



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17TH DAY OF APRIL, 2013 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Hales, Presiding; Commissioners Fish, Fritz, Novick and Saltzman, 5. Commissioner Saltzman left at 11:45 a.m.

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

Item Nos. 343 and 344 were pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

COMMUNICATIONS		Disposition:
331	Request of Christine Finlayson to address Council regarding Roseway Heights SUN School (Communication)	PLACED ON FILE
332	Request of David Berkson to address Council regarding proposed SUN cuts (Communication)	PLACED ON FILE
333	Request of Barbara Boose to address Council regarding ordinances (Communication)	PLACED ON FILE
334	Request of Alexia Garcia to address Council regarding budget and youth programs (Communication)	PLACED ON FILE
335	Request of Kelly Pergande to address Council regarding the Sequoia Grove in Pier Park (Communication)	PLACED ON FILE
TIMES CERTAIN		
336	TIME CERTAIN: 9:30 AM – Proclaim April 2013 to be Fair Housing Month in Portland (Proclamation introduced by Mayor Hales) 30 minutes requested (Y-5)	PLACED ON FILE
CONSENT AGENDA – NO DISCUSSION Mayor Charlie Hales Bureau of Environmental Services		

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<p>337 Authorize an Intergovernmental Agreement and provide payment for \$25,000 to Portland State University Professional Development Center to provide Project Management training for Bureau of Environmental Services Engineering Services (Ordinance)</p>	<p>PASSED TO SECOND READING APRIL 24, 2013 AT 9:30 AM</p>
<p>338 Authorize an agreement with AT&T Corp. for the NE 33rd Drive Culvert Project No. E10377 for an estimated amount of \$58,310 (Ordinance)</p>	<p>PASSED TO SECOND READING APRIL 24, 2013 AT 9:30 AM</p>
<p>339 Authorize the Director of the Bureau of Environmental Services or designee and the City Attorney to enter into a settlement agreement with Terry Vinocur for \$27,800 (Second Reading Agenda 310) (Y-5)</p>	<p>185975</p>
<p>340 Authorize the Bureau of Environmental Services to acquire a certain temporary easement necessary for construction of the Albina Pump Station Force Main Rehabilitation Project No. E10439 through the exercise of the City's Eminent Domain Authority for an estimated amount of \$2,000 (Second Reading Agenda 311) (Y-5)</p>	<p>185976</p>
<p>341 Amend contract with Brown and Caldwell, Inc. for additional work and compensation for the SW Multnomah Blvd Stormwater Improvements - 35th to 40th Aves Project No. E10242 for \$34,559 (Second Reading Agenda 312; amend Contract No. 30002665) (Y-5)</p>	<p>185977</p>
<p>Bureau of Planning & Sustainability</p>	
<p>*342 Authorize an Intergovernmental Agreement with Portland State University in the amount of \$44,432 to implement the project Portland Residential Waste Sorts 2013 (Ordinance) (Y-5)</p>	<p>185978</p>
<p>City Attorney</p>	
<p>343 Authorize City Attorney to appeal the judgment in <i>Gallagher Smith v. City of Portland</i>, Multnomah County Circuit Court No. 1110-13098 (Resolution) Motion to adopt friendly amendment to authorize City Attorney to file notice of appeal: Moved by Novick and accepted with consensus. Mayor asked for the roll call on the resolution as amended. (Y-3; N-1 Fritz; Saltzman absent)</p>	<p>37013</p>
<p>Office of Management and Finance</p>	
<p>*344 Pay claim of Lisa Vasquez in the sum of \$87,500 involving Office of Management and Finance (Ordinance) (Y-4; Saltzman absent)</p>	<p>185988</p>
<p>*345 Amend contracts with Merryman Barnes Architects, Otak for \$5,863, and Scott Edwards Architecture, LLP to allow for completion of existing projects (Ordinance; amend Contract Nos. 37917, 37921, 37942) (Y-5)</p>	<p>185979</p>

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<p>346 Grant revocable permits to the Portland Rose Festival Foundation to perform activities relating to Portland Rose Festival annual celebration from May 24 through June 9, 2013 (Ordinance)</p>	<p>PASSED TO SECOND READING APRIL 24, 2013 AT 9:30 AM</p>
<p>347 Grant a franchise to Integrated Regional Network Enterprise for Telecommunications Services for a period of 10 years (Second Reading Agenda 220) (Y-5)</p>	<p>185980</p>
<p>348 Grant a franchise to LightSpeed Networks Inc. for Telecommunications Services for a period of 10 years (Second Reading Agenda 221) (Y-5)</p>	<p>185981</p>
<p>Water Bureau</p>	
<p>349 Authorize Intergovernmental Agreement with Portland State University to prepare population, housing unit and household estimates and forecasts (Second Reading Agenda 317) (Y-5)</p>	<p>185982</p>
<p>350 Authorize a contract and provide payment for the construction of the Headworks Flow Meters Project (Second Reading Agenda 318) (Y-5)</p>	<p>185983</p>
<p>REGULAR AGENDA Mayor Charlie Hales Bureau of Environmental Services</p> <p>351 Amend contract with Brown and Caldwell, Inc. for additional work and compensation for the SW 86th Avenue Pump Station and Appurtenances Project No. E09051 for \$359,811 (Second Reading Agenda 322; amend Contract No. 30002215) (Y-5)</p>	
<p>Bureau of Transportation</p>	
<p>*352 Amend agreement with Portland Streetcar, Inc. for vehicle engineering services related to streetcar vehicles being procured from Oregon Iron Works for the Portland Streetcar Loop Project and increase compensation by \$270,384 (Ordinance; amend Contract No. 30001193) 15 minutes requested (Y-5)</p>	<p>185985</p>
<p>353 Vacate a portion of SW Moody Dr north of Ross Island Bridge subject to certain conditions and reservations and rename a portion of SW Moody Dr (Second Reading 323; VAC-10084) (Y-5)</p>	<p>185986</p>
<p>354 Implement the temporary suspension of system development charges for the construction or conversion of structures to accessory dwelling units (Second Reading Agenda 326; amend Code Section 17.15.050) (Y-5)</p>	<p>185987</p>

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<p style="text-align: center;">Parks & Recreation</p> <p>355 Authorize an agreement with the Trust for Public Land for acquisition of the Eagle Point property for park purposes (Ordinance) 15 minutes requested</p> <p>Motion to amend directive e. to increase O&M cost to \$1,875 and move funding to FY 2013-14 budget: Moved by Fritz and seconded by Saltzman. (Y-4; Fish absent)</p> <p>Motion to remove emergency clause: Moved by Fish and seconded by Fritz. (Y-5)</p>	<p style="text-align: center;">PASSED TO SECOND READING AS AMENDED APRIL 24, 2013 AT 9:30 AM</p>
<p style="text-align: center;">Water Bureau</p> <p>356 Authorize the Water Bureau to acquire a permanent easement necessary for construction of the Fulton Pump Station Improvements Project through direct negotiation or exercise of the City's Eminent Domain Authority (Ordinance) 10 minutes requested</p>	<p style="text-align: center;">PASSED TO SECOND READING APRIL 24, 2013 AT 9:30 AM</p>

At 12:14 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.

<p style="text-align: center;"><u>WEDNESDAY, 2:00 PM, APRIL 17, 2013</u></p> <p style="text-align: center;">DUE TO LACK OF AN AGENDA THERE WAS NO MEETING</p>	
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Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

APRIL 17, 2013 9:30 AM

Hales: Good morning and welcome to the april 17 meeting of the Portland city council, the council will come to order, and will you please call the roll, Karla.

[Roll taken]

Hales: All of us are shocked and saddened by what we've experienced as a country this week, and this -- this vicious and cowardly and heartless act of violence in boston, so I would like to ask us today to begin with a moment of silence, to remember the victims, their families, all who loved them, and all who loved the great city of boston. Let's be silent together in prayer and hope for those that still need to heal. [moment of silence] Thank you. We have some communication items on the council this morning -- on the calendar this morning. We will address those first. And then we have an excellent presentation on fair housing with honored guests here that we're very pleased to have here this morning. So, let's take the communication items first, please, Karla.

Item 331.

Hales: Good morning, and welcome. You have three minutes, state your name into the record and have your say this morning.

Christine Finlayson: My name is christine finlayson. And a few weeks ago, I asked my children to write letters to all of you and draw pictures for the council and the mayor, and I was really struck by this one that my daughter drew, a huge sun on it, and she said, sun helps us grow. Please don't cut our sun school. And sun really does help kids and our community. I'm here today to talk about the roseway heights sun school, which is one of the three schools on the chopping block this year, but I do want to speak on behalf of all of the sun schools because I have seen, as a parent, first hand the value that it has for children and for families. Just to give you an idea of how our sun school impacts our community, using roseway heights as an example. Our sun school offers about 80 afterschool classes each quarter, and they cover sports, art, computers, music, and academic enrichment. over half of our school, 300 students participate in these classes every week. There are community classes for adults, as well. Starting with fitness boot camp at 6:00 a.m. And ending with evening classes such as intro to i-phones and i-pads and cooking dinner on a dime. The roseway heights sun school serve as our neighborhood community center. And we love it because we can walk there. It's right in our neighborhood. During the winter, the program hosted 22 youth basketball teams. Including eight girls' teams. And our sun program also offers a very vibrant summer camp at glenhaven park, in, at northeast 82nd and siskiyou. It's 100% outdoors, and during the eight weeks of camp each supper, it provides about 1,000 spots for kids to go to summer camp. And learn about art, nature, science, and sports. Busy kids are kids are happy kids, I am a sure we all know, and it keeps them out of trouble, which is wonderful. It's not just the registered campers who benefit from these camps. The sun school summer program also serves about 5,000 free lunches to the northeast Portland community each year. Every day at noon, glenhaven park is filled with kids from daycare or neighborhood families, and children in need of a healthy meal. So, those are all reasons that the sun school is very important to us. The school has also helped to fill critical gaps in school funding. When our p.e. got cut to once a week, sun stepped in and offering step and field, cross country, basketball classes, dodgeball classes, skateboarding. When budget cuts meant

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that our computer construction at our school got eliminated for kindergarteners through third graders and cut to Once a week for fourth, fifth, and sixth graders, sun also stepped in. They are helping our kids learn basic technology so that they can compete in high school and the workforce. Without sun, at our school, many kids will lose their access to computers, and that's critical for these 254 students that come from low income households. It's also a safe place for kids to gather after school. They don't have to head home at 2:15 when school gets out. But they can be there with other kids and sign up for classes such as girl power and boys mentoring, science, theater and art, music, and sports and computers. We love our sun school program and we hope your budget will allow it to stay open. The benefits to Portland families are huge, it's so great we think that every school should be sun school.

Hales: Thank you very much. Thanks for coming. Good morning, everybody.

[applause]

Audience member: Yes!

Hales: Good morning. Ok. Thank you. Next one, please.

Item 332.

Hales: Good morning. Welcome.

David Berkson: My name is david berkson. I am grateful for the opportunity to testify today. Thanks to all of you for hosting this field trip. Our kids are happy to be here. Our son, nicholas, is a nine-year-old student at buckman elementary, one of the schools At risk of having its sun program eliminated entirely under the current budget proposal. I have been a teacher for 16 years, and I cannot put in more bluntly. sun is the best, it is necessary, it is essential, and it is a model of excellence to be preserved and built upon, not eliminated. Our principal, brian anderson states because of major cuts to the budget over the years, buckman has virtually no additional support in place for struggling students. Positions such as reading specialists, math support specialists, educational assistance, special education para-educators have cut. We no longer have p.e. in fact, there are days in which the only structured school time exercise my son gets are the activities that are provided by sun. Mr. Anderson concludes, the possibility of losing sun renders us unable to support students who desperately need help. Buckman has a population of 500 kids, more than four out of five of those children are served by the sun program. The scope and variety of its services are stellar. write night, math night, tutoring, behavioral mentoring, homework club and 50 afterschool classes a week. Sun provides help for families struggling with financial, domestic, medical, and substance abuse issues. Buckman sun serves 450 kids, and is somehow managed and coordinated by only two part-time staff members. It also keeps struggling families in the workforce, including mine. eliminates sun, and I am one of many parents who will have to drastically reduce my work hours and be forced to bring my child to work with me on many of the school closure days. I wonder if sun has become a victim of its own success. Sometimes, when a program works incredibly well, it's hard to see its necessity. Isn't the point of a social services program to create an environment where children are thriving? To keep them engaged and challenged and happy? Portland public schools are reeling from years of deep and painful cuts. There is not a single school that does not need sun, and you have said so much yourself in the 2012 Portland plan, which states the sun service system has a strong record of promoting educational success and family self sufficiency, now, it would be hard enough to shoulder a cut to any sun site, but at least for buckman, the current budget proposal risks its elimination at a time when our kids are being asked to shoulder more. Last year, this body made the right choice. By preserving an essential and unique service. And for the sake of the kids in this room, many of whom have, have contributed artwork testimony for you to read, and look at, and for the sake of the kids that they represent, I urge you to repeat that act of good judgment and make no cuts to sun. I thank you for your time.

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Hales: Thanks for being here. Thanks very much. Welcome, kids. [applause] i'm glad we were the field trip today. Thank you for being here. Next one please, Karla.

Item 333.

Barbara Boose: my name is barbara boose, and my first ordinance request is for the bureau of development services to build drainage barriers between older homes, too close together, and this, this will also serve as root barriers and, and enclosed is a design submitted by dexter bacon who also helped to set up metropolitan learning center. This is galvanized, corrugated metal like three feet high to 4 feet, that goes into the earth, and then there are river rocks for better drainage, and you can have a French sock in which you can build a fence in between the, for the foundation between the older buildings in question. Also enclosed is his phone number and anybody is welcome to call him, and this is a very good proposal for the city of Portland to maintain older buildings. Number two, the deputy chief marco benety told me for at least two or three years, the fire department can only put out meth cooks on fire and/or exploding -- meth cooks in homes are private, and basically, legal. Mitchell Rianna on street tests, air, three weeks after meth cooks, and this process proves ineffective. Will you please reinstate the fire department as hazmat team for complete personal property inspection during the meth cooks. Is this an ordinance? And also, meth smokers have in their, in their smokes, like tobacco, marijuana, black tar heroin and herbs, like a cocktail and the fumes are sickening to all living beings. The problem here is that the police are not in a position to use the sensors to test them adequately as the sensor equipment on the fire department truck, on the hazmat. And this, this is a problem because when the person becomes an addict, sometimes, they engage in children trafficking. The picture enclosed of these two children were on my sidewalk, and I did not know that they were missing. And it is such an eerie feeling that I have, to have looked into this child's eyes and not know what to do. A woman was with her. She was -- she had a Washington license plate. I did not check it. I mean, it was too quick. But I had seen her before on northeast 26th with lots of babies. There was also a texas license plate, and I enclosed it for your view. That texas license plate has shown up three times when kids have been deposited, and it breaks my heart that trinity grant so courageously spoke for herself and her brother. And I didn't get it. Because I didn't know about child trafficking being number three in the country in Portland. And the drugs are causing it.

Hales: Thank you for bringing this to our attention, I appreciate that. Thanks very much.

Boose: You are welcome. And the police have also suggested that I have a type of video camera, so if they have an extra one, i'd appreciate using it because the neighbors who just moved in have been at my door three times in the first week between midnight and 4:00 in the morning, and it's very traumatizing for them to be ringing the doorbell.

Hales: Thank you. Thanks for coming. Thanks for letting us know. I appreciate you giving us this. Thanks.

Item 334.

Hales: Good morning, and welcome.

Alexia Garcia: Hello. My name is alexia garcia, and I am a senior at lincoln city high school and involved in both of the student unions in Portland, and I am here today to talk about cuts to youth. so I would like to start off by saying thank you for supporting the youth past and another school year, that's so important to our students, and there is 12,000 high school students in Portland public schools that are going to be benefiting from that, so first off a huge thank you from the students of that. But, i'm sorry to say, that it's not going to be good enough for this year, and we're still are seeing cuts to youth, we're seeing the students here representing the sun schools, we're seeing security guards, the Multnomah youth commission be called into question, and at this point, we are not in a position in which we can cut these programs. And, and I hate standing up here and, and talking been behalf of The youth because I feel that i'm being pinned against the other groups that are being cut. And I would like the conversation to be more about how we can raise revenue and

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how we can find ways to sponsor all these programs because currently, some of the most vulnerable populations are looking to be cut, and I think that there is a way, there is a solution, and once we can fund the programs, and it's going to be about calling, finding a way to raise revenue, pulling money out of our reserves and seeing if we can tax the corporations that are currently getting away with tax breaks, and finding a solution because we're not in the position with our economy this low to be cutting youth, to be cutting the low income people, and some of the most vulnerable populations. and beyond that, I think i'm a product of no child left behind, of constant cuts to youth.

I have never seen a school year go by in which we don't come back the next school year and have to give five more desks in our classroom to fit the students or have our music programs cut. So, I'd would really look to find a solution because I know that there is a solution, and I know that we really need to be supporting our citizens and, as youth, we need to find a solution to fund our education and to fund these programs. So, thank you.

Hales: Thanks for coming. thanks being here. [applause] One more.

Item 335.

Hales: Good morning, welcome.

Kelly Pergande: Good morning. My name is kelly pergande. I live in st. John's. I realize in the past few weeks, you have all heard from members of our group of concerned citizens regarding the impact on the giant sequoia as a result of the new pier chimney bridge construction. We have also spoken about the necessity to have a completed ada trail that will allow access for all to the new bridge. And I appreciate your attention again today. Thank you commissioner Fritz for attending the recent st. John's neighborhood association general meeting as an observer. As you no doubt recall at the meeting, a passionate debate took place among members of our community. We have good news to report. After that meeting ended, our group was approached by the np greenway group, requesting that we join them at the budget hearing last week. We attended that meeting as a unified voice to, request funding for completed ada trails from the new bridge through the park. And in the near future, we'll be joining with friends of pier park, the st. John's neighborhood association, and np greenway group to discuss how to best complete, or how best to accomplish the task of making the bridge successful, while also considering the integrity of the sequoia grove, so neighborhood unity is becoming a reality. I am here today to impress upon you how important it is to consider other options for the design of the 65-foot trail section on the south side of the bridge. Pp&r stated they never considered any alternatives regarding this specific 65-foot section. We have ideas that we feel would resolve the design challenges that have only been recently identified and acknowledged. As you stand in the grove, you could see that it was planted in two sections, front and back. The trees in the front section was planted a circle, and while we do not currently know the significance of the circle, it is unique and may even have historical significance. The 65-foot trail section, as it is currently drawn, lands right in the middle of the circle. For, for an ada compliant trail to continue, it would need to go through several sets of trees. One of our proposed alternative routes for a completed ada trail directs between the two grove sections, keeping both intact, and minimizing the number of trees affected, so the current 65-foot section design doesn't work well with this alternative route. Designing the trail in pieces simply doesn't make sense. If options for this trail section can't be considered at this time, because of budget constraints, we ask that construction of the section be delayed until the end of the bridge project. By that time there may be adequate funding available to redesign and the remainder of the trail. We are convinced that one of the several alternatives we want to propose would cost the same or considerably less than the current plan. When the project is completed, it will be part of the pier park for many generations, the city of Portland and Portland parks and rec need to consider all options before construction of the 65-foot trail section. It is important that the entire trail from where the bridge touches the pier to the end be designed as a whole with careful consideration for practicality, tree health, grove integrity and aesthetics, thank you.

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Hales: Thank you and thanks for your advocacy and working with parks on these issues. Appreciate it. Thank you. [applause] So this is fair housing month and I would like to hold the consent agenda a while because we have items to discuss there and move immediately for the time certain, unless --

Fish: Why don't we at least vote on the consent agenda.

Hales: Get the consent out of the way? Ok, because I know there is one item to pull. All right, let's go ahead and deal with the consent and pull the item that commissioner Fritz you wanted to pull item no. --

Fritz: 343.

Fish: And I wanted to pull 344 with the understanding we'll take them up at the end of the agenda.

Hales: Any other items to be pulled from the consent agenda? If not, let's take roll call on the remainder of the consent agenda.

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

Hales: Aye. We'll move all those two over until the end of the calendar, and now I am pleased to turn this over to commissioner Fish to talk about fair housing month and welcome our guests.

Item 336.

Fish: Thank you, mayor and colleagues, and welcome honored guests as we celebrate fair housing month, 2013. Mayor Hales and I joined with local leaders this morning to welcome deputy assistant secretary Sarah Pratt, whom we'll be hearing from shortly, she's our quarterback on fair housing issues at the federal level. But we were joined by all of our jurisdictional partners and I think the message that came across loud and clear to me is that this community is united in its determination to end discrimination in housing and remove barriers to opportunity. And it's just an honor to welcome a high ranking federal official as this community celebrates fair housing month. Mayor, we have presentation today that begins with a panel that going to review a little bit of our progress, and we'll meet remarkable young woman whose poster was selected this year as the featured poster of the fair housing council of Oregon, and I'm hold she will be hanging around to sign copies of the poster in English or Spanish, and we're also going to screen a couple of the PSA's that were prepared for our campaign this year. But I want to begin by welcoming our first panel and ask Traci Manning, the director of the Portland housing bureau, Debora Imse, executive director of Multi-Family Northwest, and Neisha Saxena, the fair housing advocacy committee co-chair, and as they are getting seated, I also, colleagues, want to acknowledge we have made progress since we approved in 2011, our fair housing action plan. And we do so because we have strong partners like Peggy McGuire of the fair housing council of Oregon. And Debora Imse from the landlord community at Multi-Family Northwest, and our friends at HUD, at the U.S. Attorney's office, the attorney general's office, the bureau of labor and industries. The truth is no one of us can make dent. We have to work together to make progress. We are united in that effort, and I am very pleased to introduce our first panel starting with director Manning.

Traci Manning, Director, Portland Housing Bureau: Thank you, commissioner and council. The Portland housing bureau, we're working to ensure equitable access to housing, and in a couple of key ways, first, to remove discriminatory barriers to housing, but also, to work to create opportunities and choice for people in our community and people in need, and two approaches really go hand in hand. Our work is part of what we do in the whole bureau, everybody's got a part to play, very excited to be able to highlight some of the partners we work with here at the table and with us here today, and they do wonderful work in awareness and educational opportunities, for landlords, as well as tenants who need to learn their rights. And they help us strengthen our existing work but also be creative and, and Sarah Pratt challenged us, think out of the box about new ways to challenge housing discrimination. So, very honored today to have them, to thank our partners, contributors to our fair housing efforts during the month of April. Multnomah county, of

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course, the city of Portland, city of Gresham, Multi-family northwest, and the apartment finder, national fair housing alliance, and the u.s. Department of housing and urban development. Without further ado the co-chair of our fair housing advocacy committee, neisha saxena and our fair housing advocacy committee and Portland housing advisory commission member debora imse will give us details about what we're doing this month to celebrate fair housing month.

Hales: Welcome Debora.

Debora Imse: Thank you. It's good to be here. As a reminder my organization members own or manage over 150,000 units in the region. And that might be one unit left to them by grandma or might be 18,000 units in the state. So, they are all across the board in levels of experience and education. One thing that I was asked to comment on this morning is why do I have a passion for fair housing? I have a passion for fair housing because my members house 35 to 40% of the population, depending upon what geographic region you are talking about. And I get up in the morning to help them do the best possible job that they can do. And that's where my passion lies regarding fair housing. Last year alone, we conducted over 55 fair housing related trainings in the state, and hope to do more next year. I was quite inspired with our out of town guest this morning, and so that will send me back to find more unique and innovative ways to get my members to think outside the box. And on that note, it is now my pleasure to introduce another member of the Portland housing advisory commission, neisha saxena.

Neisha Saxena: Thank you, and I want to say I really appreciate deborah's passion for fair housing and partnership in this area. And thank you all for your commitment to ending illegal housing discrimination. I am an attorney with disability rights of Oregon and co-chair of the fair housing advocacy committee, and I was also asked to talk about my passion for fair housing, and on a very personal note, my parents moved to the united states in 1967, and had a very difficult time a few months before I was born, had a difficult time finding housing in the city of chicago and walked up and down the streets of chicago and had a really hard time finding an apartment, and that's the beginning of my passion for this work, and then I also, we see it every day with our clients. We get a lot of calls from, from people with disabilities having issues in housing. One of the most effective ways to combat housing discrimination is through outreach and education. And we're going to be talking a bit about the, the education piece. Many people are not aware of their housing laws, and the various groups to which it applies. So, some of the strategies that the fair housing advocacy committee is using is, is public service announcements, in conjunction with the national fair housing alliance, and the u.s. Department of housing and urban development. The fair housing council of Oregon has been doing readings at our local library branches, and there is -- there are plans for radio and tv spots. A social media campaign, and a fair housing website, and also, just information distributed in languages at libraries, parks and local movie houses. So, we're going to share now one of the public service announcements. So thank you.

[technical problems]

Hales: Karla, can you help?

Fish: Mayor and colleagues, we previewed this, this morning, but as we've learned with the technology upgrade that we did at council, it seems -- we're in big trouble. And I always feel sorry for our presenters because when we rehearse them, there is something.

Hales: I have had my powerpoint moments as well. So I can relate.

Fish: Fortunately I have an expert in my household that helps me with my computer technology issues. He's not here.

Hales: Right, where are the sun kids, come on down. Help Karla.

Fish: Karla, do you think when we do the johnson piece later, we can get the sound? Ok.

Hales: If you are looking for a movie file, it's the next one down on the list there, Karla.

Kim McCarthy: We'll slow the video and the song title is missing.

Hales: Ok.

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McCarthy: Can I say a few words about this? Thank you. Sorry that you can't hear the sound. The fair housing alliance along with hud put together some really great words that are going to be distributed nationally about fair housing, and they are empowering, they are available on youtube, and along with them are these images that are posters, we're going to be putting these up in the libraries, and showing them in movie houses and just getting the word out about, about how folks have, have the right to, to say something if they are experiencing discrimination, and fair housing council of Oregon is a great resource for them to have their complaint heard. So thank you.

Fish: Thank you very much, kim. We have another video piece we're going to come back to in a moment. Karla. So, we can, we can come back to the council for second. And here we go. Thank you, kim. It's next, my honor to introduce ashley robinson. Ashley is, was the winner this year of a poster competition, and her art was selected for the fair housing council of Oregon's poster. Ashley, would like to come forward with any special guests you are with, and, and say a few words? And let me, as she's coming up, let me say that she is 11 years old. She attends duniway elementary school. Come up with your mom and sister. Have a seat.

Hales: Bring the enforcements. It's ok. Come on up.

Fish: Ashley is 11.

Ashley Robinson: What?

Fish: She attends duniway elementary and enjoys art, music, dance and of course, most important, soccer. When she learned about housing discrimination in school, ashley says that she thought of her family's diverse circle of friends and agreed with the importance of making sure that everybody feels equally valuable. By the way, she's available for autographs after her presentation. And she is joined by her sister and mom, and actually, let's give her a round of applause. [applause]

Robinson: I hold it up?

Fish: Look at that. Wow. Ashley, as the winner of the poster contest this year, the -- you get the chance to say anything that you'd like to your city council, we are very proud of you and what you have accomplished, so the microphone is yours.

Robinson: I don't know what to say. Thank you for making me win.

Robinson's mom: For picking you.

Robinson: um-hmm...I don't know what to say.

Fish: That's the most eloquent thing that we have heard in a long time. So thank you for joining us, and to her family and friends that are here. We are extremely proud of this young woman. So thank you. And thank you. [applause]

Fish: In addition to ashley, we have another vip with us today. And that is hud deputy assistant secretary sarah pratt, would you please come forward and the mayor will introduce you.

Hales: We are very pleased to have the assistant secretary pratt here this morning because she is an advocate for this cause. And she is an activist in making sure that the tools are in the hands of housing providers, and attorneys and everyone else who has the responsibility of enforcing the law.

And she's, as we heard earlier this morning, in a conversation with her, she's a real believer in enlisting the private sector as a partner in solving these problems and providing housing opportunities for everyone. And I was really impressed by not just your energy and your knowledge, but by that spirit of, let's get everybody together and working on this shared enterprise, solving problems, and trying new things, and examining old habits. That maybe have caused discriminatory effects without people actively thinking about it. So, you certainly got, got those of us who have heard you already actively thinking about it. And we're very pleased to have you here in Portland this morning. It's an honor for the city of Portland that you are here helping us celebrate fair housing month. Welcome.

Sarah Pratt: Thank you so much. Mr. Mayor, commissioners, thank you very much for inviting me here today to celebrate the 45th anniversary of the passage of the fair housing act with you. You know, it seems to me that there is no more fundamental american value than the opportunity to be

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able to choose where you live, to have access to housing through lending, and through rental opportunities, through your home-buying options. Whether or not you make a lot of money. To have access to housing choices, without discrimination. Without discrimination, because of the color your skin, or from where, because of where your parents came from because you have a disability, because you have kids. Because you are a male or a female. my work is to ensure that, that the rights included in the fair housing act are enforced across the country. But it's also part my job to make sure that we, together, are all part of this solution to discrimination. It is my office that funds the national fair housing alliance to prepare posters and public service announcements that you will see across the country, and perhaps, see on television, as well. Over the years. It is part my office's responsibility to encourage kids like ashley and her family, folks here in the, in the room, many diverse partners and voices. To come together to address the issues, the barriers that still people encounter because of discrimination. And those barriers are sometimes unequivocal and sometimes even quite unpleasant. And sometimes they might be just, an unexamined part of your life, as I said earlier this morning, Portland and its partners from the people that I saw in the room this morning, are working hard and going in the right direction. But this work is not easy. Change not easy. Creating an environment that is safe and comfortable and diverse across communities is not an easy job. But I am convinced, that you mr. mayor, your commissioners and all the partners I saw around the room today are up to the job. I congratulate you on this great celebration today, and I am very delighted to be here. Thank you.

Hales: Thank you.

Fish: madam secretary, Thank you, and also we want to just salute the whole hud team. From secretary donovan and your partner and colleague john tresvenia to mary mcbride and robyn pritchard and all the front line people from hud here, we could not ask for stronger and more effective partnerships with the federal government, and we thank you for that.

Pratt: We are delighted to partner with you, and keep up the good work. Thank you.

Fish: Thank you. I would like to invite kim back to tee up our video. Since this is the 45th anniversary, our crack team went into the archives and they found some archival footage of president johnson signing the fair housing act of 1968. We're going to run that, and then mayor we'll read a proclamation and take a picture if we could.

Hales: Great.

[video audio] On an april afternoon, in the year 1966, I asked a distinguished group of citizens, if who were interested in human rights, to meet me in the cabinet room in the white house. In their presence that afternoon, I signed a message to the congress. That message called for the enactment, and I quote, "on the first effective federal law against discrimination and the sale and rental of housing in the united states of america." few in the nation and the record will show very few in that room that afternoon, believe that fair housing would, in our time, become the unchallenged law of this land. And now, at long last, this afternoon, its day has come. Now, with this bill, the voice of justice speaks again. It proclaims that, that fair housing for all, all human beings who live in this country, is now a part of the american way of life.

Fish: Thank you, kim. I love that phrase, the unchallenged law of this land. And the voice of justice speaks Again. On that note, it is my honor – joe, please, there is a time and a place.

Hales: No, no, this is not it.

Fish: It is now my honor to read a proclamation in commemoration of the 45th anniversary. Thank you, mayor. Whereas our community is committed to equal opportunity and housing choice for all. Whereas the theme of this year's national fair housing month is fairness matters. Or fair housing now. And whereas the city of Portland and it's partners are working together to combat discrimination and other impediments to housing choice, and whereas, the city council adopted Portland's first ever fair housing action plan in september of 2011, and established a fair housing advocacy committee to oversee its implementation, and whereas the plan calls for a combination of

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enhanced outreach and education, increased testing and enforcement, and an expanded supply of affordable housing options, and whereas the Portland housing bureau is working with landlords and tenants to increase choice for low income renters city-wide, and whereas under federal fair housing laws, Oregon civil rights statutes and the Portland city code, it is unlawful to discriminate on the basis of race, color, region, sex, disability, familial status, national origin, marital status, sexual orientation, source of income, and military status, gender identity, or history as a victim of domestic violence, and whereas 2013 marks the 45th anniversary of the signing of title 7 of the federal -- excuse me, title 8 of the federal civil rights act. The fair housing act. And the 25th anniversary of the fair housing act amendments of 1988. Which frankly, has special significance to me. And whereas the fair housing act amendments ban discrimination against families with children and people with physical or mental disabilities. And strengthen the enforcement of our laws, now therefore i, just in case there is any confusion, charlie hales, mayor of the city of Portland, the city of roses, do hereby proclaim april 2013, to be fair housing month, in Portland and to encourage all residents to observe this month by joining the effort to promote fair housing for all because fairness matters. Congratulations. [applause] mayor, can we get a photograph? [applause] Thank you, and mayor, while we're getting ready to, switch gears, I want to thank everyone at the Portland housing bureau, at the office of government relations, and my office, who works so tirelessly on this, particularly, danielle and jamie, and sonia, martha and neils, and frankly, everybody in a leadership position who work tirelessly to bring this presentation to council, we're very grateful for their efforts. [applause] Excuse me, and kim mccarthy. [applause] **Hales:** Thanks very much. The work goes on. Ok, lets turn -- we don't take public testimony on proclamations but we'll go to the first item on the regular agenda.

Item 351.

Hales: Second reading, roll call.

Fish: Aye. **Saltzman:** Aye. **Novick:** Aye. **Fritz:** Aye. **Hales:** Aye.
[gavel pounded]

Hales: Next item, please.

Item 352.

Hales: The project manager is here. And, and do we have a presentation this morning on this? Or just here to answer questions? It's an emergency ordinance, authorize the additional funding, and I think people understand the reasons for this. Any reason for further council discussion and is there flynn that wants to testify on this item?

Moore-Love: No one signed up.

Saltzman: Is this money coming from contingency?

Hales: Greg, do you want to come up? We're on 352.

Greg Jones: What is the question?

Saltzman: Is the additional money coming from the contingency of the project?

Jones: That's correct.

Hales: Ok.

Saltzman: How much remains in the contingency?

Jones: I believe about, about -- 1.6 million.

Saltzman: After this.

Jones: After this. That's correct.

Hales: So we're on track in terms of the utilization of that contingency.

Jones: That's correct.

Hales: For the project.

Jones: Yeah.

Hales: Thanks, greg and thank you, vicki. Any further questions? Emergency ordinance, roll call, please.

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

[gavel pounded]

Hales: 353.

Item 353.

Hales: Second reading, roll call.

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

[gavel pounded]

Hales: 354.

Item 354.

Hales: Second reading and roll call.

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

[gavel pounded]

Hales: And 355.

Item 355.

Hales: I believe that there is some revised language in front of us here, mike. Is that correct? Could you come up and just explain that for us so we can have the amended language?

Hales: Good morning.

Mike Abbaté, Director, Portland Parks and Recreation: Thank you, mr. Mayor.

Hales: Thank you. Ok, so why don't you explain the original agreement and then the amendment, if you would.

Abbaté: Sure. Mr. Mayor, there is an amendment in front of you today makes couple of changes. In the original ordinance, it asks that the funding for o & m of the eagle point property if you choose to move ahead with that, would happen in the first bump after the acquisition, and this moves it to the 2013-14 budget as part of our cal target, that's primarily the main change. At the request of the budget office.

Hales: Ok so commissioner Fritz, moved the amendment is there, a second?

Saltzman: Second.

Hales: Roll call on the amendment.

Saltzman: Aye. **Novick:** Aye. **Fritz:** Aye. **Hales:** Aye.

[gavel pounded]

Hales: Ok. Any questions for staff on the, the ordinance as amended?

Fritz: Are there any other changes?

Abbaté: You mean, another amendment?

Fritz: Yes.

Abbaté: There is a slight change from \$1250 per year to \$1875 a year.

Fritz: I thought it will be an amendment regarding the house and the timing.

Abbaté: We can discuss that, and i'm prepared to discuss that, you know, during the q&a after the presentation.

Hales: ok. Great, let's proceed.

Abbaté: Thank you, mr. Mayor. Mike Abbaté, director of Portland parks and recreation. i'm joined today by riley whitcomb from our staff, anton vetterlein the president of the friends of terwilliger, and also, I want to recognize don goldberg from trust for public lands, who has been a key partner in this. And this is a rather historic occasion. We have an acquisition, small but mighty about one acre in size. And but, what makes this property special is that it's been on the city's radar for over 100 years. Targeted for acquisition. And only recently for the first time has this property actually been up for sale, and credit anton and the friends of terwilliger for calling us, I don't know if it was the same day that they saw the for sale sign up, but, they called us right away and I think all of us recognize how significant that piece of property is. This is a wonderful view from 1894, a view from the riverview cemetery looking north, obviously, you could see the willamette river, and

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then you could see eagle point. and that pointy mountain in the background is mount st. Helens, and 86 years before its eruption. It looked a bit different. Eagle point is a natural outcrop with a panoramic view of the willamette river, Portland, and the cascades. In 1903, the parks board engaged the olmsted brothers as you note, to outline a parks plan that include boulevards and parks, and included in their vision was, was a parkway. A parkway that ran south from downtown and provided opportunities for pleasure drives and extraordinary views. The report recommended the acquisition of land needed for right-of-way for this parkway, and it described it as we need sufficient land for, to ensure command of the views. And that was kind of the public benefit that was seen in 1903, a place for viewing the city as it changed. And no plans were prepared in 1903. But, the proposal did call for this parkway that would run down to the riverview cemetery. Speaking of that, a major portion of that, that destination riverview, was acquired two years ago. From by the city over 100 acres and, and sort of another legacy part of this project. In 1912, the first plan for what was called the hillside parkway, at that time, was done. And done by emanuel meshe, the first superintendent of parks for the city of Portland and came to us from the office of john charles olmsted. And it established that alignment, north is to the, to the right on, on this slide. And establishing this line, alignment from sam jackson parkway all the way to capitol highway. The plan specifically highlights the desire to acquire, at that time, 4.3 acres of property at eagle point. which, in 1912, would have been valued at 8,000 or \$10,000, and funds from a 1907 voter approved park and boulevard bond measure were first and foremost for acquisition, and this was targeted to acquire in 1907. However, circumstances and, I was not there so I don't know how it went down but we acquired what is duniway park with those funds instead of eagle point. the hillside plan specifically highlights the desire to acquire those acres, and you could see in the box, i'm sorry, the, the 4.3 listed there. But, moving forward to 1982, in 1982, we accomplished the terwilliger parkway corridor plan, and it affirmed the 1912 hillside parkway plan and also noted eagle point as an important feature. The recommendation was to clear, landscape and improve eagle point as a scenic loop and viewpoint, and the corridor plan was adopted by council in december of 1982. It did recommend the acquisition of pedestrian right of way or an easement following the vacated portion of lowell lane. And as you could see, it also has a house on it, and in 1982, it still had a house, and at that time, knowing, that that the city works with willing sellers, there was not any opportunity to purchase the entire property, so that's why the right-of-way was identified for the viewpoint. Here's, here's a current shot. This is a view of eagle point from the tram. And the prominent and exposed nature of eagle point would really be significantly degraded if developed and our land use would allow that property to be developed into a seven residential lots, you can imagine seven fairly high priced homes could go onto that piece of property. As I mentioned in summer of 2012, friends of terwilliger brought it to our attention, and that they had seen some for sale signs, and the friends have prepared an extensive history outlining many of the, of the points that I just shared with you. They are wonderful partners, and as you know, last year, we celebrated the centennial of terwilliger parkway. As soon as this sort of came up, and we realized my goodness, this is something that the city has wanted for such a long time. We, we recognized that we needed to move quickly, and because of the property ownership, the willing seller not being an individual but a trust, we knew that it was going to be somewhat complicated deal. So we asked the trust for public lands to come up aboard as a partner and negotiate that acquisition. tpl was successful in getting the property under contract and we have, we have executed a purchase and sale agreement with them. And so, now, we are bringing there to council for authorization to close on this. And so, here's the details. 1.1 acres on lowell lane near terwilliger parkway, and the cost is being paid for by parks Sdc's, and as you know, they are used to -- are projects eligible, which expand our capacity. This is an expansion of our capacity in providing a new viewpoint. So, 950,000 for the property and plus closing costs, and 75,000 to reimburse trusts for public land for destruction of the house, and 10,000 for site stabilization. Just

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to mention, yes, there is a house on the, the property, it's over 100 years old, and it is a property that it's a nice period piece in terms of being an older building, and however, it is not part of our plans for developing a viewpoint. And but, what we have done is trust for public lands has talked to the rebuilding center and we have a relationship with them where that house can be carefully deconstructed and, and significant pieces reused and incorporated into other projects. And I mentioned in the amendment, the o&m request of nearly \$1900 a year. That's not including a building. So, just so we're clear on that. Conditions of the acceptance, council approval of the purchase of sale agreement are needed, and tpl will be deconstructing the structures. And environmental and title conditions have to be met prior to closing. With that, I wish to just thank the friends of terwilliger for energy and foresight and passion and in bringing this Opportunity to our attention. and again, a great partnership. and really, trust for public lands willing to step in, they had a full plate, and many things going on to be able to come in and say yeah, we understand how significant that is. We'll make this a priority. And just appreciate don's work on our behalf. And at this point I would like to turn it onto, over to anton vetterlein from the friends of terwilliger.

Hales: Thank you, Mike.

Anton Vetterlein: Good morning, and mayor hales, and commissioners. I want to say that the friends of terwilliger enthusiastically supports the purchase of the eagle point property. It's a, a property we have had our eyes on for many years. I got to know the, the former residents there, john and his wife, mary jane. Late in their years. I just kind of felt like it was important to develop a relationship with them, and you know, to talk to them about what they saw the future of their property being, and then since then, I have gotten to know their son, kirk kenward, who moved in there and, you know, I was, I told them you have a wonderful piece of property here, and I hope that you can find some way to keep it in a natural state. So, we're happy that, that the parks bureau and the city of Portland, I hope, is moving forward with purchasing this property. As mike pointed out, it is a very prominent knoll. It has a prominent location on terwilliger parkway. It is one of the few places in that section, the only place in that section of the parkway where rather than sloping down to the east, it slopes up to the east. So, and it kind of unfolds the roadway in that location. And seeing from the east side of the river, from waterfront park, from the ross island bridge, the tram, it's a prominent knoll that sticks out from the rest of the hillside, and the houses around it. As mike mentioned, the olmsted and niche plans for terwilliger parkway showed eagle point as one of two major viewpoints, the other one was elk point. And that got developed with a succession of weigh stations. Now we have the chart house there but we do have a viewpoint there, which is nice and we would like to sort of fulfill that vision to have two major viewpoints on terwilliger there. It's unfortunate the city didn't move ahead with that original purchase of 4.3 acres in 1907 or 1912. And interestingly, the burkhardt family, which owned the house, for much, you know, from I think, 1904 to until it was sold to john kenward in 1970, the burkhardt family, I think, in the 1920s, they recognized that desire for a viewpoint there, and they dedicated a right of way, which is lowell lane, loops around the point there. And they dedicated that right of way, through their private property, for public use, and then a few years later, they sold for \$1 the downslope lots from lowell lane, for public use to the city, and those are now actually shown on city maps as public right-of-way, as well. So, obviously, they were in support of that idea of the viewpoint there. And unfortunately, it seems the city never acted to develop a viewpoint there. And in 1963, part of lowell lane was vacated, possibly by the burkhardts, as well as adjacent property owners on the other side because nothing had ever happened with it. So, certainly, purchasing eagle point fulfills this longstanding vision for terwilliger parkway, but we also hope that, the city will move forward and develop that there finally get some kind of public access in there and develop the viewpoint so we have that wonderful view off to the east out over the, the river, and the east side, and the buttes, and the east county and off to mount hood and the cascades and beyond. I also want to mention that in 19 -- let's

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see, in July of 2004, the city of Portland agreed on a memorandum of understanding with Oregon health science university and the city, and it was related to the Marquam Hill plan, the tram, the south waterfront. And in that MOU, OHSU committed \$50,000 to an update of the Terwilliger Parkway plan. And unfortunately, a lack of consensus within the southwest community put that on hold, and it was finally, I think, the MOU was modified to say when funds become available for the city's portion of that update. Then that project would go forward. But nevertheless, OHSU committed themselves to \$50,000 to fund that update of the plan. Now, I'm not sure if an update of the parkway plan is really on the radar still. But, it seems that there might be a way to get OHSU to carry through with that commitment to the parkway. In some kind of planning process, either for this viewpoint, for another project that we've been talking to the park bureau about is the interpretive signage plan and a general capital improvement plan for the parkway, we're looking at building additional gateways, we talked to OHSU about, about that \$50,000 commitment, they are a bit coy about that and, and so, any kind of help and push that we get from the city would be appreciated. So, I think that's all that I have to say, thank you.

Abbaté: That concludes our presentation.

Saltzman: This is really fantastic. And very pleased to support this. I'm just curious what will be the public access plan for Eagle Point. Just build on the current driveway? And the Lowell Lane?

Abbaté: Thank you, commissioner. I think, you know, in our acquisition processes, we don't do a master plan ahead of time. We know that this was identified primarily for the development of the viewpoint. About, we would need a public process to talk about what does that mean and accessibility, and does that mean, does it need, you know, seats and benches and all of that. So, the next step for us would be to, to do that, that planning work, and involve both friends, neighborhood associations, and all of Portlanders who enjoy Terwilliger Parkway to come up with, what does that mean? How do we take that 1912 vision, 1982 vision, and now that we have the entire parcel, including, you know, a fairly rare thing, which is a piece of flat land, along Terwilliger Parkway, what should we do, so those are questions that we'll be asking as we move ahead.

Saltzman: Once we acquire it and the house is deconstructed and all of that, I assume that there will be some interim immediate public access opportunities?

Abbaté: Yeah, and thank you for bringing that up. We'll have to create kind of an interim access plan, that uses existing driveway or something while we go through a planning process so that it could be open as quickly as possible.

Saltzman: Ok, thanks.

Fritz: Why would we deconstruct the house since we have a viewpoint from the house, and it rains a lot in Oregon? Why would we deconstruct it before we have that discussion as to how we're going to provide public access?

Abbaté: Thank you, commissioner, that's a good question. And, and it can be sort of answer on several levels. First of all, the going back to the vision for the site was really a parkway that has a designated viewpoints along it. And though the parkway was designed for pleasure driving, what has changed is now Terwilliger Parkway, what accommodates cars is a place for bicyclists and pedestrians, primarily. And the house takes up a pretty good size of that flat portion of the site. And the house over 100 years old. We've have taken look at, would assess the house, and asbestos issues and lead paint and ADA access. The challenge for us is that we don't have a good purpose for the house. And in addition to, I think, our estimate is \$150 to \$200,000 to make it accessible, the ongoing requirement for a building that does not have a designated purpose is really a challenge. And since, you know, the vision hasn't been that there be some facility there, that it's really sort of meant to be a place that you come to along Terwilliger Parkway, you go out and you see this view, and you continue to move through and that's the, the primary reason. On the other side, just in terms of our assets, the parks and recreation has many, many, many older buildings, that don't have purposes. For example, park restrooms that are wonderful little buildings, but were built in ways

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that they cannot provide ada access so we have built an accessible bathroom but we have got in this park a building that doesn't have a purpose, and that's what we're afraid of here, is that since the public benefit primarily has been views, having a structure, and then trying to figuring out who is the tenant and how does that get maintained. It seems we're adding something to our obligations that we really have no way of taking care of long-term.

Fritz: and Anton, does the friends of terwilliger have a position on that?

Vetterlein: We are very interested in being able to use the house as a, kind of visitor center and a display place for information about the parkway, about the olmsteds, about the plan for Portland. About connected park systems, about restoration. We would very much like to be able to use it for that. We don't have the resources at this point to really maintain the house or develop it. So, the desire is there but the ability, at this point, is not. So, we took a vote recently and just felt like we could not commit ourselves at this point to that. If we were given more time, we could look for, we would have to look for partnerships to, to make something like that happen.

Fritz: And are others going to testify on this?

Vetterlein: Yes.

Fritz: Thanks.

Hales: Great. Further questions for the team here and don, did you want to add anything from trust for public lands.

Don: I'm here to ask a question. And if you need any additional knowledge, i'm here.

Hales: Great. Thank you. So we have people signed up to testify Karla.

Moore-Love: Yes, we have five people signed up. The first three, please come up.

Hales: Good morning.

Bill Hawkins: Good morning.

Hales: You first, jay. Go ahead.

Hawkins: Oh, my goodness.

Hales: You are on first.

Hawkins: I would like to add my voice --

Hales: Just put your name in the record.

Hawkins: Hello, commissioners.

Hales: Put your name into the record.

Hawkins: Bill hawkins, sorry. I have followed the parkway, I should say, my family has followed this parkway for over 110 years, from its, its inception to its celebration of 100 years and so forth. So, it means a great deal to me to see to this wonderful land acquisition adding eagle point. It was in the original plan. It is clearly a feature, an olmstedian future of the planning that he did. He had viewpoints, incorporated in all his plans, as meesh did on the top of mt. Tabor, there were wonderful viewpoints, and those viewpoints have miraculously been kept. There are viewpoints on council crest, all of the other buttes, rocky butte, and in many of them, there were structures at the top. At the viewpoint. So, it could be said that having a structure, a small pavilion of some sort would be a celebration of this viewpoint. Having it there. This little house has been, has been greatly discussed, and it is a nice little house, it's not a major landmark. But, it is a structure from which the view was everything when it was built. The porch encompasses that view. I would like to suggest that there is a compromise on looking at the house. Certainly, that it be allowed to have an interim time to study the matter in further degree here. It might, in the compromise, there might be a house smaller back to the original size or something. There is other ways to accommodate public use, ada use, and such. I think it has become a happenstance, a part of this experience. You now approach the house through a narrow roadway with stonewalls going up to it. And the experience of the view doesn't really happen until you get onto the porch, and all of a sudden, it opens up. Of course, in Oregon here, we have an ever presented problem of the views disappearing behind rapidly growing firs and maples so all our viewpoints are constantly in this state of needing

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attention to bring them up. But, in tying it back to an Olmsted thought, it is a wonderful place, it has a magic to it. And the city, everybody gains by taking advantage of these wonderful places in our city, where the view is everybody's. It is the public's view. And it is a place to know that we have a magical place, and a place where we connect with our mountains, and with the wonderfulness of this Location that is Portland, so the views certainly in 1903 when the report was written, and just as much today, they are very much of the specialness of Portland. So focusing on this house, I would like to endorse my friends, viewpoints that there might be a very strong reason for keeping it, putting it in the plans, and the original drive could go through, which was a right-of-way that was in the, was put in later on, but the little house, I think, should be considered further. Thank you.

Jay Mower: Mayor Hales, city council, my name is Jay Mower, I live in Portland, and I am one of the volunteers friends of Terwilliger. And I was serving on the day of the celebration last year, the centennial, staffing the history booth, and at the end of the occasion, the road was closed for bicycles and walkers. It was a great day, and I walked back over to go down one of the streets I saw the for sale sign on this property. I was amazed. And so I alerted others, and I called the number, just arranged a visit to the house, with Kirk Kenwood, and he has a lot of neat things in there, and various documents and photos of the house. The house used to have a windmill. And that brought water up, I guess, and also on the wall, he had a framed copy of the Oregonian from 1904. And I borrowed the original from him and had copies made, and I have given a digital version to the park staff, but here's one side of the, of the Oregonian is a rendering by the Oregonian's artist. The headline says, Mr. Olmsted's plan for Portland's parks, parkways and boulevards. So, there is a scheme of the city and various scenes of what could be, what the public could do out and about on these new things. The flip side of that same page, is this page, says, other picturesque hillside homes in Portland. And it says here, from several eminences in south Portland, we would use viewpoint, from several eminences, Vancouver and Oregon City may be seen. And here on this photograph is the house in question. This is the, the Eagle Point house. So, this is pretty neat so even in the house, there is history there. Another thing that I was impressed with the house was, like old houses it has high ceilings and all the rooms have fireplaces. It's just a different experience going in there, it takes back in time. And I think that that's one of the neat things about Portland that we have various chances to go back in time and see things. And I think it has potential to be a resource, a stewardship through education. People don't know about Olmsted, people don't know about Meesh, and they need to know these things. This would be a place where these stories could be told and retold. So, I think that, that the house should be saved for a while. To help it to find a way, and yes or no if it could be worked out or not. And I think it would be incumbent upon the friends of Terwilliger to find the partnerships to lessen the burden on parks because we understand the budget necessities. And, and those are my main points, and I am thrilled for this day, and I am thrilled that the city acquire this property, it's a great day, this is 100 years in the making, and I am very much in support of it, and thank you for your attention.

Fritz: Mayor, may I ask Jay, does the friends of Terwilliger have a bay station, or is it your center or anything like that?

Mower: No.

Fritz: Have you any discussion the architectural heritage foundation about this property?

Mower: Anton has, they are also short funded but for saving it. I have had talks with, with some email exchanges with one of the vice presidents of Hoffman Construction, Bart Eberwine, who used to be a neighbor up there. I said, could you partner with us in the future? We're working on this but we would need ADA access, ramp, remodel of the door, a bathroom. And could Hoffman Construction be involved, and he said let me nose around. And then I talked to the International Brotherhood of Electrical Workers, local 48, and do you guys work on projects for, for a good cause? And yes, we do, he says I'm busy in Olympia but call me back. So, some initial positive things. So, because there are probably electrical issues, the ADA issues, so, in just a couple of phone calls, emails, I have gotten, some, at

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least some nods, and that's why we need more time to, to really, once the tenant is vacated we can bring people in and have them look there over so we are constrained by time and availability.

Fritz: And how much time do you think you would need?

Mower: Well, I would say surely a year, maybe two years. So, if we are going to make an extension, I would go for the two years.

Fritz: Thank you.

Fish: can I ask a related follow up question. I remember when this came to parks and was enthusiastically embraced by parks as connecting the wildlife corridor and providing a view. I don't remember ever in the discussions any conversations about preserving the house. In fact, the overwhelming value of this site was to create, was without the house, to have a place for people to capture the sight lines and I, you know, I have to say, if someone were to, to come forward and say we have just discovered that it's the only surviving work of, of an architect who is our most noted architect, or something happened there, and there is a last-minute reprieve, I might view it differently. But, I almost regret having this conversation because the entire objective was to acquire this as a place for people to come and enjoy the views, and I feel we're almost on the verge here of snatching defeat from the jaws of victory. This is a unique partnership that's happened very quickly with a lot of resources being dedicated and we're talking about a house was never intended to be preserved, and I will tell you, as the former parks commissioner, that has burdened, and a bureau that is burdened with lots of surplus houses they cannot maintain, and is looking at a 10% cut. I almost think that it's, it's irresponsible of us to be talking about, about maintaining this building and committing public resources when we frankly cannot maintain what we have. So, I just -- I thought this was going to be a celebration about a huge community win and somehow it feels like it's now about a house that frankly, no one cared enough about to mention throughout the time that we talked about this enterprise. So, I just offer that as an observation, and I frankly, regret we're having this conversation. It was not part of the original vision that was presented to parks, and I would rather salute parks for being incredibly responsive to a community vision and celebrating that win. Instead we're talking about a building which, from my perspective, actually obscures the view. So I think it's -- we're getting off the rail here somehow, and I don't know why, and i'm sorry that we are, frankly.

Hales: Wes --

Wes Risher: Mayor hales and commissioners, I have a presentation regarding the home. I don't know if I need to do something to get to it here.

Hales: You are already loaded into the system. Karla can...

Risher: I'm not sure where it's at Karla.

Hales: ... initiate it.

Risher: I would like to take you through the home. As friends of terwilliger, we were able to get into the home and see it's assets and its Possibilities on the 4th of april, less than this month. And hopefully. I will see if it will load. It is still loading. Technology is fun. When it works. Come on. There we go.

Mower: While the technology is half the battle, I might add that, that during the initial outreach to parks about this property, and then just these recent, its coming together, there was a long period of silence while the parties were negotiated so we were in the dark for a number of months about, about any, any discussions.

Fish: I appreciate that, but I was the parks commissioner when this came forward, and I remember what the impetus was. And, and I know there will be a period of dark, and you just got in because you were not able to ask to get in the building years ago. And this has been something that's been a priority item for the community for a long time. And I don't mean the house, I mean acquiring the dirt for a particular use, and I don't grudge your raising it and I admire your advocacy, but at this stage to come to council and say, you have got no money. No committed partners, and it's a

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building that has a huge question mark in terms of the costs of renovating, I just think it puts us in the position of being asked to do something which seems irresponsible. Particularly at a time when we have dwindling resources and are rightfully criticized for not maintaining what we have.

Hales: Wes, did we manage to load your presentation?

Risher: I got it ready to go. And I just want to go through the home so you could see it, and so the community can see it, because most people have no idea this even exists. This is the house from a photograph that we took of a photograph in the Kenward house on the 4th. Kenward home, Eagle Point, at the top of the hill. This is the private drive that you see going up to the home. And the nice brick rock wall, and the detail that's there. It is really quite nice. This is the home itself, the parking space next to it, and moving around from the north side of the home to the porch. And the east side of the large porch that sees the view to the city. The porch itself, the nice width of it, the view to the city and the unobstructed view from the columns. An incredible view but you could see the trees are really taking away the view. The north side, excuse me, the east side of the house, again, the historical detail, it's a shingle style home, 1893, and moving around, it has an unreinforced masonry foundation, and definitely in good shape. But, it's that vintage, the north side of the home, you could see the details, it's a nice shape on the north side, this is the structure that, that at one point held the windmill for water pumping purposes. And you can see you could see the detail on the home. Moving around to the back, this is the west facade. It's in good shape, I mean, again, for a home of this vintage, and it's been taken care of, and it does need some exterior work, but for the most part, I think it's in great shape. Inside the front door, there is the staircase leading up to the second floor, there is the living room to the left, parlor to the right. This is the living room, and radiator heat, and fireplace, hearth, built-in -- this is the parlor to the right. And the fireplace, and the view out to the east from the parlor, 10-foot ceilings, and this is the dining room, and then the look back to the entrance. And the pantry, butler pantry as you move through into the kitchen, dated, there is a half bath in the kitchen, and stairs to the basement, and basement landing, and you can see it is dry. Unreinforced, you could see the asbestos wrapped pipes, and they are accessible and easily removed. And with, of course, the right abatement technique. And exterior entrance with the covered hatch on the outside. Again, further parts of the basement, the boiler that is there, the natural gas boiler for the home. Mudsill and then stairs, upstairs landing, there's three bedrooms upstairs. There's the cover over the porch, the access space. And then you've got the various bedrooms, the three bedrooms upstairs. You can see the architectural detail in the space. And then the bathroom. Exterior of the home and finally the porch and the plan. The plan envisioned '83 was never to acquire that property with the home. It was intended to actually make the loop happen. We go back to this, the property, the acquisition is stellar. Don't get me wrong. The speed with which the house and the consideration for the home and its moving through the process is concerning. The house is a resource that Portland is acquiring with SDC funds and as a park resource. All we are asking is time to consider the options regarding the structure as a resource to southwest, as a resource to Friends of Terwilliger and other groups like Marquam Nature Park. And other groups that could partner. There's nothing to be necessarily gained by removing it today. It's simply removing an obligation for parks maintenance over the next number of years. But the money that is being allocated for this acquisition could easily be allocated to two years from now for demolition or deconstruction. But to actually, once the house is gone, it's gone. And I appreciate your position Commissioner Fish, in regard to this issue. We did bring it to parks, there's been a fair serious period of time with complete darkness because of the need to make the deal happen with trust republic land. We did not have any real idea that home was of decent shape and it could potentially be a resource. And that's why we're asking for consideration at this time. It puts a burden on the Friends of Terwilliger certainly but honestly parks has a huge history of successful partnerships with friends groups, Leach Botanical Garden, Friends of Overlook House, and there's many other examples. The old church in Sellwood. Portland strives with volunteers and parks

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recognizes that. I just passionately feel we should explore the options on this and not simply demolish the house as part of this ordinance.

Saltzman: I've got very knowledgeable people here. You mentioned it's an unreinforced foundation?

Risher: Unreinforced masonry foundation.

Saltzman: Wouldn't that require significant seismic upgrades if it were to be devoted to some public use?

Risher: Well, i'm sure there's a lot of other facilities in Portland unreinforced masonry that need to be seismically upgraded and a lot of homes in Portland. It definitely should get that treatment. Should the house be destroyed in an earthquake, honestly your resource is demolished if you don't change the ordinance. So, what's the benefit of -- it needs that kind of work eventually. it doesn't need to be done tomorrow. But we need to do it eventually.

Saltzman: and again, I know anton is still in the audience, you're both friends of terwilliger. The position of friends of terwilliger again on the house is --

Risher: We vote on the house to not save the structure given the time consideration that Portland parks gave us. We were given a month to consider options to look at partnerships to consider uses. We gave it our best shot in that short time frame. A month is very limited amount of time to come up with an answer. We chose to not move forward on the house. We're asking for an extension of two years to explore options before demolition. If that's not possible, we have a position where the house would be deconstructed and the property, of course, is the desired goal. But you have a structure that allows public use. You have a structure that allows covered views and there's nothing to preclude public use with the acquisition keeping all in the short term.

Saltzman: Why two years as opposed to --

Risher: When we met with director abatté he said that we're likely to be in the same position a year from now given the process time to go through these options, bring partners in and build an actual process that needs to go forward for conditional use and other things. He said we'd likely be in the same position a year from now, so I believe two years is sufficient to explore options and come up with a responsible plan for the home.

Saltzman: Thanks.

Hales: Thank you all. [applause] are there folks signed up?

Moore-Love: Yes, we have three more.

Hales: Good morning.

Susan Egnor: Good morning. Mayor haless, commissioners, i'm susan egnor, on the board of the homestead neighborhood association, which is the neighborhood association surrounding the eagle point property. When we learned last fall that the property might be available, we had a meeting about it in september and voted unanimously to support acquisition of the property. We wrote commissioner Fish and director abatté and i'm going to read from eric schnells, our president's letter because it says a lot. Portland truly has the opportunity to acquire perhaps one of the most unique properties in the city. We discussed this possibility at our homestead neighborhood association meeting on september 4, and unanimously approved the following motion. The homestead neighborhood association fully supports the public acquisition of the eagle point property and urges city and county offices to work in this regard in accordance with the intent and provisions set by the city ordinance and the terwilliger parkway plan of 1983. We really believe that the addition of this property to the city's natural assets would be a wonderful, wonderful contribution to the future, to our children and grandchildren. And other people who come to treasure this city. That's the position of the homestead neighborhood association. We did not talk much that I recall about saving the house or not saving it. Dr. Schnell and his wife considered acquiring it and looked at it extensively and he said at the meeting, if they were to buy the house it would be a lifetime before they would be able to use it to have it be safe and up to code, before he would be willing to have his

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children, who were quite young, be in a house without, say, the reinforcing, without the upgraded heating system. The house has not been tube wiring which I find daunting. Frightens me very much as a fire hazard. I think that's what the neighborhood association has said. We did not talk about as I said acquiring the house. I like a lot of other people here wear two hats. I also sit on the board of friends of terwilliger and was one of the people like mr. Mauer who noticed this for sale sign last july during the terwilliger parkway centennial. Personally, I have lived in Portland for a little over 25 years, when I moved here in 1987, terwilliger parkway is out my back door. Literally, ten yards from my back door the parkway starts. I realized how extremely fortunate we were to have bought a house in the neighborhood with the parkway. As I came to know the parkway I became aware of the house that was back from the road further south from us that I came to know was the norris' house. I said what's that nice house doing there? It looks kind of derelict, falling down. Why isn't anyone doing anything with it? What's going on? What I remember from the explanation was that the norris' had perhaps in a will or perhaps by gift had deeded the house to the city that friends of terwilliger had taken on the responsibility of the house, then found that they, friends of terwilliger and the city, were unable to deal with what the house needed in terms of, again, this is totally hearsay, seismic upgrades, electrical, other safety considerations. Were unable to use the property, further they were unable to sell it to realize any benefit. Eventually the house had to be torn down because it became a haven for folks who don't have any other place to live. At one point there was a great storm and the house filled up with water and it was just a hazard. In some sense it still is.

Hales: Thank you. I need you to wrap up soon.

Egnor: Personally, I would be very reluctant if I were a politician representing citizens of Portland in this economic environment to take on any additional monetary burden with the acquisition of this house. I just wouldn't do it.

Hales: Thank you.

Joe Walsh: My name is joe walsh. I represent the individuals for justice. I thought commissioner Fritz's question was a good question about the house. I don't have a great deal of information, so I listened very closely to you, commissioner Fish, about, hey, guys, you know, we were going to put this nice little thing that we could sit around and look at the view and the house is in the way so let's get rid of the house. If we get rid of the house we don't have to fix it and it's cheaper. Well, my personality doesn't go along with that kind of thinking. I don't like cheap. I like dignity. I like goodness. I like beauty. It seems to me you have a choice here. Your people tell you, give them a little bit more time. Two years took me back. You don't have to do two years. You could just put this off and get some kind of valuation on the house because if you use that house and you can save it and it doesn't cost you a fortune you could use it as a souvenir place, a place maybe you could serve coffee, whatever. We have great minds around here. You should think of something. Back off a little bit. Take your time. Take a breath. Maybe next week. Maybe next month. Someone will come up and say, you know what? We can save this house and it's a bargain. Thank you.

Hales: Thanks. Morning.

Charles Johnson: Thank you, commissioners. I am thrilled to hear there's an 1893 house.

Hales: just put your name into the record for us.

Johnson: Charles johnson. That might be valuable to save but I am not totally on board with commissioner Fish's position but the idea of parks having to protect this property for two years is of concern. I hope you will immediately pass the acquisition of the land but maybe put in an amendment so that in the fall perhaps, if there is not a combination -- I don't think friends of terwilliger maybe wants to be burdened with this. This needs to be a friends of the house. They need to present to council in the fall and you need a firm date that you can say it was beautiful but we couldn't save it. To get in bed for a two-year maintenance of the house is a significant problem for the city. On the other hand some people maybe feel there's been a limitation of public input. I

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hope you can pass and close on acquisition of the land and amend if necessary to have a process where in the time of less than two years the people who want to save the house can shake the trees of the directors, and the schnitzer's, and meyer memorial trust and the veteran endowed land holders in the area and can present something later on to the city, but I hope council can find a middle path there. Thanks very much.

Hales: Thank you. Any others signed up?

Moore-Love: No others signed up but we had a request for someone to speak.

Hales: Okay. Someone else wants to speak, come on up, please. Good morning.

Lightning: Good morning. My name is lightning. We have a housing shortage. Save this 1893 historic house. It's a beautiful house. Has character. Absolutely amazing. Save it. If you put a little bit of money in this house I would have to say it would probably be worth more than 50% of the over all cost you're paying currently. That's just my opinion. Beautiful house. Fair housing month plan. A home for everyone plan to end homelessness for Portland-Multnomah county. Approximately 1700 people currently sleeping on sidewalks each night. Fair housing also means housing provided for everyone. 2% apartment vacancy factor currently in Portland. Multnomah county, equates to a shortage of affordable apartments for rent. Housing, housing, housing is the best therapy for people with mental illness, drug addiction and alcoholism problems. To cut down overtime costs for police, fire, medical and also achieve maximum efficiency for businesses throughout Portland, Multnomah county, we must end homelessness in Portland, Multnomah county. All these plans have great ideas. Although I have just a few words to say, show me the money to get these 1700 people off the sidewalks. Show me the money to take these ideas, put them into action and create positive results. Show me the money to develop more affordable low-income housing units. Here's a lightning continuous revenue plan. First, real estate developers building any new condominiums agree upon inception that any sale that takes place throughout the existence of the condominium a 1% of the 7% brokerage fee will be directed to a city hall general fund account to end homelessness. Very simple, straight to the point. This will create a continuous on going lightning revenue producing plan to end homelessness and to develop affordable housing. Example. 100 million over all condo sales, 1% of proceeds equal \$1 million for the general fund. \$1 billion over all condo sales, 1% of proceeds equal \$10 million for general fund. Again, there is continuous on going revenue which also benefits developers, creating ways of ending homelessness. The plan will work. It should be implemented. There will be no more homelessness and nobody out on the sidewalks and the streets any more. Thank you.

Hales: Thank you. [applause] ok any further questions for the team?

Fritz: I have one further. Two.

Hales: No, not for you. [laughter] It was a reasonable assumption, but I meant mike.

Fritz: it's important to be clear right away that this is a spectacular achievement and a great cause for celebration, and as usual there are sometimes tweaks at the end, so I appreciate the conversation. Does parks have the money to improve the property to provide public access once acquired?

Abbaté: Commissioner, it depends. In terms of interim access, yes. We don't have a master plan with a cost estimate so I can't answer that question directly. I don't know. What I would say, though, is we propose to make this purchase using sdc funds and this project development would be eligible for sdc funding at least the portion related to a viewpoint. If we were not to remove the house, one of the things, challenges in the short term is we need to find \$330,000, which is the value the structure and the land under it, that could not be funded with sdc. We would have to find a funding source for that in the purchase. I'll say that again. Currently, with the vision of it being expanding use public access as a viewpoint we can use park system development charges to purchase the property with that intent. We can't use sdc's for buildings and community centers and facilities like that, so the house itself and its footprint are not eligible for sdc funds. Our calculation on the value of the house and property is \$330,000. 200,000 for the structure and the \$100,000,

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110,000, for the land underneath it. We would have to find another funding source in the very short term to consummate the deal to purchase from trust for republic land.

Fritz: The appraisal done in november that came out at \$910,000, that was just for the land?

Abbaté: No, commissioner, that was for the land and structure.

Fritz: So we're paying more than that as part of this deal. I'm not understanding where you're currently getting the 300,000 plus.

Abbaté: The appraised value of the property including structures is the \$910,000. We're using system development charges for all of it because we're saying that the use of the property is a viewpoint. That's the whole purpose of it.

Hales: All of it.

Abbaté: absolutely, all of it, mr. Mayor. So, all i'm saying is that if we bifurcate that and say maybe it would be helpful, I have an exhibit that might explain --

Hales: we're on a role, can we just stick with the bifurcated.

Fritz: That's more confusing to me. Because clearly there's a view point from the porch now. One answer would be to take down part of the house and leave the historic porch.

Abbaté: Has a small porch. And I'd say in terms of the scale of that space, just the porch space, doesn't accommodate very many people even once we provide some access. I would envision we would have a large viewpoint that could accommodate a group, for example.

Fritz: Do we have the money for that and where is it in the queue as far as sdc-funded park improvements?

Abbaté: That goes back to we need to do a plan, but that project would be eligible for sdc funds. I don't know how much we would need because we haven't done a plan yet. Actually, most of the time we acquire properties and we hold them. We recognize that there's a public benefit in having that property and then sometimes within months and sometimes within years we'll do a plan for how would we develop it. I think this is a prominent enough piece we would want to move quickly on that.

Fritz: I'm not understanding how the whole property including the house is appraised at 910,000.

Hales: We may need you to have this conversation off line. I'm concerned about losing a quorum here.

Fritz: Can the committee set this over until next week?

Hales: I don't think we want to do that. Make a motion.

Fritz: I'm not prepared to vote for this emergency ordinance.

Ben Walters: If I may, the way the deal is currently structured, we are not acquiring the building. The building is going to be demolished before closing and therefore the property would pass into the hands of the city as a bare piece of property without improvements. If as is being contemplated we are going to acquire the property with a building on it, that's where the problem comes up that mr. Abatté has noted, that we would be buying not just the property but also the improvements on the property, which and the improvements which we would then hold on to and look to improve, those would not be available -- we do not have the ability to fund that portion of the acquisition of the building with with sdc funds. That's where the problem comes up.

Fish: If we took the emergency clause off and voted on this next week in the ordinary course, does that do violence to the schedule that you have with tpl?

Abbaté: I believe we could accommodate that.

Fritz: Commissioner Fish, if I might just --

Fish: I have the floor. I would like to make the motion --

Fritz: I have the floor.

Hales: Oh no, he has the floor.

Fish: I have the floor right now.

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Fritz: but you took it because I was in the middle of a course of conversation. What I was going to say was if you leave the emergency clause on, I might vote for it next week as an emergency.

Fish: but we can put it back on next week but I would like to move to take the emergency clause off.

Hales: Is there a second?

Fritz: Second.

Hales: Roll call on removing the emergency clause.

Fish: aye **Saltzman:** aye **Novick:** aye

Fritz: aye and I might be willing to put it back on next week.

Hales: aye. Ok, the emergency clause is removed and it will come back for second reading next week. Thank you. Let's see if we can't finish up here before we lose a quorum. We have a couple more items.

Item 356.

Hales: Good morning.

David Shaff: Good morning i'm david shaff, I'm the director of the Portland water bureau. With me running the machine is keith walker, the pump station and program storage program manager for the water bureau. I'll try to go through this as quickly as I can. We're in the latter stages of the design for the fulton pump station replacement project. We have been in front of you several times over the last few years, and as it's progressed now we're at the next milestone that requires your action. This portion of the project requires us to build two large water pipelines, a 24 and 30 inch pipeline to connect with the existing water system. We're here to request that you authorize us to acquire easement from Oregon public broadcasting that will allow for construction and maintenance of these pipelines on property owned by opb. So the existing pump station was constructed in 1912 on sw Nevada between macadam and virginia. The building has been expanded four separate times over the years and each time we have been adding pump capacity. The pump station was identified as a top priority for replacement in 2006 and 2007 due to its poor condition. It's a critical facility that provides water directly to over 10,000 city of Portland services and a number of our wholesale customers, less to the willamette. 2010 you authorized us to construct a new pump station within willamette park, it's about 700 feet to the east of the existing station on nevada. You know that we have gone through a number of public processes. I'm going to skip through that a little bit and get to the chase. Oregon public broadcasting owns property both north and south of nevada between macadam and willamette park, so their offices and their satellite dishes. They have three satellite dishes north of nevada and they uses nevada as the main entrance to their facilities. Their vehicular access from macadam is fairly constrained and if you're looking at the satellite photo, you can see the satellite dishes to the north. This is opb's property to the south. You can just sort of see where the pump station would go in that clump of trees, and then to the left there's a long, skinny building just on the very edge. That's the existing pump station. Nevada is this fairly small right of way in between the opb studio and the satellite dishes. So during the course of the design process we have met with opb for over four different occasions to explain the impacts of their -- on their operations during construction and to hear their concerns. one of the main concerns was the large pipeline construction project that was going to be planned in nevada. In addition to working with them on their operations, pipeline construction in nevada is going to be challenging for a number of reasons. The new pipelines are going to be constructed parallel to the Washington county supply line. 60 inch line located in nevada. Construction in close proximity to this pipeline requires additional stabilization of that pipeline to prevent damage. Macadam as you know is a busy odot controlled highway. There would be limited work hours during construction across macadam, traffic delays for commuters. You can see that nevada street on the east side is much more narrow than the west side of nevada. 32 feet versus 56 feet. This is going to make construction a lot more difficult due to the lack of space. We would be looking at having to stack the 24 inches and 30 inch lines which

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would increase our risk and increase our cost. Then of course due to lack of space in Nevada, the new pipelines would need to be located right next to or adjacent to OPB's property line. This would require a temporary construction easement and permanent maintenance easement for future access. We looked at the problems, looked at the issues OPB raised and came up with a different suggestion to an open trench construction from the park through Nevada and Macadam. And that was to bore or tunnel the new pipelines. Our preliminary estimates for construction indicate that the cost of the tunnel to dig in Nevada and Macadam are about the same, in the range of 850,000 to \$900,000. The bored pipeline option reduces or eliminates many of the construction impacts to OPB, and is expected to reduce the construction duration for this portion of the pipelines from four to six months down to two, but that means that we would need to have the pipelines go under -- figure out how to do this. Two pipelines would need to go under the property on the north side of OPB south tax lot. What you have in front of you, the upper shaded bar is the Washington County supply line in Nevada, the two lower bars are going to be the 30 inch and 24 inch lines. The yellow box on either end would be the bore pit that we would dig down into and bore the lines through. So you can see that our two lines would need to go under the very northern portion of the parking lot of OPB's property. That's why we're here. So that brings us to the subject of our request. We have hired a qualified consultant to appraise the easement rights needed and to negotiate with OPB in good faith to obtain the easement. Our consultant has been instructed to complete all negotiations in accordance with imminent domains procedures provided for in ORS chapter 35. With respect to valuation of the property rights taken, notice and relocation if any. So pursuant to ORS 35, chapter 35, we're now requesting the council give us authority to acquire permanent easement through the direct negotiation or by use of the city's eminent domain authority if necessary. Now, that's our last resort. It always has been in the eight years I have been here we have yet to acquire property through eminent domain or condemnation. OPB has indicated they are in favor of the bored pipeline alternative they'll support acquisition of the easement and we are proceeding with ORS chapter 35 procedures including authorizing eminent domain because any delay in negotiations for the easement is a risk to our overall pump station construction schedule. We anticipate beginning construction putting it out to bid in November of this year and beginning construction in February of 2014. Authorizing us to proceed with negotiations now will help this project remain on schedule. I know that OPB has proposed language to the ordinance talking about their concerns about the construction and I would urge you to pass the ordinance as it's currently drafted. We will be working with OPB on their construction concerns, but that's not what this ordinance is about. This ordinance is simply the acquisition of the permanent easement for us to put the pipelines in. OPB's primary concerns are actually above ground construction issues that are going to occur on Nevada. We will be with Keith and his folks, his team, working with them to alleviate the concerns that they have. The boring option is a good example of how we have met with them and discussed their concerns and come up with an intelligent alternative that resolves most of them. If you have any questions, either Keith or I should be able to answer them.

Hales: Questions?

Fritz: Comment that the public involvement statement is exemplary. Thank you for explaining how we got to where we are.

Hales: Is there anyone to testify?

Moore: One person, Rebecca Morris. Please come on up.

Hales: Good morning.

Rebecca Morris: Thank you for your time. I'm Rebecca Morris, I'm the general counsel for Oregon Public Broadcasting. OPB has been discussing the Fulton pump station improvement project with the Portland Water Bureau for nearly a year due to the proximity to our studios. We appreciate the open and cooperative nature of our relationship with the project team and we look forward to maintaining that positive relationship as the project moves forward. That said we have been

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concerned from the start that the construction and maintenance phases of the project could have significant negative impacts on the safety of opb's employees and equipment, our ability to continue our statewide over the air broadcasts in radio and television, the quality of our work product ultimately our ability to provide the important public services that are at the heart of our nonprofit mission. Opb is one of the largest cultural and educational institutions in the region delivering excellence in public broadcasting to more than one and a half million people. Our television, radio and website content are readily available and accessible to the public and is generously supported by opb's 115,000 contributors. making opb one of the most used, most supported public broadcasting services in the country. We're on the air 24 hours a day every day. Importantly, Opb has been designated state primary for the emergency alert system. opb receives and initiates messages from state and federal officials informing other broadcasters and residents of Oregon and southwest Washington of a wide variety of emergencies including tsunamis, floods, earthquakes, national emergencies and amber alerts. The Portland bureau of emergency management recently signed an agreement where opb, where by opb will broadcast emergency alert messages directly from the mayor during a major emergency. All of this is accomplished at opb's headquarters on macadam avenue which is directly adjacent to Willamette park where the new fulton pump station will be built. As you saw I was really glad they had the satellite images. That what's helpful. As you saw, this is directly the construction will directly affect our property. The water bureau will be tunneling under our main driveway to replace the major pipelines. Nevada street has also been designated by the water bureau's project team as a primary construction entrance for the pump project. Their proposed access road also functions as the only entrance to opb's parking lots and the only way that emergency vehicles can access opb's building. The proposed access road will run also within feet of our satellite dishes through which we receive all our national pbs and npr programming feeds. Our primary concerns regarding the project are set forth in the proposed amendment which I believe you have a copy of. Potential disruption of pedestrian and vehicular access, interference with satellite signals, vibration damage to transmitting and other equipment, damage to existing fiber, employee safety issues, et cetera. The water bureau has been very cooperative about working with us to address these issues. The changes we propose to the ordinance you have before you serve merely to identify these issues and ensure the water bureau has the authority to properly address them during the easement negotiations. It's our belief that addressing these concerns in this easement will protect both opb and the city by identifying the places where liability could arise and describing negotiated and enforceable solutions for allocating the identified risks between the parties. So we're looking to get this language in as a way of protecting both the city and opb. Thank you for your time.

Hales: Thanks very much.

Saltzman: Can I just ask you a question, is it Ms. Morris?

Morris: Yes, thank you.

Saltzman: Discussions, there's some pretty serious things here if we disrupt, or have vibration impacts or whatever on satellite dishes and other things but, I mean this has been under discussion with opb for over a year, I think it was said. These issues have been identified, I presume. And addressed?

Morris: the positions? I'm sorry --

Saltzman: the issues, the issues you're raising must have been discussed between opb and the water bureau.

Morris: Yes. We would like to be able to address those issues, identify them further in the easement so there's an enforceable way of making sure that the water bureau's promises to opb actually follow through. And that the city is -- so we don't similarly the city does not want opb to randomly raise another issue. This would be a way of, corralling them.

Saltzman: so these universive issues are identified in your proposal then.

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Morris: that's exactly it, we're trying to identify the universive of issues and protect each side.

Saltzman: I would move the amendment.

Fritz: I have a question. It's in the findings rather than in the now therefore be it resolved. Why do you think it's important? It just skips background. It doesn't tell -- I would like to hear from david shaff as well, why you think it shouldn't be in here.

Hales: or terry.

Fritz: or terry. Why do you think this is important to have in here because it doesn't direct the water bureau to do anything?

Morris: It does not but it puts everyone on notice. That's really -- we don't oppose this project. We have been very pleased with the project team's coordination with us. We are not planning any opposition or any stonewalling. We just want to make sure that everyone is on notice as to what the issues are and that we continue the positive relationship and positive negotiations that have happened to date. By putting it in the history of how we got to this place, I think that is helpful.

Fritz: That was my understanding from the financial impact statement and the public involvement statement that it was crafted there. I would like to hear from the water bureau as to why they don't want it in there. Thank you for your testimony, I appreciate it. and your partnership.

Hales: thank you -- Mr. Fish.

Fish: Mayor, I have been briefed by the city attorney's office on this. It is the preferred route of our attorneys that we simply acknowledge the concerns raised by the testafire, which are now part of the legislative history, placed in the record, we had before us simply a clean request for authorization for eminent domain and a companion representation by director schaff that he will discuss it and seek to work out these issues. It is the city attorney's office's position that we simply vote on the underlying ordinance.

Hales: I understand that. Thank you. So, did you need -- [speaking simultaneously] thatcher to come up and terry, won't you come up as well.

Fritz: I would like to hear from the water bureau still, what's the harm of putting this in.

Terrance Thatcher: I'm terrance thatcher, Deputy city attorney. I apologize for the informality of my dress. I don't mean to insult you.

Hales: it's ok, this is Portland, you know. You never know what we'll see.

Fish: We're overdressed. We're overdressed.

Thatcher: I know, I'm supposed to wear grey or blue. There are two reasons we think this shouldn't be in the ordinance. First, as the administrator shaff explained, the issues that they are asking you to put in the ordinance have nothing to do with the acquisition of this easement. They have to do with the water bureau's use of a public street and opb's concern about what might happen when the water bureau uses that public street. So to begin with, the area relevant to the issue before you. Second, if I may so bold, it's clear that opb has good lawyers. They just had you, if you adopt this, they just had you put into your ordinance their opening brief if we end up in condemnation. You have now said to them, we think these are all the problems that you have and we're essentially acknowledging their view of the facts. Frankly if we end up in litigation and I expect there will be disagreements about the facts, and to be blunt about it i'm trying to be a good lawyer for you as well as she's trying to be a good lawyer, ms. Morris is trying to be a good lawyer for opb. I have to discourage you from we hope we won't litigate, but I have to discourage you from putting into your ordinances things that come from the lawyers from a potential litigation opponent. It's simply going to make our life harder if you do so. It's irrelevant and it is potentially harmful. I think you can trust the water bureau to have these discussions. They have been talking to them, but we're really talking about what happens on the public street, not what the easement is. I think we should move forward on the project with all due respect to commissioners Saltzman's motion I would discourage the passage of it. But it's your choice, not mine. I'm merely giving you the best advice I can.

Hales: thank you terry.

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Fritz: Thank you.

Hales: Commissioner, do you still want to proceed with your motion?

Saltzman: with all due respect, ms. Morris and opb, I stand sufficiently intimidated by our city attorney's comments and will not make the motion.

Hales: Thank you. Further questions for staff? If not, this passes to second reading. Thank you. I think we have one more? Two more. Sorry. Two more. Items pulled from consent.

Item 343.

Hales: ok, the city attorney is here. You want to give us a brief explanation of this? Brief since we're in grave danger of losing a quorum.

Jim Van Dyke, City Attorney: Mayor, council members, good morning. jim van dyke, city attorney's office. Item 343 is a proposed resolution authorizing the city attorney's office to file a notice of appeal in the case of gallagher smith versus city of Portland. The purpose of our appeal in this case is to clarify the use of a city code provision to determine a police officer's authority to control the sidewalk when disturbances occur, when they are trying to maintain order. The court found that the officers' orders were not lawful and therefore the officers did not have probable cause to arrest mr. Smith when he refused to follow that order. Police officers need to know what they can and cannot do and we believe that the appeal would help us understand that. First of all we think we're right, and that officers did have the lawful authority to direct mr. Smith in the manner that they did and the circumstances then and there existing. however, if we're wrong, we need some guidance so that police officers will know what they can do or what circumstances would allow them to direct people in such circumstances.

Hales: Questions?

Fritz: so we're not appealing the monetary damages? Monetary damages resulted from the claimed excessive use of force rather than from the unlawful -- whether the order was lawful or not.

Van Dyke: We believe the entire case would be reversed if we're correct because we think the jury was very influenced when the judge told the jury that the officers did not have probable cause to arrest mr. Smith. We believe contrary to opposing counsel's believe that the entire case could be reversed and remanded for a trial on everything including the battery claim if we're successful.

Fritz: If we're not it would take about how long? Regardless, how long will it take to take this to a fair court?

Van Dyke: A year to a year and a half.

Fritz: The interest that would accrue on the damages would be payable if we lose?

Van Dyke: Yes.

Fritz: and that's about \$55,000.

Van Dyke: That's correct.

Fritz: Even if we prevail on the lawful piece, we may still have to pay the damages.

Van Dyke: I suppose there is an outside chance of that, but we do not believe that's what would occur.

Fritz: Could the higher court rule on the lawfulness of the order and not reverse the damages?

Van Dyke: I'm sure that's what mr. Smith's attorneys will argue but we believe and I have consulted with our appellate attorneys that that would not be the case.

Fritz: What do you believe is the broad authority for officers to tell citizens to move from a part of the sidewalk outside of the cases where the code specifically says sidewalk obstructions ordinance and the drug free zones where we have very clearly given the police that authority?

Van Dyke: Well, I believe the police have broad authority when they have a legitimate reason to ask people to move along the sidewalk. I don't think I can cite every single example because there would be many in which they would have that broad authority. They certainly don't have authority to abuse. They can't abuse that authority. They can't tell people to move along because they don't

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like their politics or their race or their religion or things like that but they can certainly do so when there are disturbances in order to keep the public safe.

Hales: Other questions for jim?

Novick: What exactly -- so they were there on the grounds that they were told they were creating a disturbance?

Van Dyke: Yes.

Novick: That's would give them the authority to tell them to move?

Van Dyke: Yes.

Novick: just from reading the news account of this incident, I mean, there's a lot that went on beyond their simply telling him to move and he wouldn't move. Would we be arguing that his failure to move justified the rest of the police conduct?

Van Dyke: The failure to move would justify the arrest for trespass. There's a separate question of course whether what followed that, which is there was a claim of battery that the police used excessive force, we believe the jury's view on that matter was excessively colored by the judge's direction to the jury that the police didn't have the right to arrest him in the first place. So we think that the jury basically said, well, you shouldn't have arrested him in the first place and you're buying everything that happened after that.

Novick: So what was the judge's reason for that conclusion?

Van Dyke: Well, we believe the judge misunderstood the police officer's authority under the city code and did not believe according to the transcript that the police officer's direction to have him move along was lawful. That's where we disagree with the judge.

Novick: We wouldn't be trying to uphold the broad proposition that police in any case have the authority to tell somebody to leave the sidewalk.

Van Dyke: Absolutely not. We're not going to be taking that position at all. Only in the circumstances involved in this case where I have summarized it as a disturbance, but you know, that the facts of the case make a difference in all these cases and we think the facts of this case justify the police's order.

Fritz: You're proposing that it's a trespass violation that the police are enforcing here and that they were asking -- if the plaintiff to move from a particular part of the sidewalk to another different block face. He had already moved from in front of building but the thrust of the argument is because, as I understand it, because the owner of the nightclub asked for the person to be moved from in front of their sidewalk, at their building, that that was one of the bases for the police action. That the police have been delegated by the council to be the owners of the public right of way.

Van Dyke: The police have been delegated by the council with that, correct. They must use their authority correctly. We think they did in this particular person under state law, you commit trespass if you've been told to leave premises you don't have a right to be on and then you refuse to do so. Premises includes the sidewalk, in this particular case, so what the police were really trying to do here in the first instance was to resolve a safety problem at a very low level before things escalated.

Fritz: But the court in several instances have told us that we don't have that authority. both in the previous sit/lie ordinances and in this case, the judge you was very clear she and other judges don't agree with us on that.

Van Dyke: That's correct. Judge you did not agree with us. That's why we're appealing that. That's why you appeal because you think the judge got it wrong. We think sit/lie is a completely different circumstance than this particular case.

Hales: Other questions for jim? Ok, Thank you. Public testimony?

Moore-Love: We have four people signed up.

Hales: Joe, go ahead.

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Joe Walsh: My name is joe walsh. I definitely represent individuals for justice on this case. You have some written stuff that you can read or put it in the w file for waste or whatever you do with it. I'm at a disadvantage up here because I have two lawyers sitting on this council, I think. You're still a lawyer. You're still a lawyer. This is not a judge's trial, this is a jury trial. The jury went back into the room. Took all the evidence [inaudible]

Hales: Just stay farther away from the microphone.

Walsh: I'll do that. This was a jury trial. They went back into their room and they took all the evidence that you were just battering around and they said the cops were wrong. \$300,000 wrong. This man was electrocuted, he was maced, he was shackled, and he was beaten. And the original reason he went out that night was to celebrate. He went to a nightclub. He was stamped. They wouldn't let him back in. That is the origin of the argument. This city attorney is lying to you. It's not a judge's decision. It was a jury and for a jury to go against police officers it's very difficult I know. They want to protect them. They beat this guy so badly he is still suffering after a couple of years. You sit on this case for four months after the jury trial now you want to appeal it for another \$100,000? Those kids that were here today when they find out that this money is all the thing, you cut their programs and you protect the cops' ass, or the city attorney for blowing a case. I don't care. Give the man the money. Apologize. Move on. Thank you.

Kathy Bushman: I feel it's very appropriate that the kids were here today from the sun school because to me we have seen it happen year after year that the city has to pay out thousands of dollars because of abuse of the police authority. And this happens, and this is not the first time and i'm sure it won't be the last. We have sometimes seen the city council and the mayor have attempted to hold police department accountable. We would like to see the time when they can hold the police actually hold the police accountable but now it looks like you're trying to get the police off the hook. I don't think that's an appropriate way to spend our money. Many of us Portlanders think the money is better spent for schools and not jails, and it would probably save money on policing to spend more on schools. Certainly not to reward our police department for failure by you giving them their usual generous funding. Even after repeated failures from our point of view. Every year the police department is happy because they are usually well funded. I would like to see that stopped. I don't want to see them rewarded for failure.

Hales: Thank you. Good morning.

Chris Henry: Good morning, my name is chris henry. I have run a couple of times for david wu's position that was in '08 and 2010, and I just finished running for attorney general of Oregon. I am a teamster. I find it interesting that we're ordering people away from a business that the person had already left. He had already left the premises and he was already in transit walking way from the building when the police approached him. Now, as a teamster, if I picket, if I protest, and the company ejects me out on to the sidewalk, at what point does that become the public sidewalk? It's no longer part of the company's established realm where they have authority. What we're discussing is the police authority. What authority did they have to question his rights, smith's, gallagher smith's, to be on the public sidewalk, on the public right of way? At first what the city attorney had said was that they do -- amanda asked the question when do they have the authority? Well, the city attorney says they need to maintain order. Well, was there disorder? Where was the public disorder that was happening that required a dog pile of six cops on top of mr. Smith? You can see the size of him. So they dog pile on top of him, they shoot him a couple of times with tasers, one doesn't take, the other, in this article, hits the target. How many of us would like to be hit by the target for just asking a question? By what authority do you have to tell me to get off of the public sidewalk and to move? He asked a simple question. Did that mean I have one min or -- you raised your finger.

Hales: no, sorry, that didn't mean anything. [laughter]

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Henry: so, I find this interesting. It's kind of dear to my heart because we have may day coming up in less than half a month. The whole concept around may day was workers and people who are on the public right of way were bashed by cops way back when and it still continues to go on whether it's one person or whether it's an entire union. Or whether it's protesters. We have the right to access our public sidewalks, our public streets, and the cops are given broad authority according to the city attorney, but I would argue there was no disturbance.

Hales: I need you to wrap up. That beep was your time.

Henry: there was no disturbance. The disturbance happened inside the establishment. There didn't appear to be a disturbance outside. If we follow up on this case, I argue that it's going to cost the city more money, substantially more, to oppose a case that's going to draw out and cost the city more funds.

Hales: Thanks very much. Hi.

Charles Johnson: Good noon exactly, council members. I just need to echo the things. My name is charles johnson. You're probably surprised dan handelmann couldn't make it to speak on this issue from cop watch. One related issue is you're making an expensive misuses of police power. I was in old town chinatown the other day, and I observed you paying uniformed sergeants and officers to put out no parking signs for the nightclubs. That is why it relates to why you should not authorize paying for an appeal in this issue. We have 12 citizens of Multnomah county who in conjunction with the judge of Multnomah county recognized misconduct by the police. Now your city attorney is asking you to go to vegas. He's not spoken publicly about the statistics for appeal. He has a good vibe. You could follow his intuition, you might pay. I don't know if mr. Gallagher smith's attorney is precluded from speaking but he or she will get paid and will probably get paid more. That's why they are here not telling you to do it because you're voting to put more money into the legal system and to go to lawyers. And that's not what you want to do. You want to cut your losses and not appeal this case, not say that it's okay for police to brutalize citizens, not look for greater police powers on behalf of nightclub owners. If you want to protect individuals' property in their homes that is what the police is for. The police are not team 2 for the nightclub bouncers. I hope you will quickly think about this decision. You don't need to think about anything because if you don't authorize the appeal it can't happen. You could table the motion, have a special investigatory panel, but you should not pass this issue. During these budget cuts you do not want to be giving more money to appellate attorneys. You want to cut your losses, make the settlement, have the money respect the wishes of the jurors and the judges and get this over with, done, pay the poor guy. We all know he suffered injuries. We're looking for a little loophole technicality to pay some appeals attorneys. Actually you will disgust me if you pass this without specifically saying who the city's appeals attorneys will be and how much money you're going to pay them. I don't think you should go forward until that's disclosed to the public. Thank you very much.

Hales: Thank you. Anyone else signed up to testify? Jim, could you come back up, please? Maybe you can clarify the key issue for us in case is I believe city code. Can you describe why that's important and why it's somewhat separate from the particulars of this case?

Van Dyke: Well, the city code gives officers and the police bureau the right to direct pedestrian and vehicular traffic on a public right of way. You've got to be able to use that for a legitimate reason, obviously, but the importance in this particular case is we need to give clarity to police officers to know when they can exercise that authority.

Fish: You're before us today because your deadline for filing a notice of appeal is when?

Van Dyke: I believe it's april 24th or 26th.

Fish: You're seeking authority to file notice of appeal and there's other steps along the way.
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Van Dyke: That's correct. All this authorizes us to do is file the notice of appeal which we must do within a certain period of time. If we file that notice of appeal and later take a look at the transcript or the case and thinks it doesn't warrant an appeal we would talk to you about that.

Hales: Is there a motion?

Fritz: I have a comment, or a question. You just said the code gives authorities for officers to direct traffic on the right of way. What we're asking the court to do is define the parameters but the resolution also says that risk management and the Portland police bureau desire it be appealed to vindicate authority of police to maintain order particularly in the downtown entertainment district. We don't currently have code that specifically addresses what's expected in the entertainment district? Correct?

Van Dyke: That's correct.

Fritz: I'm not clear why we would ask the court to set those standards rather than us having the conversation in advance.

Van Dyke: I'm sorry that the resolution was maybe a little bit inartful. The entertainment district is where this comes up quite a bit but it's our general authority and the rules would apply inside or outside of the entertainment district about the police's authority.

Fritz: We don't have specifics on how they can direct traffic or what their authority is. So we've crafted those regulations in a sidewalk obstructions law and drug free zones and in the camping ordinance. Why would we not take the first crack at that rather than risking \$55,000 plus in interest on this particular case?

Van Dyke: Because I believe that even if we clarified those regulations, it would not resolve the question that has been posed by this case that we need help resolving.

Hales: Any further questions for jim?

Novick: Just one. This will demonstrate my spectacular ignorance of criminal law. Would it be possible to, just theoretically possible, settle a case by vacating the judgment but still paying the amount of the judgment? If what you're concerned about the precedent of the judge's decision is that something that would be theoretically possible.

Van Dyke: I don't know the answer to that whether it would be possible to vacate the judgment. I think at this point the judgment has been entered.

Novick: Is there like a written -- in terms of the presidential effect, did the judge enter a written statement that the police do not have authority to direct traffic on the sidewalk? or something like that?

Van Dyke: There was no written opinion issued by the trial courts. The trial courts typically don't issue a written opinion in cases like this. We're looking at the transcript and how she's been -- how she interpreted that in this particular case.

Fish: Can I follow up on your question, steve? Does our action today in authorizing you to file a notice of appeal preclude us from evaluating the concept that steve has floated to you?

Van Dyke: Not at all.

Fish: I understand you want us to today is essentially preserve our right to appeal to get some appellate -- either side that the right to appeal and in this case there's a legal issue whether you agree or disagree -- [shouting]

Hales: Hey, hey, no more.

Fish: juries don't decide legal issues, they decide questions of fact. Our attorneys are saying there's a legal issue but if we say give you that authority that does not preclude us from coming back and exploring steve's options.

Van Dyke: That's correct.

Novick: actually colleagues, the resolution says that the city attorney is authorized to appeal the judgment or pursuant to its conclusion. I hate to throw a wrench into the mud -- could I offer an

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amendment to say that city attorney is authorized to file a notice of appeal on the judgment in gallagher versus smith and delete the rest of it for the moment?

Fish: I think that's an artful compromise at this hour.

Hales: Any disagreement with that amendment? I'll accept it with consensus if it's okay. Motion -- [speaking simultaneously]

Fritz: so you're able to accept it as an amendment.

Hales: I'll accept it as a friendly amendment. [shouting]

Hales: No more. No more. [shouting]

Walsh: Point of order! Point of order!

Hales: You don't get to make points of order. You know you don't get to speak on the amendment.

Walsh: What country is this?

Hales: This is Portland and we're done. [shouting]

Walsh: if you change it, we should speak.

Hales: we have had a hearing. I'm sorry. We need a motion --

Fish: You've accepted it as a friendly motion.

Hales: Roll call on the resolution as amended.

Fish: Aye.

Novick: Aye.

Fritz: I don't want the court making the decision on this matter. I think council should have a discussion in a work session on what we might want to do regarding laws governing downtown sidewalks instead of pursuing this appeal. The appeal seems to be saying that officers have the right to order anyone off any sidewalk for practical any reason or none and we have crafted particular rules for when we the council give our opposite authority and we haven't given blanket approval. I believe we won't win this appeal and that it's costly to the city in more ways than just money because the principle seeks to secure is not one that I believe is in the best interests of Portlanders particularly for the entertainment district which as judge you notes is especially difficult to manage because so many citizens are drunk. The council rather than the court should set clear expectations for police and citizen behavior on sidewalks and closed streets and we should do this instead of appeals the smith case. No. [applause]

Hales: No more, please. I'm hope to new code, I'm open to negotiations but in the meantime i'm prepared to authorize our city attorney to file a notice of right to appeal and frankly carry it forward because there's a timetable for this and we need to meet it. Aye. And we have one more item left from this morning.

Item 344.

Hales: Mr. Fish?

Fish: Thank you, mayor. I pulled this item because I have a number of concerns about this claim and about the proposal before us. I just would like to state my concerns for the record and then based on follow-up discussions I've had with our team i'm prepared to vote for it, reluctantly, but I wanted to highlight what I think is a structural problem: On a number of occasions I have expressed concerns that human resources, risk management and the city attorney's office need to be better aligned and coordinated with each other, especially in the handling of claims and legal actions involving city employees and especially upstream when these decisions are made. I believe that early and more robust risk assessments will help us prevent many of these claims from arising in the first instance and could serve to limit the amount of money we pay out in settlements. I received a confidential briefing on this matter from the city attorney and frankly was discouraged by what I heard. [shouting]

Hales: No more, please.

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Fish: I understand hindsight is 20/20 but based on the information I received I think this situation could have been prevented. I believe it's time for us to stop doing business as usual and start deconstructing these cases to figure out what went wrong and how we can avoid similar outcomes in the future. I'm reluctant to vote in favor of this settlement because I think it was preventable. On the other hand this is not the first nor the last case of its kind, and I also know that the mayor has a commitment to us looking at this issue holistically seeing if we can improve the whole way our system works which frankly I think operates in too many silos and not in a way that's coordinated enough. The city attorney has persuaded me that this settlement, regrettably, represents the best option in a thicket of poor choices and therefore I will reluctantly support it.

Hales: Anyone signed up to testify on this one?

Moore-Love: I did not have a sign up sheet. It was pulled.

Hales: Roll call on the ordinance.

Fish: Aye.

Novick: Aye.

Fritz: Commissioner Fish, I share your concerns. The challenge with this particular case that it even has the h-r or city attorney had input, I doubt that the commissioner in charge would have listened to them because he didn't listen to me on this particular issue. That may not be two things that follow each other, and also I am perturbed that the plaintiff, or the person we're paying to receives only \$10,000 and the rest goes in fees.

Fish: Would the gentle lady yield for just one point?

Fritz: if the mayor allows that, yes.

Hales: of course.

Fish: I appreciate you placing that on the record. As you know I hope you know in no way was this intended as a criticism to you. I also have concerns about putting significant restrictions on decision makers' ability to make certain judgments. We sometimes make the bad judgment but I'm concerned in this case is the information in the record which would have led someone to conclude that we were creating -- establishing a pattern of contradictory actions which could give rise to a claim. I want to find a balance that honors the right of individual commissioners and bureau directors to make tough calls but making sure they have all their available information to do a risk assessment. I think on this one it was lacking. This is not directed to my friend commissioner Fritz.

Fritz: I advised against the firing so I appreciate that clarification. It's a challenge of our commission form of government that commissioners who are in charge of a particular project get to do as they think best, and sometimes it comes back in the form of a judgment that no doubt wasn't the right choice. That's something that we as a council might want to consider in terms of risk mitigation as to whether in some instances the mere despite our charter and commission form of government might have more influence in some such situations. Aye.

Hales: Excellent comments. This is the best bad choice for now. Aye.

Fritz: I personally thought she did a lot of good work for the city and I appreciate her service.

Hales: duly noted, thanks very much and we're adjourned.

At 12:14 p.m., Council adjourned.