city council good neighbor agreement that's required for the uses at the site, the staff at bureau of development services would be making sure that any proposed uses were consistent with its intent for any future land use review.

Fritz: In that case, would it be enforceable?

Lisle: Yes, and we can bring bureau of development services up.

Fritz: The office use would be an use by right.

Lisle: It would be an use by right, but what's currently proposed in the good neighbor agreement and in the operating agreement, which I haven't actually looked at, but sounds like it's there --

Adams: Still working on it.

Lisle: -- there will be more language about the review required for future uses and the types of office that can be allowed there. You can go as far as you like with it and those other tools in terms of the amount of review or the restrictions on the use of that office space.

Fritz: Why are we doing this today before we have with the good neighbor agreement and the further restrictions?

Adams: This is a first reading, so it's important -- as you know, it's been on the council for some time and i've been putting it off until I felt that we were making some useful headway on the negotiations on the operating agreement. And I feel like there is -- we're getting very close to that and airing this out as part of a first reading is a decision that I made to move forward.

Fish: I have a question. Can you tell me what's the difference between what we did on [inaudible] and what you're asking us to do now?

Lisle: On november 18th, I think that you just postponed this item to -- I don't think you actually heard it.

Fish: The document before us, paragraph 13, november 18th, the city council voted to adopt the changes in the zoning code amendment.

Lisle: Right, when we -- so we have to assume it's going to happen as originally scheduled. So when I filed this back in october, end of october, with the mayor's office, it was written that we were going on november 18th to council. What will happen with those dates and I think is not too uncommon, we will amend them to reflect the actual date of the hearings and the adoption. So that doesn't happen. That's a good catch.

Fish: I don't remember what we did or didn't do.

Adams: Again, i've been putting off council consideration of this, airing this out and this is the first reading of it today until I was satisfied that the negotiations on the operating agreement were moving into a productive zone. And I believe that they are. We're hot at an agreement yet. But we're in the zone where an agreement looks possible. And commissioner Leonard might have something to add there?

Leonard: No.

Adams: Ok.

Fish: I want to -- I want to also clarify from the packet we received, you've not had any objections to this request, is that correct?

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Lisle: There's a letter of opposition that should be in your packet that you should have from mr. Butler.

Fish: We have no other objections?

Lisle: No other formal objections other than mr. Butler. There were earlier with the neighborhood association, some caution we be careful about tinkering with the intent of the open space zone and I think we've addressed those by making sure it's specific to this one site. It's not a park or natural area, essentially.

Fritz: I've received several emails in opposition. Were will the built area of the stadium need to be higher or lower because of this use?

Lisle: I don't believe so, again, the details of exactly what the proposal looks like are going to be worked out in design review and with the bureau of development services but the schemes i've seen, all of the built area, or the vast majority of this space that would be this clinic is below street level. So you actually come in at street level and good down. Again, that could change in the review process.

Fritz: Thank you. Does the tenant lease from the city or sublease from the lessee?

Lisle: This is a question for dave, the operating agreement and all of that, but my understanding is that the city would continue to be the owner of the facility. It would be managed by the entity called for in the operating agreement.

Fritz: So mayor, would we have something in the development agreement giving us the right to say yes or no to whoever -- the tenant would be?

Adams: Yes.

Fritz: Thank you. I have another more plenary question. In terms of staff findings to do with the goals. Goal 5, open space, natural resources, not really clear how this would comply with that and [inaudible] recreational needs. I'm concerned about -- well, very concerned about the precedent here. The lack of specificity on what kinds of retail office can be in this space.

Lisle: Well, I mean, I think -- let me review here. This was a while ago we wrote these. But I think one of the major things that's going on here, it isn't -- it really isn't a typical park or natural area. Frankly, the open space zone is not a great match for this facility. It's been a public -- well, a major event stadium since before we had the open space zone at one point. When we got a new zoning code, I believe in 199 oh, 1991, the decision -- 1990, 1991. From a use perspective is very similar. While it is in the open space zone, it doesn't really share the characteristics or the use history of the vast majority of the areas in the open space zone. That said, one of the options we looked at, gosh, should this even be in an open space zone. Should we consider changing that? It's a bigger process, for sure and at the end of the day, I guess what we felt was no matter what base zone it's in -- [inaudible] -- and it's going to require extra restrictions and approval criteria for anything to happen there, because of the level of impact that it potentially has on the surrounding neighborhood. It's in one urban neighborhood. Adjacent to another. The impacts are significant there. There needs to be extra review for any kind of use regard of the base zone and we've got all of these extra things that apply there in the zoning code. You're going to have that regardless of the base zone. It seemed like the path of least resistance and to make a minor amend amendment to what we have set up. Which frankly has worked for the last 10 years or so.

Fritz: We're not setting a precedent?

Lisle: I don't think so, we're being very specific to this site. And it's a really unique place. It's the only open space zone major stadium in the city. So it really is an unique place.

Adams: We've got commercial enterprises in parks right now. So i'm not sure that this -- this is -- and that's either good or bad, but I don't think it sets a precedent as opposed to those of very limited and by various legal procedures very constrained in what they can do with those for-profit enterprises in parks and open spaces, so we're trying to keep that restrictive but allow use in what is zoned for parks and open space, but is indeed a facility.

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Lisle: Right, on goal 8, I might add -- I think what we're trying to say there, we were asked by the mayor's office to look at ways to make this work, this medical clinic that could be serving the facility but also open to the public, and really, the purpose of that was it make the stadium more successful in its sort of primary role and if they can achieve -- they can attract a higher quality medical facility by allowing it to both serve the teams there but also the public, that's kind of a win-win for meeting the longer term recreational needs of the city and the region.

Fritz: Like the rebound facility in the rose quarter.

Lisle: Exactly.

Fritz: It provides community service and hoping to see in this development agreement.

Lisle: Right, which would be allowed in pge park but would be open to the public.

Fritz: I understand that, I want to make sure that like rebound, the potential for it being -- seeing patients pro bono and on the Oregon health plan.

Lisle: Since we're --

Adams: From a non-technical point of view, the reason why this makes sense to me and other folks and granted reasonable people can disagree is that big facilities like this are dark. And empty. For so many hours in the day by nature. And so having a reason for folks to being in -- be in that part of Portland during business hours I think is attractive to a lot of folks in the neighborhood and attractive to me.

Fritz: So it's envisioned it be open year-round?

Adams: Yeah.

Fritz: I have one more question. Maybe for development services staff. Regarding the good neighbor agreement. With convenience stores and I believe there's concern that those good neighbor agreements have not been found enforceable and i'm wondering if we need more language in the zoning code section stating that the good neighbor agreement must be in good standing or something like that.

Adams: In this particular case, because unlike retail stores, we're the owner of this property and we'll have an operating agreement. I don't think they're analogous in terms of the situation. But --

Douglas Hardy, Bureau of Development Services: Douglas hardy, bureau of development services. I think mayor Adams is correct. Also, the difference between the good neighbor agreements for community convenience stores is that the city is not a party to those agreements. Whereas, the good neighbor agreement for pge park, it has to be adopted by council, so in effect, council is party to that good neighbor agreement. And we received at least through advice from city attorney, for good neighbor agreement and other type of land use review that unless the city is a party to that agreement, it's difficult for us, the city, to enforce that agreement.

Adams: In this case, we also have 10 years of -- almost 10 years of good neighbor agreements with this facility in partnership with the neighborhood and by, you know, nothing has been -- I don't think anyone would claim that the good neighbor agreement process has been perfect. It has been very constructive and both sides have experience. The facility operators on the ground, which some have been there through all the different ownerships and john bradley and the folks in northwest and jerry powell with goose hollow. We're lucky in this particular situation that the actual people who are on the ground responsible for working through the issues over time on the good neighbor agreement are in place and been in place for a number of years.

Fritz: Thank you.

Saltzman: I think commissioner Fritz alluded to this. I would want to make a condition of lease with the health provider that all participating physicians must serve patients on medicare or the Oregon health plan or medicaid. And so to the intent that needs to be telegraphed, i'm telegraphing it right now.

Adams: Perfectly appropriate. I don't think that's appropriate in our zoning code, but it's appropriate here.

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Saltzman: Proofing the lease, that will be one condition i'll be seeking in the lease.

Adams: Very fair.

Lisle: I was going to add one more thing. Since we were talking about the findings and the mayor laid the issue of it being a dark kind of facility where not much of anything is happening most of the time, the very last find, no. 49, on goose hollow and the community plan from 1995, I believe, actually spoke to that issue quite a bit and called for an eventually future where 18th avenue becomes a main street for that neighborhood. That's difficult with the fence of the stadium, which is -- nothing is happening most of the time. So actually, pretty specifically called in that policy document, more mixed use along 18th. And I think this is pretty consistent with that.

Adams: Additional council discussion? We have four people signed up to testify. Thank you very much. I appreciate it. Karla, please call the first three.

Adams: All three come up, please. Come on up. Good morning, welcome to the city council. You just need to give us your first and last name and that clock in front of you will count down your three minutes. Go ahead.

Ivan Kafoury: Thank you, mayor. My name is ivan -- excuse me -- ivan kafoury, a past president of the baseball players' association, along with the other gentlemen behind me and my concern is with the remodeling of pge park, you're going to force out baseball. Now, I don't have any problem with remodeling the ballpark, except that I don't feel that the city should take -- you know, second position to the soccer league, and the soccer league should not be dictating to us that nobody else can play in our stadium, that is owned by the city of Portland. And Portland put a hell of a lot of money into that stadium and more with this remodeling program. I only want to suggest because the alternatives for other sites seem to be dwindling down to a precious few, the new vancouver mayor says he doesn't see any possibility of putting it in vancouver because they don't have enough time according to merritt paulson's suggestions and beaverton was a terrible choice. What would have made sense for the soccer team to go to the hillsboro stadium, which could be been expanded and relatively pain free. But we have memorial coliseum, which I think would be a great site. I don't see how the architects can have enough claim on the memorial coliseum that, gee, we don't want to tear it down because we don't know what to do with it, but we want to have it there. I just want to see pge park being a multi-use stadium and I don't care what the msl says, at least multi-use for two or three years, until we can find an alternative site to put the Portland beavers. But I don't like the idea of rushing into something that's going to cost an awful lot of money and drive professional baseball out of town. It's been here for over 100 years, and once you lose a team and has no stadium, no one else, of course, will ever move back. We'll be without baseball 100 -- 75 nights out of the year, there'll be four, 500,000 people looking for a baseball to go to and there's no place to go. I would like you to consider that. Thank you.

Adams: Just to clarify, as someone who pushed the rose quarter site for a potential triple-a ballpark, after it became clear that the only way to get the stadium in there was to tear down memorial coliseum, it was at least my opinion from my vote on council, I did not support that.

Kafoury: I understand that.

Adams: Go ahead.

Kafoury: If I may respond --

Stan Bozich: Stan, also a member of the baseball association. I grew up in the standard owe of vaughn street from 79 years ago where we participated around the park as bat boys and so forth. So we're engrained with the Portland beavers and we'd like to request, we might be a little bit too late. The horse has been stolen and the barn door closed, but there's a possibility to have soccer and baseball coexist or give maybe four our five years where we have the beaver baseball and we have soccer at the same time in the stadium that gives us five years to look for another site for the Portland beavers, plus some day we're going to have major league baseball in Portland and I hope it's in our lifetime where we can come out and watch a major league baseball instead of going to

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seattle. And that will give us more time to look around where we could find a potential site, maybe out by delta park. The old Portland meadows ground, which is large. They want to build a wal-mart on hayden island. If you can did that, you can probably but the a baseball park along the river, near delta park, a lot of space where it could be done. In that time, we could have a triple-a ballpark, retrofitted, maybe expanded to a major league baseball park. We might be a little bit late, but hoping your decision would help us out.

Adams: I want to reassure you that in terms of sites, viable site, site that would make sense financially, I think at least two members of council, maybe more up here, have looked under every rock and every site you've mentioned, we looked at and it's not viable. They're not viable for either lack of neighborhood support or we don't own the land and triple-a ball is a difficult financial deal anyway, but if you have to have the land on top of the other cost, it makes it hard to work. Mr. Saltzman.

Hal Saltzman: Good morning. I'm hal Saltzman, I grew up and went to shad october school. Which is part of Portland state. And went to lincoln high school. And graduated from the university of Oregon and served five years in the marine corps and i'm here because I love Portland and I don't want to see Portland make a horrible mistake. I believe the mistake you'd make would be pouring this money, because major league soccer says we can't have another sport on the same field. Now, what this means is you got about \$25 million to pay off on the old bond. You put in \$30 million and then to build a new baseball stadium, \$50 million. That's \$100 million-deal. Soccer is not worth it. I like soccer. My oldest son and I had big arguments on it and I have to say I won out. Anyway, that's the position we're looking at. \$100 million-deal and there's so many needs in the city. The schools are -- so many are secondary in quality. I've been told there are only two high schools that are first quality. And that's lincoln and wilson. I don't know if that's true. But I know most of the schools are having trouble. Stan was a coach at roosevelt for 16 years and a teacher and when he went there, there were 1800 students.

Bozich: 1500.

Hal Saltzman: Now they've got six or seven hundred. These are things i'd like to bring out to you. Instead of \$100 million-expenditure because major league soccer says you've got to do it or you don't get it, I think the city sometimes has to stand up for what the city believes in and I think that the city -- and if you don't believe me, just talk around town, and would you spend \$100 million to bring soccer here and 99 out of 100 people would say absolutely not. I can guarantee that. The idea, my wife who is not much of a sports person, asked me, how many nights would the soccer team take the stadium? Somewhere between 16 and 18. How many would baseball take? 72 or 75. Well, I don't understand. You're talking about a population and the attendance is so much greater in -- in baseball than soccer, and there is a way in which soccer can coexist. I've been to many football games in the past where they had bleachers in left field. And they're easily moveable and can coexist and that's what we'd like because I don't see where the city wants to make a big mistake and put priority where some of the money should go.

Adams: Is your point that -- and you did know dan Saltzman when I was a child, right?

Hal Saltzman: Pardon me?

Adams: You knew dan when I was a child.

Fish: I believe he's his nephew.

Hal Saltzman: I knew when he was born.

Adams: One day we have to talk. [laughter] Your point is we're spending too much on soccer and should spend more on baseball. I want it make sure I understand your point.

Hal Saltzman: I'm not saying to spend more money on baseball instead of soccer. I'm saying coexist and we don't have to spend \$100 billion to bring in major league soccer.

Adams: Ok, we're not -- again, I encourage to you dig into the details. We're not spending \$100 million on soccer and not spending money that competes for money with school. Which is also part

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of your presentation. I wanted to make sure you knew that. The public record is open. I want to thank you for your testimony this morning. Karla, we have one last person.

Hal Saltzman: May I add something, your honor. It isn't competing with money for schools. It's supplementing money for schools.

Adams: The argument that we shouldn't spend money on triple-a ball, you're saying keep major league soccer here. The argument that we shouldn't spend money on triple-a ball could be made with schools as well. I'd encourage you to look at the details of what council is considering and welcome your feedback on that. Karla.

Moore-Love: He's decided not to speak.

Adams: Ok. Anyone else who wishes to speak on this matter. Item no. 6?

Fritz: One quick question I forgot to ask. Will additional parking be needed for the medical use?

Adams: You mean in the world are or that we're providing?

Fritz: That this use, if it were not in an open space zone, probably be asking if there's adequate parking and i'm wondering are we saying we're going to need parking for this use?

Lisle: We wouldn't require any parking for any use in the central city. It's at a light rail stop. So --

Fritz: Thank you very much.

Adams: Unless there's further discussion on item 6, it moves to a second reading. Whether when are we scheduled for a second reading?

Moore-Love: Would next week be ok? Or put it out further?

Adams: Two weeks out, isn't it?

Moore-Love: I still have you being gone on the 20th. Which is two weeks.

Adams: Ok, all right. Then what about the week after?

Moore-Love: The 27th, we have a morning session. Did you want to give it a time certain.

Adams: Second reading.

Moore-Love: Regular agenda, the morning of the 27th.

Adams: So --

Fritz: I'd like to recognize janis adler. And I wanted to thank you for serving on the public utilities review board.

Adams: Can you read the title for the resolution item no. 41.

Item 41.

Ken Rust, Office of Management and Finance: Good morning, mayor Adams and members of the city council. I'm ken rust, chief executive office. The resolution before you authorize the ceo, or my designee an irrevocable permit with peregrine llc. Under current code, the property tax manager has authority to approve permits. However, given the larger request for activities, we thought it appropriate to ask council for specific authority to execute this permit of entry. The permit of entry authorized by this resolution will enable peregrine llc to maintain -- the current plan is to have these required documents completed and filed for first council reading by january 20th. Expiring on february 13th, 2010. If the city and peregrine do not meet final agreement, the permit of entry requires that peregrine restore the property to the same or better condition prior to start of work authorized under this permit. With that, open to questions.

Saltzman: When did you say the permit expires?

Rust: February 15th.

Fritz: If everything falls apart, would we have to sue to get them to repair it?

Rust: By them agreeing to the permit, they're agreeing to the particular terms and conditions of the permit of entry. We would use all of our authority under law to get them to execute what they've agreed to do.

Fish: I have a concern about putting the cart before the horse. I want to ask you if you intend to have something to us for first reading on january 20th. What would be the -- what would be the

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downside to us deferring on this until it can be considered in combination with the operating agreement?

Rust: It's my understanding that by delaying -- by not approving the permit of entry or having it be coincident with the approval of the documents it would delay the preparatory work necessary for them to maintain the schedule of construction to begin in february. Prior to the start of baseball this year and then allow the completion to begin in the fall. And it does have the potential of jeopardizing that particular schedule which we're earnestly working toward. We believe by approving this permit of entry, it allows us to continue things as we're working on documents. We've been spending a tremendous amount of time on the documents and I have to say I think we've made progress on getting the documents ready for council consideration. And it is a bit of a balancing act. We're trying to work with peregrine, our partner, and council to keep things moving on the schedule we have right now.

Fish: It's not a comment on you or lead negotiators, but the additional concern I have is that as you know on july 24th, I joined with three other council colleagues to support the baseball-only option after having opposed three or four iterations, either formal --

*****: [inaudible]

Fish: Excuse me, soccer only. We had an october deadline. The timeline we were working on. I've been briefed a number of times on the status of negotiations and frankly, every time i'm briefed, it seems like they keep multiplying. The issues in dispute. 81 issues of dispute. The concern I have is I want the leverage to remain on our side to get the deal done. I have the greatest confidence in you and our negotiating team, as you know, but I don't understand why almost six months later we don't have a deal and while I understand the logic of essentially declaring an emergency to move on some predevelopment work, I guess I simply don't understand why this wasn't -- why negotiation was concluded months ago so that we wouldn't be at this juncture giving someone a license to do work in advance to finalizing an agreement.

Adams: I think that's a question for us to answer and I would say because we've held firm on the direction provided us by council. And we have refused to stray from the negotiating direction. We also are taking our time to look at the details and make sure as many of the details as we can perfect are perfected, and so there may be some items on the list, a lot of them are to make sure that not only the words on paper are clear, but obviously, the intent behind them is clear as well. Commissioner Leonard, would you add anything to that?

Leonard: Of course, I agree in -- in negotiations to never give up leverage, I think instead of reduces our leverage, it increases it and puts the onus on merritt paulson -- the onus on merritt paulson. And if we have language if he didn't live up to it, if anything, I think he would be more nervous about this agreement than us. So I would -- I would disagree this reduces leverage. Second, we're looking at a date of 2011 by which we'll have major league soccer playing at the stadium. For us to complete what needs to be done at the stadium by then, just mechanically, we have to allow them to begin doing work, but we've done it in a way that I think not only protects us but puts pressure on the other side to agree to the terms we've insisted on.

Adams: Other discussion from council? It's a good airing out of --

Fish: One other question, ken. To the agreement. An indemnification means if there's a problem, there's a party you can go after to get a remedy. But an indemnification with a bond gives you a different level.

Rust: We considered that but didn't think that given the scale and scope of the improvements or the work being undertaken, rather, that it was really necessary. We believe that the peregrine llc is certainly able to make good on the requirements of the permit of entry and even in the worst case scenario, if things have to be replaced, they're extremely incented to do that -- incented to do that as well. Because even subject to the approval of the documents, they're going to play baseball this year. We think we have appropriate protection that a bond -- necessarily provide us and we have

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peregrine to get the documents done and in the worst case, restore the park, if that's what it comes to.

Fish: I've had people contact my office. Has any work been done prior to this, the consideration of this?

Rust: We granted a permit of entry last month and that's probably some of the work that might have been seen at the park for some foundation testing work and things like that. Again, as mentioned in my earlier comments, that particular activity was narrow in scope and certainly within the authority that city code grants omf. The scope of these activities was broader and we felt in this instance, it would be more appropriate for the council to give omf and myself that particular direction. That's probably what you may have received comment on, commissioner.

Adams: How many people --

Saltzman: One last question. Did you comment on the scale and nature of the improvements that they intend to do between now and --

Rust: We didn't talk about those specifics but dave could -- It's covered in the resolution and the attachment shows a list of the things that will be undertaken.

Leonard: [inaudible]

Dave Logsdon, Office of Management and Finance: The primary work deals with the preparation of the field surface for february foundation work and that involves taking down the baseball fence, removing some of the advertising icons, removing some of the field tusk and warning track in the east and south sections of the park and they're going to relocate an electronic transformer that needed relocating because the phase one work involves the realignment and regrading of the access road. There's lots of operational issues with that and that nodes to be done - - that needs to be done. And the final couple of pieces are actually completion of work that was part of what's planned for in the 2001 renovation but due to budget constraints were not implemented that involves completion of restroom facilities on the main concourse and the addition of a new restroom facility at field level near the concessionary is. There isn't one there now. But it was a budget reduction in 2001.

Fritz: Whose budget reduction?

Logsdon: It would have been a joint decision by the city and pfc at the time to keep the project within budget.

Adams: This is moving forward. It's limited in nature. It's basically for a month and a half. In terms of access. That's the -- sort of the legal parameters. The reason to get going on it, we have the reality of construction season and baseball season. They have to restore it. And beyond the legal requirements, they're incented to restore to the playable condition because they've got a whole year's worth of 75 games that won't happen without it and they'll be losing lots of money and we're bringing this forward at this time for those reasons and also in the realm of reaching agreement. We don't have an agreement, but we've moved into the realm where the major issues have been -- most have been resolved. In the end, it may fall apart, but at least we're in the phase where agreement is possible. Is that a fair summary?

Rust: Yes.

Adams: Folks who want to testify? Thanks, gentlemen.

Moore-Love: One person. Ian todd.

Adams: Welcome back to city council.

E'an Todd: Thank you, your honor. I wanted to touch on a couple of things, and commissioners said them already. The key phrases in this grant are restore to same or better. I read through it. That bathroom -- if everything fell apart with peregrine, there would still be improved bathroom facilities on the concourse and field level bathroom if you've attended an event there, it's a long trek. It's an improvement. Regardless and also means that peregrine will be spending real money which does incentivize them to come to an agreement with the city, so they're not throwing good

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money after bad. This means they're actually inputting and making contracts with construction people and gives them even more incentive to come to an agreement with council and move forward for 2011. I don't see a risk here with allowing them access to make some improvements that need to be done regardless. And they're required by this to restore the field and the fences and those things. And so worse case scenario, wind up with the field the way it was, the transformer moved and improved and the access road made safer and additional bathrooms. So I don't see the risk here to the taxpayers or the city and I encourage you to move forward and allow peregrine to move forward with this work. Thank you very much.

Adams: Thank you, sir, for your testimony. Karla, please call the roll on the resolution.

Fritz: I appreciate the presentation and the eloquence and persuasive arguments of mayor Adams and commissioner Leonard. Notwithstanding those persuasive arguments, it doesn't seem prudent to me to allow construction before development [inaudible] and i'm concerned that the taxpayers will not be protected and we would have to sue and if the -- the city could be at risk. No.

Fish: I supported the July 23rd, 2009, council resolution because I think finally the soccer only deal pencils out and shifts the cost of this deal both to the users and to Mr. Paulson's businesses and to Mr. Paulson, individually. It was my understanding we'd have an operating agreement in a timely manner to evaluate and make sure that the deal structured is consistent with what council authorized. I have enormous regard for what Ken Rust and his team is doing and our negotiating team and the mayor and commissioner Leonard and I have trust in them to hammer out a deal, but we're approaching a six month delay and there's still some 81 issues in dispute, I have a concern, frankly, about the timing and the time it's taken to conclude this and I respectfully believe that we're giving up leverage if we go ahead with this. It strikes me that this is putting the cart before the horse. And I say that as someone who's looking forward to welcome major league soccer to Portland. Respectfully, I vote no.

Saltzman: I think this is a well-thought out and strategic move for us to be taking. I think it's increasing our leverage and peregrine will be putting in real dollars and we'll get to an operating agreement. I have full faith in Mayor Adams and Commissioner Leonard and Merritt Paulson and that we're going to make this happen and at the worst, we'll end up with additional restrooms in the stadium. I know that's near and dear to Commissioner Leonard's heart. [laughter]

Fish: [inaudible] a loo there.

Leonard: No restrooms.

Saltzman: I think the operating agreement has taken longer than all of us anticipated, but I think the one thing that's driving this, we know we want soccer here in 2011 and there's nothing that will focus the find like meeting that deadline and as I said, getting improvements -- get those improvements out of the way in time for the baseball season to start this year. I'm pleased to support this. Aye.

Leonard: Frankly, I'm befuddled for the reasons I'm listen to go to not support this agreement because the -- the fact is that if we don't have an agreement, and one of the parties is willing to spend substantial amounts of dollars to the improvements required for the stadium to meet major league soccer before we have an agreement, the onus falls on them to -- the onus falls on them to make sure we have a written don't agreement. A prudent approach. And that we're I think even more protected today than we were yesterday if this passes, because Merritt will be spending a whole lot of money at PGE Park without having a written agreement -- guarantee with the city that we have an operating agreement. If anyone is under the gun with this agreement, it's Mr. Paulson, et al, and I'm comfortable with the agreement that Sam has worked to bring before us today. I appreciate the work and thoughtfulness behind it and particularly Ken Rust and his staff and Dave and his staff have done outstanding work and I don't say that from just afar, but being in the room with them have been a refreshing experience and I want to assure all council members, whether you support this or not, that this city has been insulated and protected every step of the way the entire

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tone of the negotiations have been to protect the city, the general fund, its services, police, fire, services, specifically. Parks, and that the onus for the cost falls squarely on the shoulders of Mr. Paulson, personally. So I don't know how ever have developed and brought before the council anything more protective of the city's interests than the document we're voting on today and I appreciate very much the work that's gone into it. Aye.

Adams: Goodness knows, I share the impatience of -- and I know I speak for everyone on council. I share the impatience of getting to a final agreement or council consideration or move on. Again, I feel like we are in the zone to reach an agreement and in this particular case, worst case scenario, we walked away with an improved facility for baseball. Better access for services, bathrooms that were part of the original baseball park renovation program. And no harm to the field. So I do think this increases our leverage, I understand reasonable people can disagree, but that is why I've -- I will vote to approve this. And we're not final -- we're not final couple of weeks of coming to agreement. So I think the fact that we're impatient needs to be -- even though this is going to move forward, needs to be communicated to our partners on the other side of the table. Time for an agreement or move on. Aye. [gavel pounded] all right. Please read the title for emergency ordinance council calendar item 42.

Item 42.

Adams: This is one of the easiest tasks council will have all year. We're here to accept and to call out the formula for allocating \$4.6 million from the energy efficiency and conservation block grant program administered by the U.S. Department of Energy as part of the American Recovery and Reinvestment Act. On a staff level, Michael Armstrong, who you're going to hear from, the director of sustainability and the bureau of planning and sustainability will outline in greater detail, these dollars are going to be used to preserve almost 200 jobs over the next two years in both non-profit, for-profit and governmental sectors, including efficient transportation with the start trips safe routes to school, clean energy works Portland, emerging technology and effort efforts in solar you're going to hear about. Similarly, making investments in city buildings and to be more energy efficient, which will have an ongoing benefit to the city's bottom line, and to our own operational impacts on greenhouse gas emissions and supports the community-wide workforce investment program that council approved a few months ago. With that introduction, Mr. Armstrong.

Michael Armstrong, Bureau of Planning and Sustainability: Thank you, Mayor and Commissioners. I'm Michael Armstrong with the Bureau of Planning and Sustainability. This would accept a grant for \$5.6 million. This grant program was established about two years ago and for the first time the federal stimulus bill, the American Recovery and Reinvestment Act. I would note that we're applying to are a bigger share of dollars from the same grant fund in conjunction with the state of Oregon and other local governments and a wide range of nonprofit and utility partners and should know about that in the next few months and we want to get started with the \$5.6 million. It supports a combination of public projects and city facilities as well as community wide programs and supports reducing energy use in transportation and buildings. Quickly, the money flows in rough categories, \$1.1 million to the clean energy, retrofitting homes in Portland to improve energy efficiency. About 1.4 goes to the transportation programs, safer routes to school and supports our technical assistance to small businesses and help them reduce energy use as well as continuing our renewable energy workshops. A smaller share, next steps on district energy. The North Pearl. Seeing how we can move that project forward and half of the total dollars goes to city facilities project, everything from more efficient lighting at some community centers, Hillside. And replace windows at Peninsula Community Center and upgrades or pedestrian signals and switches out and installs a more efficient chiller on North Interstate and a hydro water turbine, when people turns on their taps, water flows out and solar on a variety of city facilities, the water bureau wellfield sites. And Portland International Raceway as well. And all of these things are key components of the climate action plan and to ramp up implementation quickly of this. I would note this grant program

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is something the city advocated for for years. And dan bates and others have been helpful in getting this established at a national level. And letting us get a quick start on implementing these programs. Happy to answer questions.

Fish: Congratulations on getting the grant and what this means for our community. Is there a list -- it's not part of our packet, but is there a list that has the various projects currently contemplated.

Armstrong: There's a list of ones that will be initially funded through this allocation. Assuming it's funded in the future, there's some we'll go back to. There's a list that we have, but i'd be happy to provide that.

Fish: If I could find a list that we're going to fund. A number of them appear to be parks and rec facilities and other public facilities.

Adams: We've got your back, commissioner. Commissioner Saltzman.

Saltzman: I was curious with respect to solar, electric on various city facilities, what is the status of the solar electric facility at the wastewater treatment plant?

Armstrong: It's part of a city wide assessment where we looked at all city facilities and sites that might be candidates for solar, we've had a request for proposals out and our -- I believe we're in the process of selecting the contractor who will then install solar and there continue to be issues, you think a site is good and it turns out it's got things sticking up on the roof. We're having to adjust the list of sites but the wastewater treatment plant remains on the list as a likely site for solar.

Saltzman: We're in the process of selecting a contractor. One contractor to do the work, different facilities.

Armstrong: Correct. There were a number of facilities work together. A shared rfp. The water bureau plowed ground by going out and we have the initial installation at the wellfield there and that was helpful in informing how the others do their work.

Saltzman: How far are we away from selecting a contractor?

Armstrong: Let me get us an answer. It's a slow process to get the rfp out. It's moving more quickly. Let me get you current information.

Saltzman: One final question. Are any of the changes being contemplated to the state energy tax credits, will that have a bearing on -- on the tax credits, will that have a bearing?

Armstrong: Potentially, the projects we're looking at are relatively small on a statewide scale and it's likely they will still be eligible --

Saltzman: Ok.

Armstrong: -- but there's a lot of discussion about that now.

Fritz: This is great that the federal money is coming into our community. I know, mayor Adams, you were concerned and continue to be concerned about making sure there's opportunities for others -- all kinds of new folks to get in on the contracting. How would folks in the community wanting to get in on the contracting or subcontracting find out about the opportunities?

Armstrong: All of these will be posted just as all city contracting opportunities are. With the clean energy works program, there's a deliberate effort to engage historically disadvantaged contractors. There's both business support and outreach going on. And so all of that information is on the bureau of planning and sustainability's website.

Fritz: Thank you.

Adams: There are three for the listening audience. Early last year, we reformed the purchasing process, so that there's -- it's much more community-based and the terms that there's a committee that reviews the contracts before they are even let for proposal. That if they're small enough and provide enough reasonable opportunities for local enterprises and also for certified minority and women-owned firms and then the council passed the local business enterprise, for a limited by law the number of contracts get -- limited -- where folks that are based in the city of Portland get extra points. Then commissioner Leonard's proposal on the actual selection committee there be folks from the minority chambers of commerce, those are all great reforms that are intended to focus the -

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- our ongoing contract work but also the stimulus money, as local as legally possible, and on firms and individuals and potential workers that have historically not had the contracting opportunities that we wish they would have.

Fish: As you and commissioner Leonard deserve even more credit than that, the proposal we voted on with the chambers actually uses them as a gatekeeper to solicit participation from even a broader pool. While they help to assemble the pool, the broader community will be engaged in that process as well.

Adams: Any other discussion? Karla, anyone signed up to testify?

Moore-Love: No one signed up.

Adams: Please call the roll.

Fritz: It's good to review what the council did last year and working with the bureau and there's a lot the effort making sure we do contracting right and also do energy efficiency right. So i'm pleased to support this. Aye.

Fish: I want to observe that our crack federal team does a great job getting stimulus money, earmarks and other appropriations for good works in our community. Dan bates, congratulations, and mayor, thank you for your leadership as the --

Adams: Beggar and chief?

Fish: Your words, not mine. This is a triple win for us, really. And I would also like to acknowledge that for members of our community who live near the hillside montavilla and fulton community centers, there's good news, if you live near peninsula park, there's good news and i'm delighted it will fund an americorps volunteer to help them implement their plan and among other benefits. Pleased to vote aye.

Saltzman: This is great. I think there's a lot of people and, you know, I guess I count myself among those that wonders where the stimulus money is going and this is a really solid example right here, we're getting almost \$6 million of it to do good things with our own facilities but also moving our community down a more energy efficient path that's going to help people in their pocketbooks as well. A good example. Here's five -- \$6 million right here of the stimulus money doing good work.

Leonard: Aye.

Adams: To pick up on your point, it's a lot of moving parts and where stimulus money is coming from a lot of spigots, I appreciate the efforts of the great folks at the bureau of purchasing who work hard to stay on top of it. And also the bureau of planning and sustainability and michael armstrong, thank you. Aye. [gavel pounded] please read the title for emergency ordinance item no. 43.

Item 43.

Dee Walker, Bureau of Transportation: Good morning. Dee, with transportation. Today I bring before you a request to enter into a lease agreement over a -- with 409 project llc. For a nine-story mixed use building. The lease is a condition of the major encroachment review that passed city council on december 2nd. And there's one thing that I noticed that i'm hoping we can correct here. The title actually, it's really over s.w. 13th avenue. The way the intersection is, it's stark, burnside is coming into that intersection, but the majority of the encroachment will be over s.w. 13th.

Adams: I move the amendment to the title and other appropriate places in the document that it reflects s.w. 13th avenue.

Fritz: Second.

Adams: Karla, please call the roll.

Fritz: Aye. **Saltzman:** Aye. **Leonard:** Aye.

Adams: Aye. Go ahead.

Walker: Thank you. I spoke to brent with sky lab architecture this morning and he was supposed to be here to answer questions you might have the project. Brent, are you here? Ok, so if anyone has any questions.

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Adams: Questions from the city council? Anyone wish who testify on item no. 43?

Moore-Love: No one signed up.

Adams: Seeing none, Karla, please call the roll.

Fritz: You already answered my question, which was, didn't we just do this? You explained very well and the previous presentation was clear too. Aye.

Fish: Aye. **Saltzman:** Aye. **Leonard:** Aye.

Adams: Aye. [gavel pounded]

Walker: Thank you.

Adams: Approved. Thank you for your work. Please read the title for emergency ordinance item no. 44.

Item 44.

Adams: Who would like to go first?

Andrew Aebi, Bureau of Transportation: Good morning, Andrew Abby, the district administrator and project manager for the northeast 92nd drive project and with me is David, the supervising bridge engineer for the city of Portland. On August 28th, 2009, council awarded a construction contract to Tristate Construction for the 2009 local improvement district project which included northeast 87th and northeast 92nd drive. The original contract included the phase one work for northeast 92nd drive, which was the street work and upgrade to the vehicle bridge over 92nd drive. The contract award was \$647,000. And we've completed -- we've had \$137,362.13 worth of change orders since we started construction. Most have been for utility relocation work from what was previous private property. In lieu of paying the property owners to relocate utilities in advance of construction, we thought it prudent to have our own contractor move the facilities due to inadequate location of those private utilities and the bulk of that work was to relocate the main power feed for the Portland International Airport which the contractor successfully did without interruption of aircraft operation with PDX. Under delegated authority from council, \$810,003.14. What this ordinance adds in, \$251,000 for change order no. 11 to complete the phase two work on northeast 92nd drive which is to manufacture and erect a companion bicycle and pedestrian bridge over the Columbia Slough and bring the amount to \$1,123,000. The change order -- 28% of that change order is for Tristate and [inaudible] other subcontractors, the largest of which is to contact and build the companion bicycle and pedestrian bridge. I did want to emphasize that the companion bike pedestrian bridge within the original scope of the lid is not a new cost or item. And all of the subcontracted items were competitively bid. The reason that we did not include the work in the phase one contract that we advertised for bids on was that at the time, we didn't have an easement from the Oregon Division of State Lands to put in the new ped-bike bridge or have land use improvement. We now have those in hand and can move forward. The policy decision for council is whether you want to have the companion bridge built and installed as part of this change order that has been approved subject to council approval or whether you want to do a separate solicitation. The reason that we're recommending approval of this change order is for the following reasons. First of all, the change order, Tristate is \$20,101.84 or 8% below the engineer's estimate for the work. Adopting this change order, eliminates the -- a separate solicitation order coming in higher. And for the -- another contractor, perhaps the same contractor, to remobilize. But also locks in the savings for the property owners now and holds a single contractor accountable for work in a combined area. And then finally, it expedites completion of the overall project. And in addition to the savings over the engineer's estimate. Finally, I would add that the overall construction costs are trending significantly below the amount estimated at lid formation. Again, this is a policy issue of whether we can proceed and have the existing contractor do this work or whether you want to come back to council under a separate solicitation. David and I would be happy to answer questions you might have and pass out pictures of what the bridge will look like.

Adams: Preference on council? All of the change orders were at our direction?

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Aebi: Yes. And they were anticipated.

Fritz: Thank you, that was a very clear presentation. Thank you very much.

Saltzman: The incremental costs for the bridge is 313?

Aebi: No, the actual cost of the bridge itself is --

Saltzman: I mean the pedestrian-bicycle bridge.

Aebi: All of the items in the -- almost all the items, \$251,000, relate to the bridge itself. There's about \$10,000 of sidewalk and other work that's not related. About \$241,000 recommended to the bridge.

Saltzman: But adding --

Aebi: Contingency, if we had unstable soil, we didn't want to stop the bridge construction mid stream and come back to council for additional authority to finish the work.

Saltzman: What's the confidence level of that change order amount of roughly \$300,000? You said it was an engineer's estimate.

Aebi: Thank you, commissioner, I should have today clarified that. When I mentioned that estimate, it was prior to us making a contract decision or talking to tristate about doing a change order for the work. The level of confidence is quite high because the change order has been executed contingent upon city council's approval of this ordinance.

Saltzman: To tristate is committed to delivering the bridge for that amount?

Aebi: The only wrinkle, when we get out and install the bridge, there were something strange about the soil. We had to do additional excavation or pile driving work or something of that nature.

*******:** There's always an unknown quantity when you install piles or -- there's some obstruction that you can never fully predict.

Saltzman: And finally, tristate's minority women, esb involvement, what is that?

Aebi: The mwesb -- the bridge fabrication work is, my understanding, there's no eligible mwesb contractors to do the bridge fabrication work. Which is almost \$85,000. That was the largest item of the change order. I know that tristate made a concerted effort to reach out to mwesb contractors specifically reached out to mwesb firms but none came back with a quote. I was personally disappointed that we didn't -- disappointed that we didn't get a better response from the mwesb. And tristate is a Portland firm and this work will help them maintain the size of their existing workforce and tide them over until better times in the construction world.

Adams: I'd like to say publicly what i've said privately and to both of you, your specific attention to the details of the mwesb outreach efforts are exemplary. The fact that you kept after the contractor, and that you know their outreach efforts and know when an official is available or not available, that's exactly what we hope there all project managers, so thank you.

Aebi: Thank you, mayor.

Adams: Other council discussion? All right. Anyone wish to testify on item no. 44? The nature of the work, this is an emergency. Karla, please call the roll.

Fritz: That was a very clear presentation. I appreciate you pointing out the policy implementations. I've been concerned about the 25% overruns, but in this case, it was us asking for the changes and I think for the reasons you stated, it's prudent go with tristate construction for the latest change order knowing they will continue to work to involve emerging small business.

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

Adams: Aye. [gavel pounded] approved. Can you please read the title for emergency ordinance no. 45.

Item 45.

Adams: Happy new year.

Patty Rueter, Office of Emergency Management: This is a very simple authorization.

Washington County is going to do a business impact analysis for two of their large departments,

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land use and transportation and also their support services. This will allow for prioritization of restoration of services as well as anticipated costs and a loss to service in relationship to business interruption. It's a precursor to continuity of operations. It's 105,000, it's supported by urban security initiative and we are part of the management of the grant through office of emergency management.

Adams: Questions for Ms. Rueter

Fritz: Why is Portland responsible for administering this?

Rueter: We are the executors of the urban area initiative, Portland office of emergency management having managed over \$40 million worth of grants over the last five years. The money comes in through our office and is managed through Portland standards.

Fritz: And do we get administrative fees for doing that administration?

Rueter: Very little.

Fritz: Well then Washington county should be very grateful to us.

Rueter: They are.

Adams: Anyone wish to testify on item number 45? Please call the roll.

Fritz: Thanks, patty. That was a very clear presentation. Aye.

Fish: Aye. **Saltzman:** Aye. **Leonard:** Aye.

Adams: Patty, thanks for your ongoing great work. Aye. That gets us to item number 46. Please read the title for nonemergency ordinance item 46.

Item 46.

Saltzman: I'll let eric explain the details, but there is a discrepancy in the authorization, and so I need to offer an amendment to amend section 1.6 of the ordinance to correct the stated amount of the authorization to \$450 million.

Fritz: Seconded.

Adams: Moved and seconded. Any discussion on this amendment? Anyone wish to testify on this amendment? Karla, please call the vote on the amendment.

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

Adams: Aye. Approved. Eric?

Eric Johansen, Office of Management and Finance: Thank you, mayor and commissioners. Eric johanson, city debt manager. This ordinance does authorize 450 million of sewer revenue bonds. Proceeds of these bonds will fund a major portion of the bureau of environmental services' capital improvement program for the next 18-24 months. We expect these bonds will be sold in early march and also close in march. With that, i'd be happy to take any questions.

Adams: Questions? Anybody wish to testify? Yep.

Fritz: This is an expected authorization?

Johansen: Yes.

Fritz: And is there any third lien like we had in the water bureau?

Johansen: We're not proposing that in this deal. We're maintaining the flexibility to do either the first or second lien bonds.

Adams: Unless there is someone that wishes to testify on nonemergency ordinance 46, it moves to a second reading next week. Unless there are objections, I will move -- hold back -- emergency ordinance item number 47 and refer it back to my office. So moved. Please read the title for emergency ordinance code amendments item number 48.

Item 48.

Adams: Happy new year.

Christine Moody, Bureau of Purchases: Christine moody, procurement services.

Jeff Baer, OMF Director of Internal Business Services: Jeff baer with the office of management and finance.

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Moody: As a result of the 2009 legislative session, the public contracting code o.r.s. 279 -- chapters 279 a, 279 b, and 279 c have been revised, and the city must now 5.3 and 5.4 changes. One is to require the city to conduct an analysis to determine if it's feasible to use the city's own personnel or resources to perform the same services for contracts over \$250,000. The revision also gives the authority to execute grants to bureau directors. Others are fairly minor and considered technical cleanups. We would be happy to answer any questions that council might have.

Fish: Could you give us an example of something we do routinely where we adopt a contract for over \$200,000 where, under the new state law, we'd have to first look at whether we had the capacity and how to do it?

Baer: We actually came up with a number of different areas under service. Elevator maintenance services, we would not necessarily have the technical capacity internally but would have to go through the process because the annual contract would exceed \$250,000 to determine whether it's feasible to do it internally versus externally.

Fish: We, as you know, do not contract housing. This would not impact that contracting process, would it?

Baer: It does not apply to technical services or construction services.

Adams: Any discussion from council? Anyone wish to testify on emergency code amendments number 48? Karla, please call the vote.

Fritz: Thank you. That was a very clear presentation, and i'm pleased to vote aye.

Fish: Aye. **Saltzman:** Aye. **Leonard:** Aye.

Adams: Aye. Thanks for your great work. Aye. Please read the title for purchasing report item number 49.

Item 49.

Adams: Welcome back.

Moody: Christine moody, procurement services. In front of you is the purchasing agent report recommending a contract award to the low bidder in the amount of \$843,500. Portland water bureau provides funding for the project as part of the american recovery and reinvestment act and Oregon's safe drinking water revolving loan funds. Epa requires contractors to comply with their federal dbp program. Stettler supply has complied with all the requirements, and the subcontracting participation is at 6.2%.

Adams: We have to go with the federal rules on certified firms, and that's the way it is.

Moody: Yes. We try to get them to adopt our good faith efforts but, in this particular project, they wanted to stay with their dbp.

Saltzman: Why only two firms are responding to our bid?

Moody: I am not sure why there were only two firms responding to the bid. Perhaps because of the technical nature?

Mary Ellen Collentine, Portland Water Bureau: The work that is being done is very specialized and requires the firms to be licensed well drillers, and there aren't many firms out there that can do the work.

Saltzman: People that do wells, there's a lot of well drillers throughout the state who are licensed.

Collentine: Mm-hmm. Well, they need to be licensed, bonded, need a performance and payment bond for up to a million dollars for the work. They need to have a city business license and meet all the requirements of the city purchasing rules and some firms who are very small would choose not to do that. So there are only a couple of firms that were interested. We've previously bid this work out three years ago and also received only two bids on the project.

Adams: Other discussion from council?

Fritz: I want to make sure i'm clear on what we're doing here. It's going to be funded through a combination of a \$650,000 grant through the recovery act and a \$650,000 approval for a 20-year

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loan, but we're not going to go out for the full loan because the bid cannot be so much under the asking price. That is correct?

Moody: Correct.

Fritz: So we're required by the state to go out to authorize the full amount of the loan even though we're not going to need it all.

Moody: As I understand it, just like with some of the other arra funding, that funds is first because they want to spend those grant funds, and then they would tap into the safe drinking water revolving loan fund for the rest of the money to support this project.

Fritz: And we wouldn't borrow the rest of the money.

Collentine: Not if we don't need it, though. Specifically earmarked for this project.

Adams: Additional council discussion or anyone who would like to testify on 49? I'll entertain a motion to accept.

Fish: So moved.

Fritz: Seconded.

Adams: So moved and seconded.

Fritz: This was supposed to be a \$1.3 contract. \$650,000 of that will be paid with stimulus money, meaning the city only has to pay 200-odd thousand. So the greatest proportion of this is coming from the stimulus money, and that's great. Aye.

Fish: Aye.

Saltzman: Well, i'm going to support this. I guess I continue to be just a little perplexed about the fact that we only received two bidders and the explanation that we have very stiff, extraordinary bonding insurance, you name it, requirements. We're all trying to increase participation of smaller businesses, and I can think of no smaller sector than people who drill wells. I think, if we're really serious as a council, we're going to open up opportunities for smaller businesses. We can't have million dollars bond refinements, things like that, and say we're serious about that. I suppose this. I'm just concerns about our high requirements in this case. Aye.

Leonard: If council wants to entertain changing, i'm open to that, but I think the bureau of purchasing has done exactly what the rules require. We can't sanction people who don't want to give bids, so you've done just exactly what the process requires, and I appreciate it. Aye.

Adams: If you could, just by way of a thought piece, reply, debrief on this particular issue, if and how the requirement for a bond played into it or not, i'd appreciate that from your professional opinion. You can't do it now because we're voting but, as an e-mail later, that would be advisable. I understand we can't change the rules in this particular contract, but i'd welcome your advice on that. Please read the title for purchasing report item number 50.

Item 50.

Moody: Christine moody.

Adams: Hello again.

Moody: This is what happens if you don't have any council meetings in december. So before you is the purchasing agent report --

Fish: Is that criticism directed at the president of the council or the mayor?

Adams: I think it was the president of the council.

Fritz: It's good to see that staff has been working diligently.

Moody: Yes. They were anxious to have this day come. Purchasing agent report to the low bidder in the amount of \$5,050,951. The city identified nine divisions of work. Work is being performed in the areas of concrete cutting, traffic control, and hauling.

Adams: Council discussions? Anyone wish to testify on purchasing report item number 50? Please call the vote.

Moore-Love: Do you want a motion to accept?

Adams: I'm sorry.

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Fish: Moved.

Fritz: Seconded.

Adams: Now would you please call the vote?

Fritz: I do see more excavation coming, winning bids a lot, so obviously they are providing the low bids, and I am concerns that the total contract of the minority business woman is such a small percent. I would be interested to hear more about that, but I support this. Aye.

Fish: Aye. **Saltzman:** Aye. **Leonard:** Aye.

Adams: Aye. 50 is approved. Please read the title for second reading item number 51.

Item 51.

Adams: Please call the vote.

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

Adams: Aye. Please read the title for second reading item number 52.

Item 52.

Adams: Please call the vote.

Fritz: Once again, I want to thank the whole team for the very good briefings that they've given our office. Thank you for your good work on this. Aye.

Fish: I had a chance at the last council meeting to compliment by colleague, randy Leonard, paul scarlett , and his team, and the collaborative effort with bds and other bureaus to come up with the work product we're voting on today, 52 and 53. I do want to observe that, if i've learned anything in my first 18 months on the job -- and some of my colleagues may actually answer that by saying i've learned very little -- i'd say the hardest work we do, the work that sometimes has the greatest impact, receives the least public attention. There seems to be an inversion relationship between the importance of matters before us and the extent it creates public controversy. The reverse of that is the hard work of our day to day job here of making the bureaucracy work better and actually fulfilling the commitment of better service, better streamlining of our systems, this is not sexy work. It is extremely hard to get it right. When you get outcomes like this, it needs to be celebrated. It's worth pausing for a moment --

Adams: You were reading the paper. [laughter]

Fish: It may very well make a posting on the "willamette week" blog. So I just want to take the moment to say that as a city commissioner, what we hear regularly in the community is we're not so concerned about the fees we pay or necessarily the requirements you impose, but god's sake please make them predictable and uniform. Please be a partner in what we're trying to do. That's a fair request, and I think commissioner Leonard has been hammering this home since at least 2002 and the mayor has made this a centerpiece of what he asked us to do under his first term as mayor. Why do we do it? We do it because people have asked us to cut red tape and streamline the permit process, streamline our systems. Why is that important? Because if we do our job right, then that will encourage development consistent with our values, create jobs and enhance our community. It all comes back to some very basic things with which very important outcomes, but again it's the least sexy work we do, probably the hardest. And in the ordinary course, we would just say aye and let this moment pass. But I believe this would make the top five and I would put it at the top of the top five. As a leadership marker, this goes to the top of my list. I want to congratulate my colleagues for their work, thank the staff for their exemplary work, and I want to celebrate the fact that this shows the system works and we have something to build on, which is very positive. I'm very pleased to vote aye.

Saltzman: I certainly want to echo the comments of commissioner Fish. I understand now more about how these work than I ever did before. I think that's a good step that, after 11 years, i'm finally starting to penetrate this stuff. [laughter] I do want to say that it is important work.

Adams: Slow but steady.

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Saltzman: It is important work and, even though it's not sexy, you've got to agree that paul and andy are sexy people. [laughter]

Fish: I move we go into executive session.

Saltzman: Pleased to support their work. Aye.

Leonard: I think I better just say aye. [laughter] That's great.

Adams: Wow: Good for you. I'm really proud of you, dan. You've turned a new resolution. I want to thank again commissioner Leonard for years of work on this and i'm pleased to be supportive of his efforts of leading a fantastic team. Paul, andy, and dan, i'll just leave it at nice sweater, damage. [laughter] and vote aye. Ok. We are recessed --

Fish: No. We have to do 53.

Adams: Sorry. Oh, yeah. Please read the title for second reading item number 53.

Item 53.

Fritz: Well, I was going to comment that this is my least favorite quarter, because I have to vote first and i'm often overwhelmed by the eloquence of my colleagues who speak afterwards, but I can't think of anything further to say after that round, so I vote aye.

Fish: Aye. **Saltzman:** Aye. **Leonard:** Aye.

Adams: Aye. Now we're recessed until 2:00 p.m.

At 11:22 a.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.

Key: ***** means unidentified speaker.

JANUARY 6, 2010 2:00 PM

Adams: It's wednesday, january 6, 2010, and the council will come to order. Karla, please call the roll.

[Roll call]

Adams: We have one item on the agenda today. An item with a lot of facets and details, so it likely will take the full 90-minute requested, so I ask everyone's forbearance and patience as we learn of it. There's no vote today, this is only a first reading. So Karla, please read the title to item number 54.

Item 54.

Erick Engstrom, Bureau of Planning and Sustainability: I'm just making sure I have my notes.

Adams: Then we have amendments as well.

Engstrom: Good afternoon, my name is eric engstrom, representing the bureau of planning and sustainability. There are a number of staff from pdot, bds, and the bureau of planning and sustainability to help me answer questions as we go through this. I'd like to start by just saying that we're here to talk about recap, the regulatory improvement code package. This is the fifth time we've brought a ricp project to the city council. This is the first package that's been brought to you since the bureau of planning merged with the office of sustainability, so this -- I want to highlight that this package really represents a collaboration between the two former two halves of our bureau and was very helpful in helping us integrate as a bureau, brought together the technical expertise of the osd staff with the implementing expertise of the planning bureau, and so with that introduction, we'll just try and be very brief with my description of what's in this package. As you know, ricp's have miscellaneous issues. The regulatory improvement process is an annual cycle of amendments to the city's codes. It's been in place in this form since 2002. We were here I think with ricp four about a year ago. The focus of the program is to deal with technical and minor policy amendments to city codes. These are minor policy amendments and a lot of technical amendments. That said, we do try and bundle together similar issues, and this time is no exception. There's a couple bundles of related code amendments that i'll industry before we get into this. One is a green bundle related to incorporating and facilitating green building technology and small-scale green energy improvements that are facilitating that in the codes. Another relates to follow-up from the courtyard housing contest that was sponsored by the city in recent years. Another relates to fence height, another to loading spaces, that's the truck loading spaces in commercial facilities. There are a couple other miscellaneous minor policy amendments related to small lots in the r5 zone, bicycle parking, accessory dwelling units, and a whole slew of what we classified as technical corrections or not quite typos, but just above a typo level. The green bundle that I talked about, the purpose is to remove regulatory barriers for installing green technologies and create standards tailored to the potential impacts, so by green technologies I mean things like solar panels, green roofs, building eaves, small urban wind turbines, district base or local energy systems, water collection cisterns, and so we're looking for places in the zoning code where there's potential conflict with further adoption of these technologies, and one of the themes you'll hear about is a number of these recommended

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exemptions or amendments to the code deal with design and historic design review in some of those districts of the city. One of the amendments deals with solar panels and how you deal with building height if the building is already up to the height limit, and somebody wants to add a rack system to a roof. Another section provides a prescriptive path for solar panels in conservation and historic districts and just in design overlay zones generally. It does not allow them outright without some standards, but it provides a pathway as an alternative to design review. A new set of regulations for the size, height, and impacts of small wind turbines in an urban area, and the screen shows some examples of that, we're not talking about the large industrial turbines that you might see in eastern Oregon, but more of a small-scale often building-mounted system. This slide I threw in just to acknowledge that this is evolving technology. It shows a couple different innovative emerging technologies about how solar panels are being integrated into building materials themselves. So this is no doubt going to keep us thinking as we go on through the next few years. We're going to have to probably further adapt our codes as new ideas come online. But the recap five bundle attempts to incorporate what we know today. Deals with water cistern and green roofs, both important for controlling storm water impacts in urban areas, increasingly a part of a standard building construction. But can have impacts if not done well. One cluster of amendments here looks at how energy is produced, and if you look back historically, zoning codes considered the production of energy to be an industrial use. If you were making energy, you were an industrial facility. And obviously when you think about solar panels today or other kinds of small systems that produce power from the environmental conditions of the site, like small wind or heat exchangers, or biogas generators that may use restaurant waste or things like that that are byproducts of a use that's otherwise allowed on the site, recap 5 attempts to rethink the use categories around energy production and get to a point where we can allow more distributed energy systems in the urban -- in our urban neighborhoods. One of the amendments here that you may hear testimony about deals with building eaves. The current code allows -- this is the zoning code -- allows them to project a certain percentage into the setbacks, and right now that basically means you can have a one-foot eave on most buildings, given what the setbacks are. We're proposing to amend that to basically allow a two-foot eave. The benefits have to do with better protecting the building given the weather we have in Portland, and also in the summer it tends to shade the building better, which helps with the energy required to cool buildings in the summer. Another amendment in this package, another cluster of amendments deals with follow-up to the courtyard housing contest. And what that contest focused on was finding innovative designs for housing that's clustered around a commonly shared open space or courtyard kind of configuration, and this is seen as a way to further encourage or make family friendly housing at higher densities than we've seen in the past where we can really make sure there's adequate open space and share that open space. In that contest, after holding the contest, we examined the winning designs and kind of did a code audit with them. When we have architectural contests, we rarely require the applicants in the contest to meet every letter of building codes because we're trying to stimulate innovation. But after the fact we did look and see, what codes would the winners run afoul of, and should we change any of those? And we came up with a list of a few changes. One of the lessons we learned is that the medium density zones this contest was targeted for, there's a couple different zoning designations. Many of the winning designs had a density that was above the maximum of one zone, but below the minimum of the next zone up. So it was kind of -- it appeared to be a sweet spot in design that our code wasn't really permitting, because our zoning densities didn't meet, and didn't provide that allowance. So we're proposing to amend the density regulations for courtyard housing to close that gap and allow a greater range of flexibility of densities. If you're doing courtyard housing. That also resolves conflicts in the code where you have diffidence advertise if you're doing a condominium versus a land division, and we wanted to make that so there wasn't that oddity. Another aspect of the contest was, a lot of the entry were fairly creative in how they

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integrated vehicle parking into a courtyard environment, and we wanted to clarify some of the parking rules about if you're on a site that requires off-street parking, just clarifying that it is allowed to configure that parking and shared area rather than each house having to have its own garage. You want to have a lot of interaction or the design of the interface between the buildings and the court yards are important, and a lot of the winning designs had balconies and bay windows, and trellises that kind of blurred the boundary between someone's living room and the shared outdoor space, so it wasn't such a stark boundary. The current code setback requirements were discouraging some of those features, so we looked at carving out some additional exceptions for the bay windows and porches and balconies that face those common shared areas. We also looked at structures within the shared open space area, a lot of the designs included things like gazebos or small play structures, or small I guess what you'd call tea houses or a gathering building for the community. So within limits we wanted to allow for that more specifically within the zoning code.

Different amendment here, we looked at as part of ricap 5 some conflicts in the fence height regulation that the city has. And the current code requires -- has fence height limits for the front lot line of lots. But the way the code defines what the front lot line is, it doesn't always jive with where your front door is. So we had some disconnects we were seeing between where the low fence had to be in and -- and where we wanted the visibility. So this amendment clarifies that and gives -- allows the lower fence to be actually on the lot line where the main entry is. We also resolved some conflicts in the commercial and employment industrial zone that the current code basically says that you have to have the lower fence in your front setback area, but some of those zones don't have front setbacks. In other words, we allow the building right up to the street. And so that was a loophole that was allowing eight-foot fences along the sidewalk of commercial streets even though the building with windows was right behind that fence. So this amendment clarifies that even if you don't have a front setback, if you do have a building there and you have what essentially is a front yard, that you still have to do the lower fence on the front property line facing the street. One of the reasons we're concerned about the lower fence is it's just security and eyes on the street, and making sure the public right of way isn't walled off from the private property. Another amendment relates to truck loading spaces. The current zoning code has one threshold for when a truck loading space is required, and it generally applies to larger residential projects or if you have commercial uses on the site. And so what's been happening is that from infill mixed use buildings where they might have mostly residential but maybe a small coffee shop on the first floor, a lot of those kind of projects have had to go through an exception process in the zoning code to not have the loading space. So what we've proposed is to establish a slightly different threshold for when those loading spaces are required, and also provide a second smaller loading space as an option on some sites. Bicycle parking wasn't originally part of ricap, but came up in many of the public hearings as an issue that needed to be dealt with. So the planning commission asked us to take it on. What it -- it does two things. It currently the zoning code -- this is about long-term bike parking. By that I mean where you park your bike where you sleep at night or when you're at work, as distinct from maybe if you're visiting a store and you need to park your bike for a few minutes. So for long-term bike parking, the current zoning code provided an exception for a residential building where it said that if you were going to allow bikes to be parked in the units, you didn't have to provide long-term bike parking. In a formal way, as in a rack or specific place. But what we've been seeing happening is that the developer will say that, but then when we look at the lease agreements that are in that building later, they're not allowing the bike parking. So it's become kind of an enforcement problem, and we are hearing complaints from condominium residents that there isn't adequate bike parking. So we're going to close that loophole and what this does is require ann all cases that there be long-term bike parking, and that can be provided in a shared common room or it could be that if your -- your apartment would clearly have a place that is designated.

Fish: [no audio] it would apply to affordable housing?

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Engstrom: There wouldn't be an affordability test. It's housing, residential uses. There is a threshold, my understanding is that it doesn't apply to duplexes and single dwelling homes because they don't have to -- there's no parking requirement for them. The other change that the planning commission recommended was that we with increase the number of bike parking spaces. The current code requires one parking space for every four dwelling units. And we heard a lot of testimony from condominium associations that that wasn't adequate and that they were having at their own expense to have to retrofit their buildings to increase the number of bike parking spaces. In response to demand. And that they asked us to consider increasing that. The planning commission recommended a ratio of 1.1, which is just slightly above one parking space per unit.

Fritz: What was the rationale for the 1.1?

Engstrom: Chris Smith is here from the planning commission I think to tell you more about that conversation. Basically it had to do with looking at how many bikes do Portlanders typically own, and based on our experience, what that means for a number of the parking spaces that we need. Another issue that came up in the planning commission discussion was testimony about accessory dwelling units. Right now the accessory dwelling units are another -- in other words, granny flats or secondary units, back yard cottages is another term people use for them, right now the code requires that they meet two tests -- one is that they be no more than 33% the size of the main house, and the other is 3 an absolute maximum of 800 square feet. The problem with that test is that if you already have a really small house, you're going to be -- you're going to be held to that 33% standard and your accessory dwelling unit will be really small. So the request came from people who have been building adu's and running into problems with providing them on lots with small houses already. So by increasing the percentage, we're not increasing most adus because they're still held to the 800 square feet, but we are allowing more of them on sites where there already are small houses. Another item I want to walk through in a little detail is the code standards related to the r5 zone and the small preexisting lots in that zone. This received quite a bit of testimony at the planning commission. What we're talking about here is parts of town where there are historic old plats of lots that are 25 by 100 and those plats under existing ownership pattern that looks a little bit different than that. And I'll talk about that in a little more detail. This is a map just showing the yellow and orange are the r5 and r2.5 zone where this occurs, and then the purple is the areas with these underlying plats that really have the historic sort of grandfathering rights to a higher density of development. So here's a little more description, a picture of what's happening. You often have a situation where historically the area was developed and platted with 25 by 100 lots, but what happened is people bought units of two or three of them and built a house. And so you might have somebody who has a house that straddles two or three of these existing lots. But based on state law, if that house goes away, they have some level of rights to redevelop those lots separately, and so over the years we've had a lot of issues with this, and this is what led to the living smart design contest and there's a whole section of the zoning code that deals with building design on these lots. What we focused on primarily in this discussion was not about as much about the design, but more about what is the process of acknowledging and verifying whether these lots have those grandfathering rights, and under what circumstances can they be built on. One of the things we proposed is just to be clear that if you have a whole one of these lots, and there isn't a house on it, that is buildable, so there's -- right now there's not clear standards on what size requirements exist for those lots, but this would clarify that if you have that whole preexisting lot and there's no existing house, that is clearly a situation where that's allowed. Another set of amendments deals with -- was aimed at corner situations, and what we tried to do was create a second size standard that allows if you have a wider frontage to allow a smaller lot size, and what that really means, if you zoom into that corner lot, the current situation is on the left, and because the current code requires you to have equally sized lots on that corner, often what happens if you go back to this situation is, if you're on that corner, it might northbound your interest to take that preexisting lot

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line and swivel it at a right angle to make that back yard into a separate lot. Through a property line adjustment. And what people are currently doing is resulting in the somewhat odd-shaped lots, which are shown on the left where you've got somebody's lot line enroach into what looks like the front yard of the neighboring house just to meet the letter of the code. What we're proposing is a little more flexibility here so that we can get a square lot shape in that situation. And this was part of an overall discussion of how do we make clear these codes and in doing so we're going to be a little more restrictive on some of these lots and a little more liberal on others. And this is one of the examples where the stakeholder committee that we had looking at this thought that -- some of them thought it might be ok to allow more liberal lot sizes on the corner because what that does is encourages the lots with the wider frontage, and for neighborhoods that are concerned about skinny houses, this was an issue to -- a way to deal with that.

Leonard: So does that mean -- I was just looking at the numbers in the last diagram. That would allow for a lot as small as 900 square feet?

Engstrom: No. 1600 would be the minimum.

Leonard: 36 feet by 25 -- or is that 225?

Engstrom: 225. 36 by 50.

Leonard: Gotcha. Ok.

Engstrom: It's true this isn't specifically in the code written so it only applies to corner lots, but primarily that's where you would be able to reach the 36-foot-wide provision. If you weren't on a corner there's fewer situations where you could actually find that 36 feet. Another situation that we wanted to clarify is that the current code, and this was the result of the council's compromise with the skinny house issue, in the living smart contest, is that there's a five-year waiting period if you do demolish any existing house before you can build on these independent lots. That was designed to discourage demolition and preserve existing perfectly good housing. What we saw when the economy was really heated up is that a lot of people were perfectly willing to wait that five years, so we were seeing demolition happening. And -- but then we got other complaints from neighborhood associations that there was just vacant unkept property waiting for that five-year period. So in discussing this with some neighborhood represents, the feeling was that there may be an interest in having some other pathway, if the house was already down, is there a way to allow some development and we discussed an allowance for if you go through design reviews, you would be able to go beyond that waiting period.

Fritz: Can you explain that, what would the design review criteria be in neighborhoods?

Engstrom: The criteria I believe -- i'm going who look, it's the community design standard, or --

Fritz: It's just pick out --

Engstrom: It would be design review. It's the community design guidelines which are the discretionary pieces. It would be through a discretionary review --

Fritz: I thought we weren't allowed to do design review outside of central city?

Engstrom: We aren't as a mandate, but we can tie it to bonuses and special provisions like this where we're giving something in exchange for it.

Fritz: Did the community design guidelines apply to this kind of situation? Have we reviewed them in terms of the suitability for getting the design we want?

Engstrom: Yes. A lot of them deal with the orientation of the building to the street and one of the big issues is on the narrow houses is how is the parking in the front yard handled. And we think those guidelines do get at that issue. Finally another focus in this cluster of amendments was in some cases it's not clear-cut, and we have what we call these odd slivers of deeded property that have some complex history of deeds, and we can't always figure out whether that was once an independent lot or whether it represents essentially some transfer of property in the past that's kind of fossilized in the property line records, if you will. And so this -- some of the language in this code amendment deals with defining -- creating a definition for what essentially is a sliver of land

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that we can't figure out what it is, and some provisions for how we resolve those conflicts. We've had a lot of conflicts in the development services center about these kind of situations and whether they are really historic lots or something else. So we created a definition for what we're calling an adjusted lot and a lot remnant, which are sort of different parts of those kind of historic transactions of property, and we can then, by having a definition, we can describe when it's ok to consider that a lot or not. And this is kind of on the margins, because it's not a lot of lots that this applies to, but when it happens it leads to a lot of argument and eats up time with bds staff. We are not amending standards, or not recommending standards related to garages on the fronts of the narrow houses. This was something that was discussed at the planning commission and the commission recommended against proceeding with an amendment at this time. They did express a sentiment that the city council consider funding and directing further design work related to narrow houses, but they didn't feel ricap was the place to propose those amendments at this time. So that's my overview of some of the major items on this package. The planning commission's recommendation was that you adopt the ricap recommended draft, that you amend the zoning code and the maps accordingly, and that as I said, they ask that you direct further work on some of the narrow house issues. I'm going to ask chris smith to come up just to say a few words on behalf of the commission as well.

Adams: Welcome chris.

Chris Smith, Portland Planning Commission: Thank you. I understand that this morning you extended my term, and I appreciate that.

Fish: It was a close vote, but we were happy to do it. Commissioner Leonard's speech carried the day.

Leonard: I called it a sentence, not an extension.

Smith: So planning commission does recommend this package to you. There are a number of areas that were noncontroversial, but we support very much, including the green bundle, probably the main point there that we heard testimony about was the extension of eaves and setbacks, and we heard concerns about light and air. Staff did a shadow study to look at that, and satisfied the commission's concerns. I'm not sure we satisfied the citizens' concerns that testified about that. We also very much support the adjustments for the small lots that eric just talked about, along with the courtyard amendments to make those designs really possible. The areas that we weighed in on first to remove the regulation of garages on the front of some skinny houses. As you know, ricap is at least in part a suggestion driven process, and that came from a community suggestion. But as we got into the process, there was very little testimony from the folks supporting that, and a lot of testimony from the infill developers that this was not helpful to them in their market or the right time in the economy to be making those choices. Don't know that I personally agree with that, but we didn't think now was the time to make that adjustment, and we do recommend that you put in the bps work plan to spend more time studying that so we can have a broader process with more outreach to get more perspectives on that. Another area was the adus. We heard testimony that the 33% limitation was restricting adu development. And really to us this came down to a tradeoff of enabling adus, which are important for our infill goes and sustainability, as well as providing affordable housing, since adus are typically very affordable type of housing. Versus the design issue of preserving the -- I think we coined the word subsaideriness of the accessory unit to the main dwelling. Essentially we came down on the position of allowing adus that are closer to the size of the main unit in the interest of making adus more practical in some cases. And then the final issue I want to talk about is the bike parking ratio, since it's a little complex, and I helped get to that 1.1 number. So the dare invasion of the 1.1 number is the average occupancy of multidwelling units is 1.6 people, the bicycle ownership rate in Portland is 70%. That is 70% of individuals own a bicycle. If you multiply 1.6 by 70% you get 1.1. Essentially that says on average we're accommodating one bicycle for everyone who owns one. Now, of course that's an average across

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the city where we have many different factors, and we know that that is very broad brush. We got there because the current standard is .25, testimony established that it's clearly inadequate. I think we all know in the city where 6-8% of people are using bicycle as a regular mode of transportation, .25 is unlikely to be a sustainable number, and in fact the 1996 bicycle master plan recommended 1.0. So we've been deficient from our goal for a long time. So we did want to address it immediately. We know this number is just a stab, but we think it's important to bring it up to a more realistic number. When you get our recommendation on the bicycle master plan, you will see that we're recommending that as part of the Portland plan we spent some time looking at parking in general. Motor vehicle parking and bicycle parking, how we allocate space to both those and how they get traded off as we see the bicycle mode split continue to rise over time. So we talked about numbers anywhere between 1.0 and 1.5, and I suspect you'll hear some testimony for the 1.5 number today. There are some good arguments for that. There are also some issues. There's a sweet spot beyond which up to which you can accommodate additional bike parking in the garage areas of typical multidwelling units. That's somewhere around the 1.0-1.1. If you go beyond that, one of two things is going to happen. The developer is going to need to increase the building footprint in order to accommodate more bicycle parking, and of course that's opposite our sustainability directions, or they're going to opt for the end-unit storage, so they put a couple bike racks in the unit itself and people would be taking their bicycles up in the elevator and hanging them in their units. That's probably the answer for affordable housing, commissioner Fish, as the cheapest way to do this is to put some hooks in the unit. Obviously there are disadvantages, but if you're trying to keep costs down, that's the way to do it. So without doing more work to establish what are the right standards and the right circumstances and right parts of the city, we felt 1.1 was a good compromise number as an initial attempt to get out of the clearly inadequate space that we're in now.

Fish: Could I ask you a follow-up question? How does the incidence of bike ownership change as you get older along the spectrum? Among, let's say, people 55 and older, did the numbers change much?

Leonard: They own two bikes.

Smith: I think -- the correct answer is we don't have that data. But I think you would see in different circumstances you get different patterns. The couple that sells their house and moves into a condo may very well get a couple bicycles right around the pearl district, to go to the grocery store or whatever. I wouldn't want to say there's a one size fits all answer to that. It's an area that needs more study.

Fritz: I saw one -- part of the reason for this change was the concern that people were not allowed to carry their bikes up to their room. How would putting the racks in the units apply --

Smith: That's the rationale to not jump to 1.5 that. Would start to capture things like people who own two bicycles and have room for that --

Fritz: My concern is we heard the condo developers don't let people put their bikes in their room.

Engstrom: Our theory is that if there is a rack there, they might have a harder time arguing the rule --

Smith: It's hard to make a condominium bylaw you can't bring them in if you built two racks into the wall of the unit. At least I believe having worked with some developers who looked at how they would fit in more bicycle parking is that if we don't go beyond 1.0, 1.1, we're likely to fit them all into the garage areas. If we put pressure on beyond that, they're going to find putting it in the unit not having a condo bylaw is going to be more attractive solution. And so what i'd like to see happen, my personal opinion, in the Portland plan we should revisit both this ratio and parking maximums. Because really, if you look at our city, if you look at amsterdam and copenhagen, we visit and we find it charming, but there are bicycles stacked everywhere. The residents find it annoying. So the good news here in Portland is that we have lots of space available for parking

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because we've given it aside for parking cars. As we become less reliant on cars, we should shift some of that space from cars to bikes. We need to be conscious about how we make that shift and that's what we should look at in the Portland plan. I don't want to add more space for bikes without removing some space for cars, because then we have bigger building footprints or other behavior that's not in a positive direction. That's picking 1.1, we're trying to go as far as we can without triggering what I think are some risks we might not want to deal with without more knowledge. With that, we recommend this package, we recommend you put in the work plan further work on the garage issue on the skinny houses.

Adams: Question, I apologize for having to step out to make a quick phone call. The notion of doing the ratio 1.5 to 1.0 in an area of town like the central city, did you cover that as a potential --

Smith: What I covered is that we believe we probably should have different ratios for different circumstances, we don't know enough to know what the right ones are. I think we should -- can safely say in the central city a higher ratio is supportable. The concern that if we don't reduce auto parking at the same time, we may expand building footprints, which is an effect that we probably don't want.

Adams: One thing I'd ask the city council to consider is that we make an amendment to provide for that, knowing that the Portland plan will be coming along soon and considering that therefore a pilot in the intervening time.

Smith: Certainly very supportive bicycle parking.

Adams: Thank you. Where are we, mr. President?

Fish: I ruled commissioner Leonard out of order twice, and a lot of good did that. And beyond that, I think we're ready to go to eight members of the public to testify.

Fritz: Did you want me to mention the amendments I would like to consider?

Adams: I think now is a good time. So council -- citizen testimony might speak to them.

Fritz: I'll just mention generally, because I don't have specific language for most, but I do want the citizens to have the opportunity to testify on some of the things I noticed in the package, which as usual has been done very well by staff. The first item is on water cisterns. The -- the question of whether we should allow them in the front yard, and if so, what they -- whether they should be screened and the colors. Currently there are specification for the color. I think we saw in the bureau of planning presentation the beautiful one with the flowers on it, that I would hope we would with allow things like that. It doesn't seem to me the color is particularly important. Then there's a density gap between the r1 and 2 as Eric mentioned, but we're lowering the density in r2 as well as in r1, and there wasn't a rationale for that in the package. So I would want to know -- there's an adu density calculation which takes out the sentence that says that accessory dwelling units are not counted in the density. That's a helpful thing, people should know that. Accessory dwelling units build. Loading space triggers, there's been a lot of concern about there being enough space for loading for commercial and domestic uses, so I'm interested to hear about that. Disturbance areas and environmental zones, there seems to be some confusion between private and public disturbance areas. Fencing on corner lots, which was in the presentation, concern about there being the potential for eight-foot fences along the pedestrian sidewalk on major streets, if the house is oriented to the side street. That may be a bit more -- give more privacy to the home, but it creates an unfriendly pedestrian environment. Just a minor detail to add that comprehensive plan map amendments come to the city council, right of way dedications is a minor amendment to change what the -- to clarify what a building lot line is, are we talking about the building and the lot line? Solar panels in schools, currently the proposal says that we can have ground-based solar panels in schools, it seems to me we should add an exemption to rooftop, without having to go through conditional uses. And questions on the transportation planning rule, and the way that zone changes in compliance with the comprehensive plan are done to make sure that the developer is responsible for doing the transportation improvements. Then the whole set of amendments on skinny lots in the

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r5 zone, which it seems to me that over time we decided to allow r2.5 levels of developments in the r5 zones in areas that had historic platting of lots. Each time we've done that, we've done an amendment to it, we get more convoluted in our regulations as to what's allowed and what's not, and sooner or later each time we have to come back and do something else. I would like us to recommend that this be covered in the Portland plan and that we should look at which areas are suitable for r2.5 development and which areas should remain r5. So the -- and one of the -- there's a few changes in that. I think that in the lots where the gerrymandering of lot lines, i'd be interest to hear why it was not feasible to just not allow that. And what the unintended consequences might have been. In particular, there's a proposed change in the west Portland park neighborhood which has to be my neighborhood, where back in 1979 the skinny lot issue came up and the neighborhood appealed to lube expwraw got regulations that don't allow skinny lot developments in r5. In the southwest community plan, the negotiation and the bureau of planning -- the neighborhood association discussed what would be appropriate, and we rezoned a strip of land r 2.5. It was never intended that land that is is now appropriately zoned at r2.5 would have to abide by skinny lot regulations. So although I don't tbleef was any outreach in park neighborhood association on this particular issue, my feeling as a former land use chair is r2.5 means that, that was what the zoning was requested. And that eventually i'd like to get back to seeing r5 being r5. Language changes on the nonconforming upgrades that we should allow some leeway in terms of the amount of development that's allowed to not count towards other requirements in terms of nonconforming development upgrades, but others should not be. The ears -- eaves are a concern, we're still not getting the development we need. We have large houses on small lots, the projection doesn't address the problem, as proper light and air in the houses and space between the houses. Finally the issue of wind turbine and making sure that neighbors had a good discussion of the possible -- the proposals to have wind turbines be allowed.

Adams: I have a few. One is the -- to come back to us with a proposal on the 1.5 in the central city, give us a boundary on that. The other is containing a january 5th 2010 memo to the city council amendments to recap -- to ricap 5, technical -- mostly technical in nature dealing with rotor sweep area height testing, related to the microwind turbines and then the changes to 33.420.045 regarding design review and microwind turbines. I think you have copies of these.

Engstrom: Yes. And staff is prepared to go through the list that commissioner Fritz provided. I'm assuming we do that after public testimony?

Adams: Yep. All right. Or next time. Karla. We'll probably do it next time. So we take our time.

Adams: Good afternoon. Welcome back. Betsy, would you like to go first?

Betsy Brumm: Well, she's going to pass out from pictures that I -- she's going to pass out pictures that will tell you why i'm here. I'll hold this up. This is what, when I get up in the morning -- excuse me, mayor Adams, commissioners, i'm betsy brandy munkers, 2830 northeast regions drive, Portland, Oregon, 97212. When I get up in the morning and go out to my -- to pick up my newspaper, which I may cancel because of this, this is what I see. Which is I think you've received an email and a packet with pictures from mark, who lives near me. However, I understand your fire wall did not let the pictures through. I have tons of them in my cell phone. So I thought I would just blow one up for you. I want to ask the council to redefine what a retaining wall is. And also to have a setback at the ground level of more than two feet. By the way, this one has two feet on one end and one foot 11½ inches on the other. If you'd like to have it torn down it would be fine with me. And make some attempt to have as Washington county does and several other places, that you have a retaining wall that goes up six, seven feet and then you have a setback. There's no way that there's going to be able to have vegetation. This is going to be a great graffiti wall. It's 50 feet long, by 12 feet high. And there was nothing we could do about it because the city had already given the permit to have that done. It was under the auspices that they wanted a safe place for their

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children to play. I have another picture that shows that they're going to have some artificial grass somewhere in this lot. And i'm not actually quite sure where it is going to be. What we have now is a -- I did that. Some of you might remember dorothy lynch. If I see anybody nod, then you're as old as I amount, or close. She was the first actual person who set and made limits for having public parks in Portland, even though we had them, but make sure there were green spaces for every neighborhood. She was -- she worked under the -- she did a great job, and we would not have the japanese garden if it were not for dorothy lynch, and in her later years she served tea there every sunday. This is the house she was born in. It was her parents' house. It's directly across the street from me. I knew her my whole life. There were six truck loads of cement that came in to fill that wall, and to fill the back part of there, whatever it is they've done. And then I understand -- I was out of town, but there were also two days worth of huge rocks dropped in behind the wall. So i'm asking that the city council look at a setback and for some vegetation for any walls to be built before you do that. Again, there were -- they were given the original permit under the auspices their children will play where they're -- I look at that wall, but I really -- what I really would like to do is, because on top of that wall originally was to be a six-foot solid wood fence. Sheila did a great job in working with those of us who were living in the neighborhood, so that got reduced down to a four-foot fence. I asked to have it be a 3.5, which is what the law says. But sheila did a great job. We only had 29, I believe neighborhood people. Could I have gotten a thousand people to sign. I didn't do that. Thank you for your time and consideration.

Adams: Thank you, betsy. Michelle?

Michelle Poyourow: Good afternoon, mayor and commissioners. My name is michelle, i'm an advocate with the bicycle transportation alliance, and i'm here to speak in support of the increase in the long-term bicycle parking minimums required in the city of Portland. I became interested in this issue a number of years ago because I was fielding so many phone calls from two groups of people. On the one hand, representatives of condo and homeowners associations who as chris described were struggling to retrofit their buildings, and pay to retrow fit their building, and architecturally retrofit their buildings to accommodate bicycles. And I could hear them banging their heads and thinking, why wasn't this just done right? We would have been happy to pay for it when we bought our units. But now they had to deal with it. The other group of people was renters who unfortunately weren't as organized and didn't have a way to raise revenue to make these retrofits. So they were just calling us to ask if there was anyone else this co-- they could call to get their landlord to install some bike parking. So we realized there was a problem, and the ability of people to store bicycles in multidwelling buildings in the city. And for us, that became obvious to us was a real barrier to using a bicycle. I don't know about you, but I cannot really even lift my bike over my doorway much less get it through my house and on to a balcony or upstairs. And of course if you go around the city and you look at apartments, you'll see bikes on balconies all over the place. So being able to drag that thing off and hop on it for a short trip is not as easy as if it's just parked outside your door or in the garage. So the bicycle transportation alliance has -- is interested in reducing barriers to bicycle so people can make that choice easily when they want to. So we support the increase to 1.1 spaces per unit. We did also propose to the planning commission that they consider a districted approach, which mayor, is similar to what you've suggested in which some districts of the city where we know more people own and ride bicycles, or even want to encourage more so people to own and ride bicycles, that the requirement be higher, and in other parts of the city be lower. So no that -- to that end we would support 1.5 in the central city and 1.0 elsewhere. I'm also very interested to see how this plays out. Buildings is very hard, and banks have various requirements, so whatever you pass, i'm going to be watching and talking to bureau of development services and to developers to find out what these new requirements actually look like on the ground, and if there's something to be tweaked there, i'd be excited to talk about that in the context of the Portland plan. So thank you very much. I really appreciate the work the planning

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bureau has done on this as part of ricap, and I appreciate the opportunity to talk to you about it today. Thanks.

Adams: Thank you, michelle.

Cathy Galbraith: Good afternoon, kathy galbraith, 701 southeast grand avenue. I came for reassurance that i've received and looking at the handouts about the design review requirements for designated landmark buildings and solar issues, and historic districts. My concerns about those I think have satisfied the landmarks commission and those of us from the public who have spent time on landmarks working on the review of ricap. The second issue that i'm concerned about is the one that was raised in an email that was sent from doug, a resident of the richmond neighborhood. And he expressed concern about the provision to allow the encroachment of roof eaves to 40% of the required set was backs on houses. And he made am pretty strong case for a 13% resulting reduction in daylight, which will lead to people turning on their lights earlier, reduction in shade, and the additional infiltration of water from the encroaching eaves into those set bax. I had read the city's earlier analysis are that was referenced in the staff presentation, and I thought it sounded fan. After looking at mr. Clausen's analysis, he makes a good point. With a potential legal lot width of 25 feet, or 36 feet, you've got really narrow side yard setbacks, and encroaching into those required setbacks was the eaves is going to create fairly apparent problems when you look at his shadow analysis. My Portland house so a lot of 38 feet and width, the houses all predate zoning, the setbacks are min mull, three feet on either side, you can hear toilets flush, just like we all do in dense living. But some of those roof eaves already shed water into neighboring basements, including mine. For new developments it's going to be built with even greater encroachment into those setbacks, we're going to wind up with substantial additional water infiltration problems. To me the 300 pound gorilla issue on the issue of solar access, and I know it's beyond ricap 5, is one we haven't addressed, and that's how are we going to get a handle on the potential so-called infill. New development that's going to resolve -- result in blocking any solar access for adjacent smaller houses. And I think that's an issue that we haven't addressed yet as a city, but I think conflicts are coming. I think that the ricap, the whole package is ambitious, it's very detailed, a lot of people put in scores of hours on all of this stuff. And I think we'll see regulations of this scope present unintended consequences, and we'll probably be revisiting this to see what results from the scope of these regulations. Thank you. And happy new year.

Adams: Happy new year to you. And thank you all.

Adams: Good afternoon. Welcome to council chambers. We're glad you're here. You just have to give us your first and last name and the clock will help you count down the three minutes. Go ahead.

Andrew Koyaanisqatsi: My name is andrew, i'm the owner of solar energy solutions. First thing I want to do is say bravo for even talking about solar. I've been installing solar in Portland for 22 years, and the changes coming about is wonderful. I used to go into the city and get a building permit for solar and i'd have to wait for the laughter to die down before I could even take it to the next level. So i'm here to tell that you things have come a long way, and once again, bravo. But there is -- it seems to me my own personal experience with getting a permit is that there's still individuals despite the mayor's will or the city council's will, who are not really -- they're still old-school. And still hard to deal with them. And so I encourage you to continue asserting your solar will and hopefully that will seep down to the administrators of the permitting process, even better. I have -- I have some concerns about the proposed solar on historic building. The three-foot setback doesn't make sense to me. I think it's -- I think it looks beautiful everywhere. I do believe there are more pretty installation and less pretty, but as long as it stays within the framework of a roofing structure, that is fine. And by having three feet off, that's only going to reduce the number of solar installations occurring in these neighborhoods. And reduce the size assistance. So three-foot -- if it's base upon aesthetics, it don't really make sense to me, because it's not going to make solar look

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pretty, it's going to reduce the veil -- this takes out all of ladd's addition, which is where our target market is. They're environmentally thoughtful and somewhat affluent individuals, so they're basically taking out a market that whole neighborhood. Unless they go through this long review process. And the other comment I have is that i'd like to encourage city council and the mayor to be even more aggressive advocates for solar energy. And consider the idea of having code where all new houses are required to have solar. Or if commercial buildings should be required to have 0 lar -- solar, or at least there their industrial section, one koren. Hawaii has just enacted a law requiring all new homes to have solar systems on them, so even though it sounds crazy, it's been done before. And then finally i'd like to encourage you to help with a statewide solar code, which is in dire need.

Adams: Thank you for your comments.

Eli Spevak: My name is eli, 632 five north albina. Unit 6, north Portland. I'm a developer, general contractor, building small communities of small homes threw my company orange spot, llc. I am interested in a lot of the issues in this package, but most importantly small dwelling units. There's a study by deq showing that all the variety of the 20-some-odd measures people might do to have a house with a smaller footprint, including job site, waste management, good solar systems, weatherization, the best thing is to make them smaller, like 2100 square feet to 1700 square feet. It makes a difference that trumps the other ones. And -- but almost none of them get built. They need a lot of -- they nita lot of city housing goals, they're neighborhood friendly infill development, they're aaffordable, and they let people innovate with different types of homes. I don't need to say all the great things about them, except that there have been 20 or so built every year in the past few years, even before the housing crash in construction, they were down to 16 a year and dropping down below that. And so i've been part after group trying to figure out why. One of those is addressed in this ricap 5, there's currently a size requirement that can't be more than one-third the size of the primary dwelling or 800 square feet, whatever is less. If you have a 1500-square-foot house, it eliminates the possibility of doing an adu, or if you are going to, it has to go through an adjustment process which the city never denied, but it costs money and takes time and has risks. So i'm glad that ricap includes a provision which changes that 33-75% and i'm hopeful the city takes some additional steps to figure out how to get more of these built. Other obstacles to building adus are the sdc fees, which are lower but not much lower than for a primary house, 10-13,000 dollar range, for a tiny house that's hard to do. Design requirements, I think it's appropriate to have designs because infill lots, but currently -- the existing house with no eaves, you have to match it or get an appeal. So I think there's some reason to think about having some design standards for adus, but maybe not always matching the existing house. I know this takes staff time, partly i'm here to encourage the city to commit some time in the stretch budget of the bureau of planning sustainability to look at further revision of microcodes for small homes, and one last thing to leave you with, we did a study of the last three years of multiple listing service homes that have been sold, and it turns out for every one legally permitted accessory dwelling unit, there's almost three that are under permitted, or not permitted at all. The city don't even know about most of them. People are building them anyway, and beating the city housing goals. The bad news, they're mostly illegal. We'd like to make a path that supports people to do legally what we ought to be doing as a policy procedure.

Adams: Can you leave your card or a couple of cards with Karla? And we don't like unpermitted anything.

Spevak: I know. Neither do I.

Fritz: I know you're a developer of courtyard housing and you wisely stuck to one issue. I agree with on many of the points you made. On courtyard housing, i'd like to ask your expert opinion, is there a proposal to require the homes that front on the public street to have their front entrance on

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the front -- on the public street rather than facing into the courtyard? Does that cause you any concern?

Engstrom: Boy, I haven't studied that piece. I think there are cases where it's ok to have -- I did a project where there are four homes on four corners of the lots. Having the houses -- at least the rear houses face each other rather than the street isn't objectionable to me. I think it's still important for the houses facing the street to have doors facing the street so it welcomes the neighborhood.

Fritz: Take a look at that and let me know. I'd appreciate your advice. I've seen some of your developments, and they're really nice.

Gwen Millius, Portland Design Commission: Hi. My name is Gwen, and I'm here in my capacity as the vice chair of the Portland design commission. 221 Southeast Main, Portland, 97214. We're here to discuss the proposed amendment regarding turbines. And I appreciate the council taking their time to consider this amendment carefully. I'm actually going to read in a letter from my steamed colleague, he may have some additional comments after this testimony. So honorable mayor, Portland city council members, the Portland design commission charged by city council to uphold design quality in the city of Portland to review the RICAP 5 and green amendments proposal with the bureau of planning and sustainability at multiple public hearings. We ultimately helped craft a very clear path for the emergence of new green technologies including wind turbines.

Yesterday we were informed of an amendment to exempt wind turbines, the zoning code and design review for a period of two years. This sets a poor precedent and is a grave concern to the commission for a number of reasons. One, the implied temporary period of two years has inherent challenges, given the substantial structural demands and cost for turbines to be safely mounted due to the structure below, excepting review for their location may imply later approvability and given the cost of relocation or removal, if after a two-year period it's found insupportable to meet zoning, we could have a situation where we have a turbine that can't be really safe but is basically approved.

Wind turbines visible from the street would now be -- not be found approvable in historic districts under today's guidelines, but the exemption sends a mixed signal sighting any location could be appropriate. And come pat than. -- compatible. Design consideration to face technologies -- a modest effort and cost compared with the typical cost of the product and its installation, which was visible for years to come. We really don't think the design review is that onerous of, you know, a requirement, and would like to see it maintained for these significant structures. The design and landmarks commission helped to craft design and historic review provisions for many green technologies as part of the RICAP 5 package and was mentioned considered wind turbines at length. A parallel example are cell towers. They were and are still seen as very important to wind together will have the same if not more visual impact and will be subject to changing technologies and difficulty in enforcing removal over time. Wind turbine infrastructure to remain and add to the city's urban remnant clutter, considered part of the building design. Poor design integration of the system reflects badly for the green movement as well as the city's overall design quality, particularly due to visibility and there are several established view corridors throughout the downtown area protecting views of various vistas including Mount Hood that could it seriously affect. I will be sending you a youtube video of a homemade wind turbine that anyone could put up under this amendment, and I'd like you guys to watch it.

Adams: We disagree on this. Ok.

Fritz: In your opinion do the design guidelines, are they suitable for assessing whether wind turbines would be good or not?

Millius: Having the ability to review on a discretionary basis the placement of wind turbines, the ability to discuss whether they're appropriate or not, particular -- having the ability to basically take a look at large mechanical structures, especially on existing buildings, is important. And it does disturb the line of sight to --

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Fritz: The existing approval criteria allow to you address those things? Do they talk about the kinds of things that wind turbines look like, or would we need to develop better or new design guidelines?

Millius: That's an interesting question, because I think there is -- there's code that addresses mechanical structures on rooftops and line of sight, and wind turbines would by default fall under that. Basically we can take a look at wind turbines now as part of other mechanical improvements.

Adams: It's disappointing the design commission would with equate wind turbines to cell phone towers. I find that disappointing. We agree to disagree. I appreciate your testimony. Thanks. Karla, the next folks to testify?

Adams: Welcome back.

Mark White: Hello, everyone. I'm just going to read my letter here. I'm here today to request council to extricate the courtyard component that addresses density determination in ricap 5 code amendments prior to approval in order for further refining to be done to this particular issue. It's not a difficult thing to understand the exact intent and have concerns that the new code may create a potentially dangerous problem if the entire common area is not considered before determining the potential density of the site. Specifically i'm afraid that developers will opt for the highest density possible and then convert space that was verbally identified for green space and use that as marketing to accommodate the density. This would eliminate any possibility for safe play areas and developments that are supposed to be family friendly. Since one neighborhood has the highest amount of multifamily dwelling as any in the city, it's reasonable to assume we'll see the lion's share this much type much development. I'd like to reiterate that in addition to the lack of basic safety features like sidewalks and crosswalks throughout the neighborhood, we also are seriously park deficient for the amount of people who reside in the neighborhood. Green space is for children to play and -- critical importance to park deficient neighborhoods. And more importantly, I think it's - - we should not delude ourselves to think that young children will not play in parking lots when there's no park playground or green space available. While the majority of the courtyard-related code amendments are helpful and consider the needs of families, this one component I believe has the potential to jeopardize the safety of our children and seriously diminish the quality of life of families and residents who may reside in courtyard oriented developments. I respectfully request that I take this into consideration prior to approving the suggested recap code amendment and that you request the commission to address this concern in the code with very specific verbiage to ensure the safety and quality of the children -- quality of life of children, families who may reside in future courtyard oriented developments. I'd like to suggest in order to make these connections in the future that council in further recruitment for the planning commission get serious weight to candidates from east Portland who will be well versed in the needs of families and will be able to provide a practical application to those who needs to the city code. I think there's a big difference between families that live in east county as there are with families who live in the pearl and inner Portland. It's a very different kind of dynamic. I'd like to use the last part of my time here to make a comment on what commissioner Fritz had mentioned. I don't know if I heard correctly, but if there is anything in the code here that says that r2 density should be increased, I would absolutely beg you not to do that. Our neighborhood has tremendous amounting of a overlay, which would mean that not only would the density increase, but developers would have the potential to double that. And until we have sidewalks on our major corridors, let alone the surface streets where all the residences are, I think it's absolutely -- it just doesn't make sense to do that. And for people to be able to get around without sidewalks and with higher density and no crosswalks, it's just -- it's a recipe for disaster, and I would really discourage you to do that. Thank you so much.

Adams: Thank you very much.

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Bonny McKnight: Mayor Adams, members of the council, good morning, afternoon, good 2010.

First of all -- before you start timing me --

Adams: Oh, I get to decide when we start timing.

McKnight: That was a challenge.

Adams: I saw that.

McKnight: I simply want to recognize --

Fish: Take as long as you want. As president of the council.

McKnight: It's good to have an ally. I just wanted to say how proud I am that two east Portland people are up here and that one of them is a spirit of Portland award winner from this year who has renovate add whole area of east Portland by his actions. Not just around land use, but around everything. So i'm proud to be at the same table with him.

Fritz: 1994 spirit of Portland award winner?

McKnight: Yes, but that was different era. And I warn you now, president Fish, that I have four minutes of comment and I have cut those down from at least 30 minutes. So feel -- I wanted to tell you, just warn you --

Adams: Is that a request?

McKnight: Please.

Adams: Yes.

McKnight: Thank you. You may not like that after I make my comments. The ricap package is a product of a broken process. My name is bonnie mcknight, i'm from east Portland. This ricap package is a product of a broken process, in my opinion. I want to first comment on some elements in the package, but more importantly, I think on the process by which we are currently changing code. This package is 268 pages. And provides code changes or advice for more than 60 types of development decisions. Here are two major elements of concern among many. Courtyard housing density calculations. The suggested changes are intended to make building courtyard housing more attractive to developers. More density calculations like cri civil is proposed. The changes treat common green and shared courts as the same thing. They are not. Shared courts are already used for vehicle access in parking, common greens prohibit those uses. There should be no flexibility for building coverage calculations dealing with shared courts. Since they can be used as they -- as is -- if they were streets and parking lots and almost always are. That's a fairly simple line through a piece of code. Building needs. The green building package includes further erosion of site setbacks by increasing the depth to which eaves can intrude into the setback. Commissioner Fritz was a member of the planning commission when the first relaxation of site setback measurements was made, at that time in order to entice building -- builders to build any eves at all, set backs were changed to be measured from the building face rather than the eave projection. The alternative, which would have made the actual building smaller, lost to intrusion into the side setbacks which function to provide space, light, air, and a variety of other site benefits. The proposed code change would allow further erosion of site setbacks by allowing the eaves to extend within three feet of the lot line. Building hard surfaces closer together regardless of whether they are buildings, driveway, or eaves is contradictory to many of the watershed and livability values we talk about every day. This eave extension proposal should not be accepted. Ricap 5 is a product of a really bad process. It is important to build a real review process into code changes. In the past, the neighborhood association system was part of that process. Current code changes have no consistent process, review period, or clear final draft status. The final proposed draft of ricap 5 was not subject to any review or comment period, which could fully inform the planning commission about the package. The final 268-page document was posted on the web sometime after november 23rd, 2009. As the city has been told routinely, the volunteer nature of citizen involvement of all kinds is not respected by using the thanksgiving christmas period for commenting on any significant change to city rules, regulations, and practices. It's especially bad when the complexity much code changes should be

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considered by their overall impact rather than a simple change to written lines of regulations. The current process is not fair to citizens, it's not fair to various bureaus that struggle to find balances when conflicts occur, it's not fair to the planning commission which is asked to provide a comprehensive review of complex code issues without adequate community input. It's not fair to those who want to take ownership of their city in a positive and cost effective way and it's not fair to all of us who use -- use the hearing to bring these issues into discussion. I challenge you to change things now. Provide direction today, to require that future code changes impacting land use go through a neighborhood association review process prior to planning commission consideration so that the information you receive truly helps you judge the future financial, public trust, and bureau service impacts of these changes before they come back to you as complaints and anger from the public who elected you. Thank you.

Adams: Thank you very much for your testimony. Is anyone else signed up to testify?

Moore-Love: No one else signed up, there was some other gentleman who wanted to speak.

McKnight: I have also included with what was sent around a second copy of something that you should have got gotten. Mayor Adams will be at a special citywide land use meeting tomorrow night and will be talking about the same issue of process.

Adams: And I have some items i'm going to add to the list as well.

McKnight: You may do that.

Adams: Thank you.

Moore-Love: Other people asked to speak who did not sign up.

Adams: Ok. Who are they? Come on up.

Jeff Stuhr, Portland Design Commission: Thank you, happy new year. I was the one that whispered in her ear --

Adams: Ok.

Stuhr: Gwen gave most of the comments, but there's a couple points I wanted to make. I want to make clear the commission is not opposed to wind towers downtown in the central city. Jeff steward, representing Portland design commission. As you probably have heard, the ricap process actually came to design commission. I think three times. So talk about many of the issues that are in the report. And we support most of those. One area we did dwell on was the wind turbines. And it's not that we're opposed to them, we support them. We've approved design, the design of the intigo tower with those on. We just want to emphasize that we think that because of the new technology, and because of the impacts with location height, noise potential view, and the issue of ancillary structures that may need to support these things, cabling and stuff like that, we think it's a vital thing to review these things, and that's our point there. Also it's not the -- to equate wind towers with cell to youering, it's just that we go so far as to review things such as cell towers, we're very careful about the design of roofs and we've been more careful over the last number of years about roofs, pushing green roofs on tops of buildings and organizing the tops of buildings so that those who view down really are looking at something nice rather than kind of 10, 15 years ago when there was just a hodgepodge of equipment on roofs. We just feel that having staff or ourselves able to take a look at that with the wind turbines in particular, is a prudent thing to do. And thank you for your thoughts on this, and for taking a look at this. I don't want the impression that we don't support wind towers, or turbines. We really do. We just want them done in the right way.

Adams: Thank you for your testimony. Could somebody speak to the process issue raised?

Because of the in-depth nature of some of these other stuff, i'll take the pulse of council, but an idea would be to have maybe staff work up additional research and their suggestions on our suggestions, and some that we heard from, staff and come back to us first individually and then either have a work session or another council session. Does that make sense?

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Fish: I think another council session with a chance after the testimony just go-to-go around, putting a few of the issues and questions on the record --

Adams: Absolutely. That's what i'm asking for. Does that make sense to you?

Fritz: And the second council session would be another first hearing?

Adams: Yes. Absolutely. So the process issue, why were neighborhoods shut out of the process.

Engstrom: I would like to challenge the notion the neighborhoods were shut out of the process. Ricap 5 probably had one of the most extensive public outreach processes as any of the regulatory improvement processes. This has been the longest ricap package. We started with a work plan that had a planning commission hearing in august of 2008, so that's almost a year and a half ago. We had -- spent about a year on this package with the regulatory improvement stakeholder advisory group, we as you heard, we went to the design and landmarks commission three times each, we had the lot confirmation task force for item 55 dealing with the narrow lots, there was a task force of neighborhood representatives and development community interests that met I think about a dozen times over the course of a year. We briefed a number of neighborhood coalitions in the spring of 2009 on the green bundle and many of the other amendments. The first draft of the green bundle was released in may of 2009. We got pretty extensive press conference -- coverage of that proposal in mid 2009, there was television news interviews and a number of feature stories in "the Oregonian." mayor Adams featured the green bundle in his hundred-day plan, which means that it was on sort of the front of the city's website for a while. The -- we did visit the citywide land use group in june, I believe, we held an open house in july, public notices were sent to over 600 people, multiple times through the process, which includes all the neighborhood associations and land use coalitions. We visited tt development review committee in august, we had two full public hearings with the planning commission, including supplemental public notice on the bike park and adu thing because that got added at the planning commission's suggestion. Yes, the draft that was the result of the planning commission decision was published in november, but that was simply the putting down on paper of what the planning commission recommended we do as a result of the public hearing. So it wasn't a new staff draft, it was the edits made by the planning commission and suggested by the planning commission. It's true that ricap by its nature covers a lot of issues, so that's challenging when we're doing public outreach. It's easier to do a single subject code package because you can know who you're supposed to outreach to at the beginning and ricap doesn't settle its work plan until partway through, so sometimes when an idea gets added to it partway through as a result of public testimony, we do have to circle back and let people know about it, and that's one of the inherent challenges of this broadcast method of regulatory improvement that we have. But I think we did do a good staff -- staff did a good job in this one, and did involve the neighborhoods. There's clearly some elements of this, this is probably one of the more aggressive packages, so I think there's elements of this that people disagree with, but I think we did talk to people.

Adams: Maybe if you could stay there and take notes on the council's requests for more information. Commissioner Fish, why don't we start with you.

Fish: Thank you, mayor. If I could engage commissioner Leonard in a quick colloquy, there is a question in my mind about how any requirement impacts development. And what is the cost or the configuration impact or whatever. Since I don't know that answer, could we refer at least that question to drac just to get some preliminary comments back about what other considerations we should be thinking about?

Leonard: I think we could. I would ask bonnie what she thought. S do you think that's a good forum --

*****: [inaudible]

Fish: Absent, that I could ask the director just to canvas some for-profit and nonprofit developers. I don't know what the anxious is. It very well -- may very well be we don't care within a range, or

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within a certain range there are some practical considerations we want you to think about. Either way.

Leonard: I guess my instinctive response is that while this has a big impact on the bicycling community in terms after brand new development, it doesn't have that much impact in terms of cost. It is a different way of approaching development, but my sense is it would not have a major impact as to whether or not a development would occur or not.

Adams: Why don't we have staff work with Margaret and Bds staff and transportation staff to get some opinions from others.

Fish: I have some additional questions on the r5 zoning issue. That's just because I'm late to this discussion. So I think I'm going to talk to my colleagues about that to better understand it. And on the building eaves I'm hopelessly confused. I've heard that it is consistent or inconsistent with almost every value that we have. Just help me -- maybe it's just me, but if you could prepare just a little bit analysis to help us understand on the different values of energy efficiencies, sustainability, I'd throw in if you wouldn't mind, some of the issues we've been dealing with around safety issues, lighting. Other kinds of things, water displacement. Just if you could give us a better sense of what you think are some of the pros and cons of that proposal. It's a little confusing to me. Otherwise, thank you for an outstanding presentation.

Saltzman: I'm going -- I'm interested in more information on the solar panel setbacks. Was that just in historic districts?

Engstrom: Yes.

Saltzman: I guess I'd -- I'm more interested -- I'm interested in the pros and cons of how that may inhibit the use of solar. I think that was my main issue.

Adams: I think just to add to that would be site lines and setbacks. It's a three-foot setback, but you wouldn't see it at one foot. If you could consult with our historic preservation folks as well, if there are ways to get at what would be the total win-win, if you don't necessarily see them.

Saltzman: Before we leave that topic, there is also something going on at the state level about a solar code, and I know there's some concerns about some aspects of those rules that would further maybe limit roof space available for solar panels. I guess I'd like to have it all looked at holistically when with you come back to us.

Fritz: Added to the picture is worth a thousand words, definitely held true here. I received an email from the neighbors last night and wondered which attachment was removed. This doesn't seem to be the type of neighborhood development, obviously it's not able to put into this package, but I'd like to know how we could address this particular issue, or what your recommendation is for addressing the issue of enormous retaining walls on sidewalks.

Engstrom: There actually is a retaining wall amendment in this package, just to be clear.

Fritz: So we could change it now. Ok. Thank you for pointing that out. Was interested in the design commission's comments on the proposal that turbines could be exempted for two years. I'm wondering about a possible sunset or review process so whatever we do with turbines we could come back and look at it and find out whether it's working or not. Concerned about -- I concur with Mark White's comments on courtyard density and the A overlay. I have a question about whether the A overlay would double the density in court yards on -- with the A overlay and also concerned about the green space being used as parking and how that is addressed in the package. And also if you could find for me and get me the copies of the design guidelines for attached houses in neighborhoods and also those for turbines downtown. I no longer have a paper copy of the code, and it's difficult to find. Thank you.

Adams: Commissioner Leonard?

Leonard: Recently having had the opportunity to take advantage of an accessory dwelling unit, I very much support staff's excellent work on that, and feel quite a connection to those that find themselves living in one of those kinds of units. They're very nice, and I appreciate that we're

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supporting doing even more for smaller houses. On the issue of legal lots of records, item 55, with respect to 2.5 or 5,000-square-foot lots, the issue needed to be framed appropriately, and i'm certainly spent enough time doing that since i've had the bureau of development services. This issue of density arises from Oregon's unique land use system, and that's often lost in the discussion. And Oregon led the way in the early '70s by adopting strict land use controls that were unique in the united states at that time that sets aside urban areas for urban development, and sets aside other areas for farm and open space and timber. We're watching right now over at metro quite a battle occur that's threatening to bring metro to a grinding halt in the decision to try to expand urban reserves for future development and what portions of the urban -- the metro area should be kept in farmland, what portion should be kept in urban development, what portion should be set aside in reserves for future urban development, and that ties directly to this issue. Most Portlanders, if you ask them if they like Oregon land use system, would with say yes. Probably 90 percentile. If you say would you like to have a skinny lot next door to you, most would say no. But that's part -- the other side of the coin. So the key for me as the commissioner in charge of the bureau of development services is not whether or not we should have skinny lots, but it's a design of the structure that's on the lot. So therefore, I led in after first arriving on council, an initiative brought before council that established the first design standards for narrow houses on narrow lots. Second, I initiated the living smart program which was a worldwide competition to find the best design possible for those kinds of structures. And the reason is, as Portland becomes more successful as a community, the economics are such that housing prices get out of wack for working Portlanders. For people who live here, can't afford to live here. People who have jobs here and kids in school can't afford to live here. So mark is absolutely right, east Portland gets a disproportionate share of that kind of housing. I live in east Portland. I know that. But the reality is these Portland -- east Portland has probably the most affordable property. We have to find the balance between how to have affordable housing, how on-to-to have out narrow lots, how to have the structure get built, sidewalks, streets, parks, how to have houses that are built be attractive and fit with the neighborhood. I get that. But this cannot be at the -- a debate as to whether or not we have narrow lots. It's part of our obligation in the Oregon plan of Oregon's planning system to have more density, have affordability for housing for folks because you can't be for affordable housing and then against initiatives to try to make affordable housing. This is one of them. Having said, that i've often said we can do a better job at design, a better job at how they fit in and how they reflect the character of a neighborhood. I get that. I hope the discussion is that and not whether or not we should have narrow lots, because that's going to be a tough one. Thank you.

Adams: All right. Any clarifying questions from staff?

Engstrom: I would note that staff has reviewed the list provided by commissioner Fritz and without going into the details, I can say probably about a third of them make sense to us, and we're supportive of that. [laughter] I said that the wrong way.

Fish: That sounds like an attack.

Engstrom: A third of them made sense immediately.

Adams: I will let you finish. A third make sense, a third really make sense and a third are just like absolutely.

Engstrom: A third we think the other third was that we think with clarifications we could make to respond to your comments, and there's probably a third where they -- we think there's more after policy debate that needs to happen. That's what I meant to say.

Fish: We're up to 1.5.

*******:** And another half.

Adams: We will -- we do not have -- we won't set a date for when we come back yet, because I want to hear from staff how much time it will take for you to thoughtfully review these items. So we will --

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Kathryn Beaumont, Sr. Deputy City Attorney: One consequence of not setting a date is we will have to renotify them, send out new notices.

Adams: Can we set a date and if we don't --

Beaumont: You can continue it on. I would set a date.

Engstrom: We're prepared to answer a lot of these. We're not --

Adams: Last wednesday in january?

Moore-Love: 27th.

Fritz: Can we have an evening hearing?

Moore-Love: The mayor is gone the third wednesday of the month.

Adams: The first wednesday in february?

Moore-Love: That's land use case for an hour and a half, you can do 3:30 on the 3rd of february.

Adams: Is that all right with folks? Do you want an ink hearing?

Fritz: I -- providing I appreciate the citizen who's took time off work to be here. I wish I had noticed it, or would I have asked for an evening agenda.

Adams: Do we have an evening hearing already scheduled?

Moore-Love: That's the possible continuation of the river plan north reach.

Adams: That's sort of two for one. What day is that?

Moore-Love: The 17th.

Fritz: I don't know that we want to double schedule anything else --

*****: [inaudible]

Moore-Love: You can do a 6:00 p.m. any time wednesday or thursday.

Adams: Let's put it down for now for 3:30 and we'll see if we can do something in the evening. For now it's 3:30 on --

Moore-Love: February 3rd.

Adams: Ok. And we are -- we have nothing, so we're adjourned for the week.

At 3:37 p.m., Council adjourned.