



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **19TH DAY OF JANUARY, 2011** AT 9:30 A.M.

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

Commissioner Fritz arrived at 9:31 a.m. and Commissioner Saltzman arrived at 9:32 a.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Tracy Reeve, Senior Deputy City Attorney; and Pat Kelley, Sergeant at Arms.

Items No. 73 and 75 were pulled for discussion and on a Y-5 roll call, the balance of the Consent was adopted.

COMMUNICATIONS		Disposition:
62	Request of Barry Joe Stull to address Council regarding an introduction to Paris L. Collins (Communication)	PLACED ON FILE
63	Request of Mike O'Callaghan to address Council regarding attack on Bruno (Communication)	PLACED ON FILE
64	Request of Wade A. Varner to address Council regarding homeless services (Communication)	PLACED ON FILE
65	Request of Leo Rhodes to address Council regarding homeless and working together (Communication)	PLACED ON FILE
TIMES CERTAIN		
66	TIME CERTAIN: 9:30 AM – Recognize mentoring organizations funded by the Portland Children’s Levy (Resolution introduced by Commissioner Saltzman) 20 minutes requested (Y-5)	36840
CONSENT AGENDA – NO DISCUSSION		

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Mayor Sam Adams

<p>*67 Authorize a \$50,000 grant agreement with the Portland Schools Foundation to do initial work in establishing a Cradle to Career framework for Multnomah County (Ordinance) (Y-5)</p>	<p>184364</p>
<p>Bureau of Planning & Sustainability</p>	
<p>68 Adopt a Waste Reduction Program and authorize an Intergovernmental Agreement with Metro to receive Metro Waste Reduction Challenge Funds of \$261,397 and \$509,141 for the Recycle at Work Program in FY 10-11 (Second Reading Agenda 45) (Y-5)</p>	<p>184365</p>
<p>Bureau of Police</p>	
<p>*69 Accept a grant in the amount of \$24,876 and appropriate \$18,000 for FY 2010-11 from the U.S. Department of Justice, Office of Justice Programs Bulletproof Vest Partnership FY 2010 grant for bulletproof vests (Ordinance) (Y-5)</p>	<p>184366</p>
<p>*70 Accept a grant in the amount of \$70,000 and appropriate \$53,000 for FY 2010-11 for the Oregon Department of Transportation, Transportation Safety Division for sworn personnel overtime in order to assist the Multnomah County DUII Intensive Supervision Program (Ordinance) (Y-5)</p>	<p>184367</p>
<p>Bureau of Transportation</p>	
<p>*71 Authorize application to the Oregon Department of Transportation for a Safe Routes to School infrastructure grant not to exceed \$500,000 for pedestrian safety improvements near four Portland schools (Ordinance) (Y-5)</p>	<p>184368</p>
<p>*72 Accept a grant in the amount of \$326,226 from the Washington State Department of Transportation for the Columbia River Crossing (Ordinance) (Y-5)</p>	<p>184369</p>
<p>Office of Management and Finance</p>	
<p>*73 Pay claim of Edessa Argo (Ordinance) (Y-5)</p>	<p>184372</p>
<p>*74 Pay claim of Amy Rivkind (Ordinance) (Y-5)</p>	<p>184370</p>
<p>*75 Create a new Represented classification of Tour Bus Driver and establish an interim compensation rate for this classification (Ordinance)</p>	<p>REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION</p>

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<p style="text-align: center;">Commissioner Dan Saltzman Position No. 3</p> <p style="text-align: center;">Bureau of Environmental Services</p> <p>76 Amend contract with Berger/ABAM Engineers, Inc. for additional work and compensation for the Guilds Lake Pump Station Improvements Project No. E08877 (Ordinance; amend Contract No. 30000337)</p>	<p style="text-align: center;">PASSED TO SECOND READING JANUARY 26, 2011 AT 9:30 AM</p>
<p style="text-align: center;">Commissioner Randy Leonard Position No. 4</p> <p style="text-align: center;">Portland Fire & Rescue</p> <p>77 Accept donation of \$6,694 from the Jeff Morris Fire & Life Safety Foundation to help pay the costs associated with the arson dog (Ordinance)</p>	<p style="text-align: center;">PASSED TO SECOND READING JANUARY 26, 2011 AT 9:30 AM</p>
<p style="text-align: center;">REGULAR AGENDA Mayor Sam Adams</p> <p style="text-align: center;">Bureau of Transportation</p> <p>S-78 Accept a grant in the amount of \$2,445,563 from the Oregon Department of Transportation and authorize an Intergovernmental Agreement for the design of the NE 102nd Ave: NE Glisan to SE Washington Phase II (Second Reading Agenda 56) (Y-5)</p>	<p style="text-align: center;">SUBSTITUTE 184371</p>
<p style="text-align: center;">Commissioner Dan Saltzman Position No. 3</p> <p style="text-align: center;">Bureau of Environmental Services</p> <p>*79 Amend contract with CMTS, Inc. to add Inspector Apprenticeship Program and increase compensation (Ordinance; amend Contract No. 37903)</p>	<p style="text-align: center;">CONTINUED TO JANUARY 26, 2011 AT 9:30 AM</p>
<p style="text-align: center;">Commissioner Randy Leonard Position No. 4</p> <p style="text-align: center;">Bureau of Water</p> <p>80 Amend contract with Analytical Services, Inc. to increase compensation for laboratory services for Cryptosporidium Analysis (Ordinance; amend Contract No. 30000364)</p>	<p style="text-align: center;">PASSED TO SECOND READING JANUARY 26, 2011 AT 9:30 AM</p>

At 10:43 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **19TH DAY OF JANUARY, 2011** AT 2:00 P.M.

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

Commissioner Leonard arrived at 2:02 p.m.
Commissioner Fish left at 4:05 p.m.

At 4:05 p.m., Council recessed.
At 4:12 p.m., Council Reconvened.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Kathryn Beaumont, Chief Deputy City Attorney; and Pat Kelley, Sergeant at Arms.

<p>81 TIME CERTAIN: 2:00 PM – Appeal of South Portland Neighborhood Association against Design Commission’s decision to approve a building addition at 4310 SW Macadam Ave (Hearing; LU 10-145100 DZM) 1.5 hours requested</p> <p>Motion to accept the applicant’s request to reopen the record for new evidence on the use issue and to accept the applicant’s agreement to extend the 120-day decision clock until February 24, 2011. Allow all parties to submit evidence on the use issue according to the following timeline:</p> <p>until 5:00 p.m. January 26, 2011: all parties may submit new evidence on the nature and proper use classification of the proposed ICE Facility.</p> <p>until 5:00 p.m. February 2, 2011: all parties may respond to evidence submitted during the previous 7 day period.</p> <p>5:00 p.m. February 7, 2011: the applicant may submit a final argument.</p> <p>Council will continue the hearing to 2:00 p.m. February 16th and will deliberate and make a tentative decision. Council will adopt a final decision, with findings on February 23, 2011: Moved by Mayor Adams and seconded by Commissioner Fish. (Y-5)</p>	<p>Disposition:</p> <p>CONTINUED TO FEBRUARY 16, 2011 AT 2:00 PM TIME CERTAIN</p>
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At 4:50 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 and should not be considered a verbatim transcript.

Key: ***** means unidentified speaker.

JANUARY 19, 2011 9:30 AM

Adams: Good morning, Karla.

Moore-Love: Good morning.

Adams: Can you please call the roll? [roll call]

Adams: Quorum is present and we shall precede. Beginning with communications. Please read the title for item 62.

Item 62.

Moore-Love: Your monitors aren't on?

Leonard: Push a button.

Adams: Good morning, Barry Joe, welcome back.

Barry Joe Stull: Good morning, council, mayor, I have a bunch of materials relating to my last appearance before you all that I didn't get to Karla. I have a disability and I'm sick. I wanted to point out that this scanned document appears in the email like this because it couldn't recognize a woman with this terrible condition that -- you have plenty of information about. I want to draw your attention to a couple of things quick. Oregon legacy center has an exhibit open until May 30th called taken the FBI. Talks about how 118 individuals here in Portland, Japanese American people were rounded up after the bombing of pearl harbor and we have a long list of secret lists and I want to draw your attention to this newspaper. The Portland police report and these folks here on the cover of the Willamette Week, these medical marijuana folks. I've done teaching with them. I'm an expert on cannabis hemp and I was able to have some refuge at their place this summer and one of things I can tell you about this room, it needed to be cooled down and what we know is if we suck out the hottest air in the room, it's by definition, replaced by something cooler. So if you take the most qualified people in a social justice community out of business, we could look at Martin Luther King here, replaced by the second string. So I have my great book of hemp, the introduction here, and I was given credit, you can look it up on Amazon. But I hate to read to you guys, but what it does say, the emergence of marijuana use in the late '60s and 1970s, the history of hemp, clothing and paper, largely concerned with marijuana by Ernest Able and Benjamin Cutsfield. By the 1980s, researchers Barry Stull and others were focusing their efforts on other uses of the hemp plant. I'm the Barry Stull. My research was illegally destroyed this century by this corrupt government in this city. I'm sick of it. You should be too. One of the issues is that pain killers started to erode addiction because opiates cause people to get addicted to dangerous drugs and literally thousands of people die from it. This is information I'm giving to you all, and you've had this for months, mayor, and you haven't taken action on my request for Judge Edward Jones, a police report for his criminal misconduct and I'm sharing this with the rest of the council and maybe they'll hold your feet to the fire. That's a metaphor. I'm out of here.

Adams: Thank you very much. Please read the title for communications item number 63.

Item 63.

Adams: Good morning, Mr. O'Callaghan. Welcome back.

Mike O'Callaghan: Thank you very much. I appreciate the opportunity to address you again. On the issue of shelterlessness. Again. I'm -- Springwater corridor and the structure got a couple of

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neighbors around me and on January 7th, about 11:00 p.m., my neighbor, Bruno was attacked. Beaten severely. A pool of blood about like this. Goes to the hospital. Three days in the hospital. Four police show up. Crime lab shows up. Takes pictures. A week later, three detectives come by. A lot of cost in this. Ok? We are not safe. How would you like to go out and see a pool of blood by your neighbor's house? Would you feel comfortable? They came back a week later and said, hey, if you wouldn't have had that dog, you'd be dead now. Do you feel safe? No. We want to be safe. Ok? We want to be able to be inside a fence. We want to be warm, dry and secure. Food, shelter, clothing. Shelter. No shelter ok? Your laws stop us, ok? They run us off when we get on property when we want to group together. Enough on that. Anyway, homeless survey, I've been asking people if they've ever been surveyed if they're homeless. Haven't found one yet. I'm up to 15 people, though. Don't think your homeless survey captures the homeless, ok? And I want to reiterate, please, we need protection. Ok? Thank you.

Adams: Thank you for your testimony. Please read the title for item number 64.

Item 64.

Adams: Hi, welcome.

Wade A. Varner: Good morning, mayor and commissioners. My name is Wade Varner, a member of the homeless in America. How high, as we like to call it. I'm here to talk about we don't have a shelter or 24-hour shelter in the town. Being homeless should not be a death sentence. Being drunk, stupid or stoned should not be a death sentence. We need a place where people can go no matter what they are they are. My life without him, we probably wouldn't be talking. He saved my life. And to try to tell someone they can't have their animal with them and they have to sleep outside and tell them they can't sleep and I was looking at the human rights convention, what goes to the homeless is a human rights -- by not allowing them to have a place to sleep or a place to go. Everybody talking about helping the homeless. And I give you props. But until the RAC is open. It was 32 at midnight last night and there's people out there. We had somebody die of this. We had somebody die of mental health, we have the mental health thing opening in a year or two. Everything is a year or two down the road. We need to find the money -- you know, even if you have to go on and ask the people of Portland. We give for everything. We've given millions are for the homeless in Haiti and every place else. People in this town are hurting and dying. They need to have one place where you can go with no questions asked. I believe that the wet shelter, they have it for women. Nobody is turned away there. We need to have people -- there's 16 bed over at the Hooper detox center that's not fully funded. Those are the things we have to fund now until we get these organizations that we're working on. Everything is a year or two down the road and people are dying on the streets right now and that's the most important part. Like I said, being drunk, stupid or stoned should not be a death sentence. Being mentally ill should not be a death sentence and not being -- and being homeless should not be a death sentence. We have to find the money. Go on, state of emergency, have a tent city. We have tent cities -- I September you guys emails about what they're doing in other cities. Getting people in I.a., no matter what they are. But we have to start doing this and find the fun to do this because people are dying. That's all I'm asking. Please find the money. We find the money to pay off people who've been misused. The downtown clean and safe -- the safe part of it, they're harassing people for standing under awnings, telling them they have to move along. And that's illegal. I've caught them on camera and shown the videotape of these people calling people poor white trash and stuff. It's horrible. This has to be taken and gotten -- gotten under control.

Adams: Thanks for your testimony, sir. Please read the item for communications 65.

Item 65.

Adams: Mr. Rhodes? All right. That gets us to the consent agenda. Items number 73 and 75 have been pulled. Are there any other items that anyone wishes to pull? All right. Karla, please call the vote on the consent agenda.

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Consent Agenda roll.

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

Adams: Aye. Consent agenda is approved. [gavel pounded] we have a 9:30 time certain resolution. Please read item number 66.

Item 66.

Adams: Commissioner Saltzman.

Saltzman: Thank you, mayor. I'd like to acknowledge the great work of mentoring organizations, particularly those funneled by the Portland children's levy as part of national mentoring month. As you know, mentoring is an integral part of the children's levy which was created by voters in 2002 and overwhelmingly renewed in 2008. It's one of the four key investment areas. \$11 million invested specifically in mentoring programs from 2004 to -- well, from 2004 through 2012. Many of these programs are designed to reach students who are hard to reach. They are at risk of being disengaged. At risk of not graduating or staying in school. And we know that mentors can and do make a difference in having a positive impact on children. Specifically children in foster care. So to tell you more about the children's levy mentoring program, we have a short presentation from the director, Lisa Pellegrino and then we have an invited panel. They're coming up too. I'll introduce our invited panel. Very distinguished mentoring experts. We have Duncan Campbell, the founder of friends of children. Is Faridah here? Want to come up as well and grab a chair --

Lisa Pellegrino, Portland Children's Levy: I'll only be a minute so she can have my chair if she wants,

Saltzman: We'll get another chair. And Faridah is from Lutheran Community Services Northwest. Welcome. Ok. Lisa.

Pellegrino: I'm going to give you a brief outline what we've done over the last few years. First, total over time, from the first levy through this current, \$11 million in mentoring programs and this year, just this past fiscal year that finished. We served 2100 children and students in all of the school districts in Portland. And right now funding 10, both school-based and community-based mentoring programs focused on specific populations and for those familiar, the achievement gap in our mentoring programs we track outcomes and kids who participate in mentoring programs show fewer behavioral problems and improved positive social behaviors which are the main aims of mentoring programs. So this next slide is a map that shows you the location of the programs, including the school where the school-based programs are located and they go across the whole -- located and they go across the whole city. And last, the programs we fund. We fund big brothers big sisters which many are familiar with and they -- we fund both community-based and school-based mentoring programs in the city and fund friends of the children which Duncan will tell you about and we fund erco, which is the immigrant and relative jewish community organization to provide services, mentoring services to african american immigrant youth, a high-needs community and mentors who are retired into the schools to do tutoring and mentoring. We fund the Portland opportunities industrialization center which provides school-based mentoring for an alternative school in PPS and -- which is a literacy program which provides volunteer readers to kids and we provide trillium focused on recruiting people through the faith community and getting families to mentor kids and that gives you the range and I'll let the specific folks here talk a little bit more about.

Duncan Campbell, Friends of the Children: I'm Duncan Campbell, the founder of the friends of the children, which is an intensive mentoring program and we start with children in kindergarten and stay with them all the way through high school and these are the most challenged, difficult children in the school system. And for most of you, you're probably aware I have a passion about mentoring. I grew up in north Portland. My parents were a welfare family and my parents lived in bars and my father in prison twice and you can recognize why I have a passion for mentoring. That's on a personal basis. The community basis, what do we do about children in similar

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circumstances and that's the power in the children's investment fund. One of the great achievements in the last decade in Portland was actually the children's levy. What it did is took resources for one of the first times and focused on programs that make real change and really work and shifted funding away from traditional funding sources for this one reason. What you did is set two criteria.

The first criteria is the programs had to have real outcomes. They couldn't talk about making change. They had to really make change for children. But then you held the programs accountable.

You said it had to be evidence-based in order to continue to receive funding. That's a standard that's at the leading edge of change in our community and that's what the children's investment fund did. And we thank you for that. And how did it really do this? Let's take a concrete example.

Friends of the children, with these children for 12 years, what did we do during those 12 years?

These are children that the -- 92% of them stayed out of the juvenile justice system and the cohort group, that would have only been 30%. Over 80% of these children graduate from high school.

Almost nobody expected them to get out of grade school, let alone high school. And over 96% did not become early parents and that's because of the children's investment fund and I thank you for and I wanted to encourage you for that. And one last thing, it's an investment fund, right? So

Harvard alumni did a study of friends of the children, for every dollar contributed or provided for you, you get a 6.71 rate of return. Every dollar you put in, you make money. That's the best dollar a community can spend. I thank you for that. That's what taxpayers want as community wants.

Thank you once again.

Carolyn Becic, Oregon Mentors: Carolyn, executive director of Oregon mentors and I'm going to give you a look at the numbers and data. Oregon mentors is the statewide partnership for mentoring programs in Oregon. We have currently under 100 programs delivering mentoring services in 500 locations. Nationally, mentor, the national mentoring partnership estimates about 15 million young people need a mentor. Three million have one currently nationally. We're serving one in five. Two trends: There are many new programs coming to us for services. We feel that -- fielded 60 interviews with people who wanted to start a mentoring program. Seems strange in this economy. But social service agencies trying to reach more people and utilizing volunteers. The second trend, we're serving more youth. Which is exciting. 2005, we estimated that 100,000 youth needed a mentor. At that time, we were serving 18,000. 2007, the state was serving 30,000 youth. In 2009-2010, we estimated that 2,000 youth -- we're serving one in four. Making progress. In Portland, about 11 thought are mentored by 5,000 mentors. A growing body of research proves mentoring is effective and a great prevention for youth. Mentored youth feel more connected to their parents, teachers and peers and do better at school. They're less likely to drop out, more likely to have concrete plans for what happens after high school. The research is also clear that these positive results only come from high-quality mentoring programs such as the ones you fund through the children's levy. For young people, it's essential that the match last as long as they anticipate it's supposed to. Whether it's nine months or a year or two years. If it doesn't last that long, a lot of those positive effects don't actually occur and that's why we're proud of the children's levy. Emphasizing quality over quantity and making evaluation and program outcomes a top priority. So on behalf of Oregon mentors, thank you very much for continuing this good work.

Faridah Haron, Lutheran Community Services Northwest: I'm with Lutheran Community Services Northwest. About a year ago, Portland children's levy funded our program called helping a youth -- halo. It's a partnership, and ecumenical ministries and catholic charities. We got a grant for halo and approached by teachers and counselors and case managers and parents. And these were parents from specifically the populations we're working with. The Burmese, east African American, eastern European and Latino populations. So in 2009, thank you, Portland children's levy for making it possible. And one of the challenges that we face when we first started to outreach into the community is informing the parents what mentoring is. It took about a year. Now we have referrals from families and teachers. And the key, the hope we have, apart from providing

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the component of the program is helping these kids feel connected. I interviewed a kid from a immigrant household a few days ago and one of the things he said that resonated with a number of kids is that I feel I belong here and yet I don't belong here because there are things I do not know that my parents cannot provide. So having a caring adult who is a main stream, they are cultural informants and help the kids make that leap. It's something the parents cannot provide and the parents are too happy to give their kids to a adult they can trust that they know we've done checks on that can help negotiate the complexities of school, of negotiating the social dynamics that are out there. And counselors, the schools we work with. David Douglas high school, are inundated with so many imperatives and don't have time for the kid like the ones we work with. And with adults coming here, it's to help the kid aspire. They know that the stream will become a river that will flow into the sea and not end up in a pond. We take our middle schoolers and high schoolers to conferences like the bridges conference of OSU and PSU. They didn't think they could go to college. They thought they would go to work at McDonald's. Not that that's a bad thing but they have the right to aspire. Our numbers are small, but we figure, based on my experience working with the immigrant populations for the past 10 years, if you can make one person, one person succeed in the family, whether a kid or adult, that's a glimmer of hope. I can do it too. And I know this because I come from an immigrant household. I'm the first in my family, the first female in my family to complete college and post-graduate school. So thank you, Portland children's levy.

Saltzman: Thank you.

Fritz: I have a question. If somebody is watching at home and struck by the statistics of only one in four Portland youth who need a mentor have one. If someone wants to connect how?

Campbell: They call friends of children and offer to volunteer or have a relationship more incidentally. But call Oregon mentors and there's a liaison, whether it's big brothers, big sisters or friends of children or other organization.

Pellegrino: 503-517-8890 and website, is Oregonmentors.org. And we'll take time to help someone on the phone or the website is very informative.

Haron: We're part of the network to recruit mentors, volunteer match -- or simply speak to instructors, make presentations. And the halo program resonates, but the commitment is only six months and know when they come in, they have altruistic reasons, but life is such that sometimes their commitment to us may have to be secondary because of family commitment. For example, we have mentors that have to be relocated because of job opportunities or family duties. Caring for an elder parent. So -- but Oregon mentors have been wonderful in giving us the opportunity to access resources. For example, tickets to trailblazer games, thank you.

Adams: Thank you all very much. I appreciate your work.

Moore-Love: Two more people signed up. Marj Cannon and Patsy Stephens.

Adams: Good morning.

*******:** Good morning.

Marj Cannon: Thank you for having us. I'm Marj, a senior program manager at metropolitan family services and oversee the older adult programs, one of which is experience corps which is a mentoring program funded through the Portland children's levy. First, I'd like to express my appreciation on behalf of our agency, the children we serve and the adult mentors for the leadership and support that Dan Saltzman has shown with mentor -- Dan Saltzman and I know you face hard choices when this comes to funding programs and it was a privilege for me to sit and listen to the mentoring programs and the individual who's came today and it's a privilege to be part of the mentoring movement here in Portland. We know that the Portland children's levy is -- has limited funding and we're grateful we can be a part of that movement. I'd like to tell you just a brief little bit about our mentoring program and have one of our mentors speak with you. First, I wanted to let you know about experience corps. As was mentioned, we match older adult retired volunteers with youth in schools that have been identified by their teachers that might benefit for behavioral or

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academic support. During the last year, 350 student where's matched with a mentor and of those, about 60% of from varying ethnic and racial groups such as African American, Native American, various Latino groups. From a wide number of countries and about 50% of them are English language learners. We have had specific trainings over the past few years regarding these kinds of - - helping these kinds of children who are English language learners and coming from a variety of cultures because our mentors feel they can be as successful and prepared as they can in working with these children. At Prescott elementary school, one of the schools we serve, the school principal made this comment. Michael said it's often difficult to hire a diverse staff with a large pool of white applicants. The mentors show us strong adult who is work hard to support learning and in turn, provide a diverse group of adults working to support each child. I'd like to introduce one of our wonderful mentors, Patsy Stephens. She's been volunteering and contributing about 15 hours a week working with children.

Patsy Stephens: Good morning. It's a pleasure for you to allow me to represent the metropolitan family services and helping the children. I'm speaking on behalf of myself and for the experience corps tutors. We work with our students and try very hard and -- to meet their needs and we also -- are there to assist them in everything they need. And we believe in working with all diversity. Overall, working with students is rewarding, for them, for helping them and also for us. You have - - gotten out of the system. I worked with the school district for over 30 years and wasn't planning coming back working with the kids but it's in your blood and I like working with them. It's rewarding. And also, we have help the children to feel about -- help the children to feel good about themselves and lift their self-esteem and bring them out of their closed world and let them see the bigger picture of learning new things. And for me, experience tutored, I really enjoy the exciting and surprised look on their faces when they finally gets it. It's a great feeling and satisfaction just knowing they are breaking through. And their progressing, learning, and shall in many areas. To be productive and positive individuals in their homes, schools, and society. We, as experience corps tutors are thankful we have some effective part in their lives. Thank you very much.

Saltzman: Thank you.

Adams: Thank you. Anything else?

Saltzman: That's it.

Adams: Any discussion from council? Karla, please call the roll.

Item 66 roll.

Fritz: Thank you, commissioner Saltzman for both the children's levy and bringing this report to us and thank you for each of you who took time to come and speak with us this morning. We recently discussed a gun violence act that the mayor brought forward to try and restrict guns to juveniles in particular but throughout our society and people at that hearing asked, why aren't you doing other things to help children. So this is an example of one of the other things. I'm struck by the statistic, doing better than the nation. One in four children being provided tutors here and one and five in the nation but that still means three out of four children don't have the mentor they need. I'm not yet a grandmother, but sounds a little bit like the joys of grandmothing versus mothering where you can interact with a child and make a difference but then you get to go home and do your thing and the rest of the support staff, the parents and teachers continue on. It's something as a parent in public schools I was very glad to do and will do after I finish my term on the council. And thank you very much for bringing this presentation to us today. To give people a chance to know they, too, can make a difference in a child's life. We're a society. A village. And each person -- it can be one hour a week and that can make a significant difference in a child's life. People who are supposed to care about them, chose and come and spend time with them. Thank you very much and thank you, commissioner Saltzman. Aye.

Fish: Thanks to each of you for your presentations, which were very inspiring. It's nice to see Duncan Campbell come before us. I see him on TV three times a week because his seats are behind

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the trailblazers' bench and they always focus on you, you're very expressive and it's nice to have you here in person. Dan is our champion on the council for children and it's an honor to serve with him and partner with him and one of the ways that parks partner was commissioner Saltzman is with the teen program. And I want to thank my colleagues for during tough budget cycles continuing to invest in our summer teen programs which serves lots of youth through rec centers and provides healthy activities during the summertime. Every child deserves a loving, caring adult in their life and not every child is going to have a parent or relative who functions in that role. A loving, caring adult. One person who is there in your corner. Each of us who've had the chances to pursue our own dreams have had that person in their corner. So thank you for your outstanding work and Dan, for your leadership. Aye.

Saltzman: Well, I want to thank the experience corps volunteers for all the work you do. 15 hours a week at Woodlawn. That's very impressive. So thank you for that. And I want to thank Duncan Campbell, the founder of the friends of the children. Carolyn of Oregon mentors. And one the things that Oregon mentors does, it is establishes basically criteria for successful mentoring organizations to aspire to. And includes what kind of background check needs to occur and all of that and the children's levy requires any program that applies for mentoring dollars must comply with the quality standards. And Oregon mentors provides us that baseline criteria under which we can evaluate and I wanted to thank Faridah for the good work that Lutheran family services northwest is doing. It's exciting to hear about your success. So thank you all. And I think we have our work cut out for us. One in four -- only one in four children who need mentors have them. I hope people watching will get in contact with Oregon mentors or the children's levy or friends of the children. And get involved. There's a lot of children who need positive adult role models. Aye.

Leonard: Programs like this require a champion and Dan certainly has been the champion on the council but also before he got here at the county and I want to acknowledge Dan's leadership and echo everything that commissioner Fish said. He's been grate on these issues and I appreciate it and I appreciated Duncan sharing his personal story. That's helpful and I think provides an example for other who is grew up like you to try to emulate what you've done to help kids who aren't as fortunate as you to put in perspective. What it took to get where you are. So thank you, everybody for the presentation. Aye.

Adams: Thank you, Dan for your good work on this and to all of you for taking our resources and leveraging them to get great results. Appreciate it. Aye. Resolution is approved. Please read the title for time certain -- oops, wrong one.

Moore-Love: Do you want to do the consent agenda items that were pulled?

Adams: We'll make them wait. Can you please read the title for regular agenda item and call the vote, S-78.

Item S-78 roll.

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

Adams: Aye. [gavel pounded] S-78 is approved. Can you please read the title for emergency ordinance number 79.

Item 79.

Adams: Commissioner Saltzman.

Saltzman: Thank you, mayor. This is an exciting round two of a program began at the outset of the big pipe project. Let me provide background first. The city sewer agency, the bureau of environmental services contracts with CMTS to provide construction inspection services for sewer projects. CMTS and environmental services worked together from 2002 to 2004 on a successful program to train minority applicants as construction inspectors. Environmental services suspended the program after 2004 to focus its energies toward completing the combined sewer overflow projects before the mandated 2011 deadline. So also because of the specialized nature of the cso

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construction, such as tunneling, we felt our trainees wouldn't have as many opportunities to gain experience on our more traditional construction projects. Now that the big pipe work is winding down, I've asked environmental services to resume a training and apprenticeship to graduate two candidates each year. The city's goal is to increase diversity in our workforce and our contracting with diverse firms. So this ordinance will help us increase diversity among our public works inspectors. The program will require \$300,000 increase in the amount of the city's contract to -- with CMTS. This is an emergency ordinance because the program is scheduled to begin on January 21st. Environmental services program manager Sue Williams is here and can provide more details the Yvonne McClain who represents CMTS will provide additional information about their role in this recruitment. Come on up and -- we'll let Yvonne describe in more detail.

Sue Williams, Business Operations Manager, Bureau of Environmental Services: Good morning, I'm Sue Williams, I'm business operations manager for the engineering group for BES. And as Commissioner Saltzman said, we've kind of dusted off and updated the inspector program we ran in early 2000. And we're ready to start January 31st, next -- the week after next. These are paid apprenticeship programs. The apprentices will be employed by CMTS. Bes will contribute by paying the billing rate per or contract for both time spent in the classroom for the trainees as well as the on the job training and BES along with CMTS will participate in the training and our inspectors and managers will mentor these individuals on the job. And we anticipate after a few months of training these individuals should be able to assist with construction inspection on our job sites and actively assisting with our inspection program. After graduation, they may be employed by CMTS and work on city of Portland jobs or for other agencies and could end up competing through the civil service process and get a city position. This partnership really provides the opportunity for both BES and CMTS to share in costs and training and gives the candidate public and private sector work experience and Yvonne will tell you what their role will be.

Yvonne McClain, President, CMTS, Inc.: Good morning. I'm Yvonne McClain, the president of CMTS and we've been working with Commissioner Dan Saltzman and Sue Williams in the Bureau of Environmental Services for several years providing professional services to help to augment the city staff during peak construction season. And we were approached this year to help collaborate and work together again. Which was really excited about. To work with the city and various communities to help them have an opportunity to work with the city and work with city inspectors to potentially do an inspectors' training program and it's similar to a apprenticeship program with a contractor. However, the difference is it's a paid position. We get all the benefits of all of our existing employees that currently work for us and gives them a hands-on, on the job training. And they have a mentor, but we're there to help the individual succeed in this particular program. In terms of benefits that we have, I do pay 100% of the employee's medical benefits and a portion of the vision. And they get 80 hours of paid vacation. They'll get a week of sick too. It's a year program and after 90 days, we will do a 30/60/90 day evaluation and it's competitive and anybody coming into the working world as an apprentice and we're recruiting out in the community and I've contacted southeast workforce, Oregon trace women and the confederate tribes of Grand Ronde and also worked with the U.S. Forest Service department. They have a huge mentoring program within their organization and we were looking for individuals who have a construction background who are interested in how do you become a public works inspector. It's a mystery. There's no degree you can get in public works inspection and it's a wonderful opportunity for us to work together and outreach to the community.

Adams: Are you for profit or nonprofit?

McClain: We're for profit.

Adams: And where are you located.

McClain: 3220 first avenue.

Adams: So you're headquartered in Portland?

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McClain: Yes.

Adams: International or local.

McClain: We have offices in various states but the Oregon office has its own tax I.D. number.

Adams: And how many offices do you have around the country?

McClain: Six.

Adams: And where is the headquarters?

McClain: Again, we don't have a headquarters. Like we -- the Oregon office is organized and I run the Oregon operation here. And like I said, it's a separate tax I.D. Like a larger internet firm, they may have --

Adams: So you own the company?

McClain: Yes, yes, I'm a part owner.

Adams: I guess I wonder why we've got a number of nonprofits that do this work and I'm wondering why we're not looking to them with all due respect. Why we're not looking to them and they're struggling. There are a number of firms -- a number of nonprofits, you mentioned southeast works and others that I know their budgets are pretty desperate.

Saltzman: I think part of the reason is that the unique aspects of public works inspectors and getting people immersed in that particular skill set and sue and -- rely on those organizations to provide us the candidates, but CMTS, through its specialized relationship with Bureau of Environmental Services over the years, provides the actual inspector jobs. So these people are going into job, being employed by CMTS directly.

McClain: Also, in addition, we also have inspectors that are working so they're a great mentor for them to succeed. So we can partner. We're going to them out with one of our inspectors so that they know what to expect out on the job and if they have questions besides working with a city inspector, they have a CMTS inspector as well. In a way, they have two mentors working with them. A city and consultant perspective, and it's really an on-the-job. They're out in the field and working with them on a day-to-day basis.

Williams: CMTS provides probably 50% of the training so that the burden of training doesn't fall completely on the city, so it's a shared -- I don't know these other agencies probably wouldn't have the capacity.

Adams: How long have you been contracting with BES?

McClain: We've been with BES since about 2000.

Adams: 2000?

Saltzman: 2002, I think.

McClain: We started the training program in 2002 and then stopped --

Adams: I have to ask the due diligence questions. It's not about you or -- I'm trying to figure this out. I said in other meetings where I have nonprofit organizations and colleges and, you know, educational institutions struggling financial and trying to fit the pieces together. Forgive me for the questions, I don't mean them to sound ungrateful. You train them and some is on the job at BES and other jobs?

McClain: This is -- I've outreached to the various communities and say, hey, do you have any good candidates you think would be interested in public works inspection and they've given us names of individuals and we are going to -- I've talked to each of them to see if it's a program they'd be interested in. Give them a history of how extensive it would be in terms of working out in the field and working in the rain and as well as a lot of classroom training and homework they'll be taking home, as well too.

Adams: The \$300,000, includes their salary?

McClain: Yes, salary and paying --

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Williams: The way the \$300,000 -- actually, \$150,000 a year for two individuals, but in case we do -- if this is successful and we do it again next year, we have billing rates in the contract. We'll be paying a billing rate to CMTS, the individuals are actually employed by CMTS.

Fritz: But that's still \$75,000 per employee per year. So what do we get for that? Versus if we sponsored apprenticeships at community college or elsewhere?

McClain: Well, one, you -- because we're really doing an intensive program, you'll have an individual probably be able to apply for a city position and have a good knowledge. Be able to ply for any contractor doing any infrastructure work to come in as an individual who actually has experience working experience, versus kind of a candidate who just graduated from school and really starts -- that doesn't have any work experience at all. So you're accelerating their educational process by doing this program. The city is investing in this individual and --

Adams: We know the --

Fritz: But the candidate is not getting \$75,000 a year. What are we paying for?

McClain: What you're paying for is insurance and health insurance and workman comp's insurance and work benefits and normal work package and I'm paying instructors to come and teach slope calculations, OSHA training and safety training and paying individuals to come in and teach the classes as well too.

Fritz: Can you tell me the breakdown. How much the training and --

McClain: Employees probably start around \$15.60 an hour and after 90 days, a \$2 increase.

Fritz: But the annual cost for the benefits for the employee?

McClain: Well, our bill rate is 34 -- I didn't break it down.

Fritz: How much it costs for the particular apprentice and how much is the overhead costs which might be better spent in a broader program with more people.

McClain: Well, generally our overhead costs are for the majority of -- if we're -- currently, right now in the city inspectors is a 2.1 multiplier on top of the person's salary. That includes workman's comp and -- and we're low.

Saltzman: A 2.1 multiplier is standard throughout the consulting world.

Adams: I guess if I can interpret your question, it's really not to you, because you have your overhead and you have what you've been able to charge and the bureau's willing to pay for it. I understand that. My question is to you, it sounds like a long -- a 11-year relationship with a firm, and that obviously must be based on the fact it produces the results you're paying for. Have you -- when was the last time you bid out this kind of work and have you looked at existing to follow up on commissioner Fritz's question, existing programs at community colleges and nonprofits that might be able to do more than just two individuals for \$150,000?

Williams: Well, we -- and I have been working with Reese in your office. I'm the future connect person, I'm sure you're familiar with the scholarship effort.

Adams: I'm not talking about that. I'm talking about the existing providers.

Williams: As Yvonne was alluding to. Public works inspection is not necessarily a curriculum that you can enroll in at community colleges. Most of our inspectors come out of the construction industry and so what we provide is a specialized, this is how we interpret the City of Portland's specifications and the city of Portland inspection works.

Adams: I apologize -- I've got to do the due diligence.

Williams: Right.

Adams: We're working hard to put together \$250,000 to serve hundreds of potential -- to provide hundreds of scholarships and trying to get the match in the private sector as well. \$75,000 could fund a teacher at PCC that could tailor a class to meet your needs and serve 30 kids. 30 people. So

--

Williams: Hmm.

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Adams: I mean we're so short of money. The federal is cutting back at WSI, which I'm on the board of and \$150,000 would fund a lot of instruction and PCC exists and Mount Hood college exists to meet the needs of specific employers. Have you looked at that?

Williams: We did not look for this inspection program, no. And we have done an inspection -- similar inspection program years ago where we had city positions that we hired trainees, but then the burden of all the training fell on city staff who are out there doing work. And so this relationship that we started with contractors and we did it one time with another firm just because the partnering works and then these individuals are able to work and perform some inspection on the job for us.

Saltzman: And I had asked Sue and Yvonne to bring this program back. As I said, we did have this once before and it was very successful in getting people into some city inspection jobs permanent. It wasn't totally successful but pretty successful and an felt that based on that track record, the screaming need for more minorities and women in these fields that I wanted them to resume the program that worked in the past.

Adams: What was the track record?

Saltzman: I think there was a class of --

Adams: Commissioner -- after you answer the question, I interpreted commissioner Fish --

McClain: There was a class of four. Two were actually -- actually were CMTS employees for two or three years and two are now actual city employees and last year, our star candidate, Veronica, is now applied for a senior position, public works inspector and now a senior inspector.

Adams: I'll turn it over to you. And the races of these folks?

McClain: The two individuals, are African American. And the candidate graduate is also African American.

Adams: Commissioner Fritz, I apologize.

Fritz: Thank you. I want to acknowledge BES has done a splendid job and consistently the contracts come through, exceeding the minority and women and emerging small business targets and you're certainly part of that and I appreciate that. As the mayor said, we're doing due diligence on this specific contract. The new not to exceed contract amount is \$17,300,000. What has the rest of the contract been spent for? And do we have a report on the success of the whole contract?

Williams: BES uses this contract to provide basically overflow inspection services, construction managers and technicians for our CIP projects and because we're involved in the CSO program, we've had a lot of peaks in our construction workload and they assist on the job site.

Fritz: So that includes the actual construction.

Williams: Not -- not cost of construction, but construction management and inspection personnel we've used and we're in the fourth year of the contract. And it potentially can go until -- we wanted to carry it until the CSO program ended so expires in December of 2012.

Adams: Thank you for that question. So the contract for CMTS is not for \$17 million, is it?

Williams: The contract with CMTS? Yes. It is.

Adams: For \$17 million?

Williams: Yes, over the course of five years.

Adams: Past or forward?

Williams: We're in the fourth year.

Adams: And that contract must have been bid out?

Williams: Absolutely. We went through a RFP process.

McClain: I think we currently at 22% for minority firms.

Williams: I think I calculated closer to 26%.

McClain: I have six sub-consultants.

Williams: When we say we contracted with them for years, they've been the successful processor through the RFP process.

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Adams: Commissioner Fish?

Fish: I have to say the discussion is interesting, and it prompts me to ask a number of other questions, mayor. I -- one of my other roles is I'm leading the city's effort on the disparity study. We're a month or two away from having findings and a broader discussion how we're hitting our mark in MWESB generally, but I know so little about this approach and I have so many questions, I wonder, is it necessary for us to take this up as an emergency ordinance today or is this something where we can set it over for next week and have further discussion? I don't want to burden the record with free throw questions but I would like to know more why we take this approach and not another approach.

Saltzman: We can do that. We can set it over.

Williams: We wanted to get rolling because it works well calendar year wise to start the training but if there are questions, certainly we can put it over.

Fish: Would you accept a friendly amendment to remove the emergency clause and set it over for next week.

Leonard: The emergency clause would delay the implementation even if you voted on this next week. So just set it over.

Adams: We'll set the matter over. Unless there's objection. And we'll take testimony if there's testimony. Any additional discussion while we're here. Anyone wish to testify on item number 79? It's moved to a second hearing next week. Moved to next week, so calendar agenda. [gavel pounded] Please read the title for nonemergency ordinance, item number 80.

Item 80.

Adams: Commissioner Randy Leonard.

David Shaff, Director, Portland Water Bureau: I'm David Shaff, the director of the Portland Water Bureau. In February 2009, we entered in a contract with ASI, Analytical Services Inc. to perform laboratory analysis to support our efforts on the It2 treatment portions of the rule. The original contracts with based on our original estimate of our sampling plan for \$200,000. That was in February 2009. In October 2009, we amended that by \$50,000 to include DNA analysis and obtain a EPA approved modification to the lab method so that we could work through some seasonal water chemistry issues that arose during that summer when we started working on our sampling. Based on the feedback we got from the EPA as we were designing our plan, we had to greatly expand the scope of that plan and include sampling of what we refer to as potential hot spots and the analysis of wildlife samples. Scat samples. And that resulted in an increased need for lab analysis during that year-long sampling plan we just finished and required \$575,000 in March 2010. As you know, we're done. With the original sampling plan. But we are -- and we're working on our -- putting together our variance request in March or April. We don't expect a response from the EPA until 2011. The primary reason that we're anticipating we'll need to continue to do sampling analysis that this contract will cover is because the EPA has indicated that sampling is going to be a principle condition of a variance if one is eventually granted and we understand from the EPA that a significant gap in our sampling program could be a factor that negatively affects the EPA's consideration of our variance. Although though we've ramped down our sampling, we'll continue to sample until we know what the results of our variance request is and we're mirroring the sampling protocol that the EPA indicated that they would expect to condition a variance on. We've gone from four-day a week sampling down to weekly. And this contract would continue that process through the period of time that we believe that we will have an answer from the EPA. The maximum amount that we're asking for is \$800,000. That is what we are basing -- we believe would be a worst case scenario in the event we did find crypto, one the things that the EPA has indicated to us, we'd have to ramp back to a four-day a week schedule. If we don't detect any cryptosporidium in the intervening time between now and when we anticipate getting a decision on our variance request, we think it will be about \$600,000. Now, we did consider a new contract as

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part of our -- but as part of our sampling plan, as mentioned, we had to do a method modification for the cryptosporidium analysis. It's called a tier one validation process and it's specific to Portland's Bull Run water and specific to the lab. So no other lab can use this for any other water source. This particular validation. So if we were to go with a new lab, we would have to go through that tier one validation process for that particular lab. And we just think that doesn't make a whole lot of acceptance. So at the planned level of sampling, our existing funds will be expended by march of this year and this amendment is needed to continue the sampling beyond march through the period of time that we hope we will get a decision on our variance request.

Saltzman: March of 2012? Or 2000 --

Shaff: We're hoping by the end of this calendar year. We anticipate sometime in march or april submitting our variance request. Then the analysis from the state and the epa based on our history will take longer than we would normally think it would and so it may -- we may not know until late this calendar year whether or not our request will be granted.

Fritz: What is the extension of the termination date of this contract?

Shaff: Hold on just a minute. Do you have the answer to that? [inaudible]

Edward Campbell, Portland Water Bureau [from the audience]: I think it's the end of the next fiscal year.

Fritz: The end of the next fiscal year. So it's basically doubling the amount.

Shaff: It's actually -- yes, the existing amount, yes.

Fritz: We've done 18 months and then another 18 months, is that a fair summary?

Shaff: Yes.

Fritz: Thank you. And -- another question I had. I can't find right now. So if anybody else --

Adams: Any other discussion?

Shaff: Since it's not an emergency, if you shoot me an email, we'll send you a response.

Fritz: And you always do. Thank you, director Shaff.

Adams: It's a nonemergency so you have time. Anyone wish to testify on item 80, nonemergency ordinance? All right. Moves to a second reading next week. [gavel pounded] I want to give council a heads up that items pulled from the consent agenda will now be read or considered after the regular agenda.

Moore-Love: The code says it should be taken after the consent agenda. So as long as nobody objects, I believe we're ok in doing that.

Fish: Without objection, thank you, Karla.

Adams: All right. Item number -- please read the title for number 73.

Item 73.

Adams: There we are. We have staff somewhere.

John Buehler, Office of Management and Finance: Good morning. I'm John, the senior claims analyst with the city's claims office. This is a settlement of a lawsuit brought against the city by Mr. Argo that arises from an auto collision that occurred in august 2008. The police officer driving a Portland police vehicle was performing what's called a pit maneuver on a car that was -- that had been driving erratically and irresponsibly. And unfortunately, as Officer Brockman was driving through the pit, basically accelerating through the pit on the bad guy's car, it turned out there was another vehicle ahead, farther from where this was occurring and as she accelerated through, struck the rear of Mr. Argo's car and heavily damaged it and injured Mr. Argo. So this ordinance will settle the lawsuit against the city for the sum of \$40,000 of new money. The risk management office had previously paid a little over \$4,000 as an advance payment. And that's the case.

Fritz: What does pit stand for.

Buehler: That's a good question. It's -- I don't know.

Fritz: It doesn't say anywhere in the document.

Buehler: It's a police terminology and I'm sure I can find that answer for you.

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Fritz: If you can get back, I'd like to know. Thank you.

Buehler: Pursuit intervention technique. I think that's it.

Fritz: Thank you.

Adams: Our expert says yes. [laughter] Thank you. Anyone else wish to testify on this matter? Please come forward. Welcome back.

Dan Handelman: Thank you. Good morning, mayor and commissioners. I'm Dan Handleman with Portland cop watch and I'm interested in this particular agenda item because it's related to a firing of an officer which is something that we don't commend council and the city on stuff around police but that was something that we appreciated when the officer was terminated after the shooting Aaron Campbell. It appears this was a technique performed against the suspect in this case by another officer other than the officer and this gentleman getting the settlement was injured in that crash. But the crash that the officer caused which I assume was the same day, because the "the Oregonian" reported it had something to do with that and the termination to the officer mentioned this incident was that he ran into another car of the same make and model but a different color and different license plate and different damage and mistakenly hit another car and the person in that car was injured and my question is what happened to that person who got injured in that accident. Because I haven't seen that come before council and I don't know if there's a lawsuit pending on that. That's one issue. Another issue is that I'm glad you're city risk management person was able to talk about the case today because reading the full agenda item, not just a little tiny pay claim of -- line item -- posted online is confusing, it doesn't explain what a pit is. It's pursuit intervention technique and didn't explain clearly what happened in the incident and it was confusing who was being sued. It mentioned something about an uninsured coverage and I couldn't figure out who was uninsured. So I'm hoping that perhaps there could be more clarity because the city is paying out taxpayer money for the incidents with the police.

Adams: I think that's a good constructive criticism and I think you're saying both in section narrative of these ordinances but also in the title to be more descriptive?

Handelman: Oh, sure, that would be great.

Adams: If you can pass that back through the chain of command.

Handelman: Yeah. Right, that would be great. If it said pay claim per incident involving an accident with the Portland police bureau.

Adams: I think the title should include whatever bureau is involved.

Handelman: And my final note. As long as we're talking about the officer, I am, anyway, he was involved in an incident using a taser against a man using a camcorder. I'm assuming that the person who got pit stopped incorrectly is probably suing the city. There's the Aaron Campbell case which has a lawsuit pending and the officer who committed as many or more act of what we think is misconduct still on the force and getting promoted.

Adams: I need you to stick to the ordinance. Thank you for your testimony. Anyone else wish to testify on this matter? Karla, please call the roll on this ordinance.

Item 73 roll.

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

Adams: Aye. [gavel pounded] approved. Can you read our final item of the day?

Item 75.

Adams: You're right. Who pulled this?

Leonard: Water bureau.

Adams: Oh, it's pulled and sent back to the water bureau. Unless there are objections, it's sent back to the water bureau. We're in recess until 2:00 p.m. [gavel pounded]

At 10:43 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 and should not be considered a verbatim transcript.

Key: ***** means unidentified speaker.

JANUARY 19, 2011 2:00 PM

Adams: Good afternoon everybody. Before I gavel us into our official hearing on this matter, I just want to go through a few housekeeping details. How many of you have been to the city council chamber before? Raise your hand. Some of you young people this is the first time. Well, welcome. Where are you from? Oh, I hear the kids that go to that school are the smartest kids in the city. Is that right? Because you study the hardest. And you do everything your teachers tell you. Yeah. So a couple rules of the room. There is no clapping. There is no hooting. There is no hollering. There is no noise. This is intended to allow all points of view to be expressed without any fear of any sort of response. So, my job is to try and keep a level playing field. For this particular hearing, you need to disclose at the time of, at the initial point you sit down and we'll be calling up three people, whether or not you're authorized to speak on behalf of an organization or business or group of people, so in other words are you a lobbyist. Either paid or unpaid. What else? Bathrooms are out in the hall, men's to the south, women's to the north, my left my right. Signs have to be in front of you, they can go no higher than your chin, that's for security reasons. And we will look to see how many people have signed up, repeating the same testimony over and over and over again tends to not be persuasive so if someone has said, made your point already, you can defer, you have the right to repeat it, don't get me wrong, but you can defer as well your time to testify. With that, we have a quorum and [gavel pounded] Portland City Council will come to order. Council Clerk, can you please call the roll?

[roll call]

Adams: Somewhere I have my script. One other thing before I turn to the city attorney, this is not a hearing about immigration. So the rules of the room are that you speak to the agenda item that's in front of us. And this is a land use issue, it is not about the policy issues related to immigration. If your testimony strays into those kinds of areas or strays outside of the issue at hand, I will ask you to get back on track. First off, council clerk, can you please read the council calendar item.

Item 81.

Adams: The city attorney will make some announcements at the beginning of this hearing. These announcements are required by state law.

Kathryn Beaumont, City Attorney's Office: Before I begin – do the opening announcements, there is one request that I think we probably ought to take up in advance. The council members have received a request from the applicant to open the record for the limited purpose of considering information and evidence related to the proposed use issue. And the applicant has indicated a willingness to extend the 120-day deadline, which now runs on February 9th, to February 23rd in order to accommodate that. The applicant has proposed a schedule if you agree with their request, to allow the record to -- allow parties to submit evidence on the use issue from now to 5:00 p.m. On January 26th, which is a seven-day period. Everyone would then have an additional seven-day period until 5:00 p.m. on February 2nd to respond to evidence that was submitted during the first seven-day period. The applicant would have until 5:00 p.m. on February 7th to submit final argument. The council would then come back in a continued hearing on February 9th or February 16th for the purpose of deliberating and making a tentative decision, and then adopt a final findings and a decision on February 23rd. So that's the request that's been placed before you. I think you

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ought to resolve that request first because that will affect the nature of the announcements I need to make at the outset of the hearing.

Adams: Do we need a motion?

Beaumont: Yes.

Adams: I move a motion to approve the request that was just summarized by the city attorney.

Fish: Second.

Adams: It's been moved and seconded. Any discussion from council?

Fish: I have a question if I could for council. So in the documents that we have before us and based on what the design commission did, the use -- the design commission as I understand it did not address -- if you could just move -- thanks. The design commission did not address the use issue.

Beaumont: Not specifically. At the outset of the commission's decision the nature of the use was stated, I believe there was no focus testimony, and they indicated it was not appropriate on the use issue.

Fish: The question I have for you council, were we to follow this recommended approach and take testimony on use, and were the council -- i'm speaking hypothetically, the council has not discussed this matter, this is a quasi judicial proceedings, we're bound by a set of rules. If the council decides to reject the design commission's recommendation or to otherwise deny and require a conditional use proceedings, if that was the will of the council, what is the effect of taking testimony on use before us on any conditional use proceeding?

Beaumont: Well, I think there are theoretically a variety of options available to the council. Remember, this is a design review proceeding, so it's a review of what the proposed facility looks like. In theory the council could decide that the design looks fine, that they disagree with the design commission on the characterization of some or all of the use. If that were the case, the council could in theory adopt -- uphold the design commission's decision with a modification indicating they disagree with the design commission on its characterization or all or part of the use, and add a condition stating that the use of all or part of the building could not take place until a conditional use review had been obtained.

Fish: That would then trigger going back to the beginning of that process.

Beaumont: Yes.

Fish: Ok. Thank you.

Adams: Any other discussion on the motion? Karla, can you please call the vote on the motion.

Fritz: I believe it's appropriate to hear discussion of the use and new evidence on the use. Aye.

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

Adams: Aye. [gavel pounded] motion is approved and will serve as a basis of the rest of the hearing.

Beaumont: I need to begin the hearing with some announcements that are required by state law and city code. Please bear with me, because this is going to be a mixed hearing. Part of it is an on the record hearing as to the design issues. It is an evidentiary hearing as to the use issues. And I will try to make that clear in my announcements. So, first as to the design issues, this is an on the record hearing. This means you must limit your testimony to material and issues in the record. You can't bring up anything new. This hearing is to decide only if the design commission made the correct decision as to the design -- applying the design criteria based on the evidence that was presented to the commission. If you start to talk about new issues or try to present new evidence today, you may be interrupted and reminded that you must limit your testimony to the record. As to the use issue, this is an evidentiary hearing. This means you may submit new evidence on the use issue to council in support of your arguments. In terms of the order of presentation in this appeal hearing, we'll begin with a staff report by bureau of development services staff for approximately 10 to 15 minutes. Following the staff report, the city council will hear from interested persons in the following order. The appellant will go first and will have 10 minutes to present the appellant's case.

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Following the appellant, persons who support the appeal will go next. Each person will have three minutes to speak to the council. The applicant will then have 15 minutes to address the city council and rebut the appellant's presentation. After the applicant, the council will hear from persons who oppose the appeal and support the applicant. Again, each person will have three minutes. And finally, the appellant will have five minutes to rebut the presentation of the opponents of the appeal.

The council will -- let me go to the part of the hearing that is an on the record hearing.

Adams: I would just -- unless there are objections, I want to propose that the -- instead of 10 minutes it's 11 minutes.

Beaumont: All right. Ok.

Adams: At the request --

Beaumont: I think my announcement said approximately 10-15.

Adams: Be prepared for 11. You get an additional minute. At the request of one of the proposers.

Beaumont: As to the use issue, it's -- ok. As to the design criteria, this is an on the record hearing. I'd like to announce several guidelines for those of you who will be addressing the application of the design criteria. For that particular set of issues, the evidentiary record is closed and it is an on the record hearing. This means you have to limit your remarks to arguments based on the record compiled by the design commission. You may refer to evidence that was previously submitted to the design commission, you may not submit new evidence today that wasn't submitted to the commission. If your argument includes new evidence or issues, the council will not consider it and it will be rejected in the city council's final decision. If you believe someone who addressed city council today improperly presented new evidence or presented a legal argument that relies on evidence that is not in the record, you may object to that argument. Finally, under state law, only issues as to approval of the de-- application of the design criteria that were raised before the design commission may be raised in this appeal to city council. If you believe another person has raised issues today that were not raised before the design commission, you may object to the council's consideration of that issue. Turning to the nature of the use issue, today's hearing is an evidentiary hearing for that purpose. Any letters or documents you wish to become part of the report should be given to the council clerk after you testify. Similarly, the original or a copy of any slides, photographs, drawings, maps, videos, or other items you show to the council during your testimony including power point presentations, should be given to the council clerk to make sure they become part of the record. Your testimony arguments, or evidence on the use issue must be directed to that issue or any other criteria in the city's comprehensive plan or zoning code that you believe applies to the decision. And the BDS staff will identify the applicable code section and approval criteria as part of their staff report to the council. You must raise an issue clearly enough to give the council and the parties an opportunity to respond to the issue. If you don't, you'll be precluded from appealing to the land use board of appeals based on that issue. Finally, if the applicant fails to raise constitutional or other issues relating to proposed conditions of approval with enough specificity to allow the council to respond, the applicant will be precluded from bringing an action for damages in circuit court to challenge the conditions of approval. So to sum up, to reiterate, the council will hear testimony today, the hearing will be continued to either February 9th or February 16th, and that will be a decision that will have to be made before the council concludes this hearing. During the interim, everyone will have an opportunity to submit evidence on the use issue until 5:00 p.m. on January 26th. You will then have an opportunity to respond to any evidence on the use issue that was submitted during that initial seven-day period, and that deadline will expire at 5:00 p.m. on February 7th. The applicant will have until 5:00 p.m. on February 7th to submit final argument, not evidence, argument, and the council will then deliberate and make a tentative decision on either February 9th or February 16th to be determined, and will come back on February 23rd to adopt a final set of finding and make a final decision in this appeal.

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Adams: All right. I now ask for those of you that are new to the process, I now ask the council two questions. The first one is about conflict of interest. Both actual and potential conflict of interest. And as defined by state law. A city council member has a potential or actual conflict of interest if a member's relatives or the member's business or business associates would realize a financial gain or loss resulting from the council's decision on the matter before us today. Does the city council have any actual or potential conflict of interest to declare at this time? Hearing none, I then ask a question regarding ex parte contacts and ex parte contacts are communication between a council member and a party to a quasi judicial proceeding about the substance of the proceeding that takes place outside of this public hearing. Does city council -- does any member of city council have ex parte contacts to declare or information gathered outside this hearing to disclose?

Leonard: I've had a number of emails presumably from some in attendance here advocating a position. I've been careful to either just thank them politely as they've written, or to publicly acknowledge an email that I can't take a position as some of the emails have asked me to do because this is a quasi judicial proceeding and to do so would cause me to recuse myself from the hearing.

Fritz: I think we've all received those. I sent copies of all of the emails I received to Karla Moore-Love, the council clerk, so they're in the record.

Adams: And I have received the same emails and had the same response knowing this is a quasi judicial proceeding as described by Commissioner Leonard.

Saltzman: I believe one of my staff has spoken with Jim Davis, the land use chair for south Portland.

Fish: And I too have received emails which I have not reviewed and I believe that members of my staff have been contacted from time to time by members of the public asking about the process.

Adams: Does anyone in this room wish to ask any questions of the ex parte contacts that we just disclosed? All right. Does anyone -- so no one on the city council visited the site, do any -- do any members of the council have any other matters that need to be discussed before this hearing begins? All right. Then let's begin. We will start with staff report.

Kara Fioravanti, Bureau of Development Services: My name is Kara Fioravanti, I'm staff with Bureau of Development Services. I'll start my presentation. The site for the proposed development is shown here. It's zoned cxd, which is central commercial with design overlay. The approval criteria addressed in the design review where the central city fundamental design guidelines of south waterfront design guideline and 33825040, the criteria for modifications to zoning code development standards. Here we see the site, it sits at the south end of the south waterfront subdistrict of central city. This purple line indicates the south waterfront district boundaries. It's a couple blocks from the river, it's nearby i-5 which you see here, and it fronts macadam, which is the state highway. Here we -- zooming in to the site, it's located right here, it has four very unique frontages, southwest Bancroft street at the intersection of Bancroft and Macadam is the main portal in and out of the district today. To the west of the site as I mentioned is southwest macadam, that's a state highway, to the east currently it's the trolley line, it's not a public street yet. It's also the greenway trail for the interim until the greenway trail is constructed. But in the future southwest moody is expected to be extended down south and it also is expected to accommodate the streetcar line. So in the future it will be a transit street. And then finally to the south is ODOT property, it's not right of way, it's expected to be surplus property and it may be developed in the future if it's sold to private development. A quick project summary, you see the project at the upper right. The project is actually a building addition to an existing building. It's going to be three stories added to four stories. The long-term tenant planned is department of homeland security and securities and immigration and customs enforcement, ice. The existing the building will include office and a processing center. The addition will include some office and structured parking. The project is phased because southwest moody will be extended and bancroft will be realigned, so the site will change over the years. That will change the design of the project, which we'll see in a couple slides.

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The building entry faces Bancroft, the vehicle entry faces Bancroft in phase one and Bancroft and Moody at phase II. There's secured surface vehicle area facing Bancroft and Moody and then finally there are five modifications to development standards of the zoning code. A quick building summary, the existing building is about 39,000-square-foot of office, and 3370 will be a processing center. The addition is about 26,000 square feet of office and with parking it's at 71,300. So the total building with parking will be 110,000 square feet. A quick image of the vicinity, this is the building in its current situation with surface parking. This is Macadam, this is Bancroft. The vicinity includes three large old industrial buildings, this building is currently being renovated for the southwest charter school. This is a vacant building, and this is a building that's been used for office for a long time. This is the old spaghetti factory. Here shows a street plan just to give you a sense of what the future for the site is going to look like. This is the site, this is Moody extending, this is Bancroft being realigned for one way out of the district, and this would be the new south portal in and out of the district at Hamilton. This is an important slide because it shows the significant change to the site once the streets go in. If you note this red line here, this red line here, that will be the new grade once Moody gets extended. So for phase one before Moody goes in, the building's basement will be exposed for quite a while. Which you see in this location here and this location here. Once the street goes in, this will be the first floor of the building as shown here too. I should note this is the south elevation facing that ODOT property and this is the east elevation facing Moody. The vicinity this, is the existing building with the addition, and I was just going to note some recent development in the area, this is the southwest charter school this, is a building that's been approved and maybe under construction soon, a housing project. This is the new park that was recently opened and obviously you see the new condo buildings filling in the vacant blocks. This shows a picture of the existing building at the corner of Bancroft and Macadam. With the new addition attached. As I mentioned the phase construction this shows phase one with the rail line and Bancroft. In phase two what you'll see is Bancroft gets straightened out, this area goes back to the site, and the street goes in. There are five modifications as I mentioned all relating to pedestrian focused standards. The design commission felt comfortable approving all five because they had a condition of approval that requires phase two. Phase two is considered to really improve the area and mitigate for the lack of meeting these standards. So to begin, ground floor window standard wasn't met on all four elevations, and I should note the existing building was required to meet these standards as well because this is a significant remodel. Transit street entrance was just shy of meeting this standard facing Bancroft. Location of vehicle area is not allowed between a building and a street with the construction of a new building this is all new vehicle area between the building and the street. Obviously future street, Moody. A required building line 75% of the building must be within 12 feet of this transit street, only 49% of the building is within 12 feet of the street. And then finally ground floor active use, the requirements that 50% of the building include ground floor active use, ground floor active use in phase one is limited to this area where the lobby is. In phase two this parking area would be remodeled into retail facing the street. So there were three hearings at the design commission. There was a lot of focus on improving the design, really focusing on the urban edge and being contributory to the district. As you see here, there was a lot of focus at the entry trying to make this a grand gesture for people enter the site, getting site amenities with landscape design and materials. And trying to integrate this vehicle area with the people entry and make one cohesive element. So there was lot of focus there that evolved, and there was also a lot of focus on the street edge that faces Moody. This shows phase one when there will be just the rail line and the running paths. And then this shows phase two at the street end and a little more amenity at the sidewalk level when the grades are raised. That's where the design commission focus was. Obviously there's an appeal from the south Portland neighborhood association and several issues raised at the hearings and in the appeals statement, and they're listed here. I could run through them real quick. First off, there's an inappropriate use categorization in

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the neighborhood feels that the processing center is a detention facility and requires a type three c.u. They noted the projects lack of compliance with some gsa design requirements, they noted concerns with the traffic impact on the neighborhood streets and intersection of Bancroft and Macadam. They had concerns about the security fencing and security measures not being compatible with the neighborhood. They're worried phase one is going to exist for a very long time and phase two is a -- several years away. They noted too many modifications related to creating a pedestrian friendly urban environment. They noted the facilities next door to k-3 elementary school, even though the GSA requirements have requirement for being 300 feet away, and they also brought up parking issues. So there were several issues raised through testimony.

Fritz: What's GSA?

Fioravanti: General services administration with the federal government. So they -- they're the party that released the request for proposal for this project. So to get to use I have four more slides. The use analysis, what BDS went through to figure out what this use is. Obviously the zoning code does not define this use outright in its definitions. So what we did was look at the definitions and pick the most likely definitions, look at those characteristics and figure out what use this fits. The three that were analyzed further were office, basic utility, and detention facility. To begin with office, which the design commission decision states this use is office, first off it's allowed outright in the c.x. zone. The definitions office uses are characterized by activities conducted in an office setting that focus on the provision of goods and services usually by professionals, examples include government offices, it was found that the proposal meets the definition, so the primary use is classified as office. The processing center was classified as accessory to the primary use. And this determination of accessory was based on 33920030, which that section of the code describes what characteristics you consider when figuring out if the activity is accessory or primary. So the relevant characteristics for that determination included first, the relative amount of site or floor area, and equipment devoted to the activity. The processing area is a small portion of the overall total project. Second, the relative number of employees in each activity, the building can house up to 150 employees in the building, the processing area will have a minimum of one employee at all times. Of course it could have more if there's a lot of activity going on in the processing center. Also considering ours of operation, the building -- the entire building has a typical ours of operation of traditional office hours. Taken -- taking into account the building and site arrangement, the buildings used with the activity. There's 101 parking stalls for typical vehicles in the structured parking, but there is a combination for large buses which according to the applicant would rarely be used. Then finally whether the activity would be likely to be found independent of other activities on the site and it's understood the processing area wouldn't exist without the rest of the building.

Adams: So I'll extend your time.

Fioravanti: Thank you I appreciate it, two more slides. Going on a basic utility, it's also allowed outright in the c.x. zone. The definition basic utilities or infrastructure services which need to be located in or near the area where the service is provided, basic utility uses generally do not have regular employee also at the site. Service may be public or privately provided and all public safety facilities are basic utilities. So considering this definition, they -- in each part of the definition, it was found that the use doesn't if it perfectly. And that's because first the facility doesn't need to be located specifically in south waterfront, it could be located anywhere within the metropolitan region. There are regular employees at the site. It is not a public safety facility because of the definition in our zoning code, public safety facilities are defined as being owned, leased or operated by the city of Portland and that's not true in this case. And then finally a note about accessory uses that are listed in the zoning code for basic utilities. It does include holding cells, but holding cells within a police station, and obviously this isn't a police station. So for these reasons basic utility was found not to be met. With regard to detention facility, that does require type three conditional use in a c.x. Zone, the definition is very brief. Detention facilities include facilities for the

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judicially required detention or incarceration of people, inmates and detainees under 24-hour supervision by peace officers, except when on an approved leave and taking into account the characteristics of this definition, the processing center doesn't meet this definition because it's the -- the note is that it's judicially required. With regard to testimony submitted by the applicant, exhibits a3 and a4, the facility is not for the judicially required detention or incarceration of people. It is administrative and civil in nature and those exhibits go on further detail with definitions as to why it's not judicially required.

Leonard: Could you back up one page from the one were you just at?

Fioravanti: Basic utility?

Leonard: Yes. An accessory use includes holding cells within a police station. So if this were -- for example, what I'm thinking of is southeast precinct, which I believe is southeast 106th, it is across the street from the east Portland community center and a grade school. So they have holding cells there. Is that considered a detention facility, or is it considered to be an accessory under the zoning code as this definition applies?

Fioravanti: My guess is that that was determined to be a basic utility, because it's a City of Portland facility, it's a public safety facility, and it's a police station with holding cells. I think what you just described meets this use. If that's true, this use is allowed outright in that zone.

Leonard: If it was considered to be -- that southeast precinct a detention facility, if it was, would it not be allowed to be there because it was detention facility because there was grade school and a community center across the street?

Fioravanti: No, the requirement -- the requirement for these types of facilities to be far from schools is a federal -- is from the GSA requirements. So it's from the federal document submitted by the appellant.

Leonard: So we do have anything that would --

Fioravanti: We at the city, no.

Leonard: Ok.

Fish: Mayor I have a couple questions?

Adams: Did you get through your slides?

Fioravanti: I got through everything. I didn't summarize what your options are today.

Adams: If you could do that, and then I'll recognize commissioner Fish.

Fioravanti: Ok. Thanks. So there's a few options, and it's possible that where you land is a combination of a couple of these. First off, you could you support the design commission's decision of approval for the building design and the use classification of the processing area as accessory to the primary use of office. You could also support the appeal by classifying the proposed processing center as a detention facility, which would require a type 3 conditional use. You could stray a little bit from that and acknowledge the proposed processing center is not office. But determine that the proposed use is something else, for example, basic utility, you may find that it's something other than listed by me. And that other use may be allowed outright, basic utility would be. And then finally, you could deny the design commissions decision of approval because you found the building design doesn't meet the design guidelines and the modification approval criteria.

Adams: Commissioner Fish.

Fish: First, thank you for an excellent power point. Because this is complicated stuff, and I think you've really laid it out nicely. And Kara, I don't know where I'm going to come out on this, but there's a few questions I have just to set the table for our discussion.

Fioravanti: Sure.

Fish: The first is, I was struck in the memo that we were furnished that the BDS determined that the proposed use didn't fit squarely into any of the three options. Correct?

Fioravanti: That's true.

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Fish: So what's the rule of construction that you use when it doesn't fit clearly into any particular category? What are some of the tools you use under those circumstances?

Fioravanti: You know, it really was the analysis that I went through looking at -- I don't have the section to code, I'm sorry, but --

Fish: Generally.

Fioravanti: There's a point in the code where it talks about what use category does it most comply with. Acknowledging that these categories aren't going to capture everything. So let's look at what is it most like, and then I think there was weighing of -- within each definition, what are the primary characteristics of that definition, and if it meets at least the primary ones, it's more likely to be that use than, for instance, if there was a lesser important characteristic that the use doesn't meet. Or the activity doesn't meet. And kind of weighing each definition. So I think you could find when you look at each definition the activity doesn't meet some of the characteristics of all of them, but the primary characteristics, what does that -- does that activity meet most of those, if not all.

Fish: I think you very clearly stated sort of the art of the process and not the science. Because the science would be easy if there was a code provision that said a detention facility built by homeland security with or without offices is viewed as such. So -- and I really appreciate that reasonable people looking at this are going to come out differently, what we're trying to do is understand what the spirit of the code is. And how that guides us. So, just a couple of other questions. In your analysis, did you consider whether there's more than one primary use? Did you consider the option instead of looking at primary and accessory, of potentially more than one primary use?

Fioravanti: Yes, we did.

Fish: And -- and how did you arrive at the conclusion you reached on that?

Fioravanti: That was -- these are all tough decisions that was a tough decision too. I think going back to these characteristics, the processing center felt subordinate. When looking at all of the activities going on the site and site design.

Fish: Is that in part because of the square footage?

Fioravanti: Square footage and activities going on on the site. But the activities going on the site were based on only what we had in the record. So figuring out if it was accessory primary was based on these bullet points, and we landed on it being subordinate.

Fish: One other question, on the definition of a detention facility, this one I think is going to be something we're all going to focus a lot on, because in the RFP that the GSA put out, they asked for people to do proposals on a detention facility. And our statute, our code talks about a detention facility. And lawyers have made arguments about whether our detention facility provision is meant to focus on sort of Wapato, or whether it's something else. In a sense, whether it's a jail or prison or something else. You mentioned that where you came down had to do with the definition under 33.920.520., detention facilities, where it says detention facilities includes, and then describes facilities for the judicially required detention, blah, blah, blah. And I know that's an argument that has been made by lawyers in this. And I just want to say, one thing that struck me about that is that the example section, sub c, describes as examples prisons, jails, probation centers. What do you understand a probation center to be?

Fioravanti: Well, just going off that, we struggled a little bit with the examples because none of those examples are defined which wasn't helpful in our code. Probation center, my personal understanding of a probation center is a place where people who were previously incarcerated go and visit and check in and give their status, and have meetings, or --

Fish: Right. So -- and that's -- I haven't checked Webster's dictionary on this, but I appreciate that we're all struggling with what is the meaning of these words, because we don't have guides. And what struck me is that a probation center seems different than a judicially required detention or incarceration facility. That is, a place where you're required to be locked up versus a place you're required perhaps to visit a probation officer, and it could be an office setting or other things. And I

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raise this point because the code doesn't give us a lot of guidance as I've read it. And you've made a good faith effort to sort of look at all three provision and get to your best recommendation, but what I will be asking council later and seeking some guidance on is particularly under detention facilities what does the word includes mean, it is meant to be a point of limitation, or is it just an illustration? And under examples when we say probation centers, does that in effect -- do the example section show that subsection a, the characteristics, is to be read very broadly because in fact probation centers are usually not jails or prisons? So part of the struggle that we have to go through. But I appreciate the work that you've done laying the framework for us, and I think reasonable people can disagree on this particularly because the language is open to interpretation.

Leonard: Would I just point out to that last point that just having looked at this no more than commissioner Fish, that there is a theme with the examples in each of the themes includes with the possible exception of a juvenile detention home, I'm not sure if it -- if juveniles under the age of 18 are literally convicted of something or not. I don't recall if their detention hall or not. But the theme is that each of those include facilities that a person that had been adjudicated in the judicial process had been convicted of something, or they wouldn't be in a jail or a prison or at a probation center. So the distinction without taking sides here between I think where you came down and what these examples are is a holding facility doesn't imply at least yet in this country, that you're convicted of anything. But are awaiting adjudication.

Fioravanti: Right.

Leonard: So that's the distinction I see with these examples.

Fioravanti: M-hmm.

Fish: I guess my final question is, you're now -- your analysis under the office section. Because one thing that struck me about the written record is that there's -- there's no dispute that under sub a characteristics a government office qualifies as an office. But the analysis you took us to was the statutory provision 33920030 classification of uses where you go through you answer a series of question and see how it applies. It seems we've bypassed an important clue, which is the accessory use definition of a statute. And the accessory uses definition describes things like cafeteria, and health facilities and other things. So again, attention because a detention center or holding cell doesn't seem to be contemplated because I don't think anyone was thinking about it, under accessory uses. So you've gone off of that provision to the more general category of an analysis of what the primary and secondary use.

Fioravanti: Right and on that point, I think we struggled a little bit because the accessory is listed, examples listed ends with primarily used by the employees of the building which those examples are obviously for the employees of the building. This is a little bit outside of that.

Fish: Again, I very much appreciate good faith effort you've made to go through this code. It's ambiguous, we don't have a lot of guidance and we're trying to come to the right conclusion but you've given us the options, and I appreciate your work.

Adams: Commissioner Leonard -- Commissioner Fritz?

Fritz: Just one question. On the design, is there any barbed wire fencing involved?

Fioravanti: No.

Fritz: And this is a portrayal of the security fence, eight-foot-tall security fence which looks like an overpass. Which street does that front on?

Fioravanti: So that fence is most prevalent in phase one facing Moody when it's just the trolley line and the running path that you see here. That in phase two, it's not a great image because the trees are in the way but that in phase two gets enhanced with some intermittent brick walls that you -- you see a brick wall here and about here it breaks with some see-through iron fencing, and then again it just kind of along the street has a series of experiences with walls, benches, some fencing. So that fencing is prevalent in phase one.

Fritz: Thank you.

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Fioravanti: You always see a little bit at the gate entry. This is slightly different fencing, but it's fencing with a swinging gates for the cars.

Fritz: It's not a prison yard with barbed wire on the top.

Fioravanti: Definitely not.

Adams: My question, and I think I know the answer to, but to air it out, I'm used to these kinds of federal facilities decisions, are usually outside of local influence. The reason so the federal courthouse a block or so away does not have to comport with our local laws. Why is this different?

Fioravanti: Because the tenant is only leasing the site. Though are subjecting themselves to local regulations. If the federal government owned the site, they could avoid our local regulations and process.

Adams: All right. We will now hear from both the appellant, supporters of the appeal, followed by the principle opponent and opponents of the appeal. So if I could have the appellant come forward.

Welcome back to city council, chambers. You just need to give us your first and last name. No address. We don't want your address. And if you are representing or lobbying for anybody.

James Davis, Vice President and Land Use Chair, South Portland Neighborhood Association:

James Davis, I'm vice-president and land use chairman for the south Portland neighborhood association. Lu 10145100, or 4310, southwest macadam is probably the simplest appeal I've had to work on in my 10 years of land use for south Portland neighborhood association. The appeal is supported by black letter code and at least three places in title 33. And all we're asking is that the city meet the code requirements and that this project be subject to conditional use. There's been quite a question as to what this building is. You used the last 10 or 15 minutes. This is a document, solicitation of offers, from GSA. And it's my conceit that the lessee would know what it is if they want to do in that building. According to page 6, they define it as a detention removal facility with supporting administrative offices. Supporting. Now, that's important in that they are saying this is a detention removal facility. They're not saying it's an office, they're only saying the office is supportive. As a detention facility, the code is quite clear that this requires conditional use. And the idea that our ideas of detention facility may be different than the feds, I think is a little bit thin. Also, because this is a major remodeling, and renovation, the code also requires this to go through conditional use, and this is also a change of use. Right now the facility, the existing facility is something called the vault, so if you don't want people to know that you have valuables, you can go there and rent a box and put them in there. It's open to the public as a retail facility. That compared to a detention facility is clearly a change of use. A couple things you might consider as an adjunct to what I'm saying is, in our neighborhood, we have the Cedarwood school, which is a very, very nice school, well attended, it's housed in a neighborhood house. Neighborhood house was built around the turn of the century, primarily by first wave German-Jewish immigrants to help eastern Jewish immigrants learn the ways of this country. It essentially was a school with social activities on the side. Didn't make any difference, the school still had to go through conditional use. Naturopathic college, which is booming, is in the failing school, which is a terrible name for a school, but it's been a school since, again, turn of the century. They had to go through conditional use. Essentially it's quite clear that all we are asking is what the code states. Now, south waterfront in my mind is probably the most fragile of our neighborhoods. It has been beat up terribly by the housing bubble burst, and I'm sure you've all seen the ads for the auctions that went on down there, which has cost a lot of the property owners anywhere from 20 to 30 to 40%. So that -- what I'm saying with conditional use, those things that this facility will bring to the neighborhood can be addressed in a meaningful manner so as to ameliorate any of the concerns that the neighbors and the neighborhood association may have. A good case in point is that during the hearing for design, there was no platform for PDOT to make any recommendations in terms of traffic. So that the question of traffic could never be addressed. There's a whole lot of questions that can never be

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addressed by just put can this thing through design review. So I think all I'm saying is, with conditional use the neighbors get an opportunity to have their legitimate concerns addressed, city bureaus certainly will have an opportunity to have their more technical concerns addressed, and I think, and this is purely personal, I -- the first thing I read in the newspaper every day are the letters to the editor. Because I find that people usually have so much better ideas than the professional philosophers that are not writing on the editorial page. And I think in a very real and true sense the developer may hear things that they've never thought of before. Never occurred to them. So that the developer could actually benefit by conditional use as well. So that's all I'm going to say right now. It's going to be a long meeting. I'm glad to answer any questions I can. But you've got a lot of people here.

Adams: Any questions from council?

Saltzman: What officially is the south Portland neighborhood association's position?

Davis: The official position is that we would like this to go through conditional use, which originally staff determined that this project was to go through conditional use. I have a copy of a kind of odd letter from the architect that Kara did show in this power point that wiggles all over trying to avoid conditional use, but that's neither here nor there right now.

Saltzman: Ok.

Adams: Thank you, sir. Appreciate your testimony. We will now hear from supporters of the appeal. How many are signed up?

Moore-Love: 17.

Adams: 17. We have found what you can say in three minutes can be said even better in one. [laughter] So we would ask that you try to -- we'll give you the full three minutes, but we'd ask that you try to limit it to one minute so we can hear more people while we're still kind of fresh. So Karla will be calling three, you'll come up three at a time, sit in the chair, the clock will count down your -- will count down to one minute but we'll let you go two minutes beyond, that and she'll also announce the three after that so that if you're up in the balcony have you time to make your way down to the first floor. Karla.

Adams: Good afternoon. Welcome to the city council. Again, you just need to give us your first and last name, no addresses. And the clock in front of you will be set for one minute, but I will let you go long or just tell me if you need longer before you speak.

Bob Friedhoff: Bob Friedhoff, I'm a resident of south waterfront area. And I just want to make the point that I think you people ought to try to protect your investment, because you have 125 million dollars invested in that south waterfront area. And I've got my life savings invested in that area. And I would like -- I can see no other way, this is going to diminish the value of your investment. So all I want to do is urge you to save your investment. Thank you.

Adams: Just for the record, we actually can not make decisions based on that. We're governed in how we can make a decision about this issue by state law. But I appreciate your encouragement. Love your brevity, by the way. An example to us all. Ma'am?

Irene Tinker: Irene Tinker, I'm a new resident in the Mira Bella. We moved into the south waterfront because it is we hope a new pearl district and we are surprised at the policies that would not support primarily residential use. We're also excited about the fact that there are increasing numbers of children in the area, and we really do need both the use of a K-8, which was supposed to be in the area, and we certainly could use more facilities for children in the area. You've put money into the park and you've done a lot of good planning, and I'm quite surprised that you would undercut all of that by having what is essentially something for an industrial use, what is now you're trying to make into a primary residential area. Thank you.

Adams: Thank you.

Jim Luke: Jim Luke, I also live down in the waterfront. In the past it has been my responsibility to supervise staff at various levels. Occasionally I had to revisit decisions made and directions

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followed by those staff members. And I kind of feel that this might be where you are today. I feel that the staff has defined this project as an addition to an existing office building, and the proposed use of this new building will be described as described by them an office with accessory uses. And then they go on to describe those accessory uses as a lobby unloading area processing center, general office layout, etc. Though we go back to the architect memo of May 11th of this past year, 2010, and they describe the facility as a high security jail or detention center with accessory office use. So they set the office use was accessory based on what they had seen whereas the staff, your staff members have described that as office with accessory uses. And then when we look at the title, title 33920520, we talked about I think Commissioner Fish talked about that a little bit, and they described detention facilities and item b under that says, accessory uses include offices, recreational health facilities etc., so that really speaks to the issue. Now, when you look at title 33130, and table 130-1 shows the detention facilities in the cx zone as conditional use review required. It does not say allowed but special limitations. Like some of the other uses are in that table. But it says it has to be required. That is what we are asking for today. It doesn't say if the detention facility is less than 40% of the office space. Or something -- or 20% less. We think the word required hits the nail on the head. Thank you.

Adams: Thank you.

Adams: Welcome to the city council chambers.

Leroy Barker: Leroy barker, I'm sorry my handwriting's terrible. I live in south waterfront and I'm speaking for myself. I read carefully several times the notice that was sent out by the city. And I think it's misleading and inaccurate. And why? Because this -- a major component of this is a detention facility. They're going to take people there, they're going to be in federal custody, and presumably adjudicated whether they should be in federal custody. But I think the public needs to know that that's one of the purposes of this. And I don't think you can sweep it under as accessory. I think it looks like a duck and walks like a duck and quacks like a duck, it's a duck. Thank you.

Adams: Thank you, Mr. Barker. Quack, quack.

Krista Rodriguez: Krista Rodriguez, I am a Portland native and a southwest Portland business owner as well as some the mother of a first grader at southwest charter school. We love our school, and we're both, he and I at 6 years old, very concerned with the idea of being next door to a detention center. It does not feel comfortable to me, it does not feel safe, our children are outside in the environment in the neighborhood every single day. Our kids still get recess twice a day, we're outside taking hikes, riding -- writing poetry about trees. The kids are out and about. They're going to be walking around and I'm afraid of what he might see. It makes me uncomfortable. I feel like this was put out there as an office and now it's like oh, by the way, there's going to be a little detention center on the side. For me as a citizen it feels like a bit after bait and switch. And I feel like had this gone through the conditional use process, would you have received considerable feedback from every member of our family, our southwest charter school family.

Adams: Thank you, ms. Rodriguez. Appreciate your item. Welcome.

Thomas Noguchi: Tom Noguchi. I request the full three minutes to complete my statement. As a concerned resident of south waterfront I support the appeal of the south Portland neighborhood association. I do not believe that the design commission followed the city's code in looking at the definition of primary use. The code defines primary use as an activity or combination of activities of chief importance on the site. One of the main purposes of this structure for this -- for which the structure is intended. A site may have more than one primary use as provided for by the code, and I think some of the discussion that preceded myself in discussing the use says that the code is clear that you can have more than one primary use. Since the building is being leased by the GSA for the immigration and custom enforcement unit, it is clear to me that based on the record as well as the statements here that includes a detention facility. And if you look at table 130-1 in the planning guide, it basically says as Jim pointed out, that conditional use is a required -- if you in fact meet the

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definitions of having primary use as a detention facility, recognizing can the primary use can be more than one category. So acknowledging the purpose and the use of the building as a detention facility, I believe that the city should in fact have a conditional use review so that all of the residents and the public will have adequate opportunity to add all the issues that are being brought up. By this discussion within that context and you can make a comprehensive decision as it applies to this facility. Thank you.

Adams: Thank you all for your testimony.

Adams: Welcome. Glad you're here. What's your name?

Hadley Corwin: My name is Hadley Corwin. And I am in fourth grade at southwest charter school. The children in my class as well as my teacher, Jody Swan, and lots of others are not happy with the idea of a federal detention center across the street from a public charter school. Not only would this cause distraction to learning but there would also be cause of fear of having a jail like structure near your playground. Please see reason in this statement. We fellow southwest charter school supporters feel concern in the destination of the detention center. We ask you to reconsider the impact on us students and kindly select a different destination for the detention center. Thank you.

Adams: Very well done. And we don't allow clapping in the chamber, but for you we'll allow clapping. Good job. [applause] Hi. Welcome.

Madeleine Abrams: Hi. My name is Madeleine Abrams, I'm a fifth grader and I go to southwest charter school. I'm worried that something terrible might happen if the detention center moves in next door. Our school is looking to use the outdoor space as a playground. I want to feel safe while I'm playing. Thank you for listening.

Adams: And you too did a fantastic job. [applause]

Karmel Ungerleider-Abrams: My name is Karmel Ungerleider-Abrams, and I'm here to voice my concerns. I could defer to Krista, she has a lot of good points that she made. But this is my reason. She's here. I want her to be safe. I want to feel like I can drop my child off at school and not have to have any existing worries in the back of my head. Just knowing that there's a possibility of this building being next door makes me almost want to pull my daughter from a school that I love and cherish and have a sense of community with because the building will be a deterrent for me to keep her in a place where she's really happy. So I just hope that you can consider these things and from a P.R. standpoint of a school, I think it would be a nightmare to get new families in if the next door neighbor is a detention facility. Thanks.

Adams: Thank you all for your testimony. I really appreciate it.

Leonard Michon: I appreciate the opportunity to address you this afternoon. My name is Leonard Michon, and I live in south waterfront. I want to thank you, Mr. Mayor, for your words last week about opening of the construction of the pedestrian bridge. You indicated this will help the revitalization of south waterfront. And I think you're right. My wife and I moved from the east coast in 2010 after visiting Oregon, the prior year, and falling in love with the state and Portland in particular. We lived in Battery Park city in New York City, less than a thousand feet from World Trade Center Tower Two. We were home at the time of the murderous attack on New York City. Battery Park City was a place very similar to south waterfront. A large open area with a few buildings. Public transportation could take you to all parts of the city and well beyond. But little existed there for many years. Then a huge office complex was built on part of the land, apartment buildings, condominiums followed, restaurants, grocery stores, hotel, parks, public art, pedestrian bridge. One of the premiere high schools in the city, and a wonderful walking and biking esplanade along the Hudson river, which now extends almost the entire length of Manhattan. It is one of the destination neighborhoods in the city. The west coast of Manhattan. I can envision south waterfront as such a vibrant neighborhood. But it needs all of those things I mentioned above. I applaud the city, county, regional governments for the planned enhancements to the streetcar and

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max that go into and through south waterfront. The planned stings of moody, the reconfiguration of Bancroft, the redirection of traffic coming from Hood avenue, the planned expansion of the Willamette greenway, and the proposed charter school will make the neighborhood much more welcoming. And I applaud OHSU for their planned life sciences building. The southern portal into south waterfront at Bancroft is dangerous as a result of traffic coming off of Hood avenue. Fix the road first. In order to reach the extended greenway from the neighborhood south beyond Bancroft, everyone must pass beside the 4310 macadam building. Extend the greenway first. The location of the proposed charter school is less than 100 feet from the property line of 4310 macadam building. Let's think of the kids first. The vault of 4310 macadam will be the holding cell. Jail for the prisoners. The 100-plus staff and 4310 macadam will have 100-plus federal vehicles available. Those vehicles will not sit there as a decoration. They will be used by that staff meaning that the majority of the staff will not be holding office at that location for the major part of the day. This is not an office, it is a jail, let's follow the city rules and regulations regarding land use first. Thank you.

Adams: Thank you sir. Hi.

Fred Gans: Fred Gans, I also am a resident at south waterfront. I'm also an architect, I've practiced architecture for over 40 years. I have personally been involved in projects ranging in size from 10 million to 20 billion dollars in size, and really have seen an awful lot by way of planning or not planning and the consequences of exactly those two situations. I'm from Los Angeles, California, was born and raised there. No boos in the audience, thank you, but moved here because I fell in love with Portland, my wife and I fell in love with Portland some years ago and finally escaped from Los Angeles. It should be noted maybe that one of the reasons we came to Portland is because of the environment, because of the rhetoric of sustainability, because of the green. Because of the seasons. And really the sensitivity that we thought that Portland and Oregon have to human nature and the human condition, if you will. In the context of doing architecture and not just Los Angeles, not just in the United States, all over the world, I can tell you that I have never, ever seen lack of requirements like we have seen with this project. Typically even in places I practiced in Micronesia or Saudi Arabia, or Iran, or Kuwait, or Korea, there is always a process first to examine the practicality, the rationale for designing a building on a specific site. What will the impact be? Is it through an impact report, or a statement and so forth? None of that was available or done in this process. So we jumped to a design review. The design review I attended that session, in fact I spoke at the design review hearing. But it was clear that none of the background was presented in terms of how the site was selected, it was already fait d'accompli. It was inappropriate as far as I'm concerned and I'm shocked and amazed Portland would put up such a process. We talk an awful lot about sustainability. We talk awful lot about green, but we have to really look at the big picture as well, and through that big picture comes the environmental impact of what a project like this will do to not only the south waterfront, frankly, but to Oregon. Somebody already testified to the notion about the money that this city has already put into the south waterfront in excess of \$100 million. That's an awful lot of money. South waterfront is a baby, and it's in its infancy as a city. It's being watched by not only people in people in Portland and Oregon, but all around the country, because there's so few examples where a brand-new city gets to emerge from an industrial site. It was a city that is close to downtown, its proximity. It's on the banks of the Willamette. Access to public transportation, to bus, streetcar, certainly the notion of mixed use, residential in character and commercial is all part of the ingredients, we've heard more about that there today. But now to introduce a jail at the gateway of the south waterfront, it makes absolutely no sense. You don't have to be an architect or a planner to understand there's something clearly wrong with this notion. So as three-year old city, and remember, it's in the infancy, it takes years, look what we experienced in downtown with the pearl. It took 10 or 15 years until it really came into its own. We are at a very fragile place in our history at the moment with the south waterfront and so anything -- and of course

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coming online in 2007 didn't help anything at all. So now with the potential impact of a jail, and I'm calling it a jail because that's what I really believe this is, could clearly damage severely and forever the notion of a south waterfront.

Adams: I need you to wrap up.

Gans: Ok. My biggest concern is the limit the GSA personally has on a 300-foot distance to a school. We're about 60 feet from a school and there are two other schools in the south waterfront. And as somebody said, there are kids on these streets every day now, you see them holding hand, walking through the streets, walking through the south waterfront, this is not what we expect the kids to see and for their environment. Thank you.

Adams: Thank you for your testimony. Sir?

Peter Fenner: I'm Peter Fenner, and also from the --

Adams: Could you get a little closer to the mike? Thank you very much.

Fenner: I'm sorry, I thought I was just talking to you.

Adams: The whole world watching, all four of them on TV.

Fenner: I do live in south waterfront, have lived there since the very beginning, in the Meriwether. And now I live in the mira bella. Still own a place in the Meriwether for obvious reasons. None of which I enjoy. This is a great neighborhood, and everybody has pretty well covered that. From a standpoint of the conditional use, it's pretty clear that nobody really used common sense here when they went through their argument. Otherwise we would have seen more discussion about the school which was casually mentioned, never did I see anything about the affordable housing that's right across the street diagonally from the jail. There's no parking for the employees, we've now -- which is good and bad, it's good in the long run because eventually the employee base will turn over and there will be people that live in the neighborhood, but right now they don't, so that's a bit of a problem. So my issues, I don't see the possibility of a school coexisting with the jail. I've never seen that any place and I've lived in maybe eight or 10 states in the United States. And have three children who have all grown up and never had to go-to-past a jail to get to school. So a simple example of the use argument is supposing Oregon decided to set up an office for the purpose of processing people on death row, and in the basement they had an electric chair and a gas chamber and a lethal injection area. What would the use be if there were 95% of the space was offices for people and they didn't even bring the criminals in until they were going to take care of them? It's pretty obvious that this was intended as a detention facility, and I don't see how that ever got to the point that it has. My concern here also besides the school is the neighborhood mix, right now it started out as some older people living in some of the first units that are built, which are pretty expensive, and it's migrated especially as prices have come down to many, many, many young professional people working at OHSU, working at other places, riding their bikes to work. Riding the tram up to the -- to OHSU. And they're starting to have babies, and they're starting to be children, there's a Montessori school, it took a long time to get there, but now it's there. The next obvious step for these people would be go to this other school. We don't want to have to build a school at taxpayers' expense, another school, let's take what we have already.

Adams: I need to you wrap up.

Fenner: Ok. I'll stop. I think everybody has done a great job, and I certainly appreciate the attention that the mayor and the commissioners have had to this hearing. Thank you.

Adams: Thank you all very much for your testimony today.

Adams: While folks are coming up and before you call the next three, I'd -- I've been pretty lenient in terms of the kind of testimony allowed. It is -- this is a quasi judicial hearing. Which means we are governed by state laws and local ordinances that are intended to implement those laws. So if you could speak to the criteria under which we have to make a decision, that is most consistent with what's required of us on state law. And a number of items that have been raised, however worthy, are not part of the decision making criteria that we are required to follow. So I know this is

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complicated stuff, I didn't write the state law, but I'm required to help facilitate us following it. Do we have someone else to testify?

Lee Daly Smolen: The three gentlemen that were here prior --

Moore-Love: Would you state your name for the record?

Smolen: Lee Daly smolen.

Perry Walker: I essentially defer as well. My name is Perry Walker, except -- it seems there's a lot of confusion as to what is being proposed and what is going to happen. I would refer -- suggest the council look at what happened at the coma northwest detention center, that's the closest to us, the Tacoma detention center. It's a detention center, it's on a website, it shows truly it is a prison, a jail with all the facilities and all the things that go withholding people for whatever the reasons. And it might be helpful to look at the process they went through and the written record, what was proposed and what did they come up with and how is it being used, and is it all consistent. I think that's what people are concerned about. Is it what it says it's going to be? We just hate to see a bait and switch program. This is too important of an issue for that. Thank you.

Adams: Thank you, sir. Welcome.

Gordon Caron: My name is Gordon Caron, I live in the neighborhood. And thank you for the opportunity of talking to the commissioners and the mayor. Mr. Mayor, could you define, what you meant by what issues we should not be talking about, because you're limited by what you have to do?

Adams: I tell you what.

Caron: I have a long list of things to present, and I don't want to waste your time.

Adams: I'm going to let you say whatever you want for three minutes.

Caron: I'll be much briefer than that.

Adams: Because it is -- but the short answer is contained in the power point of the staff presentation, those items and she went through those, that is what we are limited. Our decision making is limited to considering that criteria and those items.

Caron: You mean the criteria, we're just talking about usage, the use of the building?

Fritz: And the design.

Beaumont: I think there are basically two things you can talk about. One is the nature of the use, the other is whether or not the design commission was correct in determining that the proposed use complies with the design review criteria that are laid out in its decision.

Caron: Thank you. The original application for this work was office with accessory uses including a processing area for people awaiting a hearing before an administrative officer. That's a euphemistic description of a detention facility. And as was mentioned before in title 33 as a table 130-1, commercial's own primary uses and for the zoning which applies as cx, running all the way down to detention facilities, it says cu. Conditional use review required. I would suggest that you embark on arranging a conditional use area. Thank you.

Adams: Thank you very much. I really appreciate it. Does anyone else wish to testify in support of the appeal that did not get an opportunity to sign up? We'll now -- oh, yes, sir, please come forward. I moved too quick. Thanks for your patience.

Millage Walker: My name is Millage Walker, I'm a retired college professor. And while the observations I would like to make, I don't want to repeat what has already been brought up. But as you walk around the streets of south waterfront, one of the things that confronts you is a number of vacant commercial establishments. And my feeling is that with a facility like this, the attraction of business, small-scale business that can fill these various vacancies is not going to be strong enough to make it possible.

Adams: Thank you. I appreciate the passion in which that was given, and it's -- it is an example of a criteria that we cannot use for our decision making process. We will now get to the opponent of the appeal. Principle opponent. Is the principle opponent here?

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Beaumont: The applicant.

Adams: I'm sorry, the applicant. The principle applicant. Sorry. Welcome to the city council chambers. Glad you're here. Have you all been here before? Ok. Then you know, it's old hat. If you could just each of you please introduce yourselves, and who you represent.

John Junkin: My name is John Junkin, a lawyer representing the applicant.

Howard Carsman: Howard Carsman, an attorney representing the applicant as well.

Agustin Enriquez V: My name is Agustin, I'm with gdb architect, the design lead on the project.

Adams: Who would like to begin?

Carsman: Mr. Mayor, commissioners, I thought would I take just a moment to introduce some of the members of the owners team and those interested in project, primarily so that council can see the resources that are available to answer questions. There certainly have been good deal said and here's an opportunity to find out really what is the nature of this facility. So we have Stu Lindquist and Rod Grinberg, and my -- these are members of the applicant -- of the applicant team. We have Keith Skillily from GDB, the architect that has been leading the process, the design review and land use process. Pat Pendergrass is here, also a supporter and a resident of the south waterfront. From the federal government we have Scott Matson from the general services administration, Scott has signed up to provide three minutes of testimony. And then James Greenwalled, who is with ice, and he is here and available to answer questions.

Adams: Welcome.

Carsman: We have a good deal of ground to cover, and I would like my co-council, John Junkin, to address the use issue and of course we're all available to answer questions as well.

Junkin: Augustine is available if you have questions about the design. But from what I've heard it sounds like most of the questions and concerns relate to the permitted use question. So unless there are questions on design I'll start with that. First of all, I appreciate the accommodation that we -- by your council this afternoon by allowing us additional time for all parties additional time to submit more evidence into the record on this issue of permitted use. As was stated by your staff, this issue was raise the in the design commission but not really addressed because it wasn't in their authority. Now it's before you. When we proposed this additional time we also said we'd agreed to an extension of the 120 days to accommodate it. My letter actually has pointed out by Kathryn Beaumont to me a short while ago says we'd extend the 120 days to February 23rd, that would be the date to make the decision so we're willing to extend it February 24th. Just to make sure we've got plenty of time. One of the speakers just before us I think summed up a lot of the issues here. That is there's a lot of confusion. And that's when the reasons -- that is the reason I think we've asked for additional opportunity for everybody to submit evidence and information so we can -- people can understand and you can understand and make an informed decision that -- and confirm what the staff has said that this is a permitted use, office use with an accessory use for a holding cell that would be used in a very minor amount, scale, and in time in this facility. This application comes to you to be considered as an office. And as defined by your code, offices include government offices. And I have a written presentation to give to staff at the conclusion of this but what we'll point out to you and some of it is new information now that the record's been opened but that the amount of space within this office building is to be committed to or utilized for the holding facilities is very minor compared to the overall area of the office or the buildings. And that's important because staff has pointed out to you as they did their analysis, what do you determine as primary and what do you determine as accessory? And they went through that analysis and they went through several criteria, my letter and my letter is signed by myself by the way and Ed Sullivan of our office, I'm sure you know Mr. Sullivan, it goes through the same analysis staff did as far as what's primary, what's accessory. And it also discusses well, let's look at what else it could be if it's not offices. For example, we in our letter and your staff's analysis took a look at the issue, is this a detention facility and I think Commissioner Fish asked some questions. Why isn't

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this a detention facility. There are a lot of things in your code that leave ambiguity but when it comes to a detention facility, you're specific. And quite candidly, this is not a detention facility. As you define in your code is one that requires hour -- 24 hour supervision. The people who come to this facility are people who have been picked up by ice, brought to the facility, for processing. They may have been incarcerated at one point in time, but not incarcerated at the time they're picked. They may be released from the county jail or state prison, but at the moment they're released from incarceration, they're picked up by ice and brought to the facility and processed through. And the processing, as you can imagine, being in the public sector, requires paperwork and there's things that have to be done, pictures to be taken and fingerprints to be made -- taken. And a number of things that have to be done as you process somebody through. Bureaucratic work. The individual has to stay there during the processing and these facilities we're talking about the bone of contention, if you all right. Are the rooms in which those people would be confined while they're being processed. They're not going to be held over. There's as a matter of fact, a bus as I understand it will -- leaves every day, that removes them from the property to take them to a detention facility. As a matter of fact, the detention facility that the previous person spoke of in that comb ax that's a detention facility. A clear -- in Tacoma.

Adams: Can I interrupt and make sure you have plenty of time. What's their legal status then? Suspected of being illegal or not having the proper paperwork at that point?

Junkin: We have people from ice who can respond to that question better than I can, mayor Adams, but I can tell you they're not incarcerated in the sense they're released. If they were incarcerated they'd be in the county jail. They've been processed out of that facility, where they've been imprisoned and picked up by ice, administratively, but I'll defer to ice to provide better explanation. But as pointed out in the record and opinion, that was provided early on, they're not judicially incarcerated. Ice is part of the executive branch. Not part of the judicial branch and they're not peace officers under the definition the city uses. There's an administrative process. They have to go someplace to be papered, processed through, and it's an office building where they take them too. We should also point out this is not a new function for ice. And it's not a new function to be done in the city of Portland. It's been done, as I understand, approximately 30 years, back to the '70s at 511 Broadway. Downtown Portland. As I understand it, a cx zone. It's the same thing and --

Fish: To be clear. The 511 Broadway building is a federal building. It was never subject to our zoning code as to what the intended use was.

Junkin: That's my understanding too. I wasn't intended to imply that. I'm saying that the use was in downtown Portland for decades.

Fish: If I could I think you're getting to the heart of it. You said a moment ago, that the -- that there was more clarity in terms of the definition of a detention facility than the other -- I want to put you to your proof on that for a second. I find a lack of clarity under all three but I'd like to be persuaded there's clarity here. Under characteristics, it says detention facilities includes. Now, do you see includes as a phrase of limitation or a phrase of illustration?

Junkin: Well, you're putting me on the point there. I would think that -- that it's your commission's ability to interpret that and plausible for you to interpret it's a phrase of illustration.

Fish: Illustration? And I'd like to -- since I posed the question to Kara in her excellent presentation. I'll give you the same courtesy. Under the example section, it includes a probation center. How do you square a probation center with what you said earlier about a judicially supervised facility that operates 24 hours a day? I'm not familiar with the functions that happen in a probation center and I assume we'll be looking into that over the next week.

Fish: For me at least, that's an area I would appreciate -- for me, I would appreciate some guidance. As Kara pointed out, these are not terms defined in our code and so we'll look for guidance on that.

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Junkin: I've not practiced in the area of criminal law. But I believe when you're on probation you're still within the judicial custody. You've been released but still within the judicial restraints as far as they can revoke and bring you back. That's a significant difference, being an incarcerated person on probation, as opposed to the situation we're dealing with, the -- the undocumented worker who is not on -- not incarcerated.

Fish: Thank you.

Junkin: I wrote down those questions, commissioner Fish, and we'll address those.

Fish: I hope my questions, mayor, don't count against their time.

Adams: No. She stopped the clock.

Junkin: The -- as we went through the analysis, we came to the same conclusion as your staff. We think they did a thorough analysis, and looked at this as a detention facility and it has specific language as far as the description as where you might find other language in your code. The 24-hour super-- supervision, what the intent is. Whether this is a basic utility and we addressed that in our letter and it's similar to a basic utility which would be permitted but we have to accede it's not. It's analogous like a police station would be but it's not because it's obviously a city of Portland, but it's probably a very analogous situation to a basic utility which would be allowed within the cx zone. Really comes down look at what the primary purpose. An office purpose of approximately 65,000 square feet, all about 3,000 square feet used for office and accessories you see with a office. There's 3700 square feet used for those places that -- to locate people as they're processed through for a period of time. Never to exceed 12 hours a day, and you'll hear testimony and further evidence, probably just a matter of a few hours a day as they're processed through. It's an accessory. We look --

Fish: Before you get to the criteria, because you're being very helpful to us, don't we first start with the definition of accessory uses before we go to the criteria.

Junkin: That's what I'm talking about.

Fish: What's in the code and it defines it as cafeterias or health facilities or parking or amenities primarily for the use of employees. Help us understand how that definition squares with the idea of a holding cell within this context.

Junkin: Well, I would say, first of all, as we discussed a moment ago, with the word "include" and "detention" is that illustrative or -- I think these are illustrative. These are examples of what accessories could be. They're illustrative of what they can be. The holding cells and this is one of the criteria for accessory uses, are integral, necessary part of the function of office work. You can't -- and that's one of criteria, it can't function independently. One of the criteria for accessory, it cannot operate independently from the primary use. The only reason it's there is because of the primary use. They need to have the individual there present as they process them through. If they weren't processing them through, the individual would not be there. They would be in jail, and this is not a jail. It's for a limited purpose.

Fritz: The entire 61,000 square feet related to the processing of the people in the 3,000 square feet or are there other office uses?

Junkin: My understanding -- there are a number of administrative offices for investigative services and that type of thing.

Fritz: The offices could exist without the processing facility, and the processing facility couldn't exist without the office --

Junkin: Those offices related to the processing for the ice process. It can only be there if those holding facilities are there. They have to be where the holding facilities are. If that makes sense. But there are other functions within the office -- the building, rather, related to other governmental services that are not necessarily related to processing people through --

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Fritz: But some of the office functions -- I went through the immigration center opposite the post office to do my -- you know, the training, citizenship classes, etc., never saw the holding facilities or was part of. So there's a part of the office use not at all related.

Junkin: I think that's correct.

Fritz: Thank you.

Junkin: Because the primary use is office and this is not offices related to -- it's all government offices. Not just offices related to the ice work. That required the -- the holding facilities. There are government offices related to a whole function of other things.

Fritz: The holding, which wouldn't exist or --

Junkin: I would disagree, there's only one primary use and that's the office. The office is being used for processing through individuals, through ice, or whether it's being used for investigative -- offices or cubicles for investigators or administrative work. It's all office.

Fish: Would your position change if the holding cells and the offices were on different lots?

Junkin: I'm sorry, different --

Fish: Different lots. Let's say that the government chose to rehab the one building for the holding center and put their offices across the street and develop another lot. So they weren't physically connected but adjacent. Would your argument about a accessory use change?

Junkin: Well, that's probably -- it may. It may. Because one of the considerations that you have list when looking at what's a accessory use is building and site arrangement. If they were to locate a holding facility 10 blocks down the street, and then have offices, you know, 10 blocks away, it's a holding facility now the primary use for that site? It may be. But in our case, they're not. They're integral. They're in the same building. It's a small scope of the building physically and it's an important part of the actual work done by ice. But clearly is the -- the primary is office accessory and like I say, we've gone through the same analysis because that's what your code directs us to. What is it thing? It's a primary office building. And with a number of accessory uses and a lunchroom and a gym and so happens because of the nature of the work of the people who work there, you have to have certain people stay while processed through and there are these rooms for holding facilities. The misconception I've heard and I can appreciate the concern of the citizens that this is a jail, I think perhaps hopefully some people made up their minds, but hopefully as we educate you and provide for information and the citizens will also understand what this really is. This is an office building and it's an important office building. It's important to the city, I mean, it maintains 150 workers in the downtown area. And it's a very important to maintain this. Unless there are some other questions on design or there's any particular --

Adams: I do.

Junkin: Ok.

Adams: So do individuals that are -- is it possible -- I'm trying to get a as accurate of a sense as possible of the type of office use and, therefore, my question is is it possible for clients to arrive and be released from this facility?

Junkin: It's -- again, it's my understanding, no. The people are brought to the facility, from elsewhere. They're there for a few hours, perhaps. They're processed out --

Leonard: If the gentleman from ice wants to weigh in.

Junkin: If I'm wrong, ice knows the answer to that.

Adams: [inaudible] But -- can you make your way to a microphone and introduce yourself?

James Gronewold: My name is James Gronewold, I'm the enforcement operations manager for this project. My other position is I'm the contractor -- contractor reviewing officer at the northwest detention center in Tacoma, Washington. I know a little bit about detention and why and how we do it. This office here in Oregon, we categorize it as a processing center. The individuals are in transit. Generally, the vast majority of those individuals are in transit from the -- they could be in transit from the local jails in the state of Oregon. Your state prison facilities in the state of Oregon.

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They feed into our process through the criminal alien program, where he was talking about basically they may be released from that facility, that prison, that jail, whatever that facility, into our custody, via a detainer placed on them by the federal government. Processed through Tacoma - - excuse me, through the Portland office, which is at 511 -- that building in the pearl district. And they're brought to the Tacoma northwest detention center for their adjudication and confinement.

Adams: Is it possible that -- would you have walk-up clients?

Gronewold: We -- there's a certain portion of the mission that's performed at that facility. Where individuals that are awaiting the adjudications of their cases where they would check in.

Adams: And are those individuals -- those potential clients solely limited to those that are -- were previously involved in the criminal and where they convicted of a crime out of institutions?

Gronewold: I mean, there could be a number of reasons why they might be in the process of -- in - - what we would call a deferred detention program. Where they would check in. One of the reasons may be -- they're in some sort of flux in terms of status here in the United States.

Adams: When Commissioner Fritz took citizenship --

Fritz: Classes.

Adams: -- classes, would there be citizenship class there?

Gronewold: No, they would not be there. As you know, at one point, at this point, after homeland security came into being, what was formerly known as INS was split apart into separate agencies and one is a citizenship and immigration services. And I believe they're in the process of relocating to another building in Portland right now. I think they're going to take occupancy in June.

Adams: That's in the pearl.

Gronewold: I think it is too.

Adams: My other question, some clients might arrive and be released from that building and others might arrive and take a bus to Tacoma.

Gronewold: The vast majority.

Adams: And some additional might be in the process of back and forth to need to get back to the building for one reason or another.

Gronewold: Right.

Adams: Ok. And the -- question about design. Before we good to design, are there other questions?

Fritz: I have questions on design, too, but about the facility. In the -- are there currently holding cells in the facility opposite the post office?

Gronewold: There are, yes.

Fritz: And have we ever had a problem in terms of people being of danger to citizens nearby.

Gronewold: I have no personal knowledge of that, no.

Adams: If I could, the Emerson charter school is nearby. Is there a problem related to the school and the operations of the existing facility?

Gronewold: No, and I guess one of the other things I should impart on this I worked on a number of these projects, within the state of Washington. And I was formerly the INS assistant district director for administration and responsible for all the facilities we developed under INS. And for example, the Seattle field office. Which is also a processing center, which does house citizenship and immigration services also in that building and all the enforcement, or at least the immigration -- or, the enforcement removal operations are also housed there. We took great pains to design that building in a fashion that people that are there to receive a benefit are basically -- don't even know enforcement operations are happening there. You know, basically the -- not that we have any hidden agenda or -- we try to be open and transparent in terms of what we're doing in enforcing the law. But primarily those things are done out of the eyes of the public. Generally speaking in a safe and humane manner and that's how we design those facilities for that specific reason. And that's one of the reasons they've actually gone away from the collocation of CIS and ERO. And one

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standpoint was the general perception you couldn't have people receiving benefits and enforcement in one operation. Although it's been done very successfully and continues to be done very successfully in Washington.

Fritz: I have one more question on the functioning of your program.

Gronewold: Sure.

Fritz: If somebody is released from a secure facility, either Multnomah county or Oregon state hospital or whatever and come to this processing center, do their families or their lawyers have access to them at the processing center?

Gronewold: We -- they actually do. And the design of the processing center, there are visitation areas for them to meet with their clients. Attorneys to meet with their clients or family members to meet with them. And that's an integral part and requirement within those designs, right of the processing area, we have, I think in this particular building an ADA accessible visitation room and then three others. There's a total of four visitation rooms available there for that purpose.

Fritz: Thank you.

Leonard: Mr. Gronewold, is that right?

Gronewold: Yes. That is correct. Thank you.

Leonard: The appellant says the GSA has a regulation requiring a 300-foot separation from a federal facility such as you're proposing and a school. Can you address that?

Gronewold: That's something better addressed by GSA. Because they're the federal government's leasing authority and that's one of their regulations.

Leonard: If I can get that --

Fish: Before we lose Mr. Gronewold -- while you're here, sir.

Gronewold: Sure.

Fish: None of us are professionally involved in the whole immigration system, so using terms which frankly to plea don't mean a lot, including things like adjudication. I want to break it down. The adjudication, the determination by a hearings officer is as to the question whether someone should be deported from our country, correct?

Gronewold: Correct.

Fish: And a basis for a deportation could include conviction of a certain crime while here under some lawful status, correct?

Gronewold: It could, yes.

Fish: Someone that's given permission to come here under a green card or something and then commits a certain kind of felony could be subject to deportation?

Gronewold: That's correct.

Fish: And that part is done civilly. When we talk about a civil proceeding, separate and a part whether someone has engaged in a criminal violation. The civil is to whether they can be deported, correct?

Gronewold: Well -- yeah, I would say that's close to accurate.

Fish: In terms of the people processed at this site, can you tell us in ballpark figures what percentage of those people would be people who have been convicted of a crime?

Gronewold: Actually, the vast majority of the people that would stream through this processing center, transit through this processing center, would be as a result of detainees placed on them, leaving Oregon jails, leaving Oregon prison facilities, so, you know, that's -- a lot of those individuals would be convicted of some sort of crime, to be detained there. Not all of them, but some of them, yes.

Fish: I walked by the Multnomah county courthouse pretty regularly and when the sheriff brings his truck in, they put 10 deputies on the street and shut down the street. Typically they're transporting people who have been charged with a crime, not convicted. They're going to court. So what precautions to you take at this facility to address the fact that the majority of the people who

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are being processed there are convicted of a crime and are being transferred from a jail or penitentiary for processing?

Gronewold: I'm not sure I understand your question.

Fish: Well --

Gronewold: Are you talking about how the individuals transit into the facility and leave the facility and how that occurs in terms of their custody while there?

Fish: Maybe it's -- I guess the point I'm trying to get at is the majority of the people who are being processed at this site, are already involved in the criminal justice system and potentially are serving jail sentences in jail in other secure facilities, correct?

Gronewold: Well, a number of them could have served time in state prisons or they could just be individuals that were picked up on some sort of charge by your local police departments, you know, those individuals determined to be -- a detainer was placed on them.

Fish: And could there be -- will there be people processed there who still have time left to serve on their sentence?

Gronewold: You mean on their federal sentence or state sentence or whatever?

Fish: Sentence --

Gronewold: I would say there's a program that does that, but Oregon doesn't participate in that program with the federal government.

Fish: The --

Gronewold: The answer is that they've served their time and once released there's a law enforcement detainer placed against that individual and that individual once they've completed their time or they're being released from that individual facility, whether it's a jail or whatever that institution might be, they flow into our custody.

Fish: Thank you, that's very helpful.

Saltzman: Just ask -- so if somebody has served a sentence and let's say Idaho and facing charges also in Oregon, after they've served the Idaho sentence, would they be transported directly to a correctional facility in Oregon or --

Gronewold: I couldn't answer that question, since it doesn't apply to what we do. I can only answer it from the standpoint of if there was a detainer, an ice detainer placed on that individual, what might happen with them. From state to state, I can't answer that because it's not something that involves us.

Saltzman: Could you have a detainer on somebody who completed a sentence in Idaho?

Gronewold: We only have responsibility for Alaska, Washington, and Oregon. If you had an individual who served time for shop lifting or, you know -- shoplifting or individual's being released --

Saltzman: And facing charges in Oregon for a similar crime?

Gronewold: Right, once released from your institutions, we would place a detainer on them prior to them being released.

Saltzman: Would they come through this facility prior to facing the criminal charges?

Gronewold: They -- I guess the integral piece or the distinction between the processing center here in Oregon and how we function in the 511 building is that those people are in transit, in -- and processed to northwest detention center. At that point, we have federal judges that serve at the northwest detention center.

Saltzman: That's in Tacoma?

Gronewold: That's in Tacoma, Washington. And that's where the individuals have their opportunity to make their case before the branch of the department of justice for those administrative hearings. So I hope that clarifies a little bit.

Saltzman: That helps a little bit. The administrative hearings would not take place?

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Gronewold: Absolutely not, that's true. We're just transiting through here. And all the real detention work happens at the northwest detention center in Tacoma.

Adams: Thank you. We're now on operations, you want to hear from general services.

Leonard: If somebody could address the 300-foot question.

Junkins: I think Commissioner Fish had a comment on security and --

Fish: Actually, I'll withdraw it. The information you both gave was extremely helpful to me. Thank you.

Adams: If one of you could vacate your chair for a minute. Good afternoon. Can you introduce yourselves?

Scott Matson, General Services Administration: I'm Scott Matson, the branch chief for the real estate acquisition division for the northwest arctic region of the general services administration.

Leonard: The question I have, the appellant has raised the issue that I guess first, is it accurate you have a regulation requiring 300 feet between facilities such as proposed in schools and second, if so, why doesn't it apply to this?

Matson: We don't have a regulation. We had a requirement in this procurement. I don't know where it originally started. I believe it started as a good neighbor type policy. When we originally started to try and find a collocation for both these facilities a number of years ago in the area, the setback requirement from churches, daycare centers and schools, etc., was 1500 feet. And I think it was probably a historical thing for just having communities be upset and the country when they put a facility in too close. So we -- we worked a lot with ice, we worked a lot with the congressional delegations, the city council, you know, the city of Portland, the PUD, to help mold those requirements so they could still be in the central business district. It was important for a lot of different stakeholders that we could fit within the CBD of Portland, along with executive order. And we changed the requirements from 1500 to 300 feet working with ice. When we sign a lease with someone, like in this case, at the time we signed it, there were no one that fit that criteria within 300 feet of us. It's not a regulation so we can't force other people not to come in after us and go right next door to us so --

Adams: The school came after?

Matson: It's my understanding that their expansion is what put them in -- and came after and put them within that 300-foot setback -- or 300-foot minimum requirement. That's my understanding.

Adams: Additional questions for these folks?

Fritz: I have design questions. Is now the time for that?

Adams: I think so.

Fritz: Thank you. This is a very helpful discussion on all aspects of this proposal. On the design, when do we anticipate completing phase two to be completed or started even?

Enriquez: Phase two, we've heard discussion in the design review hearings, it could be five to eight years. Funding doesn't currently exist so they can't really give us an actual timeline. Our portion, the phase two required on our portion of the site would be completed 120 days after the city's portion was complete.

Fritz: And what happens if you decide not to -- to move somewhere else in the meantime? Would that requirement carry over? I'm getting nods from Kara behind you. Ok. Are there any aspects of phase two you could install now?

Enriquez: No, everything that could be -- in general, the way the project worked and we went to design review, was everything we could get in day one is in day one of the issue becomes, there's a lot of land taken and then given back to us in different scenarios, so some of the portions that would go on in phase two are on land that we don't currently own. So I guess the short answer is no, everything that could be done on day one, we're doing day one, and the things that could happen day two, do day two.

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Fish: Commissioner Fritz, if I -- it has nothing to do with the hearing. Mayor Adams, this was scheduled for an hour and a half. And this is two hours. And I have a prior engagement, a funeral. I would like to be excused and I'll commit to reviewing the record before our next hearing date.

Adams: There's no decision planned to be made today. Please, you're excused.

Fish: Gentlemen, thank you for your time.

Fritz: So for instance, temporary landscaping, is there any requirement for permanent?

Enriquez: There's no temporary landscape. It's installed to be permanent and there's certain lands that we'll gain and certain lands that we'll lose and everything is always permanent in nature.

Fritz: Thank you.

Adams: So your approach to designing this? Could you summarize that?

Moore-Love: Mayor, excuse me, we've lost a quorum. We might want to wait until someone gets back.

Adams: We'll take a brief three-minute recess. Talk amongst yourselves. [gavel pounded] [recess taken]

At 4:05 p.m., Council recessed.

At 4:12 p.m., Council reconvened.

Adams: We'll come back from recess. We're about to discuss design. Do you want to begin? What was your approach to designing this building?

Enriquez: I've got a power point we can put up on the -- I guess on your monitors and also on the screen. There's a handful of slides we can walk through, specifically what our approach to the design was. It's a particularly interesting question for this project, because typically as an architect you have any number of inordinate design solutions you can come up with. This site is so incredibly complicated there's very few solutions to the problem. You've got an existing building that you can see up here with -- it sets the stage for whether else you can do things on-site. We knew we had a certain size parking and office component and there's only one solution where to locate things. The back side of the site being the office component. When that happens, because of the phase one and phase two, it's encumbered how you get the vehicles into the site because there's no ability to bring them in from the west off of macadam and there's no street to the east where moody would be, doesn't exist today, and there's nothing to the south. There's an adjoining property there. The only vehicular access is where it currently is. And that set the parameters. If you take that as a base point for how we moved forward from the beginning, that's the sole reason why there were the five modifications brought up and we worked diligently with the design commission to resolve. All of those modifications really have nothing to do with the specific use on this site. Any building would have these issues that had office component and parking component. And the -- so there's two kind of fundamental issues. How do you get vehicles in and out. And the existing building built in the early '80s, which pre-dates our zoning code so it doesn't meet any number of zoning guidelines and those factors make any project on this site almost impossible to achieve without modifications. After one or two hearings with the design commission, I think everyone understood what the different parameters we could move forward with and our design was a collaborative process not only ourselves but the ownership group and city staff and the design commission. If there was any word to describe the design approach, it was collaborative. How do you find a solution and provide a pedestrian-friendly experience. As good as you can do in phase one and when phase two happens, a very nice pedestrian experience ultimately overall.

Adams: Ok. Any other discussion about design? Thank you, sir. All right. That -- do you have anything to add? No?

Junkins: Just thank you very much. We look forward to providing further information to you. We -- to dispel the confusion what this facility is used for and how it will be used. And again, we

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believe the staff was correct in its analysis this is an office use with an -- several accessory uses, one of them being a confinement area.

Adams: Thank you. How many people signed up?

Moore-Love: I believe three people still left on the list.

Adams: Ok.

Adams: Miss Papa and Mr. Prendergast and --

Moore-Love: Mr. Carsman.

Adams: Welcome back. Sorry, Mr. Prendergast, welcome back.

Pat Prendergast: Thank you.

Adams: Go ahead.

Prendergast: I'm Pat Prendergast, a resident in the south waterfront. I'm also an office building developer and land developer, the last 40 years in Portland, Denver and Seattle. We've built several million square feet of office space in those three cities. I've been retained by the owner group to help and assist and build this new office building. It's a complicated site and I was brought in last spring when the lease was signed with the GSA to help and oversee the architect and construction process. With respect to use, we relied on the city's judgment as to use. As I said, I've built a lot of office buildings, if you look at the building plans and the interior improvements that are going to go in that building, it's an office building. Pure and simple. That's the primary use. It has a small detention area while they're transporting the people in to process them and sending them to a detention center in Tacoma, which is a jail and keep them on ample up there an average of 30 days.

You cannot spend a night in the building, there is no food or beds available, it's just a processing function that's part of this office use. There's a similar operation in the newest building in downtown Portland at first and main. There's a processing facility in there. Holding cells there. For the same purpose. It's a different agency that uses them in that building. The primary use of that building which is 300,000 feet, is office. But this is an accessory use to that function in that office building. Quick history, I was the original developer in the pearl district with my partner, John Carroll. We bought the 40 acres that Burlington northern was selling. I've built eight buildings there. And developed it and master planned it with the help of the city a public partnership with you back in Mayor Clark's days and Vera Katz. And probably the most -- urban renewal development in the state and we're proud of it and ice has been there for three decades in that same building. It didn't impair the growth down there. There was a Montessori school on the park blocks where ice is. And the same function has been going on there all this time. There's a very strong perception you've heard today with respect to use. And it's unfortunate, but perceptions can be very strong. There's nothing wrong with what ice is doing with respect to how it integrates into a neighborhood. This particular project's location is at the south end of the south waterfront in more of a commercial zone and this property is zoned commercial. It's pressed up against the state highway and the i-5, it's a difficult site it develop but the architect, GBD, has done a beautiful job with the help of staff here to have a building that I think we'll all be proud of. It's a handsome building. It's going it clean up that corner, when the south portal and the rail is put in five to eight years from now, it will integrate in even better, but it's been characterized, the use, I think, unfavorably for the wrong reasons and if it worked in the pearl, it will sure work in south waterfront.

Adams: Thank you, sir. I appreciate your testimony.

Saltzman: I have a question of Pat. I probably could ask somebody else but since you're here. You said no beds, detention rooms, what's a detention room?

Prendergast: They're holding rooms.

Saltzman: What does that mean?

Prendergast: It's a secure area that they're in as they're being processed and waiting to be processed.

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Leonard: Actually, Commissioner Saltzman, I wanted to follow up with Mr. Gronewold on exactly the questions you're asking. Because I think you're hearing, Commissioner Saltzman and I both greatly appreciate your testimony and I wanted to affirm with Mr. Gronewold what you testified to. Come on up. The same questions, if you wouldn't mind providing more specificity about what the rooms would look like.

Gronewold: They won't have beds. For instance, when you talk about the detention facility in Tacoma, as beds, showers, and all of those things that go along with -- dormitory or housing. We refer to them as housing units. That differs greatly from a holding cell. And the holding cells, as was stated earlier, even -- we have actually in the confines of the northwest detention center, it would have holding cells, but those holding cells are transition points into the actual dormitories or housing units. The differentiation is that primarily what you would have is -- none of them are dry cells so they have toilet facilities there. Two of the four cells in the new building are ADA accessible cells, so they have benches, basically for seating. For individual that's would sit there and that's primary what constitutes that holding cell.

Saltzman: Would there be more than one individual per holding cell?

Gronewold: There could be. There are standards on that. Based on -- basically the number of toilet facilities you have in a cell. And the number of square foot. Square footage. I believe those four holding cells and I can't be held exactly to this because I don't have the plans in front of me. I believe four of those can hold up to 14 people and the additional one can hold probably -- it's got two toilet facilities and I think it can hold around 30-some people. Something to that event.

Fritz: What's the total capacity that you would be to have?

Gronewold: In that processing area?

Fritz: Yeah.

Gronewold: Well, let's see, 14, 14, 14. Would be 30 -- 42. And then for some reason, and like I said, I don't have the plans in front of me, I think the total capacity within that, if we were processing all the individuals simultaneously, would be about 75.

Fritz: How does that compare with how many people currently coming from Oregon going to tacoma?

Gronewold: Generally speaking, I mean, varies so much, I can't really tell you. There's instance where is we would have a lot more. But generally speaking, anywhere in the neighbor -- could be anywhere from 10-20 people daily. So -- normal course of business.

Fritz: Why is it so much bigger than the current --

Gronewold: It isn't that much bigger than the existing capacity. One of the reasons we have -- as you know the 511 building is an old building, an old facility. We have for instance when you have four holding cells it enables you to hold -- which we're capable at the 511 building, you can hold females and males in separate holding cells, separate holding cells. Also, if you have individuals with ADA requirements, they can be held in a separate cell and then for some reason you may have individual that's come in and there might be reasons that you don't want them in the same cell based on whatever their particular activity might have been, so you might want to separate them. So basically it gives us the ability to handle those people in that way.

Adams: Additional discussion? Thank you, sir. We'll now hear rebuttal.

Scott Matson, General Services Administration: I don't think I got my three minutes time.

Adams: Oh, go ahead. You can have a seat as well.

Matson: I'm Scott Matson with general services administration. I wanted to put a little bit of history, quickly behind why we're here. 511 building is a federally owned building in the pearl district and declared excess for the government in 2005. Because it doesn't fit the agency's needs and the cost to upgrade it to the agency's needs would be tremendous. So we've been trying diligently for the last five years to move them. Wanted them to remain within the central business district for all the stakeholders that are interested in that. It's the only reason we moved people out

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of the central business district is when it's mission related or we can't find a space that suits their needs. This space is in the district and suits the agency's needs. We believe that this facility is a good match for our customer and for Portland. The move doesn't represent ice expanding or anything. They're consolidating some of their programs so they'll be able to move some of their people to one location and save the taxpayers money and make them more efficient. Elizabeth Godfrey, who was here but couldn't stay, she's been -- she's the assistant field director for ice, she's worked in the Portland pearl district for 20 years. And has informed me that her organization's neighbors in the pearl district have never registered a complaint with her. She expects the same type of relationship in this district. And for GSA, we understanding the southwest waterfront neighborhood has some concerns. We have offered to embrace them on this project and discuss our concerns about the facility and our offer stands. We're willing to meet with them. And we think it's beneficial for the taxpayers and federal employees and the Portland CBD and having someone move out of a building that doesn't pay property taxes and moving into one that does pay property taxes are, that adds to Portland and we wanted to highlight those issues and thank you for the opportunity to speak.

Adams: Thank you, sir.

Saltzman: One question. There was testimony at some point, the RFP or whatever switched from office building with an accessory detention center to a detention center with accessory office. Can you comment on that?

Matson: I would have to look at the specific language. We've been out with solicitations for them a number of times over the years. And not finding success. If we did find success, it was at a rate not beneficial to anybody. And I think sometimes, it's that leftover language from previous things as we -- as we evolve. So I really don't know that -- why it would say that or the definition. I do know this is a small piece of what they're doing. That's about the best I can come up with on that one.

Saltzman: Ok. I'm sure Mr. Davis will have a comment on that.

Davis: I hope you remember the questions you asked the previous people so that I get a chance to answer them. However, if you want the specific language, I have it within 30 feet of us right now and I read it to you when I made my opening statements. In terms of design, it should be underlined that none -- nothing beyond phase one is going to be implemented for at least five to eight years, if funds are available. And if funds aren't available, it won't be implemented and there's a phase one, a phase two it, and a phase two-a. So this could go on quite some time and I believe the gentleman can correct me if I'm wrong, I believe this lease, which by the way, is kind of a strange lease in that it's not really a lease until they accept the building to go into it. What they signed they can walk away from, from what I read in their 762-page call for bids. But I think --

Adams: How is that germane?

Davis: Well, hang on to that thought and I'll get back to you in a minute, as someone once said. 15 years, is that not correct.

*******:** It's a 15-year lease.

Adams: Hey, hey, I'm running the hearing here. You can't talk.

Davis: Could you ask the -- guest from GSA whether the lease will be for 15 years.

Adams: Continue.

Davis: If it is for 15 years, which I think it is, there's no guarantees nothing will go beyond phase one in this thing and quite frankly, I think many of us know there's more than a few buildings in the City of Portland that were going to be phased in and never got beyond phase one. So what you see in phase one may be there for 15 or for how many years.

Adams: And your concern about that is?

Davis: Well, they're promising us pretty pictures but only delivering us the bare minimums and they didn't mention, by the way, and they should have, that -- or they gave us a very sanitized vision

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of what the building is about. They didn't mention the buses that will be pulling in with customers, if you will. They didn't mention about 65-foot semitrailers with containers, I understand, at least that's the way they do it in San Diego. With customers and containers, which will be coming in there. I have several concerns which I can't discuss now because I didn't put it on the record, as to why GSA is not really enforcing many of the things that they're requiring within this thing. But that's not germane either. So let me go back to a couple things you folks were interested in. One of which is proportionality. The concept if something is 90% one thing and 10% another, therefore, it's 100% the first thing. There's nothing in the code that supports that. Absolutely nothing. There's either primary or accessory. Classes. Period. Now, GSA has said this is a detention facility. Just that clear. And I don't see where there should be any question as to that.

Adams: Did they say that in the current application?

Davis: I have the one from 2009, sir.

Adams: Is that what was used for this?

Davis: I believe it was.

Adams: Ok.

Davis: But I don't have personal knowledge of that. I would say, too, that for those folks that are really interested as to the -- how the sticky end of this project really works, within the materials I submitted, there's a letter from one of our board members who was an immigration attorney for several years, and she explains what goes on in these things, and it's not -- people aren't just held there for 12 hours.

Adams: Do you dispute they would be -- are you saying they would be held overnight?

Davis: I don't know where they're held. I'm just suggesting that you read the information that this - - that we submitted because she does talk specifically about how this thing really works.

Adams: Do you agree if they were held overnight, that would be a violation of code? Building occupancy?

Davis: I would have to read that particular code. I'm really focused --

Adams: I think this would be.

Davis: Pardon?

Adams: I think it would be.

Davis: I'll take your word for that and hope you're right. There's a couple of things that -- questions that should have been asked that haven't been asked. And that is, does ice have a real-time database? And when are detainees logged in. Because as I understand it how now, it's only after the fact, so they do have a tendency to lose some of their people. Especially when their attorneys are looking for them. And also, there's a pension for secrecy and I'm sure all of you folks know there's a big difference between a direct question asked and an answer says to my best knowledge. So I'm trying desperately to be nice today, but I will point out just one other thing that there will be armed guards there. This is not just your average run-of-the-mill office building. There will be no new employees coming into this thing. This project will not bring one more job to the city, although it will bring --

Adams: I'm trying to help you by asking you how that relates to the criteria that we have to use and only use.

Davis: Well --

Adams: We've been asking questions about functionality and those are fair. But where does armed guards part of the code based decision making criteria that we are --

Davis: I'm trying to respond to what was said previous to what I'm speaking now. And I'm really appalled that we haven't heard the reality of the situation. We've been getting a Disneyland view of it and I'm surprised that -- especially mayor Adams, didn't -- usually you're -- you're very insightful to these things. So that's where I'm coming from. I'm saying, ok. This is what they said. I'm responding to what they said.

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Adams: You're saying that the armed guards indicate it's not just an office use. Is that your point?

Davis: That's my point.

Adams: Ok.

Leonard: When you used the term "armed guards" you're talking about the ice officers, the federal officers that are armed? Something you submitted said lookouts --

Davis: Let me try to be as clear as I can with you, Mr.--

Leonard: Let me finish. I was looking through the plans and didn't see anything that would indicate turrets or what you seem to be implying. Are you talking about the armed ice officers themselves when you refer to armed guards.

Davis: I'll be very, very careful how I answer this. According to paperwork I got, there will be federal officers that will be armed outside of the facility. There will be a guard house there. With --

Leonard: I haven't seen that. Have you submitted that to us?

Davis: Um, probably not, because I'm still functioning on conditional use. As my primary focus.

Adams: Ok.

Davis: But I haven't finished the question -- the answer to your question. I have heard that ice is now looking at rent-a-cops for some of their exterior stuff. I have ahead that on the internet. I don't know that's a true fact or not. But I do know that in all cases, there will be people with guns there. But not inside the facility. Yes?

Fritz: Since we have another week where the record is open to address uses, it would be helpful if you would submit anything else you have and we'll certainly look at it. Thank you.

Davis: You're welcome.

Adams: I just want to make sure I heard one point clear so I can follow up with staff. You're saying you're -- your understanding is what percentage is related to what you call detention or processing and what percentage of the use is related to office building?

Davis: In -- in a document that I read, I believe the architect said only 7% was of the -- of the space was devoted to cells or holding rooms. And the rest of it was office space. But that's irrelevant.

Adams: You're -- I'm trying -- there was a point you just made -- the point is -- a few moments ago and I'm trying to understand the clarity of the point and the relevance.

Davis: Let's see if I can make this clearer. There's no such thing as proportionality within title 33 of the code. One thing is either this or it's that. My point is that the lessee has described this as a detention facility. Somehow or other, and I've got a document from the architect that says that no, this is actually an office. Or it should be a utility or perhaps a group home. He -- so that consequently, it would appear to reasonable men and women, that if nothing else, the applicant is doing everything they can to avoid conditional use and I don't know why. And so if I were keen, I would say that's something for you to figure out. I can't. I've only been working on this for eight months.

Adams: It's our job to figure it out. Anything else we haven't covered you want to cover?

Davis: No, I want to go home. [laughter]

Adams: You've done a great job as usual. Thank you.

Adams: Staff come back up. I guess -- are there any points that we have focused on that you have some insight into?

Saltzman: Do you have any comments on the 300-foot radius issue and the school? I really --

Fioravanti: You know --

Saltzman: I should say knowledge.

Adams: For the record, you are?

Fioravanti: Kara Fioravanti. Thanks. With regard to that issue, it's not a city requirement. It's a government requirement. I don't feel I got an answer as to -- I guess the answer that we heard is that it's not a requirement, it's a regulation and doesn't necessarily have to be met.

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Adams: Do you have knowledge whether the school came after the lease was signed?

Fioravanti: I don't, I don't have information when things were signed. We wouldn't have that information at the city. We have building permit information on the school that I could look into in terms of dates, but in terms of when actual leases were signed --

Saltzman: Sorry to interrupt you.

Adams: Other points we've spent time on that you have some insight to add? Before we ask you some questions?

Fioravanti: Sure, I -- you know, honestly, I do want to read this analysis from the lawyers. I want to go over the testimony I heard on tape. Because I kind of felt I heard a little bit about the facility acting like a probation facility. Maybe I heard incorrectly and that's why I want to go back. That made me question back to the detention facility, that's an example of a detention facility. And then the judicially required, I'm not sure if I heard what I read in exhibits a3 and a4. That's another thing I want to go back and listen to more carefully and maybe it's answered more clearly here. But I'm frankly questioning what I heard today with are a reasonable doubt to those items.

Fritz: Since the record is open for another week, are there particular item the you would like more information on from citizens that would help inform us with a further staff report. Any questions that you'd like to hear more comments or details on.

Fioravanti: From the citizens?

Fritz: Yes, from either side.

Fioravanti: From the side opposed to the project, no, I think I heard plenty of consistent testimony. I think I'll have some questions of the applicant -- well, I do have questions of the applicant right now, but they may be answered in this which I have not read.

Fritz: Thank you.

Adams: I'm a -- a couple of things I'm interested in more, the impact of the phases, does the impact of potential phasing under law change the definition of its use? By percentage of use in one -- you know, in one phase, there's a different percentage of use. Does that you and your staff and legal staff, does that change anything? Which is one of the concerns I heard raised. You don't have to answer now. You can answer later.

Fioravanti: Ok.

Adams: The other is the -- you raised some of the questions that the testimony raised for me in terms of at what point does something go from processing to different category of detention. And I'd like you to by way of possibly putting other conditions, if -- I'm not saying one way or another, but one of the options based on any experience of the existing facility. At the 511 building. I want to check out whether operationally, it has -- from the police bureau and others, it really has been as unimpactful -- non-impact, as they described.

Fioravanti: I have a partial answer to that point. We did look into nuisance complaints received by bureau of development services on that site and looked at our records and didn't find any complaints to bds. Complaints to other bureaus, police bureau in particular, we did not look into that yet, but we could.

Fritz: That would be useful information and I'm interested in whether we could add conditions of approval if we approve the design review it make sure that the phase two and -- I'm interested to know what 2a is. I'm going to have to look into that further, to make sure those improvements happen and I'm interested in whether we could condition approval of the design review on the processing facility part. Having a conditional use review.

Adams: That's a separate --

Fritz: That would be possibly a condition of approval of a design review to have then, a subsequent conditional use review. I think what I heard today, there's a lot concern that some of the right questions haven't been asked. I -- given the experience we've had with the 511 building and the south waterfront to be mostly jobs rather than housing when first designed. It was intended to be

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office uses, I'm really interested in looking at how could we make sure that the -- what's happened in south waterfront with more residential uses get their concerns heard and addressed in a conditional use process for that part of the facility.

Adams: All right. Kathryn.

Beaumont: Yes, council has no more questions, I think I want to reiterate sort of what the timeline is. I would suggest that the council declare the public testimony portion of the hearing closed at this point. But the record would be left open as follows. People would have until 5:00 p.m. On January 26th to submit new evidence on the use classification issue. People would have until 5:00 p.m. On February 2nd to respond to the new evidence submitted during the first seven-day period. The applicant would have until 5:00 p.m. on February 7th to submit final arguments, not more evidence. The council would continue the hearing until either February 9th or February 16th. You need to pick a date and a time. At which point, you come back and deliberate. You'll have a chance to review the new evidence and the rebuttal that's been submitted and once you've made a tentative decision, you would make a final decision on February 23rd. The immediate decision we need from you is what date to -- date and time to continue the hearing to.

Leonard: The 9th and 16th are Wednesdays?

Beaumont: I believe they're both Wednesdays. I believe there are four council members here on the 9th and all five on the 16th, if I remember correctly.

Adams: Is the 16th ok? All five are here.

Moore-Love: All five are here on the 16th, yes.

Leonard: I can be here.

Moore-Love: The afternoon is the safety recognition awards.

Leonard: The 9th?

Moore-Love: Yeah. If you want to follow that or --

Adams: Do you want to follow the safety recognition awards?

Leonard: So the 16th?

Adams: The 16th at what time.

Beaumont: Continue it to February 16th at 2:00, is that correct, Karla?

Moore-Love: We could do a 2:00. That's normally a 6:00 p.m. day. The third Wednesday we hold for a 6:00 p.m.

Adams: But there's nothing scheduled.

Leonard: The 16th would be 2:00 p.m.

Adams: Thursday the 10th, who is here?

Moore-Love: You'll be gone.

Adams: The 16th at 2:00 p.m.

Beaumont: And one thing I wanted to clarify is that testimony should be submitted to the council clerk in the city auditor's office.

Adams: If you send it to a city councilmember, it doesn't count.

Beaumont: No guarantee it will get there.

Fritz: We should probably not respond to anything in the interim?

Beaumont: Correct.

Adams: We'll continue the hearing --

Fioravanti: I want to let the public who is left know we're going to get the timeline that Kathryn listed, on the BDS website and provide Karla's name so that people know where to send the testimony.

Adams: All right. We're adjourned for the week. Thank you for your testimony.

At 4:50 p.m., Council adjourned.